
STATUTORY INSTRUMENTS

2005 No. 2222

The River Tyne (Tunnels) Order 2005

PART 2

WORKS PROVISIONS

Streets

Power to execute street works

5.—(1) The undertaker may, for the purpose of or in connection with the authorised works, enter upon so much of any of the streets specified in Schedule 2 to this Order as is within the limits of land to be acquired or used and may—

- (a) break up or open the street, or any sewer, drain, pipe or conduit or tunnel under it, or tunnel or bore under the street;
- (b) place apparatus in the street;
- (c) maintain apparatus in the street or change its position or remove it from the street; and
- (d) execute works required for or incidental to any works referred to in sub-paragraphs (a), (b) and (c).

(2) This article is subject to paragraph 3 of Schedule 11 to this Order.

(3) In this article “apparatus” has the same meaning as in Part III of the 1991 Act.

Power to alter layout of streets

6.—(1) The undertaker may alter the layout of any street specified in columns (1) and (2) of Schedule 2 to this Order in the manner specified in relation to that street in column (2) of that Schedule.

(2) Without prejudice to the specific powers conferred by paragraph (1) but subject to paragraph (3), the undertaker may for the purpose of or in connection with the authorised works alter the layout of any street in or adjacent to which any authorised works are constructed or to be constructed and, without prejudice to the generality of the foregoing, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footway, cycle track or verge within the street,
- (b) alter the level of any such kerb, footway, cycle track or verge, and
- (c) reduce or increase the width of the carriageway of the street by forming a reserved area in the street as a stopping place for vehicles or by carrying out other works for that purpose.

(3) The powers in paragraph (2) shall not be exercised without the consent of the street authority, but such consent shall not be unreasonably withheld.

Stopping up of streets and extinguishments of rights

7.—(1) Subject to the provisions of this article, the undertaker may, for the purpose of or in connection with the carrying out or maintenance of the authorised works, stop up each of the streets specified in columns (1) and (2) of each Part of Schedule 3 to this Order to the extent specified, by reference to the letters and numbers shown on the works plans, in column (3) of that Part.

(2) No street specified in columns (1) and (2) of Part 1 of Schedule 3 to this Order (being a street for which a substitute is to be provided) shall be wholly or partly stopped up under this article unless either—

- (a) the new street to be substituted for it, and which is specified in relation to it in column (4) of that Part of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and thereafter maintained by the undertaker to the reasonable satisfaction of the street authority between the commencement and termination points of the street to be stopped up until the completion of the new street in accordance with sub-paragraph (a).

(3) Where a street has been stopped up under this article the undertaker may, without making any payment, appropriate and use for the purpose of or in connection with the authorised works so much of the site of the street as is bounded on both sides by land owned by the undertaker or occupied by the undertaker pursuant to the provisions of this Order.

(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(1).

(5) This article is subject to paragraph 2 of Schedule 11 to this Order.

Temporary stopping up of streets

8.—(1) The undertaker may, during and for the purpose of the carrying out or maintenance of the authorised works, 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 (3), prevent all persons from passing along the street.

(2) Without prejudice to the generality of paragraph (1), the undertaker may use any street stopped up under the powers of this article as a temporary working site.

(3) 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.

(4) Without prejudice to the generality of paragraph (1), the undertaker may exercise the powers of this article in relation to the streets specified in columns (1) and (2) of Schedule 4 to this Order to the extent specified, by reference to the letters and numbers shown on the works plans, in column (3) of that Schedule.

(5) Save in respect of any street which is a tunnel road, the undertaker shall not exercise the powers of this article—

- (a) in relation to any street specified as mentioned in paragraph (4) without first consulting the street authority; and
- (b) in relation to any other street without the consent of the street authority, but such consent shall not be unreasonably withheld but may be given subject to reasonable conditions.

(1) 1961 c. 33.

(6) Where the street authority imposes reasonable conditions on its consent under this article the undertaker shall not exercise its powers under this article except in accordance with those conditions.

