
STATUTORY INSTRUMENTS

1997 No. 2465

**TRANSPORT AND WORKS
TRANSPORT**

The North Tyneside Steam Railway Order 1997

Made - - - - - *26th September 1997*

Coming into force - - - *17th October 1997*

Whereas an application has been made to the Secretary of State for Transport (“the Secretary of State”), in accordance with the Transport and Works (Applications and Objections Procedure) Rules 1992(1) made under section 6 of the Transport and Works Act 1992(2), for an Order under section 1 of the Act;

And whereas the objection to that application has been withdrawn;

And whereas the Secretary of State has determined to make an Order giving effect to the proposals comprised in the application with modifications which in his opinion do not make any substantial change in the proposals;

And whereas notice of the Secretary of State’s determination was published in the London Gazette on 24th September 1997;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 1 and 5 of, and paragraphs 1, 2 and 16 of Schedule 1 to, the Act and of all other powers enabling him in that behalf, hereby makes the following Order:—

PART I

PRELIMINARY

Citation and commencement

1. This Order may be cited as the North Tyneside Steam Railway Order 1997 and shall come into force on 17th October 1997.

(1) S.I.1992/2902.
(2) 1992 c. 42.

Interpretation

2. In this Order, unless the context otherwise requires—

“the Applications Rules” means the Transport and Works (Applications and Objections Procedure) Rules 1992;

“authorised works” means the railway and any other works authorised by this Order;

“the Council” means the Council of the Borough of North Tyneside;

“the deposited plans” means the plan described in rule 7(1)(a) of the Applications Rules prepared in connection with the application for this Order and marked by the Secretary of State as “the deposited plans” for the purposes of this Order;

“highway” and “highway authority” have the same meaning as in the Highways Act 1980(3);

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

“protective equipment” includes lights, traffic signs (within the meaning of section 64(1) of the Road Traffic Regulations Act 1984(4), manual, mechanical, automatic, electronic or telephonic equipment or other devices;

“the railway” means the railway authorised to be constructed by article 4(1) below or any part thereof;

“the sections” means the sections described in rule 7(2) of the Application Rules prepared in connection with the application for this Order and marked by the Secretary of State as “the sections” for the purposes of this Order;

“street” includes part of a street; and

“street authority”, in relation to a street, has the same meaning as in Part III of the New Roads and Street Works Act 1991(5).

Incorporation of general Acts

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845(6) shall be incorporated in this Order—

section 24 (obstructing construction of railway);

section 46 (crossing of roads—level crossings);

section 58 (company to repair roads used by them), except for the words from “and if any question” to the end;

section 68 (accommodation works by company);

section 75 (omission to fasten gates);

section 77 (presumption that minerals excepted from acquisition of land);

sections 78 to 85 (as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act 1923(7));

sections 103 and 104 (refusal to quit carriage at destination);

section 105 (carriage of dangerous goods on railway);

section 145 (recovery of penalties); and

(3) 1980 c. 66.

(4) 1984 c. 27.

(5) 1991 c. 22.

(6) 1845 c. 20.

(7) 1923 c. 20.

section 154 (transient offenders).

(2) In those provisions, as incorporated in this Order—

“the company” means the Council;

“goods” includes any thing conveyed on the railway;

“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, except where the context otherwise requires, any other authorised works;

“the special Act” means this Order; and

“toll” includes any rate or charge or other payment payable under this Order or any other enactment for any passenger or goods conveyed on the railway authorised to be constructed by this Order.

(3) In its application to the railway, section 24 of the said Act of 1845 shall have effect as if the maximum fine which may be imposed on summary conviction of an offence under that section were, instead of a fine not exceeding level 2 on the standard scale, a fine not exceeding level 3 on the standard scale.

(4) In section 46 of the said Act of 1845, as incorporated in this Order, for the proviso there shall be substituted the words “Provided always, that, with the consent of the highway authority and subject to such conditions as the authority may reasonably impose, the railway may be carried across a highway on the level”.

(5) The following enactments shall not apply to the railway—

(a) the Highway (Railway Crossings) Act 1839⁽⁸⁾;

(b) section 9 of the Railway Regulation Act 1842⁽⁹⁾; and

(c) the Regulation of Railways Act 1889⁽¹⁰⁾ (except sections 1 and 5).

