
STATUTORY INSTRUMENTS

2005 No. 1918

TRANSPORT AND WORKS, ENGLAND
TRANSPORT, ENGLAND

The Greater Manchester (Leigh Busway) Order 2005

Made - - - - *13th July 2005*
Coming into force - - *3rd August 2005*

Whereas an application has been made to the Secretary of State, in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000(1) made under sections 6, 6A, 7 and 10 of the Transport and Works Act 1992(2) (“the Act”), for an Order under sections 1 and 5 of the Act;

And whereas the Secretary of State caused an inquiry to be held for the purposes of the application pursuant to section 11 of the Act;

And whereas the Secretary of State has considered the objections made and not withdrawn and the report of the person who held the inquiry, and further representations made to him, and has determined to make the Order applied for with modifications;

And whereas the Secretary of State is satisfied that the provision of an alternative right of way for each of the streets mentioned in Part 3 of Schedule 4 to this Order is not required;

And whereas notice of the Secretary of State’s determination was published in the London Gazette on 8th July 2005;

Now, therefore, the Secretary of State, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 1 to 4, 6 to 13 and 15 to 17 of Schedule 1 to, the Act, hereby makes the following Order:

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Greater Manchester (Leigh Busway) Order 2005 and shall come into force on 3rd August 2005.

(1) S.I.2000/2190.

(2) 1992 c. 42, as amended by S.I. 1995/1541 and 1998/2226.

Interpretation

2.—(1) In this Order—

- “the 1961 Act” means the Land Compensation Act 1961**(3)**;
- “the 1965 Act” means the Compulsory Purchase Act 1965**(4)**;
- “the 1984 Act” means the Road Traffic Regulation Act 1984**(5)**;
- “the 1990 Act” means the Town and Country Planning Act 1990**(6)**;
- “the 1991 Act” means the New Roads and Street Works Act 1991**(7)**;
- “authorised busway” means any guided busway authorised by this Order;
- “authorised works” means the scheduled works and any other works authorised by this Order;
- “the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;
- “busway services” means vehicular transport services running wholly or partly on the authorised busway;
- “carriageway” has the same meaning as in the Highways Act 1980**(8)**;
- “cycletrack” means a way over which the public have a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the Road Traffic Act 1988**(9)**) with a right of way on foot;
- “guided busway” means a way provided for the use of vehicles which are constructed or adapted to carry more than eight passengers for hire or reward and use a mode prescribed in article 2(e), (f), (g) or (h) of the Transport and Works (Guided Modes) Order 1992**(10)**;
- “highway” and “highway authority” have the same meaning as in the Highways Act 1980;
- “the land plans” means the plans certified by the Secretary of State as the land plans for the purposes of this Order;
- “the limits of deviation” means the limits of deviation for the scheduled works mentioned in article 5(1)(a) and (2);
- “maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace and “maintenance” shall be construed accordingly;
- “owner”, in relation to land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of land (whether in possession or reversion) and includes a person holding, or entitled to the rents and profits of, the land under a lease or tenancy having an unexpired term exceeding 3 years;
- “public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003**(11)**;
- “rights of way maps” means the maps certified by the Secretary of State as the rights of way maps for the purposes of this Order;
- “the scheduled works” means the works specified in Schedule 1 to this Order or any part of them;

(3) 1961 c. 33.

(4) 1965 c. 56.

(5) 1984 c. 27.

(6) 1990 c. 8.

(7) 1991 c. 22.

(8) 1980 c. 66.

(9) 1988 c. 52.

(10) S.I. 1992/3231 as amended by S.I. 1997/1951.

(11) 2003 c. 21.

“the sections” means the sections certified by the Secretary of State as the sections for the purposes of this Order;

“street” includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part III of the 1991 Act;

“technical development plans” means the plans certified by the Secretary of State as the technical development plans for the purposes of this Order;

“the tribunal” means the Lands Tribunal;

“the undertaker” means Greater Manchester Passenger Transport Executive; and

“the works plans” means the plans certified by the Secretary of State as the works plans for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in or on land or in the airspace over its surface.

