
STATUTORY INSTRUMENTS

2005 No. 1918

The Greater Manchester (Leigh Busway) Order 2005

PART 4

OPERATION OF AUTHORISED BUSWAY SYSTEM

Power to operate and use authorised busway system

32.—(1) The undertaker may operate and use the authorised busway and the other authorised works as a system, or part of a system, of transport for the carriage of passengers and goods.

(2) Subject to article 45 and to section 10 of the Transport Act 1968(1), the undertaker shall have the exclusive right to use the authorised busway and to permit others to do so on such terms as it sees fit.

(3) Any person who, without the consent of the undertaker or other reasonable excuse, uses the authorised busway shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Power to charge fares

33. The undertaker may demand, take and recover or waive such charges for carrying passengers or goods on the authorised busway or for any other services or facilities provided in connection with the operation of the authorised busway, as it thinks fit.

Service subsidy agreements

34. Any service subsidy agreement relating to the operation of busway services shall be excluded from section 89(1) of the Transport Act 1985(2).

Registration of busway services

35. For the purposes of the application of Part I of the Transport Act 1985 but subject to article 36, the authorised busway shall be a road within the meaning of section 2 of that Act.

Substitute road services

36.—(1) The undertaker may provide or secure the provision by other persons of services for the carriage of passengers by road (“substitute services”) where the authorised busway has been temporarily interrupted, curtailed or discontinued.

(2) The route, frequency and stopping places of any substitute service need not correspond with the route of the interrupted, curtailed or discontinued service.

(1) 1968 c. 73.
(2) 1985 c. 67.

Maintenance of approved works, etc.

37.—(1) Where pursuant to regulations⁽³⁾ made under section 41 of the Act (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 of the authorised busway, 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 authorised busway.

(2) If without reasonable cause the provisions of paragraph (1) are contravened, the undertaker 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.

Removal of obstructions

38.—(1) If any obstruction is caused to vehicles using the authorised busway by a vehicle waiting, loading, unloading or breaking down on any part of the authorised busway, the person in charge of the vehicle shall forthwith remove it; and if he fails to do so the undertaker may take all reasonable steps to remove the obstruction and may recover the expenses reasonably incurred in doing so from—

- (a) any person by whom the vehicle was put or left so as to become an obstruction to vehicles using the authorised busway; or
- (b) any person who was the owner of the vehicle at that time unless he shows that he was not, at that time, concerned in or aware of the vehicle being so put or left.

(2) If any obstruction is caused to vehicles using the authorised busway by a load falling on the authorised busway from a vehicle, the person in charge of the vehicle shall forthwith remove the load from the authorised busway; and if he fails to do so, the undertaker may take all reasonable steps to remove the load and may recover the expenses reasonably incurred in doing so from—

- (a) any person who was in charge of the vehicle at the time when the load fell from it; or
- (b) any person who was the owner of the vehicle at that time unless he shows that he was not concerned in, or aware of, the vehicle being in the place at which the load fell from it.

(3) For the purposes of this article the owner of a vehicle shall be taken to be the person by whom the vehicle is kept; and in determining for those purposes who was the owner of the vehicle at any time, it shall be presumed (unless the contrary appears) that the owner was the person in whose name the vehicle was at that time registered under the Vehicles Excise and Registration Act 1994⁽⁴⁾.

Traffic signs

39.—(1) The undertaker may, for the purposes of, or in connection with the operation of, the authorised busway, and notwithstanding anything in section 64(4) of the 1984 Act, place or maintain traffic signs of a type prescribed by regulations made under section 64(1)(a) of that Act or of a character authorised by the Secretary of State on any street which has a junction with or otherwise gives access to the authorised busway.

(2) The undertaker—

- (a) shall consult the traffic authority as to the placing of signs; and

⁽³⁾ See S.I.1994/157.

⁽⁴⁾ 1994 c. 22.

(b) unless the traffic authority is unwilling to do so and subject to any directions given under section 65 of the 1984 Act, shall enter into arrangements with the traffic authority for the signs to be placed and maintained by the traffic authority.

(3) Any power conferred by section 65 of the 1984 Act to give directions to a traffic authority or local traffic authority as to traffic signs shall include a power to give directions to the undertaker as to traffic signs under this article; and, accordingly, the powers conferred by paragraph (1) shall be exercisable subject to and in conformity with any directions given under that section.

(4) A traffic authority or other authority having power under or by virtue of the 1984 Act to place and maintain, or cause to be placed and maintained, traffic signs on or near any street along which the authorised busway runs or to which it gives access shall consult the undertaker as to the placing of any traffic sign which would affect the operation of the authorised busway.

(5) Expressions used in this article and in the 1984 Act shall have the same meaning in this article as in that Act.