(6) Without prejudice to the foregoing provisions of this article, sections 116 to 118 of the Transport Act 1968⁽¹¹⁾ shall apply to the railway as if references in those sections to the Board were references to the Council.

PART II

WORKS PROVISIONS

Principal powers

Power to construct and maintain railway

4.—(1) The Council may construct and maintain a railway (1015 metres in length) being an extension of the North Tyneside Steam Railway in the Metropolitan Borough of North Tyneside, commencing 149 metres north of the bridge carrying the Tyne and Wear PTE Metro Railway at Ordnance Survey National Grid reference point NZ 433537 567429 and extending in a southerly direction under that bridge and the bridge carrying Howdon Road (A187) then extending in an

⁽⁸⁾ 1839 c. 45.

⁽⁹⁾ 1842 c. 55.

⁽¹⁰⁾ 1889 c. 57.

⁽¹¹⁾ 1968 c. 73.

easterly direction and terminating 12 metres west of the footpath known as Chemsons Cutting at Ordnance Survey National Grid reference point NZ 433794 566665.

(2) Subject to article 5 below, the railway shall be constructed in the lines or situations shown on the deposited plans and in accordance with the levels shown on the sections.

(3) Subject to paragraph (5) below, the Council may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the railway, namely—

- (a) works to alter the position of apparatus, including mains, sewers, drains and cables,
- (b) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses,
- (c) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the railway, and
- (d) works for the benefit or protection of premises affected by the railway.

(4) Subject to paragraph (5) below, the Council may carry out such other works (of whatever nature) as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the railway.

(5) Paragraphs (3) and (4) above—

- (a) shall only authorise the carrying out or maintenance of works within the limits of deviation for the railway shown on the deposited plans, and
- (b) shall not authorise the carrying out or maintenance of works to alter the course of, or otherwise interfere with, navigable rivers or watercourses.

Power to deviate

5. In constructing or maintaining the railway, the Council may—

- (a) deviate laterally from the lines or situations shown on the deposited plans within the limits of deviation for that work shown on those plans, and
- (b) deviate vertically from the levels shown on the sections—
 - (i) to any extent not exceeding 1 metre upwards, or
 - (ii) to any extent not exceeding 2 metres downwards.

Streets

Level Crossing

6.—(1) The Council may in the construction of the railway carry the same with a single line of rails across and on the level of St. Stephen's Way between the points marked A and B on the deposited plans; and nothing in this Order contained or incorporated shall require the provision of keepers at the same crossing.

(2) The Council shall provide and maintain at the said crossing—

- (a) a self-closing wicket gate, opening away from the line, on each side of the railway, and
- (b) signs bearing the wording 'STOP, LOOK AND LISTEN' on each side of the railway facing towards pedestrians approaching the level crossing;

or such other barriers or other protective equipment as the Health and Safety Executive may in writing require.

Power to execute street works

7.—(1) The Council may, for the purposes of the authorised works, enter upon so much of the street as is within the limits of deviation for the railway shown on the deposited plans and may—

- (a) place apparatus in the street,
- (b) maintain apparatus in the street or change its position, and
- (c) execute any works required for or incidental to any works referred to in sub-paragraphs (a) and (b) above (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street).

(2) In this article—

“apparatus” has the same meaning as in Part III of the New Roads and Street Works Act 1991; and

“the street” means the street known as St. Stephen’s Way in the metropolitan borough of North Tyneside.

Temporary stopping up of street

8.—(1) The Council, during and for the purposes of the execution of the authorised works, may temporarily stop up, alter or divert the street between the points marked A and B on the deposited plans and may for any reasonable time—

- (a) divert the traffic from the street, and
- (b) subject to paragraph (2) below, prevent all persons from passing along the street.

(2) The Council shall provide reasonable access for pedestrians going to or from premises abutting on the street if there would otherwise be no such access.

(3) The Council shall not exercise the powers of this article without first consulting the street authority.

