
STATUTORY INSTRUMENTS

1997 No. 1266

The Greater Manchester (Light Rapid Transit System) (Airport Extension) Order 1997

PART II

WORKS PROVISIONS

Principal powers

Power to construct and maintain works

6.—(1) The undertaker may construct and maintain the scheduled works.

(2) Subject to article 7 below, the scheduled works may only be constructed in the lines or situations shown on the Order plans and in accordance with the levels shown on the sections.

(3) Subject to paragraph (5) below, the undertaker may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, in connection with or in consequence of the construction of the scheduled works, namely—

- (a) stations, platforms and stopping places,
- (b) works required for, or in connection with, the control of any vehicular and pedestrian traffic on the authorised transit system,
- (c) works for the strengthening, alteration or demolition of any building or structure,
- (d) works to alter the position of any street furniture or apparatus, including mains, sewers, drains and cables,
- (e) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses,
- (f) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the other authorised works, and
- (g) replacement facilities and works for the benefit or protection of premises affected by the other authorised works.

(4) Subject to paragraph (5) below, the undertaker may carry out such other works (of whatever nature) as may be necessary or expedient for the purposes of, in connection with, or in consequence of, the construction of the scheduled works.

(5) Paragraphs (3) and (4) above shall only authorise the carrying out or maintenance of works—

- (a) within the limits of deviation for the scheduled works shown on the Order plans,
- (b) within the boundaries of any street along which the construction of a street tramway is shown on the Order plans or which has a junction with such a street, and
- (c) on land specified in columns (1) and (2) of Schedule 2 to this Order for the purpose specified in relation to that land in column (3) of that Schedule.

(6) For the purposes of section 37 of the Electricity Act 1989⁽¹⁾ (consent for overhead lines) in its application to the installation or keeping installed of any electric line above ground comprised in Work No. 7A, this Order shall take effect as if a consent had been granted under that section in such terms as to permit any such electric line to be installed by the owner of the electric line which it replaces and for it to be kept installed by him or any successor in title to the line subject to the conditions set out in Schedule 3 to this Order.

(7) Paragraph 23 of the telecommunications code shall apply for the purposes of any works authorised by this Order save in so far as such purposes are regulated by the 1991 Act or any regulations made under that Act.

Power to deviate

7.—(1) In constructing or maintaining any of the scheduled works, the undertaker may—

- (a) deviate laterally from the lines or situations shown on the Order plans within the limits of deviation for 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.

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

(3) The undertaker may in constructing or maintaining any of the authorised tramroads or authorised street tramways lay down—

- (a) double lines of rails in lieu of single lines,
- (b) single lines of rails in lieu of double lines,
- (c) interlacing lines of rails in lieu of double or single lines, or
- (d) double or single lines of rails in lieu of interlacing lines.

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

Streets

Power to alter layout of streets

8.—(1) The undertaker may alter the layout of any street specified in columns (1) and (2) of Schedule 4 to this Order in the manner specified in relation to that street in column (3) of that Schedule.

(2) Without prejudice to the specific powers conferred by paragraph (1) above but subject to paragraph (3) below, the undertaker may for the purpose of constructing, maintaining or using any authorised street tramway alter the layout of the street along which the street tramway is or is to be laid and the layout of any street having a junction with such a street 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, footpath, footway, cycle track or verge within the street,

(1) 1989 c. 29.

- (b) alter the level or increase the width of any such kerb, footpath, footway, cycle track or verge,
- (c) reduce the width of the carriageway of the street by forming a reserved area in the street as a stopping place for tramcars or by carrying out other works for that purpose,
- (d) carry out works for the provision or alteration of parking places,
- (e) carry out works to the carriageway of the street for the purpose of deterring or preventing vehicles other than tramcars from passing along the transit system, and
- (f) make and maintain crossovers, sidings or passing places.

