

**2001 No. 1368**

**TRANSPORT AND WORKS, ENGLAND**

**TRANSPORT, ENGLAND**

**The Greater Manchester (Light Rapid Transit System)  
(Mumps Surface Crossing) Order 2001**

*Made* - - - - - *9th February 2001*

*Coming into force* *2nd March 2001*

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Whereas an application has been made to the Secretary of State for Transport, in accordance with the Transport and Works (Applications and Objections Procedure) Rules 1992(a) made under section 6, 7 and 10 of the Transport and Works Act 1992(b) (“the Act”), for an Order under sections 1 and 5 of the Act;

And whereas the Secretary of State for the Environment, Transport and the Regions (“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 8th February 2001;

Now, therefore, the Secretary of State, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 1 to 4, 6 to 8, 11 to 13 and 15 to 17 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 Greater Manchester (Light Rapid Transit System) (Mumps Surface Crossing) Order 2001 and shall come into force on 2nd March 2001.

##### **Interpretation**

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

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

“the 1994 Act” means the Greater Manchester (Light Rapid Transit System) Act 1994(d);

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

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“the land plans” means the plans certified by the Secretary of State as the land plans for the purposes of this Order;

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(a) S.I. 1992/2902.

(b) 1992 c. 42.

(c) 1965 c. 56.

(d) 1994 c. vi.

“the limits of deviation” means the limits of lateral deviation for the scheduled works mentioned in article 4(1)(a);

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

“occupier” means a person occupying land under a tenancy for a period of more than one month (not being a statutory tenant within the meaning of the Rent Act 1977(a) or the Rent (Agriculture) Act 1976(b);

“owner”, in relation to land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land (whether in possession or reversion) and includes a person holding, or entitled to the rents and profits of, the land under a lease or agreement, where the unexpired term of that lease or agreement exceeds 3 years;

“the scheduled works” means the works specified in Schedule 1 to this Order or any part of them;

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

“street” includes part of a street;

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

“street tramway” means any part of a transit system which is laid along a street—

- (a) whether or not the section of the street in which its rails are laid may be used by other traffic, or
- (b) whether the uppermost surface of the rails is level with, or raised above, the surrounding surfaces of the street;

“tramroad” means any part of a transit system which is not a street tramway;

“transit system” means a system of transport used wholly or mainly for the carriage of passengers and employing parallel rails which—

- (a) provide support and guidance for vehicles carried on flanged wheels, and
- (b) are laid in part along a street or in any other place to which the public has access (including a place to which the public has access only on making a payment);

“the tribunal” means the Lands Tribunal;

“the undertaker” means Greater Manchester Passenger Transport Executive;

“the works plans” means the plans certified by the Secretary of State as the works plans for the purposes of this Order.

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

(3) Except in articles 3(5) and 15(2) below, any reference in this Order to a work identified by the number of the work shall be construed as a reference to the work of that number authorised by this Order.

(4) References in this Order to points identified by letters, with or without numbers, shall be construed as references to the points so marked on the works plans.

(5) All distances, directions and lengths stated in the description of the scheduled works or in any description of powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance, direction and length, and distances between points on a street tramway or tramroad shall be taken to be measured along the street tramway or tramroad.

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(a) 1977 c. 42. See section 2(1) and Schedule 1, as amended by the Housing Act 1980 (c. 51), sections 76 and 153(2) and Schedule 26, and the Housing Act 1988 (c. 50), section 39(1).

(b) 1976 c. 80. See section 4, as amended by the Rent Act 1977, section 155 and Schedule 23, and the Housing Act 1980, section 76(3).

(c) 1991 c. 22.

PART II  
WORKS PROVISIONS

*Principal powers*

**Power to construct and maintain works**

3.—(1) Subject to paragraphs (5) and (6) below, the undertaker may construct and maintain the scheduled works.

(2) Subject to article 4 below, the scheduled works may only be constructed in the lines or situations shown on the works plans and in accordance with the levels shown on the sections.

(3) The undertaker 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 scheduled works, namely—

- (a) stations, platforms and stopping places,
- (b) works required for, or in connection with, the control of any vehicular and pedestrian traffic on the authorised works,
- (c) works for the strengthening, alteration or demolition of any building or structure,
- (d) works to alter the position of any street furniture or apparatus, including mains, sewers, drains and cables,
- (e) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses,
- (f) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the other authorised works, and
- (g) replacement facilities and works for the benefit or protection of premises affected by the other authorised works.

(4) The undertaker 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 scheduled works.

(5) If the undertaker constructs the scheduled works, the undertaker shall not construct Work No. 5, the substituted portion of Work No. 5, or Work No. 7 described in section 4(2) of the 1994 Act or exercise the powers conferred by section 5(1)(f) and (g) of that Act.

