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STATUTORY INSTRUMENTS

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**1999 No. 1306**

**The Wirral Tramway Order 1999**

**PART II**

**WORKS PROVISIONS**

*Principal powers*

**Power to construct and maintain works**

**4.**—(1) The undertaker may construct and maintain the combined street tramways and tramroads described in Schedule 1 to this Order.

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

(3) Subject to paragraph (5) below, the undertaker may within the limits of deviation 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 scheduled works, namely—

- (a) works required for, or in connection with, the control of traffic on the authorised tramway;
- (b) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (c) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (d) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the scheduled works; and
- (e) works for the benefit or protection of premises affected by the scheduled works.

(4) Subject to paragraph (5) below, the undertaker may within the limits of deviation 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 scheduled works.

(5) Paragraphs (3) and (4) above 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.**—(1) In constructing or maintaining any of the scheduled works, the undertaker may—

- (a) deviate laterally from the lines or situations shown on the deposited plan within the limits of deviation for that work shown on that plan; and
- (b) deviate vertically from the levels shown on the sections to any extent not exceeding 0.5 metres upwards and to any extent downwards.

(2) The undertaker may in constructing or maintaining any of the authorised tramroads or authorised street tramways lay down—

- (a) double lines of rails in lieu of single lines,

- (b) single lines of rails in lieu of double lines,
- (c) interlacing lines of rails in lieu of double or single lines, or
- (d) double or single lines of rails in lieu of interlacing lines.

(3) The power in paragraph (2) above shall not be exercised in the case of any authorised street tramway without the consent of the street authority, but such consent shall not be unreasonably withheld.

### *Streets*

#### **Power to keep apparatus in streets**

6.—(1) The undertaker may, for the purposes of or in connection with the construction, maintenance and use of any authorised street tramway, place and maintain in any street along which the tramway is laid any work, equipment or apparatus including, without prejudice to the generality of the foregoing, foundations, platforms, road islands, substations, electric lines and any electrical or other apparatus.

(2) In this article—

- (a) “apparatus” has the same meaning as in Part III of the New Roads and Street Works Act 1991;
- (b) “electric line” has the meaning given by section 64(1) of the Electricity Act 1989<sup>(1)</sup>; and
- (c) the reference to any work, equipment, apparatus or other thing in a street includes a reference to any work, equipment, apparatus or other thing under, over, along or upon the street.

#### **Power to execute street works**

7. The undertaker may, for the purpose of exercising the powers conferred by article 6 above and the other provisions of this Order, enter upon any street along which any authorised street tramways are laid and may execute any works required for or incidental to the exercise of those powers including, without prejudice to the generality of the foregoing, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street.

#### **Temporary stopping up of streets**

8.—(1) The undertaker, during and for the purposes of the execution of the authorised works, may temporarily stop up, alter or divert any street 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 undertaker shall provide reasonable access for pedestrians going to or from premises abutting on a street affected by the exercise of the powers conferred by this article if there would otherwise be no such access.

(3) The undertaker shall not exercise the powers of this article in relation to any street without the consent of the street authority, but such consent shall not be unreasonably withheld.

(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 a street by the undertaker under the powers conferred by this article where no street works are

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(1) 1989 c. 29.

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 undertaker.

(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.

### **Restoration of streets if tramway discontinued**

9. If the undertaker permanently ceases to operate any of the authorised street tramways (“the discontinued tramway”), it shall as soon as reasonably practicable and unless otherwise agreed with the street authority—

- (a) remove from the street in which the discontinued tramway is laid the rails and any other works, equipment and apparatus which have become redundant; and
- (b) restore, to the reasonable satisfaction of the street authority, the portion of the street along which the discontinued tramway was laid to as good a condition as that in which it was before the tramway was laid.

### **Agreements with street authorities**

10.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street (including any structure carrying the street over or under a tramroad) under the powers conferred by this Order;
  - (b) the maintenance of the structure of any bridge or tunnel carrying a street over or under a tramroad;
  - (c) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
  - (d) the execution in the street of any works referred to in article 7 above.
- (2) Such an agreement may, without prejudice to the generality of paragraph (1) above—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question; and
  - (b) contain such terms as to payment and otherwise as the parties consider appropriate.

### **Level crossings**

11.—(1) The undertaker may construct the authorised tramways so as to carry them on the level across the highways specified in Schedule 2 to this Order.

(2) The undertaker may provide, maintain and operate at or near any new level crossing such barriers or other protective equipment as the Secretary of State may in writing approve.

(3) The undertaker may in the exercise of the powers of this article alter the level of any highway specified in Schedule 2 to this Order.

(4) The highway authority may enter into agreements with the undertaker with respect to the construction and maintenance of any new level crossing; and such an agreement may contain such terms as to payment or otherwise as the parties consider appropriate.

(5) In this article—

“barrier” includes gate;

“new level crossing” means the place at which an authorised tramroad crosses a highway on the level under the powers conferred by this article;

“protective equipment” includes lights, traffic signs (within the meaning of section 64(1) of the Act of 1984), manual, mechanical, automatic, electrical and telephonic equipment and other devices.

### *Supplemental*

#### **Attachment of equipment to buildings for purposes of tramway**

**12.—**(1) Subject to the following provisions of this article, the undertaker may affix to any building any brackets, cables, wires, insulators and other apparatus required in connection with the authorised tramway.

(2) The undertaker shall not under this article affix any apparatus to a building without the consent of the relevant owner of the building; and such consent may be given subject to reasonable conditions (including, where appropriate, the payment of rent) but shall not be unreasonably withheld.

(3) Where—

(a) the undertaker serves on the relevant owner of a building a notice requesting the owners’s consent to the affixing of specified apparatus to the building; and

(b) the relevant owner does not within the period of 56 days beginning with the date upon which the notice is served give his consent unconditionally or gives it subject to conditions or refuses it,

the consent shall be deemed to have been withheld.

(4) Where apparatus is affixed to a building under this article—

(a) any owner for the time being of the building may serve on the undertaker not less than 28 days notice requiring the undertaker at its own expense temporarily to remove the apparatus during any reconstruction or repair of the building if such removal is reasonably necessary for that purpose; and

(b) the undertaker shall have the right, as against any person having an interest in the building, to maintain the apparatus.

(5) The undertaker shall pay compensation to the owners and occupiers of the building for any loss or damage sustained by them by reason of the exercise of the powers conferred by paragraphs (1) and (4)(b) above; and any dispute as to a person’s entitlement to compensation, or as to the amount of the compensation, shall be determined under Part I of the Act of 1961.

(6) In this article—

“building” includes any structure and a bridge or aqueduct over the street; and

“relevant owner”—

(a) in relation to a building occupied under a lease or tenancy having an unexpired term exceeding 5 years, means the occupier of the building; or

- (b) in relation to any other building, means the person for the time being receiving the rack rent of the building whether on his own account or as agent or trustee for any other person, or who would so receive it if the building were let at a rack rent.

**Mode of construction, maintenance and operation of tramway**

**13.—**(1) The authorised tramway shall be operated by electricity or, in an emergency or for the purposes of maintenance, by diesel power or other means.

(2) The authorised tramway shall be constructed on a nominal gauge of 1,435 millimeters.

(3) The authorised street tramways (other than any reserved track tramways) shall be so constructed and maintained as to ensure that the uppermost surface of the rails is level with the surrounding surfaces of the street in which they are laid.