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

Power to keep apparatus in streets

9.—(1) The undertaker may, for the purposes of or in connection with the construction, maintenance and use of the authorised transit system, place and maintain in any street in which the transit system is or is to be laid and in any street having a junction with such a street any work, equipment or apparatus including, without prejudice to the generality of the foregoing, foundations, platforms, road islands, substations, electric lines and any electrical or other apparatus.

(2) In this article—

- (a) “apparatus” has the same meaning as in Part III of the 1991 Act, and
- (b) 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

10.—(1) The undertaker may, for the purpose of exercising the powers conferred by article 9 above and the other provisions of this Order, enter upon any street in which the authorised transit system is or is to be laid and any street having a junction with such a street and may execute any works required for or incidental to the exercise of those powers including, without prejudice to the generality of the foregoing, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street.

(2) This article is subject to paragraph 3 of Schedule 10 to this Order.

Permanent stopping up of streets

11.—(1) Subject to the provisions of this article, the undertaker may, in connection with the construction of the authorised works, permanently stop up each of the streets specified in columns (1) and (2) of Part I of Schedule 5 to this Order and permanently stop up vehicular rights of access and egress in each of the streets mentioned in columns (1) and (2) of Part II of that Schedule to the extent specified, by reference to the letters and numbers shown on the Order plans, in column (3) of Parts I and II of that Schedule.

(2) No street specified in columns (1) and (2) of Part I of Schedule 5 (being a street to be stopped up for which a substitute is to be provided) shall be wholly or partly stopped up under this article until the new street to be substituted for it, and which is specified in relation to it either by reference to the letters and numbers shown on the Order plans or by reference to one of the scheduled works, in either case 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.

(3) Except so far as may otherwise be agreed with the highway authority concerned, a new street (not being one of the scheduled works) shall be constructed in the lines or situations shown on the Order plans.

(4) Where a street has been the subject of a permanent stopping up under this article—

- (a) all rights of way (or, in the case of a street specified in Part II of Schedule 5 to this Order, all vehicular rights of way) over or along the street so stopped up shall be extinguished, and
- (b) the undertaker may, without making any payment but subject to the provisions of sections 77 to 85E of, and Schedules 1 to 3 to, the Railways Clauses Consolidation Act 1845 (which, as incorporated by this Order, relate to minerals under the authorised tramroads), appropriate and use for the purposes of its transit system undertaking so much of the site of the street as is bounded on both sides by land owned by the undertaker.

(5) 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(2).

(6) This article is subject to paragraph 2 of Schedule 10 to this Order.

Temporary stopping up of streets

12.—(1) The undertaker may, during and for the purposes of the execution 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 (2) below, prevent all persons from passing along the street.

(2) The undertaker shall provide at all times 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.

(3) Without prejudice to the generality of paragraph (1) above, the undertaker may exercise the powers of this article in relation to the streets specified in columns (1) and (2) of Schedule 5 and in columns (1) and (2) of Schedule 6 to this Order to the extent specified, by reference to the letters and numbers shown on the Order plans, in column (3) to those Schedules.

(4) The undertaker shall not exercise the powers of this article—

- (a) in relation to any street specified as mentioned in paragraph (3) above 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.

(5) The temporary stopping up, alteration or diversion of any street authorised by this Order shall not affect any right of any telecommunications operator as provided for in accordance with paragraph 9 of the telecommunications code nor any right of a water or sewerage undertaker as provided for in accordance with sections 158 and 159 of the Water Industry Act 1991(3).

Access to works

13. The undertaker may, for the purposes of the scheduled works, form and lay out means of access or improve existing means of access in such location or locations within the limits of deviation for the scheduled works shown on the Order plans or, where article 7(2) above applies, within the boundaries of the street in question as may be approved by the highway authority, but such approval shall not be unreasonably withheld.

(2) 1961 c. 33.

(3) 1991 c. 56.