(4) The provisions of the New Roads and Street Works Act 1991 mentioned in paragraph (5) below and any regulations made, or code of practice issued or approved under, those provisions shall apply (with the necessary modifications) in relation to the stopping up, alteration or diversion of the street by the Council under the powers conferred by this article where no street works are executed in that street as they would apply if the stopping up, alteration or diversion were occasioned by street works executed in that street by the Council.

(5) The provisions of the New Roads and Street Works Act 1991 referred to in paragraph (4) above are—

- section 54 (advance notice of certain works);
- section 55 (notice of starting date of works);
- section 59 (general duty of street authority to co-ordinate works);
- section 60 (general duty of undertakers to co-operate);
- section 69 (works likely to affect other apparatus in the street);
- section 76 (liability for cost of temporary traffic regulation);
- 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.

(6) In this article “the street” means the street known as St. Stephen’s Way in the metropolitan borough of North Tyneside.

Supplemental powers

Discharge of Water

9.—(1) The Council may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction or maintenance of the authorised works and for that purpose may lay down, take up and alter pipes and may, within the limits of deviation for the railway shown on the deposited plans, make openings into, and connections with, the watercourse, sewer or drain.

(2) The Council shall not discharge any water into any watercourse, public sewer or drain except with the consent of the authority to which it belongs; and such consent may be given subject to such terms and conditions as the authority may reasonably impose but shall not be unreasonably withheld.

(3) The Council shall not make any opening into any public sewer or drain except in accordance with plans approved by, and under the superintendence (if provided) of, the authority to which the sewer or drain belongs, but such approval shall not be unreasonably withheld.

(4) The Council shall not, in the exercise of the powers conferred by this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(5) The Council shall take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance or oil or matter in suspension.

(6) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by section 85(1), (2) or (3) of the Water Resources Act 1991⁽¹²⁾.

(7) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board, a local authority, a joint planning board, the Commission for the New Towns, an urban development corporation or a harbour authority within the meaning of the Harbours Act 1964⁽¹³⁾,
- (b) “watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain, and
- (c) other expressions used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

PART III

MISCELLANEOUS AND GENERAL

Power to operate and use railway

10. The Council may operate and use the railway and other authorised works as a system, or part of a system, of transport for the carriage of passengers and goods.

Maintenance of approved works etc.

11.—(1) Where pursuant to regulations made under section 41 of the Transport and Works Act 1992 (approval of works, plant and equipment) approval has been obtained from the Health and Safety Executive with respect to any works, plant or equipment (including vehicles) forming part

⁽¹²⁾ 1991 c. 57.

⁽¹³⁾ 1964 c. 40.

of the railway, such works, plant and equipment shall not be used in a state or condition other than that in which they were at the time that the approval was given unless any change thereto does not materially impair the safe operation of the railway.

(2) If without reasonable cause the provisions of paragraph (1) above are contravened, the Council shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) No proceedings shall be instituted in England and Wales in respect of an offence under this article except by or with the consent of the Health and Safety Executive or the Director of Public Prosecutions.

Certification of plans etc.

12. The Council shall, as soon as practicable after the making of this Order, submit copies of the sections and the deposited plans to the Secretary of State for certification that they are true copies of, respectively, the sections and plans referred to in this Order; and a document so certified shall be admissible in any proceedings as evidence of the contents of the documents of which it is a copy.

Service of notices

13.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served by post.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(**14**) as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) above is, if he has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body, and
- (b) in any other case, his last known address at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and his name or address cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to him by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it), and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) This article shall not be taken to exclude the employment of any method of service not expressly provided for by it.

Arbitration

14. Any difference under any provision of this Order shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President for the time being of the Institution of Civil Engineers.

(14) 1978 c. 30.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for Transport

A S D Whybrow
Head of Traffic Policy Division
Department of the Environment, Transport, and
the Regions

26th September 1997

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for certain works which will form an extension to the existing railway authorised by the North Tyneside Steam Railway Order 1991. In particular, the Order authorises the construction of railway works between the existing halt at Percy Main to a new terminus near Chemsons Cutting in the borough of North Tyneside and in connection with those works, authorises the provision of a level crossing at St. Stephen's Way. Copies of the deposited plans and the sections are available for inspection free of charge during working hours at the offices of the North Tyneside Council, Graham House, Whitley Road, Benton, Newcastle upon Tyne NE12 9TQ.