(3) In the case of any street in relation to which an order made under section 249(2) of the 1990 Act (a pedestrian planning order) is in force, the kerb-line of the street, where there is no kerb, shall be taken to be the edge of the part of the street on which the passage of vehicles is permitted.

(4) Any reference in this Order to a work identified by the number of the work shall be construed as a reference to the work of that number authorised by this Order.

(5) References in this Order to points identified by letters, with or without numbers, shall be construed as references to the points so marked on the rights of way maps or the works plans.

(6) All distances, directions and lengths stated in the description of the scheduled works or in any description of powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance, direction and length, and distances between points on a street shall be taken to be measured along the street.

Application of the 1991 Act

3.—(1) The authorised busway shall be regarded as a tramway undertaking for the purposes of the application of Part III of the 1991 Act (street works) to it, and accordingly, the provisions of that Part relating to tramway undertakings and tramways shall apply to the authorised busway.

(2) Section 56 (directions as to timing) and section 58 (restrictions following substantial road works) of the 1991 Act shall not apply in relation to any works executed under the power of this Order.

(3) The provisions of the 1991 Act mentioned in paragraph (4) which together with other provisions of that Act apply in relation to the execution of street works and any regulations made or code of practice issued or approved under those provisions, shall apply (with the necessary modifications) in relation to the stopping-up, alteration or diversion of a street by the undertaker under the powers conferred by this Order whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(4) The provisions of the 1991 Act referred to in paragraph (3) are—

section 54 (advance notice of certain works);

section 55 (notice of starting date of works);

section 57 (notice of emergency works);

section 59 (general duty of street authority to co-ordinate works);

section 60 (general duty of undertakers to co-operate);

section 68 (facilities to be afforded to street authority);

section 69 (works likely to affect other apparatus in the street);

section 75 (inspection fees);
section 76 (liability for cost of temporary traffic regulation);
section 77 (liability for cost of use of alternative route); and
all such other provisions as apply for the purposes of the provisions mentioned above.

- (5) Nothing in article 12 of this Order shall—
- (a) prejudice the operation of section 87 of the 1991 Act (prospectively maintainable highways); and the undertaker shall not by reason of any duty under that article to maintain a street be taken to be the street authority in relation to that street for the purposes of Part III of that Act;
 - (b) have effect in relation to street works as respects which the provisions of Part III of the 1991 Act apply.

PART 2

WORKS PROVISIONS

Principal powers

Power to construct and maintain works

- 4.—(1) The undertaker may construct and maintain the scheduled works.
- (2) Subject to article 5, the scheduled works may only be constructed in the lines or situations shown on the works plans and in accordance with the levels shown on the sections.
- (3) Subject to paragraph (5) 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) stops, platforms and stopping places;
 - (b) works required for the strengthening, improvement, repair or reconstruction of any street;
 - (c) works required for, or in connection with, the control of any vehicular and pedestrian traffic on or in the vicinity of the authorised busway;
 - (d) parking and Park and Ride facilities;
 - (e) works for the strengthening, alteration or demolition of any building or structure;
 - (f) works to alter the position of any street furniture or apparatus, including mains, sewers, drains and cables;
 - (g) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
 - (h) landscaping and works to mitigate any adverse effects of the construction, maintenance or operation of the authorised works; and
 - (i) replacement facilities and works for the benefit or protection of premises affected by the authorised works.
- (4) Subject to paragraph (5), 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) shall only authorise the carrying out or maintenance of works—
- (a) within the limits of deviation for the scheduled works shown on the works plans; and

(b) 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) Paragraph 23 of Schedule 2 to the Telecommunications Act 1984⁽¹²⁾ (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

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

- (a) deviate laterally from the lines or situations shown on the works 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) The undertaker may in constructing and maintaining any part of the authorised busway provide within the limits of deviation such gaps in the mode of guidance adopted and such number of ways, cross-overs, lay-bys, bus parking areas and sidings as may be necessary or expedient.