Construction and maintenance of new or altered streets

14.—(1) Any street to be constructed under this Order 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) Where a street 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) Paragraphs (1) and (2) above do not apply in relation to the structure of any bridge or tunnel carrying a street over or under any tramroad of the undertaker.

Construction of bridges and tunnels

15. Any bridge or tunnel to be constructed under this Order for carrying a highway over or under a tramroad shall be constructed in accordance with plans and specifications approved by the highway authority, but such approval shall not be unreasonably withheld.

Restoration of streets if street tramway discontinued

16. If the undertaker permanently ceases to operate any of the authorised street tramways (“the discontinued tramway”), it shall as soon as reasonably practicable and unless otherwise agreed with the street authority—

- (a) remove from any street in which the discontinued tramway is laid the rails and any other works, equipment and apparatus which have become redundant, and
- (b) restore, to the reasonable satisfaction of the street authority, the portion of the street along which the discontinued tramway was laid regard being had to the condition of the street before the tramway was laid.

Agreements with street authorities

17.—(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 tramroad) under the powers conferred by this Order,
 - (b) the maintenance of any street or of the structure of any bridge or tunnel carrying a street over or under a tramroad,
 - (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 article 10(1) above.
- (2) Such an agreement may, without prejudice to the generality of paragraph (1) above—
- (a) provide 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.

Level crossings

18.—(1) The undertaker may construct the authorised transit system so as to carry it on the level across the highways specified in Parts I and II of Schedule 7 to this Order.

(2) The undertaker may provide, maintain and operate at or near any new level crossing such barriers or other protective equipment as the Secretary of State may in writing approve.

(3) Any traffic sign placed pursuant to this article on or near a highway or other road to which the public has access shall be treated for the purposes of section 64(4) of the 1984 Act as having been placed as provided by that Act.

(4) Without prejudice to the generality of article 8 above, the undertaker may in the exercise of the powers of this article alter the level of any highway specified in Schedule 7 to this Order.

(5) The highway authority may enter into agreements with the undertaker with respect to the construction and maintenance of any new level crossing; and such an agreement may contain such terms as to payment or otherwise as the parties consider appropriate.

(6) In this article—

“barrier” includes gate,

“new level crossing” means the place at which an authorised tramroad crosses a highway on the level under the powers conferred by this article, and

“protective equipment” includes lights, traffic signs (within the meaning of section 64(1) of the 1984 Act), manual, mechanical, automatic, electrical or telephonic equipment or other devices.

Supplemental

Attachment of equipment to buildings for purposes of transit system

19.—(1) Subject to the following provisions of this article, the undertaker may affix to any building:—

(a) any brackets, cables, wires, insulators and other apparatus required in connection with the authorised transit system, and

(b) any lamps, brackets, pipes, electric lines and other apparatus required for the provision of additional or substitute street lighting in consequence of the construction of the authorised transit system.

(2) The undertaker shall not under this article affix any apparatus to a building without the consent of the relevant owner of the building; and such consent may be given subject to reasonable conditions (including, where appropriate, the payment of rent) but shall not be unreasonably withheld.

(3) Where—

(a) the undertaker serves on the relevant owner of a building a notice requesting the owner’s consent to the affixing of specified apparatus to the building, and

(b) the relevant owner does not within the period of 56 days beginning with the date upon which the notice is served give his consent unconditionally or give it subject to conditions or refuse it,

the consent shall be deemed to have been withheld.

(4) Where, in the opinion of the undertaker, a consent required under this article for the affixing of specified apparatus is unreasonably withheld or given subject to unreasonable conditions, it may apply to the magistrates court who may either allow the apparatus to be affixed subject to such conditions, if any, as it thinks fit or it may disallow the application.

(5) Where apparatus is affixed to a building under this article—

(a) any owner for the time being of the building may serve on the undertaker not less than 28 days’ notice requiring the undertaker at its own expense temporarily to remove the apparatus during any reconstruction or repair of the building if such removal is reasonably necessary for that purpose, and

(b) the undertaker shall have the right as against any person having an interest in the building to maintain the apparatus.

