
STATUTORY INSTRUMENTS

2024 No. 526

The Network Rail (Church Fenton
Level Crossing Reduction) Order 2024

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Network Rail (Church Fenton Level Crossing Reduction) Order 2024 and comes into force on 25th April 2024.

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(1);

“the 1965 Act” means the Compulsory Purchase Act 1965(2);

“the 1980 Act” means the Highways Act 1980(3);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(4);

“the 1984 Act” means the Road Traffic Regulation Act 1984(5);

“the 1990 Act” means the Town and Country Planning Act 1990(6);

“the 1991 Act” means the New Roads and Street Works Act 1991(7);

“the 2003 Act” means the Communications Act 2003(8);

“authorised works” means the scheduled works and any other works authorised by this Order or any part of them;

“bridleway” has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act;

“deposited plan” means the plan certified by the Secretary of State as the deposited plan for the purposes of this Order;

“deposited sections” means the sections certified by the Secretary of State as the deposited sections for the purposes of this Order;

“footpath” and “footway” have the same meaning as in section 329(1) of the 1980 Act;

(1) 1961 c. 33.
(2) 1965 c. 56.
(3) 1980 c. 66.
(4) 1965 c. 56.
(5) 1984 c. 27.
(6) 1990 c. 8.
(7) 1991 c. 22.
(8) 2003 c. 21.

“highway” has the same meaning as in section 328 (meaning of “highway”) of the 1980 Act;

“highway authority” means North Yorkshire Council;

“limits of deviation” means the limits of deviation for the scheduled works shown on the deposited plan;

“limits of land to be acquired or used” means the limits of land to be acquired or used shown on the deposited plan;

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace, and “maintenance” is to be construed accordingly;

“Network Rail” means Network Rail Infrastructure Limited (company registration number 02904587) whose registered office is at Waterloo General Office, London, England, SE1 8SW;

“Order limits” means the limits of deviation and the limits of land to be acquired or used and shown on the deposited plan;

“the scheduled works” means the works specified in Schedule 1 (scheduled works) or any part of them;

“statutory undertaker” means—

- (a) any person who is a statutory undertaker for any of the purposes of the 1990 Act; and
- (b) any public communications provider within the meaning of section 151(1) (interpretation of Chapter 1) of the 2003 Act;

“street” includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act;

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) All distances, directions and lengths referred to in this Order are approximate and are taken to be measured between the points shown on the deposited plan.

(4) References in this Order to numbered plots are references to plot numbers as shown on the deposited plan.

(5) References in this Order to points identified by letters and numbers are construed as references to points so shown on the deposited plan.

(6) References in this Order to numbered works are references to the scheduled works as numbered in Schedule 1.

Incorporation of the Railway Clauses Acts

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845⁽⁹⁾ are incorporated in this Order—

- (a) section 58⁽¹⁰⁾ (company to repair roads used by them), except for the words from “and if any question” to the end;
- (b) section 75⁽¹¹⁾ (penalty on persons omitting to fasten gates);
- (c) section 77 (company not to be entitled to minerals, unless expressly purchased);
- (d) sections 78 to 85E⁽¹²⁾ and Schedules 1 to 3 (minerals under railways); and

⁽⁹⁾ 1845 c. 20.

⁽¹⁰⁾ Section 58 was amended by section 46 of, and Part 3 of Schedule 7 to, the Justices of the Peace Act 1949 (c. 101).

⁽¹¹⁾ Section 75 was amended by section 49 of the Transport and Works Act 1992 (c. 42).

⁽¹²⁾ Sections 78, 79 and 80 to 85 were substituted, and sections 78A, 79A and 85A to 85E inserted, by section 15 of the Mines (Working Facilities and Support) Act 1923 (c. 20). Section 84 was amended by Part 3 of Schedule 7 to the Justices of the

- (e) section 145(13) (penalties to be summarily recovered before two justices).
- (2) In those provisions, as incorporated in this Order—
- “the company” means Network Rail;
 - “lease” includes an agreement for a lease;
 - “prescribed”, in relation to any such provision, means prescribed by this Order for the purposes of that provision;
 - “the railway” means any railway authorised to be constructed by this Order and any other authorised works; and
 - “the special Act” means the Order.