Traffic regulation

40.—(1) Subject to the provisions of this article the undertaker may, for the purposes of the authorised busway, at any time prior to the expiry of 12 months from the opening of the system for use and with the consent of the traffic authority in whose area the road is situated—

- (a) prohibit or restrict the waiting or the loading or unloading of vehicles in the manner specified in Part 1 of Schedule 9 to this Order on those roads specified in column (2) and along the lengths and between the points specified in column (3) of that Part of that Schedule;
- (b) establish bus lanes on the roads specified in column (2) and along the lengths and between the points specified in column (3) of Part 2 of Schedule 9 to this Order;
- (c) make provision as to the direction of vehicular traffic in the manner specified in Part 3 of Schedule 9 to this Order on the roads specified in column (2) and as respects direction to the extent specified in column (3) of that Part of that Schedule;
- (d) prohibit vehicular access in the manner specified in Part 4 of Schedule 9 to this Order on those roads specified in column (2) and at the points and as respects direction to the extent specified in column (3) of that Part of that Schedule;
- (e) revoke any traffic regulation order in so far as it is inconsistent with any prohibition, restriction or other provision made by the undertaker under this paragraph.

(2) The undertaker shall not exercise the powers of this article unless it has—

- (a) given not less than 12 weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may within 28 days of its receipt of notice of the undertaker's intention specify in writing.

(3) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) shall have effect as if duly made by the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act and the instrument by which it is effected may specify savings (in addition to those mentioned in Schedule 9) to which the prohibition, restriction or other provision is subject.

Power to lop trees overhanging busway system

41.—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised busway, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised busway or any apparatus used for the purposes of the authorised busway; or
- (b) from constituting a danger to passengers or other persons using the authorised busway.

(2) In exercising the powers in paragraph (1), the undertaker shall do no unnecessary damage to any tree or shrub and shall pay compensation to any person for any loss or damage arising from the exercise of those powers.

(3) Nothing in this article shall be taken to affect the application of any tree preservation order made under section 198 of the 1990 Act.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of the compensation, shall be determined under Part I of the 1961 Act.

Trespass on busway system

42.—(1) Any person who—

- (a) trespasses on the authorised busway; or
- (b) trespasses upon any land of the undertaker in dangerous proximity to the authorised busway or to any electrical or other apparatus used for or in connection with the operation of the authorised busway,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) For the purposes of this article, trespassing on the authorised busway includes causing or permitting a vehicle to be upon any part of the authorised busway without permission.

(3) No person shall be convicted of an offence under this article unless it is shown that a notice warning the public not to trespass upon the authorised busway was clearly exhibited and maintained at the station or other stopping place or level crossing on the authorised busway nearest the place where the offence is alleged to have been committed.

Power to make byelaws

43.—(1) The undertaker may make byelaws regulating the use and operation of, and travel on, the authorised busway, the maintenance of order on the authorised busway and on authorised busway premises or other facilities provided in connection with the authorised busway and the conduct of all persons including employees of the undertaker while on the authorised busway or on authorised busway premises.

(2) Without prejudice to the generality of paragraph (1), byelaws under this article may make provision—

- (a) with respect to tickets issued for travel on the authorised busway, the payment of fares and charges and the evasion of payment of fares and charges;
- (b) with respect to interference with, or obstruction of, the operation of the authorised busway or other facilities provided in connection with the authorised busway;
- (c) with respect to access to and the carriage, use or consumption of anything on authorised busway premises;
- (d) with respect to the prevention of nuisances on authorised busway premises;
- (e) with respect to trespass on the authorised busway or upon any authorised busway premises of the undertaker;
- (f) for regulating the passage of bicycles and other vehicles on ways and other places intended for the use of persons on foot within authorised busway premises;

- (g) for the safe custody and re-delivery or disposal of any property accidentally left on authorised busway premises and for fixing the charges made in respect of any such property; and
- (h) for prohibiting or restricting the placing or leaving of any vehicle without its driver on any part of the authorised busway or on authorised busway premises.

(3) In paragraphs (1) and (2) references to “authorised busway premises” are references to premises of the undertaker used for or in connection with the operation of the authorised busway including any authorised busway vehicle.

(4) Byelaws under this article may provide for it to be an offence for a person to contravene, or to fail to comply with, a provision of the byelaws and for such a person to be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Without prejudice to the taking of proceedings for an offence included in byelaws by virtue of paragraph (4), if the contravention of, or failure to comply with, any byelaw under this article is attended with danger or annoyance to the public, or hindrance to the undertaker in the operation of the authorised busway, the undertaker may summarily take action to obviate or remove the danger, annoyance or hindrance.

(6) Byelaws under this article shall not come into operation until they have been confirmed by the Secretary of State.