(6) The undertaker shall pay compensation to the owners and occupiers of the building for any loss or damage sustained by them by reason of the exercise of the powers conferred by paragraphs (1) and (5)(b) above; and any dispute as to a person's entitlement to compensation, or as to the amount of the compensation, shall be determined under Part I of the Land Compensation Act 1961(4).

(7) In this article—

“building” includes any structure and a bridge or aqueduct over the street; and

“relevant owner”—

(a) in relation to a building occupied under a lease or tenancy having an unexpired term exceeding 5 years, means the occupier of the building, or

(b) in relation to any other building, means the person for the time being receiving the rack rent of the building whether on his own account or as agent or trustee for any other person, or who would so receive it if the building were let at a rack rent.

Discharge of water

20.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction or maintenance of the authorised works and for that purpose may lay down, take up and alter pipes and may, on any land shown on the Order plans or in any street along which any authorised street tramway is laid, make openings into, and connections with, the watercourse, sewer or drain.

(2) The undertaker shall not discharge any water into any watercourse, public sewer or drain except with the consent of the authority to which it belongs; and such consent may be given subject to such terms and conditions as the authority may reasonably impose but shall not be unreasonably withheld.

(3) The undertaker shall not make any opening into any public sewer or drain except in accordance with plans approved by, and under the superintendence (if provided) of, the authority to which the sewer or drain belongs, but such approval shall not be unreasonably withheld.

(4) The undertaker shall not, in the exercise of the powers conferred by this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(5) The undertaker shall take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance or oil or matter in suspension.

(6) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by section 85(1), (2) or (3) of the Water Resources Act 1991(5).

(7) In this article—

(a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board, a local authority, a joint planning board, the Commission for the New Towns, an urban development corporation or a harbour authority within the meaning of the Harbours Act 1964(6).

(b) “watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain, and

(4) 1961 c. 33.

(5) 1991 c. 57.

(6) 1964 c. 40.

- (c) other expressions used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

Power to survey and investigate land

21.—(1) The undertaker may for the purposes of this Order—

- (a) survey or investigate any land within the limits of deviation shown on the Order plans or in any street along which any authorised street tramway is authorised to be laid,
- (b) without prejudice to the generality of sub-paragraph (a) above, make trial holes in such positions as the undertaker thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples,
- (c) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes, and
- (d) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (c) above.

(2) No land may be entered, or equipment placed or left on or removed from the land under paragraph (1) above, unless at least 7 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) shall, if so required, before or after entering the land produce written evidence of his authority to do so, and
- (b) may take with him such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes shall be made under this article in a carriageway or footway without the consent of the street authority, but such consent shall not be unreasonably withheld.

(5) The undertaker shall make compensation for any damage occasioned, by the exercise of the powers conferred by this article, to the owners and occupiers of the land, such compensation to be determined, in case of dispute, under Part I of the Land Compensation Act 1961.

Mode of construction and operation of transit system

22.—(1) The authorised transit system shall be operated by electricity or, in an emergency or for the purposes of maintenance, by diesel power or other means.

(2) The authorised transit system shall be constructed on a gauge of 1,435 millimetres.

(3) The authorised street tramway (other than any reserved track tramway) shall be so constructed and maintained as to ensure that the uppermost surface of the rails is level with the surrounding surfaces of the street in which it is laid.

(4) In constructing stations and stopping places for the purposes of the authorised transit system the undertaker shall make provision, in so far as it is in the circumstances both practicable and reasonable and without prejudice to any requirement having effect under or by virtue of the Chronically Sick and Disabled Persons Act 1970(7), for the needs of members of the public using the authorised transit system whose mobility is impaired.

Obstruction of construction of transit system

23. Any person who, without reasonable excuse, obstructs another person from constructing any of the authorised works under the powers conferred by this Order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.