
STATUTORY INSTRUMENTS

2012 No. 2679

**The Chiltern Railways (Bicester to
Oxford Improvements) Order 2012**

PART 2

WORKS PROVISIONS

Streets

Construction and maintenance of new or altered streets

12.—(1) With the exception of the streets specified in paragraph (6), any street to be constructed under this Order must be completed to the reasonable satisfaction of the highway authority and must, unless otherwise agreed, be maintained by and at the expense of the Company 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) Where a street is altered or diverted under this Order, the altered or diverted part of the street must, when completed to the reasonable satisfaction of the street authority, unless otherwise agreed, be maintained by and at the expense of the Company 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) Paragraphs (1) and (2) do not apply in relation to the structure of any bridge or tunnel carrying a street over or under any railway of the Company.

(4) In any action against the Company in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the Company had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(5) For the purposes of a defence under paragraph (4), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the Company knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street;
- (e) where the Company could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the Company had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the Company had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

- (6) The excepted streets in paragraph (1) are—
- (a) the access road on the land numbered 10036, 10a001, 10a002, 10a003, 10a004, 10a009, 10b001 and 10b002 in the district of Cherwell on the deposited plans;
 - (b) the accommodation access road on the land numbered 11008, 11009, 12002, 12003, 12004, 12a003 and 12b001 in the district of Cherwell on the deposited plans;
 - (c) the accommodation access road on the land numbered 12009, 12c001, 12c002 and 12c003 in the district of Cherwell on the deposited plans;
 - (d) the accommodation access road on the land numbered 14007, 14009, 14016, 15005, 15a001, 15a002 and 15a003 in the district of Cherwell on the deposited plans; and
 - (e) the accommodation access road on the land numbered 20023, 20024, 21003, 21004, 21a001, 21a002, 21a003, 21a004, 21b002, 21b003 and 21b004 in the district of Cherwell on the deposited plans.