# Edinburgh Tram (Line Two) Act 2006

**2006 asp 6**

## PART 4 S

OPERATION OF AUTHORISED TRAMWAY

### 51 Power to operate and use authorised tramway S

(1) The authorised undertaker may operate and use the authorised tramway 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 subsection (4) and to section 68 (Powers of disposal, agreements for operation etc.), the authorised undertaker shall, for the purpose of operating the tramway, have the exclusive right—

(a) to use the rails or other guidance, foundations, cables, masts, overhead wires and other apparatus used for the operation of the tramway, and

(b) to occupy any part of the road in which that apparatus is situated.

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

(4) Nothing in this section shall restrict the exercise of any public right of way over any part of a road in which apparatus is situated in pursuance of subsection (2) except to the extent that the exercise of the right is constrained by the presence of the apparatus.

### 52 Power to charge fares S

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

### 53 Disapplication of duties respecting provision of transport services S

Section 63(7) (Functions of local councils with respect to passenger transport in areas other than passenger transport areas) of the Transport Act 1985 (c. 67) shall not apply to the Council in respect of the operation of the authorised tramway.

### 54 Concessionary and integrated travel S

(1) Sections 93 to 101 and 112 of the Transport Act 1985 (which make provision for travel concession schemes) shall apply to the provision of tram services on the authorised tramway, notwithstanding that such services may not be eligible services as defined in section 94(4) of that Act.

(2) Tram services on the authorised tramway shall be local services for the purposes of sections 28 and 29 of the Transport (Scotland) Act 2001 (asp 2) (which make provision for integrated ticketing arrangements or schemes).

### 55 Obstruction to operation S

(1) Any person who, without reasonable excuse, intentionally places any obstruction on any part of the tram system or otherwise obstructs a tram shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) If any person places any obstruction on any part of the tram system or otherwise obstructs the tram, the authorised undertaker shall have the power to remove such obstruction forthwith.

(3) If anything removed by the authorised undertaker under subsection (2) is so marked as to be readily identifiable as the property of any person, the authorised undertaker shall within one month of its coming into its custody give notice, as required by subsection (7), to that person and, if possession of the thing is not retaken within the period specified in, and in accordance with the terms of, the notice, it shall at the end of that period vest in the authorised undertaker.

(4) If anything removed by the authorised undertaker under subsection (2) is not marked as to be readily identifiable as the property of any person, and is not within three months of coming into the custody of the authorised undertaker proved to the reasonable satisfaction of the authorised undertaker to belong to any person, it shall vest in the authorised undertaker from that time.

(5) The authorised undertaker may at such a time and in such manner as it thinks fit dispose of anything referred to in subsection (4) which is of a perishable nature or the custody of which involves unreasonable expense notwithstanding that it has not vested in the authorised undertaker under this section, and, if it is sold, the proceeds of sale—

(a) shall be paid to any person who, within three months from the time when the thing came into the custody of the authorised undertaker proves to the reasonable satisfaction of the authorised undertaker that that person was the owner of the thing at that time; or

(b) if within the said period no person proves ownership at that time, shall vest in the authorised undertaker.

(6) If anything removed under this section—

(a) is sold by the authorised undertaker and the proceeds of sale are insufficient to reimburse it for the amount of the expenses incurred by it in the exercise of its powers of removal; or

(b) is unsaleable,

the authorised undertaker may recover the deficiency or the whole of the expenses, as the case may be, from the person who placed the obstruction.

(7) A notice given under subsection (3) shall specify the thing removed and state that, upon proof of ownership to the reasonable satisfaction of the authorised undertaker, possession may be retaken at a place named in the notice within the time specified in the notice, being not less than 14 days after the notice is served.

## 56 Removal of obstructions S

(1) If any obstruction is caused to trams using the authorised tramway by a vehicle waiting, loading, unloading or breaking down on any part of the tramway, the person in charge of the vehicle shall forthwith remove it and if such person fails to do so the authorised 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 trams, or

(b) any person who was the owner of the vehicle at that time unless such person shows that at that time the person was not concerned in or aware of the vehicle being so put or left.

