
STATUTORY INSTRUMENTS

1999 No. 1306

The Wirral Tramway Order 1999

PART V

PROTECTIVE PROVISIONS

For the protection of British Telecommunications plc

25. For the protection of BT the following provisions shall, unless otherwise agreed in writing between the undertaker and BT, apply and have effect:—

(1) In this article—

“BT” means British Telecommunications plc;

“operator” and “telecommunication apparatus” have the same meanings as in Schedule 4 to the Telecommunications Act 1984⁽¹⁾.

(2) The temporary stopping up or diversion of any street under article 8 above shall not affect any right of BT under paragraph 9 of the Telecommunications Code, contained in Schedule 2 to the Telecommunications Act 1984, in respect of any telecommunication apparatus which at the time of the temporary stopping up or diversion is in that street.

(3) If BT suffers damage in consequence of the construction, use or failure of the works or any subsidence resulting from the works, the undertaker shall pay the cost reasonably incurred by BT in making good such damage, and shall indemnify the telecommunications operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by BT by reason or in consequence of any such damage, but—

(a) nothing in this paragraph shall impose any liability on the undertaker with respect to any damage to the extent that such damage is attributable to any act or omission of BT, its officers, servants, contractors or other agents; and

(b) BT shall give to the undertaker reasonable notice of any claim or demand as aforesaid and shall make no settlement or compromise thereof without the consent of the undertaker, such consent not to be unreasonably withheld or delayed.

(4) The undertaker shall not use electrical power in such a manner as to cause or be likely to cause any interference with telecommunication apparatus or with telecommunication by means of such apparatus, and the undertaker shall indemnify BT against claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by BT by reason or in consequence of such interference, but—

(a) nothing in this paragraph shall impose any liability on the undertaker with respect to any interference to the extent that such interference is attributable to any act or omission of BT, its officers, servants, contractors or other agents; and

(1) 1984 c. 12.

(b) BT shall give to the undertaker reasonable notice of any claim or demand as aforesaid and shall make no settlement or compromise thereof without the consent of the undertaker, such consent not to be unreasonably withheld or delayed.

(5) Nothing in this Order shall affect any right of BT under Schedule 2 to the Telecommunications Act 1984.

For the protection of public electricity suppliers

26.—(1) In this article “apparatus” means any electric line or electrical plant as respectively defined by section 64 of the Electricity Act 1989(2).

(2) Nothing in this Order shall prejudice or affect the rights of any public electricity supplier, within the meaning of Part I of the Electricity Act 1989, in any apparatus belonging to them, or for the maintenance of which they are responsible, or any structure for the lodging therein of apparatus, being any apparatus or structure situate in, over or under lands in or upon or near to which the authorised tramway or any part thereof may be constructed.

(3) Before commencing any works authorised by this Order under or over or which will or may affect any apparatus belong to a public electricity supplier or for the maintenance of which a public electricity supplier is responsible the undertaker shall give to the public electricity supplier not less than 28 days notice in writing accompanied by a plan and section of the proposed work and such work shall be executed only in accordance with the plan and section submitted, and in accordance with such reasonable requirements (including those already agreed between the Council and the public electricity supplier) as may be made by the public electricity supplier for the protection of the apparatus, or for securing access thereto.

(4) If by reason or in consequence of the execution or user of any of the works authorised by this Order any damage to any apparatus or any interruption in supply of electricity by a public electricity supplier shall be caused, the undertaker shall bear and pay the cost reasonably incurred by the public electricity supplier in making good such damages or in restoring the supply of electricity and shall make reasonable compensation to the public electricity supplier for any loss sustained by it and indemnify the public electricity supplier from and against all claims in respect of any such damage or interruption.

For the protection of public gas transporters

27.—(1) Nothing in this Order shall prejudice or affect the statutory or other rights of any public gas transporter in or relating to any pipe, main or apparatus belonging to them or for the maintenance of which they are responsible or any structure for the lodging therein of any pipe, main or apparatus being any pipe, main or apparatus or structure situate under, over or upon lands in or upon or near to which the authorised tramway or any part thereof is or may be constructed.

(2) Before commencing any works authorised by this Order under or over or which will or may affect any pipe, main or apparatus or structure belonging to a public gas transporter or for the maintenance of which a public gas transporter is responsible the undertaker shall give to the public gas transporter not less than 28 days' notice in writing accompanied by a plan and section of the proposed work and such work shall be executed only in accordance with the plan and section submitted and in accordance with such reasonable requirements as may be made by the public gas transporter for the protection of the pipe, main or apparatus or structure or for securing access thereto.

(3) The undertaker shall provide reasonable facilities at any time for the public gas transporter to monitor, inspect and supervise the execution of the authorised works and shall permit the public gas transporter to gain access to any of its pipes, mains or apparatus or structures at all times.

(4) Where a street is to be temporarily stopped up, altered or diverted pursuant to article 8 above—

(2) 1989 c. 29.

- (a) the undertaker shall give notice in writing to the public gas transporters such notice being not less than 28 days;
 - (b) the temporary stopping up, alteration or diversion of any street pursuant to article 8 above shall not affect any right of access enjoyed by a public gas transporter to use, inspect, maintain, adjust, repair or alter any pipe, main or apparatus or structure which at the time of the temporary stopping up, alteration or diversion is in the street.
- (5) Where in connection with the authorised works, works are reasonably required for the relocation by a public gas transporter of such of its pipes, mains or apparatus or structures (whether or not such works are necessary because of the temporary stopping up of any street pursuant to article 8 above)–
- (a) the undertaker shall pay to the public gas transporter an amount equal to the cost reasonably incurred by the public gas transporter in or in connection with–
 - (a) the execution of the said relocation works;
 - (b) the doing of any other work or thing rendered necessary by the relocation works;
 - (b) in the event that the public gas transporter in removing or diverting any pipe, main or apparatus or structure reasonably requires to carry out works on land held or owned or intended for use by the undertaker for the purpose of the authorised works, the provisions of the New Roads and Street Works Act 1991 with respect to the public gas transporter’s rights and duties with respect to its apparatus in a street shall apply notwithstanding that the said land is not part of a street.
- (6) If by reason or in consequence of the execution or use of any of the works authorised by this Order any damage is caused to any pipe, main or apparatus or structure of a public gas transporter or to any property of a public gas transporter or there is interruption in the conveyance of gas to any property by the public gas transporter the undertaker shall bear and pay the costs reasonably incurred by the public gas transporter in making good such damage or in restoring such conveyance of gas and the undertaker shall make reasonable compensation to the public gas transporter for any loss sustained by it and indemnify the public gas transporter from and against all claims, demands, costs, proceedings, damages and expenses which may be made or recovered from or incurred by the public gas transporter by reason of or in consequence of any such damage or interruption or the exercise by the undertaker of the powers of this Order.
- (7) In this article, “public gas transporter” has the meaning given by section 7 of the Gas Act 1986(3).

(3) 1986 c. 44: A new section 7 was substituted by section 5 of the Gas Act 1995 c. 45.