Application of the 1991 Act

4.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major transport works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (which defines what highway authority works are major highway works) of that Act; or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64(14) (dual carriageways and roundabouts) of the 1980 Act.

(2) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—

- (a) section 56 (power to give directions as to timing of street works);
- (b) section 56A(15) (power to give directions as to placing of apparatus);
- (c) section 58(16) (restrictions on works following substantial road works);
- (d) section 73A (power to require undertaker to re-surface street);
- (e) section 73B (power to specify timing etc. of re-surfacing);
- (f) section 73C (materials, workmanship and standard of re-surfacing);
- (g) section 78A (contributions to costs of re-surfacing by undertaker); and
- (h) Schedule 3A(17) (restriction on works following substantial street works).

(3) The provisions of the 1991 Act mentioned in paragraph (4) which, together with other provisions of that Act, apply in relation to the carrying out of street works) and any regulations made or code of practice issued or approved under those provisions apply (with the necessary modifications) in relation to the temporary stopping up, temporary alteration or temporary diversion of a street by Network Rail under the powers conferred by article 11 (temporary stopping up of streets) and the carrying out of works under article 9 (power to execute street works) whether or not the stopping up, alteration or diversion, or the carrying out of such works, constitutes street works within the meaning of that Act.

Peace Act 1949 and section 46 of the Criminal Justice Act 1982 (c. 48). Section 85C was amended by section 17(2)(a) of the Interpretation Act 1978 (c. 30).

(13) Section 145 was amended by the Statute Law Revision Act 1892 (c. 19) and Part 2 of Schedule 12 to the Transport Act 1962 (c. 46).

(14) Section 64 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).

(15) Section 56A was inserted by section 44 of the Traffic Management Act 2004 (c. 18).

(16) Section 58 was amended by section 51 of the Traffic Management Act 2004.

(17) Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the Traffic Management Act 2004.

- (4) The provisions of the 1991 Act referred to in paragraph (3) are—
- (a) section 54(18) (advance notice of certain works), subject to paragraph (5);
 - (b) section 55(19) (notice of starting date of works), subject to paragraph (5);
 - (c) section 57(20) (notice of emergency works);
 - (d) section 59(21) (general duty of street authority to co-ordinate works);
 - (e) section 60 (general duty of undertakers to co-operate);
 - (f) section 68 (facilities to be afforded to street authority);
 - (g) section 69 (works likely to affect other apparatus in the street);
 - (h) section 76 (liability for cost of temporary traffic regulation);
 - (i) section 77 (liability for cost of use of alternative route); and

all such other provisions as apply for the purposes of the provisions mentioned above.

(5) Section 54 and 55 of the 1991 Act as applied by paragraph (3) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

- (6) Nothing in article 13 (construction and maintenance of new or altered highways)—
- (a) prejudices the operation of section 87 (prospectively maintainable highways) of the 1991 Act, and Network Rail is not, by reason of any duty under that article to maintain a street, to be taken to be a street authority in relation to that street for the purposes of Part 3 of that Act; or
 - (b) has effect in relation to street works with regard to which the provisions of Part 3 of the 1991 Act apply.

Disapplication of legislative provisions

5.—(1) The following provisions do not apply in relation to any works executed under the powers conferred by this Order—

- (a) section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991(22);
- (b) paragraph 5 (effect of designation) of Schedule 1 (risk management: designation of features) to the Flood and Water Management Act 2010(23);
- (c) paragraph 7 (requirement of approval) of Schedule 3 (sustainable drainage) to the Flood and Water Management Act 2010;
- (d) the provisions of any byelaws made under, or having effect as if made under, section 66 (powers to make byelaws) of the Land Drainage Act 1991(24), which require consent or approval for the carrying out of the works.

(18) Section 54 was amended by sections 40(1) and (2) and 49(1) of, and Schedule 1 to, the Traffic Management Act 2004.

(19) Section 55 was amended by sections 40(1) and (2), 49(2) and 51(9) of, and Schedule 1 to, the Traffic Management Act 2004.

(20) Section 57 was amended by sections 40(1) and (2) and 52(3) of the Traffic Management Act 2004.

(21) Section 59 was amended by section 42 of the Traffic Management Act 2004.

(22) 1991 c. 59. There are amendments to section 23 that are not relevant to this Order.

(23) 2010 c. 29.

(24) There are amendments to section 66 that are not relevant to this Order.