(7) At least 28 days before applying for any byelaws to be confirmed under this article, the undertaker shall publish in such manner as may be approved by the Secretary of State a notice of its intention to apply for the byelaws to be confirmed and of the place at which and the time during which a copy of the byelaws will be open to public inspection; and any person affected by any of the byelaws may make representations on them to the Secretary of State within a period specified in the notice, being a period of not less than 28 days.

(8) For at least 24 days before an application is made under this article for byelaws to be confirmed, a copy of the byelaws shall be kept at the principal office of the undertaker and shall at all reasonable hours be open to public inspection without payment.

(9) The undertaker shall, at the request of any person, supply him with a copy of any such byelaws on payment of such reasonable sum as the undertaker may determine.

(10) The Secretary of State may confirm with or without modification, or may refuse to confirm, any of the byelaws submitted under this article for confirmation and, as regards any byelaws so confirmed, may fix a date on which the byelaws shall come into operation; and if no date is so fixed the byelaws shall come into operation after the expiry of 28 days after the date on which they were confirmed.

(11) The Secretary of State may charge the undertaker such fees in respect of any byelaws submitted for confirmation under this article as he may consider appropriate for the purpose of defraying any administrative expenses incurred by him in connection therewith.

(12) A copy of the byelaws when confirmed shall be printed and deposited at the principal office of the undertaker and shall at all reasonable hours be open to public inspection without payment, and the undertaker shall, at the request of any person, supply him with a copy of any such byelaws on payment of such reasonable sum as the undertaker shall determine.

(13) The production of a printed copy of byelaws confirmed under this article on which is endorsed a certificate purporting to be signed by a person duly authorised by the undertaker stating—

- (a) that the byelaws were made by the undertaker;
- (b) that the copy is a true copy of the byelaws;
- (c) that on a specified date the byelaws were confirmed by the Secretary of State; and
- (d) the date when the byelaws came into operation,

shall be prima facie evidence of the facts stated in the certificate.

Power to contract for police services

44.—(1) The undertaker may enter into agreements with a police authority and its chief officer of police for the police force maintained by that authority to provide policing services for or in connection with the authorised busway, including at any busway premises.

(2) Any such agreement may provide for—

- (a) the undertaker to make such payment or other consideration for those policing services as the parties may agree; and
- (b) such incidental and ancillary matters as the parties consider appropriate.

(3) In this article—

- (a) “chief officer of police” means a chief officer of police within the meaning of the Police Act 1996⁽⁵⁾ or the Chief Constable of the British Transport Police Force; and
- (b) “police authority” means a police authority within the meaning of that Act or the British Transport Police Authority within the meaning of the Railways and Transport Safety Act 2003⁽⁶⁾.

Power of disposal, agreements for operation, etc.

45.—(1) Without prejudice to its powers under section 10 of the Transport Act 1968 (general powers of the Executive)⁽⁷⁾, the undertaker may, with the consent of the Secretary of State, sell, lease, charge or otherwise dispose of, on such terms and conditions as it thinks fit, the whole or any part of the authorised works and any land held in connection therewith or the right to operate the works under this Order.

(2) Without prejudice to the generality of paragraph (1), the undertaker may enter into and carry into effect agreements with respect to any of the following matters, namely, the construction, maintenance, use and operation of the authorised works, or any part of them, by any other person, and other matters incidental or subsidiary thereto or consequential thereon, and the defraying of, or the making of contributions towards, the cost of the matters aforesaid by the undertaker or any other person.

(3) Any agreement under paragraph (2) may provide (among other things) for the exercise of the powers of the undertaker in respect of the authorised works or any part thereof, and for the transfer to any person of the authorised works or any part or parts thereof together with the rights and obligations of the undertaker in relation thereto.

(4) The exercise of the powers of any enactment by any person in pursuance of any sale, lease, charge or disposal under paragraph (1), or any agreement under paragraph (2), shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those powers were exercised by the undertaker.

(5) Nothing in section 15(2) of the Transport Act 1968 (restriction on alteration of charges) shall apply in relation to the operation of the authorised busway by any person other than the undertaker, but this paragraph is without prejudice to any provision with respect to charges that may be made in an agreement under paragraph (1) or (2).

⁽⁵⁾ 1996 c. 16.

⁽⁶⁾ 2003 c. 20.

⁽⁷⁾ 1968 c. 73.

Application of landlord and tenant law

46.—(1) This article applies to any agreement for leasing to any person the whole or any part of the authorised busway or the right to operate the same, and any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised busway, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person’s use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of any agreement to which this article applies.

(3) Accordingly no such enactment or rule of law shall apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Town and country planning: statutory undertakers

47.—(1) The authorised busway shall be regarded as a road transport undertaking for the purposes of section 262(1) of the 1990 Act (meaning of “statutory undertakers”).

(2) Planning permission which is deemed by a direction under section 90(2A) of the 1990 Act to be granted in relation to works authorised by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of that Act (cases in which land is to be treated as operational land for the purposes of that Act).