(7) Works executed under this Order in relation to a highway which consists of or includes a carriageway shall be treated for the purposes of Part III of the 1991 Act (street works) as major highway works if—

- (a) they are works of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works) and would have been major highway works had they been executed by the highway authority, 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 of the Highways Act 1980(2) (dual carriageways and roundabouts).

(8) Section 56 (directions as to timing) and section 58 (restrictions following substantial road works) of the 1991 Act shall not apply in relation to any works executed under the powers of this Order.

(9) The provisions of the 1991 Act mentioned in paragraph (10) 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 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.

(10) The provisions of the 1991 Act referred to in paragraph (9) 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.

Access to works

9. The undertaker may, for the purpose of or in connection with the authorised works, form and lay out means of access or improve existing means of access in or near to the locations within the limits of land to be acquired or used shown on the deposited plans or listed in Schedule 5, within the boundaries of the street in question, as the undertaker reasonably requires for the purpose of or in connection with the authorised activities and as may be approved by the highway authority, but such approval shall not be unreasonably withheld.

Construction and maintenance of new or altered streets

10.—(1) Subject to paragraph (5), any street to be constructed under this Order and not comprised within the tunnel crossing shall be completed to the reasonable satisfaction of the highway authority and shall, unless otherwise agreed, be maintained by and at the expense of the undertaker for a

period of 12 months from its completion and at the expiry of that period by and at the expense of the highway authority.

(2) Subject to paragraph (5), where a street not comprised within the tunnel crossing is altered or diverted under this Order, the altered or diverted part of the street shall when completed to the reasonable satisfaction of the street authority, unless otherwise agreed, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(3) Nothing in this article shall prejudice the operation of section 87 of the 1991 Act (prospectively maintainable highways) and the undertaker shall not by reason of any duty under this article to maintain a street be taken to be the street authority in relation to that street for the purposes of Part III of that Act.

(4) Nothing in this article shall have effect in relation to street works in respect of which the provisions of Part III of the 1991 Act apply.

(5) Nothing in this article shall operate to cause any street comprised in the tunnel crossing to be dedicated as highway unless the undertaker shall so elect.

(6) Notwithstanding anything contained in the Highways Act 1980 or the 1991 Act or in any other enactment, no person shall enter upon, break up or interfere with any of the tunnel roads or the carriageways, footways and verges of the same for the purpose of placing, laying down or doing anything in relation to any main pipe or wire or other apparatus or executing any work therein, thereon or thereunder, except with the consent of the undertaker and in accordance with such terms and conditions as the undertaker may determine.

Agreements with street authorities

- 11.**—(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 railway or any part of the tunnel crossing) 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 railway or any part of the tunnel crossing;
 - (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 of the works referred to in articles 5 to 10.
- (2) Such an agreement may, without prejudice to the generality of paragraph (1)—
- (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 payments and otherwise as the parties consider appropriate.

Trunk roads

12.—(1) On the date on which the roads comprised in Works Nos. 7U and 7V are open for public use those roads shall become trunk roads as if they had become so by virtue of an order under section 10(2) of the Highways Act 1980 specifying that date as the date on which they were to become trunk roads.

(2) Subject to paragraph (3), any power under the 1984 Act to make an order or to give a direction with respect to the roads comprised in Works Nos. 7U and 7V shall be exercisable by the Secretary of State as if he were the traffic authority before that road is open for public use in any case where it appears to the Secretary of State to be expedient that the order or (as the case may be) the direction should have effect immediately the road becomes open for public use.

(3) The procedure otherwise applicable under the 1984 Act in relation to the making of any such order or the giving of any such direction shall apply in any such case with such modifications as the Secretary of State may determine; and he shall publish notice of these modifications in such manner as appears to him to be appropriate for bringing them to the notice of persons likely to be affected by the provisions of any such order or (as the case may be) by any such direction.