(6) If the undertaker constructs those works authorised by, or those powers conferred by, the 1994 Act which are referred to in paragraph (5) above, the undertaker shall not construct the scheduled works.

**Power to deviate**

4.—(1) In constructing or maintaining either of the scheduled works, the undertaker may—

- (a) deviate laterally from the lines or situations shown on the works 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 3 metres upwards, and
  - (ii) to any extent downwards.

(2) The undertaker may in constructing or maintaining either of the scheduled works 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 Work No. 1 without the consent of the street authority, but such consent shall not be unreasonably withheld.

(4) the undertaker may in constructing and maintaining Work No. 2 provide within the limits of deviation such number of lines of rails and sidings as may be necessary or expedient.

### **Application of the Greater Manchester (Light Rapid Transit System) Act 1994**

5.—(1) The following provisions of the 1994 Act shall apply to the scheduled works as if they were works authorised by that Act and as if Work No. 1 were included in the definition of “the tramway” and Work No. 2 were included within the definition of “the tramroads” in section 2 of that Act:—

section 6	(gauge of tramroads and tramway),
section 8	(plans to be approved by Secretary of State before works commenced),
section 9	(approval of Secretary of State),
section 10	(certain works to be deemed tramways, etc.),
section 11	(extension of powers).

(2) Section 11 of the 1994 Act as applied by paragraph (1) above shall have effect as if, in subsection (2)(d), in addition to the reference to West Street and Winterbottom Street, there were a reference to the highway at the junction of Wallshaw Street and Mumps and the highway at the junction of Wallshaw Place and Bottom O’ Th’ Moor.

## PART III

### ACQUISITION AND POSSESSION OF LAND

#### *Powers of acquisition*

#### **Power to acquire land**

6. The undertaker may acquire compulsorily—

- (a) so much of the land shown on the land plans within the limits of deviation for the scheduled works shown on those plans and described in the book of reference as may be required for the purposes of the authorised works, and
- (b) so much of the land specified in columns (1) and (2) of Schedule 2 to this Order (being land shown on the land plans and described in the book of reference) as may be required for the purpose specified in relation to that land in column (3) of that Schedule;

and may use any land so acquired for those purposes or for any other purposes connected with or ancillary to its transit system undertaking.

#### **Application of Part I of the Compulsory Purchase Act 1965**

7.—(1) Part I of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, shall apply to the acquisition of land under this Order—

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(a) applies, and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part I of the 1965 Act, as so applied, shall have effect as if—

- (a) section 4 (which provides a time limit for compulsory purchase of land) and paragraph 3(3) of Schedule 3 (which makes provision as to the giving of bonds) were omitted, and
- (b) in section 11(1) (which confers power to enter on and to take possession of land subject to a notice to treat on giving not less than 14 days’ notice) for the reference to 14 days’ notice there were substituted—
  - (i) in a case where the notice to treat relates only to the acquisition of subsoil or the acquisition of an easement or other right over the land, a reference to notice of one month, or
  - (ii) in any other case, a reference to notice of 3 months.

#### **Application of the Compulsory Purchase (Vesting Declarations) Act 1981**

8.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(b) shall apply as if this Order were a compulsory purchase order.

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(a) 1981 c. 67.

(b) 1961 c. 66.

(2) In its application by virtue of paragraph (1) above, the Compulsory Purchase (Vesting Declarations) Act 1981 shall have effect with the following modifications.

(3) In section 3 (preliminary notices) for subsection (1) there shall be substituted—

“(1) Before making a declaration under section 4 below with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in subsection (3) below in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession), and
- (b) published in the London Gazette and in a local newspaper circulating in the area in which the land is situated.”.

(4) In that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)” and after “given” there shall be inserted “and published”.

(5) In that section, subsections (5) and (6) shall be omitted and at the end there shall be inserted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) he is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion, or
- (b) he holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(6) In section 5 (earliest date for execution of declaration)—

- (i) in subsection (1), after “publication” there shall be inserted “in the London Gazette or in a local newspaper circulating in the area in which the land is situated”, and
- (ii) subsection (2) shall be omitted.

(7) In section 7 (constructive notice to treat) in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted.

(8) References to the 1965 Act shall be construed as references to that Act as applied to the acquisition of land under article 7 above.

### **Powers to acquire new rights**

**9.**—(1) The undertaker may compulsorily acquire such easements or other rights over any land referred to in paragraph (1)(a) or (b) of article 6 above as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

(2) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 3 to this Order), where the undertaker acquires a right over land under paragraph (1) above the undertaker shall not be required to acquire a greater interest in it.