(2) If any obstruction is caused to trams using the authorised tramway by a load falling on the tramway from a vehicle, the person in charge of the vehicle shall forthwith remove the load from the tramway, and if such person fails to do so, the authorised 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 such person shows that at that time the person 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 section 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 a 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 (c. 22).

## 57 Prevention or restriction of running of tram S

(1) Except for the purposes of the holding of the events listed in schedule 8, the Council, when considering whether to make an order under—

(a) section 14(1) (Temporary prohibition or restriction on roads) of the 1984 Act for the reason given in section 14(1)(b) of that Act;

(b) section 16A(2) (Prohibition or restriction on roads in connection with certain events) of the 1984 Act;

(c) section 63 (Functions of regional and islands councils in relation to processions) of the Civic Government (Scotland) Act 1982 (c. 45); or

(d) section 62(1) (Temporary prohibition or restriction of traffic, etc. on roads for reasons of public safety or convenience) of the Roads (Scotland) Act 1984 (c. 54),

for a march, procession or other event along or across the route taken by the tram, must carry out the steps in subsection (2) in addition to any steps specified in the Act in question.

(2) The steps referred to in subsection (1) are that the Council—

(a) consult the authorised undertaker, and

(b) have regard to the safe, efficient and economic operation of the tram.

## 58 Traffic signs and priority S

(1) The authorised undertaker may, for the purposes of, or in connection with the operation of, the authorised tramway, place or maintain traffic signs of a type prescribed by regulations made under section 64(1)(a) (General provisions as to traffic signs) of the 1984 Act or of a character authorised by the Secretary of State on any road in which the authorised tramway is laid or which gives access to such a road.

(2) The authorised undertaker—

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

(b) unless the traffic authority is unwilling to do so and subject to any directions given under section 65 (Powers and duties of highway authorities as to the placing of traffic signs) 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 authorised undertaker as to traffic signs under this section; and, accordingly, the powers conferred by subsection (1) shall be exercisable subject to and in conformity with any directions given under the said section 65.

(4) The traffic authority may make provision for trams to take priority over other means of transport at any junction of a road and a tramroad or road tramway.

(5) Trams shall be taken to be public service vehicles for the purposes of section 122(2)(c) (Exercise of functions by local authorities) of the 1984 Act.

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

## 59 Power to lop trees overhanging the tramway S

(1) The authorised undertaker may fell or lop any tree or shrub near any part of the authorised tramway, 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 tramway or any apparatus used for the purposes of the tramway, or

(b) from constituting a danger to passengers or other persons using the tramway.

(2) In exercising the powers in subsection (1), the authorised 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) The following shall not apply to the exercise of the powers conferred by subsection (1) —

(a) any prohibition contained in an order made under section 160 (Power to make tree preservation orders) of the 1997 Act; and

(b) section 172(1) (Preservation of trees in conservation areas) of that Act.

(4) Any dispute as to a person's entitlement to compensation under subsection (2) or as to the amount of the compensation, shall be determined under the 1963 Act.

## 60 Trespass on tramroads S

(1) Any person who—

(a) trespasses on any authorised tramroad, or

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

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

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

## 61 Power to make byelaws S

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

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

(a) with respect to tickets issued for travel on the authorised tramway, 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 tramway or other facilities provided in connection with the authorised tramway;

(c) with respect to access to and the carriage, use or consumption of anything on tramway premises;

(d) with respect to the prevention of nuisances on tramway premises;

(e) for regulating the passage of bicycles and other vehicles on ways and other places intended for the use of persons on foot within tramway premises;

(f) for the safe custody and redelivery or disposal of any property accidentally left on tramway premises and for fixing the charges made in respect of any such property;

(g) for prohibiting or restricting the placing or leaving of any vehicle without its driver on any part of the authorised tramway or on tramway premises; and

(h) for the regulation of interaction between the maintenance of buildings adjacent to the tramway and the safe operation of the tramway.

(3) Byelaws under this section 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.

