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STATUTORY INSTRUMENTS

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**2012 No. 2679**

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

**PART 2**

**WORKS PROVISIONS**

*Streets*

**Power to keep apparatus in streets**

7.—(1) The Company may, for the purposes of or in connection with the construction, maintenance and use of the authorised works, place and maintain in any street within the Order limits and in any street having a junction with such a street any work, equipment or apparatus including, without limitation on the scope of that power, foundations, road islands, substations, electric lines and any electrical or other apparatus.

(2) In this article—

- (a) “apparatus” has the same meaning as in Part 3 of the 1991 Act;
- (b) “electric line” has the meaning given by section 64(1) of the Electricity Act 1989<sup>(1)</sup>; and
- (c) the reference to any work, equipment, apparatus or other thing in a street includes a reference to any work, equipment, apparatus or other thing under, over, along or upon the street.

**Power to execute street works**

8.—(1) The Company may, for the purposes of the authorised works, enter upon so much of any of the streets specified in Schedule 3 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain 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; and
- (d) execute any 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 13 (provisions relating to statutory undertakers etc.).

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

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(1) 1989 c. 29.

### **Stopping up of streets**

**9.—(1)** Subject to the provisions of this article, the Company may, in connection with the construction of the authorised works, stop up each of the streets specified in columns (1) and (2) of Parts 1 and 2 of Schedule 4 (streets to be stopped up) to the extent specified, by reference to the letters and numbers shown on the deposited plans, in column (3) of those Parts of that Schedule.

(2) No street specified in columns (1) and (2) of Part 1 of Schedule 4 (being a street to be stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

- (a) the new street to be substituted for it, which is specified 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 afterwards maintained by the Company, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) No street specified in columns (1) and (2) of Part 2 of Schedule 4 (being a street to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the street to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) the Company is in possession of the land; or
- (b) there is no right of access to the land from the street concerned; or
- (c) there is reasonably convenient access to the land otherwise than from the street concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

(5) Where a street has been stopped up under this article—

- (a) all rights of way over or along the street stopped up are extinguished; and
- (b) the Company may appropriate and use for the purposes of its railway undertaking so much of the site of the street as is bounded on both sides by land owned by the Company.

(6) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(7) This article is subject to paragraph 2 of Schedule 13 (provisions relating to statutory undertakers etc.) and paragraph 4 of Schedule 14 (for the protection of specified undertakers).

### **Temporary stopping up of streets**

**10.—(1)** The Company, during and for the purposes of the execution of the authorised works, may 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 limitation on the scope of paragraph (1), the Company may use any street stopped up under the powers conferred by this article as a temporary working site.

(3) The Company must provide reasonable access for pedestrians going to or from premises abutting a street affected by the exercise of the powers conferred by this article if there would otherwise be no such access.

(4) Without limiting the scope of paragraph (1), the Company may exercise the powers conferred by this article in relation to the streets specified in columns (1) and (2) of Schedule 5 (streets to be temporarily stopped up) to the extent specified in column (3) of that Schedule.

(5) The Company must not exercise the powers conferred by 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 which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld.

(6) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(7) If a street authority fails to notify the Company of its decision within 28 days of receiving an application for consent under paragraph (5)(b), that street authority is deemed to have granted consent.

#### **Access to works**

**11.**—(1) The Company may, for the purposes of the authorised works—

- (a) form and lay out means of access, or improve existing means of access, in the locations specified in columns (1) and (2) of Schedule 6 (access to works) at or about the points marked ‘A’ on the deposited plans; and
- (b) with the approval of the highway authority, such approval not to be unreasonably withheld, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the Company reasonably requires for the purposes of the authorised works.

(2) If a highway authority fails to notify the Company of its decision within 28 days of receiving an application for approval under paragraph (1)(b), that highway authority is deemed to have given approval.

#### **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.

### **Construction of bridges and tunnels**

**13.—**(1) Any bridge or tunnel to be constructed or reconstructed under this Order for carrying a highway over or under a railway must be constructed or reconstructed in accordance with the plans and specifications approved by the highway authority, but such approval must not be unreasonably withheld.

(2) If a highway authority fails to notify the Company of its decision within 28 days of receiving an application for approval under paragraph (1) that highway authority is deemed to have given approval.

### **Agreements with street authorities**

**14.—**(1) A street authority and the Company 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) under the powers conferred by this Order;
- (b) the strengthening or improvement of any street under the powers conferred by this Order;
- (c) the maintenance of the structure of any bridge or tunnel carrying a street over or under a railway;

- (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
  - (e) the execution in the street of any of the works referred to in article 8(1) (power to execute street works).
- (2) Such an agreement may, without limitation on the scope 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 payment and otherwise as the parties consider appropriate.