(3) Schedule 3 to this Order shall have effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right.

### **Rights under or over streets**

**10.**—(1) The undertaker may enter upon and appropriate so much of the surface, subsoil of, or air-space over, any street shown on the land plans and described in the book of reference as may be required for the purposes of the authorised works and may use the surface, subsoil and air-space for those purposes or any other purpose connected with or ancillary to its transit system undertaking.

(2) The power under paragraph (1) above may be exercised in relation to a street without the undertaker being required to acquire any part of the street or any easement or right in the street and the powers of compulsory acquisition of land conferred by this Order shall not apply in relation to the street.

(3) Any person, who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) above is exercised without the undertaker acquiring

any part of that person's interest in the land and who suffers loss by the exercise of that power, shall be entitled to compensation to be determined, in case of dispute, under Part I of the Land Compensation Act 1961(a).

- (4) Paragraph (2) above shall not apply in relation to—
- (a) any subway or underground building, or
  - (b) any cellar, vault, arch or other construction in or on a street which forms part of a building fronting on to the street.

### *Compensation*

#### **Disregard of certain interests and improvements**

**11.**—(1) In assessing the compensation (if any) payable to any person on the acquisition from him of any land under this Order, the tribunal shall not take into account—

- (a) any interest in land, or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) above “relevant land” means the land acquired from the person concerned or any other land with which he is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

### *Supplementary*

#### **Acquisition of part of certain properties**

**12.**—(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 7 above) in any case where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or factory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”), and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat and stating that he is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner shall be required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner shall be required to sell only the land subject to the notice to treat shall, unless the undertaker agrees to take the land subject to the counter-notice, be referred to the tribunal.

(5) If on such a reference the tribunal determine that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice, or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner shall be required to sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determine that only part of the land subject to the notice to treat can be taken—

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(a) 1961 c. 33.

- (a) without material detriment to the remainder of the land subject to the counter-notice, or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat shall be deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determine that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice, but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the tribunal determine that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, and
- (b) the material detriment is not confined to a part of the land subject to the counter-notice,

the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.

(9) In any case where by virtue of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and if it does so shall pay to the owner compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or factory or of land consisting of a house with a park or garden, the undertaker shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of the interest acquired.

### **Extinction or suspension of private rights of way**

**13.—**(1) All private rights of way over land subject to compulsory acquisition under this Order shall be extinguished—

- (a) as from the acquisition of the land by the undertaker, whether compulsorily or by agreement, or
- (b) on the entry on the land by the undertaker under section 11(1) of the 1965 Act,

whichever is sooner.

(2) All private rights of way over land owned by the undertaker which, being within the limits of land which may be acquired shown on the land plans, is required for the purposes of this Order shall be extinguished on the appropriation of the land for any of those purposes by the undertaker.

(3) All private rights of way over land of which the undertaker takes temporary possession under this Order shall be suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part I of the Land Compensation Act 1961.

### **Time limit for exercise of powers of acquisition**

**14.** The powers conferred by this Order to acquire any land shall be deemed to have been exercised if, before the end of the period of 5 years beginning on the day on which this Order



comes into force, notice to treat has been served in respect of the land but, subject thereto, the powers shall cease to have effect at the end of that period.

## PART IV

### MISCELLANEOUS AND GENERAL

#### **For Protection of Railtrack PLC**

**15.**—(1) In its application to Railtrack PLC, section 18 (for protection of British Railways Board) of the 1994 Act shall apply to the works authorised by, and the exercise of the powers of, this Order as it applies to the works authorised by, and the exercise of the powers of, the 1994 Act.

(2) For the purposes of such application section 18 of the 1994 Act shall have effect as if—

- (a) references to the railways board were references to Railtrack PLC;
- (b) references to the Executive were references to the undertaker;
- (c) references to the 1994 Act were references to this Order; and
- (d) references in paragraph (19) to Works Nos. 1 and 5 authorised by the 1994 Act were references to the scheduled works.

(3) the undertaker shall not in the exercise of the powers of article 10 above appropriate any works of Railtrack PLC in or over Mumps.

(4) The compensation payable under paragraph (18) of section 18 of the Act of 1994, as applied by paragraph (1) above, shall include a sum equivalent to the relevant costs.

(5) Subject to the terms of any agreement between Railtrack PLC and any train operators regarding the terms of payment of the relevant costs in respect of that train operator, Railtrack PLC shall promptly pay to each train operator the amount of any compensation which Railtrack PLC receives under this paragraph which relates to the relevant costs of that train operator.

(6) The obligation under paragraph (4) above to pay Railtrack PLC the relevant costs shall, in the event of default, be enforceable directly by the train operator concerned to the extent that such sums would be payable to that operator pursuant to paragraph (5) above.

