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STATUTORY INSTRUMENTS

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**2009 No. 1300**

**The Nottingham Express Transit System Order 2009**

**PART 2**

**WORKS PROVISIONS**

*Principal powers*

**Power to construct and maintain works**

5.—(1) The promoter may construct and maintain the scheduled works.

(2) Subject to article 6 (power to deviate), the scheduled works may only be constructed in the lines or situations shown on the works and land plans and in accordance with the levels shown on the sections.

(3) Subject to paragraph (7), the promoter may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the scheduled works, namely—

- (a) stations, depots, platforms, junctions and stopping places;
- (b) works required for, or in connection with, the control of any vehicular and pedestrian traffic on the authorised tramway;
- (c) works required for the strengthening, improvement, maintenance or reconstruction of any street;
- (d) works for the strengthening, alteration or demolition of any building;
- (e) works to alter the position of any street furniture or apparatus, including mains, sewers, drains, pipes, cables and lights;
- (f) works to alter the course of, or otherwise interfere with, watercourses;
- (g) landscaping, ecological and other works to mitigate any adverse effects of the construction, maintenance or operation of the other authorised works; and
- (h) facilities and works for the benefit or protection of land or premises affected by the other authorised works.

(4) Subject to paragraph (7), the promoter may carry out and maintain such other works (of whatever nature) as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the scheduled works.

(5) The promoter may remove any works constructed by it pursuant to this Order which have been constructed as temporary works or which it no longer requires.

(6) Where the promoter lays down conduits for the accommodation of cables or other apparatus for the purposes of or associated with the authorised works it may provide in, or in connection with, such conduits, accommodation for the apparatus of any other person, and manholes and other facilities for access to such accommodation, and may permit the use of such conduits and facilities on such terms and conditions as may be agreed between it and such other person.

- (7) Paragraphs (3) and (4) shall only authorise the carrying out or maintenance of works—
- (a) within the Order limits; or
  - (b) within the boundaries of any street along which the construction of a street tramway is shown on the works and land plans, or which has a junction with such a street.

(8) The powers of this article shall not be exercised within the boundaries of a street outside of the Order limits which has a junction with a street along which the construction of a street tramway is shown on the works and land plans without the consent of the street authority but such consent shall not be unreasonably withheld.

(9) Section 109 of the Water Resources Act 1991<sup>(1)</sup>, section 23 of the Land Drainage Act 1991<sup>(2)</sup> and any byelaws made under those Acts shall not apply to anything done under or in pursuance of this Order.

(10) Section 6 of the Ecclesiastical Jurisdiction Measure 1963<sup>(3)</sup>, section 7 of the Faculty Jurisdiction Measure 1964<sup>(4)</sup> and Part 3 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991<sup>(5)</sup> shall not apply to anything done under or in pursuance of this Order in relation to Work No.16A and the land numbered 1169 on the works and land plans.

(11) The scheduled works may be constructed and maintained under the powers of this article regardless of anything contained in or done pursuant to section 53 of the Nottingham Inclosure Act or Part 1 of, or Schedule 2 to, the Commons Act 2006<sup>(6)</sup>.

### **Power to deviate**

- 6.—(1) In constructing or maintaining any of the scheduled works, the promoter may—
- (a) deviate laterally from the lines or situations shown on the works and land plans within the Order limits relating to 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 as may be necessary or expedient.

(2) In constructing or maintaining any work or part of a work shown on the works and land plans as being situated in a street and for which no limits of deviation are shown on those plans, the promoter may deviate laterally within the boundaries of that street.

- (3) The promoter may, in constructing or maintaining the authorised tramway, lay down—
- (a) double lines of rails in place of single lines;
  - (b) single lines of rails in place of double lines;
  - (c) interlacing lines of rails in place of double or single lines; or
  - (d) double or single lines of rails in place of interlacing lines.

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

(5) The promoter may in constructing or maintaining the authorised street tramway lay down such number of switches and crossings as may be necessary or expedient.

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(1) 1991 c. 57.  
 (2) 1991 c. 59.  
 (3) 1963 No.1.  
 (4) 1964 No.5.  
 (5) 1991 No.1.  
 (6) 2006 c. 26.

(6) The promoter may in constructing and maintaining the authorised tramroad provide within the limits of deviation for the tramroad such number of lines of rails and sidings, switchings and crossings as may be necessary or expedient.

(7) Without limiting the scope of paragraph (1)—

- (a) in constructing and maintaining Works Nos. 3, 5, 6, 6A, 10, 10A, 10B, 12, 15 and 15A the promoter may, to the extent it thinks fit, deviate from the design of the bridges shown on the sections, including by varying the number of any supporting columns or other structures, the distances between them and the height or clearance above the level of any land underneath the bridges; and
- (b) in constructing and maintaining the scheduled works the promoter may, to the extent it thinks fit, deviate laterally from their points of commencement and termination shown on the works and land plans.

### **Designation of works**

7.—(1) Regardless of anything in the description of the scheduled works contained in Schedule 1 (scheduled works)—

- (a) the whole or any part of the authorised street tramway may be constructed within the limits of deviation for that work off-street as a tramroad, and so far as it is so constructed shall be treated for the purposes of this Order as if it were so designated; and
- (b) the whole or any part of the authorised tramroad may be constructed within the limits of deviation for that work along a street as a street tramway, and so far as it is constructed shall be treated for the purposes of this Order as if it were so designated.

(2) Where, by means of the creation or extinguishment of rights of way, any part of the authorised tramway which has been constructed as a tramroad becomes a street tramway, or any part which was constructed as a street tramway becomes a tramroad, it shall be treated for the purposes of this Order as if it were so designated.