(4) Without prejudice to the taking of proceedings for an offence included in byelaws by virtue of subsection (3), if the contravention of, or failure to comply with, any byelaw under this section is attended with danger to the public, or hindrance to the authorised undertaker in the operation of the authorised tramway, the authorised undertaker may summarily take action to obviate or remove the danger or hindrance.

(5) Byelaws under this section shall not come into operation until they have been confirmed by Scottish Ministers.

(6) At least 28 days before applying for any byelaws to be confirmed under this section, the authorised undertaker shall publish in such manner as may be approved by Scottish Ministers 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 Scottish Ministers within a period specified in the notice, being a period of not less than 28 days.

(7) The period for making representations specified in the notice published under subsection (6) must expire before an application is made under this section for byelaws to be confirmed, and during that period a copy of the byelaws shall be kept at the principal office of the authorised undertaker and shall at all reasonable hours be open to public inspection without payment.

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

(9) Scottish Ministers may confirm with or without modification, or may refuse to confirm, any of the byelaws submitted under this section 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.

(10) As soon as is practical following the confirmation of any byelaws submitted in accordance with subsection (9), the authorised undertaker shall publish, at least once in each of two successive weeks, in one or more newspapers circulating in the areas to which the byelaws relate, a notice stating the general effect of the byelaws and the date that the byelaws come into operation.

(11) Scottish Ministers may charge the authorised undertaker such fees in respect of any byelaws submitted for confirmation under this section as they may consider appropriate for the purpose of defraying any administrative expenses incurred by them in connection with such confirmation.

(12) A copy of the byelaws when confirmed shall be printed and deposited at the principal office of the authorised undertaker, and shall at all reasonable hours be open to public

inspection without payment, and be available on the authorised undertaker's website; and the authorised undertaker shall, at the request of any person, supply that person with a copy of any such byelaws on payment of such reasonable sum as the authorised undertaker shall determine.

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

(a) that the byelaws were made by the authorised undertaker;

(b) that the copy is a true copy of the byelaws;

(c) that on a specified date the byelaws were confirmed by Scottish Ministers; and

(d) the date when the byelaws came into operation,

shall be evidence at first sight of the facts stated in the certificate.

## 62 Power to contract for police services S

(1) Agreements may be made—

(a) between the authorised undertaker and the **[**[F1]Scottish Police Authority**]**; or

(b) between the authorised undertaker and the British Transport Police Authority,

for making available to the authorised undertaker for the purposes of the operation of its tramway undertaking the services of **[**[F2]the Police Service of Scotland**]** or, as the case may be, members of the British Transport Police Force.

(2) Subject to subsection (3), any such agreement may be made on such terms as to payment or otherwise, and subject to such conditions, as the parties to the agreement think fit.

(3) Any agreement made under subsection (1)(b) with the British Transport Police Authority shall not be inconsistent with the provisions of sections 33 to 35 of the Railways and Transport Safety Act 2003 (c. 20) or any order made thereunder.

(4) Where such an agreement has been made between the authorised undertaker and the British Transport Police Authority, members of the British Transport Police Force may act, in accordance with the terms of the agreement, as constables in, or in the vicinity of any tramway premises or other facilities used in connection with the authorised tramway notwithstanding the provisions of the Railways and Transport Safety Act 2003 (c. 20) (which grants them jurisdiction in relation to railways and railway premises but not in relation to tramways or tramway premises in Scotland).

(5) In this section—

[F3]…

the "British Transport Police Authority" means the police authority established under section 18 of the Railways and Transport Safety Act 2003 (c. 20) and organised under Schedule 4 to that Act; and

the "British Transport Police Force" means the force established under section 20 of the Railways and Transport Safety Act 2003 (c. 20).

**Textual Amendments**

**F1** Words in s. 62(1)(a) substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 31(a)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

**F2** Words in s. 62(1) substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 31(b)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

**F3** Words in s. 62(5) repealed (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 8 Pt. 1**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

**Changes to legislation:**
There are currently no known outstanding effects for the Edinburgh Tram (Line Two) Act 2006, Part 4.