(7) In this article—

“relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of use of Railtrack PLC’s railway network as a result of the construction or maintenance of the specified works or any such failure, act or omission as is mentioned in the said paragraph (18) as applied by paragraph (1) above; and

“train operator” means any person who operates trains in accordance with a licence under section 8 of the Railways Act 1993<sup>(a)</sup> or an exemption order under section 7 of that Act.

#### **Certification of plans etc.**

**16.** The undertaker shall, as soon as practicable after the making of this Order, submit copies of the book of reference, the sections, the land plans and the work plans to the Secretary of State for certification that they are true copies of, respectively, the book of reference, 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 document of which it is a copy.

#### **No double recovery**

**17.** Compensation shall not be payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law.

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<sup>(a)</sup> 1993 c. 43.

Signed by authority of the Secretary of State  
for the Environment, Transport and the Regions

*Ellis Harvey*  
Head of the Transport and Works Act Processing Unit,  
Department of the Environment,  
Transport and the Regions

9th February 2001

## SCHEDULE 1

Article 3

### SCHEDULED WORKS

In the Borough of Oldham—

Work No. 1 A street tramway 276 metres in length (double line) commencing at a junction with the termination of Work No. 4 of the 1994 Act at a point along Mumps adjacent to its junction with Prince Street, running thence in an easterly direction along Mumps before terminating at a point on the north-western side of the junction of Brook Street and Bottom O' Th' Moor.

Work No. 2 A tramroad 69 metres in length (double line) commencing by a junction with the termination of Work No. 1, running thence in a north-easterly direction along part of the existing Middleton to Shaw railway before terminating at a point adjacent to Wild Street and including the demolition in part of the existing railway viaduct.

## SCHEDULE 2

Articles 3 and 6

### ACQUISITION OF CERTAIN LAND

<i>(1)</i> Area	<i>(2)</i> Number of land shown on land plan	<i>(3)</i> Purpose for which land may be acquired
Borough of Oldham	22, 30, 31, 32, 33 and 34	Highway modifications

## SCHEDULE 3

Article 9

### MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

#### *Compensation enactments*

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without prejudice to the generality of paragraph 1 above, the Land Compensation Act 1973(a) shall have effect subject to the modifications set out in sub-paragraphs (2) and (3) below.

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation or injurious affection under section 7 of the 1965 Act as substituted by paragraph 4 below—

- (a) for the words “land is acquired or taken” there shall be substituted the words “a right over land is purchased”, and
- (b) for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable”.

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5 below—

- (a) for the word “part” in paragraphs (a) and (b) there shall be substituted the words “a right over land consisting”,

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(a) 1973 c. 26.

- (b) for the word “severance” there shall be substituted the words “right over the whole of the house, building or manufactory or of the house and the park or garden”,
- (c) for the words “part proposed” there shall be substituted the words “right proposed” and,
- (d) for the words “part is” there shall be substituted the words “right is”.

*Adaptation of the 1965 Act*

3.—(1) The 1965 Act shall have effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or
- (b) the land over which the right is or is to be exercisable.

(2) Without prejudice to the generality of sub-paragraph (1) above, Part I of the 1965 Act shall apply in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

4. For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

5. For section 8 of the 1965 Act (provisions as to divided land) there shall be substituted the following—

“8.—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the person satisfies the tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—
  - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land, or
  - (ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

the Greater Manchester (Light Rapid Transit System) (Mumps Surface Crossing) Order 2001 (“the Order”) shall, in relation to that person cease to authorise the purchase of the right and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section shall be determined by the tribunal.

(3) Where in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection

to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”.

**6.** The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey),
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity),
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners), and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

**7.** Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act shall be modified correspondingly.

**8.** Section 20 of the 1965 Act (protection for interests of tenants at will etc.) shall apply with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

**9.** Section 22 of the 1965 Act (protection of acquiring authority’s possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises Greater Manchester Passenger Transport Executive to construct works and compulsorily to acquire land and rights in land for the purpose of those works comprising an alternative arrangement (including a surface level tramway) for part of the works authorised by the Greater Manchester (Light Rapid Transit System) Act 1994 at and in the vicinity of the Mumps roundabout in Oldham.

A copy of the land plans, the works plans and the book of reference are available for inspection free of charge during working hours at the offices of the Executive, 9 Portland Street, Piccadilly Gardens, Manchester M60 1HX.



**2001 No. 1368**

**TRANSPORT AND WORKS, ENGLAND**

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The Greater Manchester (Light Rapid Transit System)  
(Mumps Surface Crossing) Order 2001

**£3.00**

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Acts of Parliament

E 0395 04/01 ON (MFK)