Streets

Power to alter layout of streets

6.—(1) The undertaker may alter the layout of any street specified in columns (1) and (2) of Schedule 3 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) but subject to paragraph (3), the undertaker may for the purpose of constructing, maintaining or using any authorised works alter the layout of any street within the limits of deviation or of land to be acquired; 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, cycletrack or verge within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, cycletrack 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 vehicles or by carrying out other works for that purpose;
- (d) replace or alter the surface or surface treatment of the street;
- (e) carry out works for the provision or alteration of parking places;
- (f) carry out traffic calming works which are of a description prescribed in the Highways (Traffic Calming) Regulations 1999⁽¹³⁾ and which are carried out in compliance with those Regulations;
- (g) carry out works to the street for the purpose of deterring or preventing vehicles other than vehicles permitted by the undertaker from passing along the authorised busway; and
- (h) make and maintain crossovers, sidings or passing places.

(3) The powers in paragraph (2) shall not be exercised in relation to a highway without the consent of the highway authority, but such consent shall not be unreasonably withheld.

⁽¹²⁾ 1984 c. 12.

⁽¹³⁾ S.I. 1999/1026.

Power to keep apparatus in streets

7.—(1) The undertaker may, for the purposes of or in connection with the construction, maintenance and use of the authorised busway, place and maintain in any street having a junction with or being in the vicinity of the authorised busway any work, equipment or apparatus including, without prejudice to the generality of the foregoing, foundations, guidance equipment or structures, 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;
- (b) “electric line” has the meaning given by section 64(1) of the Electricity Act 1989⁽¹⁴⁾; 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. The undertaker may, for the purpose of exercising the powers conferred by article 7 and the other provisions of this Order, enter upon any 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.

Construction of new and stopping up of existing paths or streets

9.—(1) The undertaker may in connection with the authorised works construct the new paths or streets specified in column (2) of Part 1 and column (4) of Part 2 of Schedule 4 by reference to the letters and numbers shown on the rights of way maps and as illustrated on the technical development plans.

(2) Subject to the provisions of this article, the undertaker may, in connection with the construction of the authorised works, stop up each of the existing or informal paths or streets specified in columns (1) and (2) of Part 2 and Part 3 of Schedule 4 to this Order to the extent specified, by reference to the letters and numbers shown on the rights of way maps, in column (3) of Parts 2 and 3 of that Schedule as illustrated on the technical development plans.

(3) No path or street specified in columns (1) and (2) of Part 2 of Schedule 4 (being a path or 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 path or street to be substituted for it, and which is specified in relation to it in column (3) of that Part of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use.

(4) 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 1961 Act.

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

Temporary stopping-up of paths or streets

10.—(1) The undertaker may, during and for the purposes of the execution of the authorised works, temporarily stop up, alter or divert any existing or informal path or street and may for any reasonable time—

- (a) divert the traffic from the path or street; and

(14) 1989 c. 29.

(b) subject to paragraph (3), prevent all persons from passing along the path or street.

(2) Without prejudice to the generality of paragraph (1), the undertaker may use any path or street stopped up under the powers of this article as a temporary working site.

(3) The undertaker shall provide at all times 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 prejudice to the generality of paragraph (1), and subject to paragraph (5), the undertaker may exercise the powers of this article in relation to the existing or informal paths or streets specified in columns (1) and (2) of Schedule 4 and in columns (1) and (2) of Schedule 5 to this Order to the extent specified, by reference to the letters and numbers shown on the rights of way maps, in column (3) of those Schedules.

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

(a) in relation to any path or street specified as mentioned in paragraph (4) without first consulting the street authority; and

(b) in relation to any other path or street without the consent of the street authority, but such consent shall not be unreasonably withheld.

(6) The temporary stopping up, alteration or diversion of any path or street authorised by this Order shall not affect any right of a public communications provider in respect of any apparatus which at the time of the stopping up or diversion is in the highway.

Access to works

11. 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 locations within the limits of deviation as may be approved by the highway authority, but such approval shall not be unreasonably withheld.

Construction and maintenance of new or altered paths or streets

12.—(1) Any path or street to be constructed under this Order shall be completed to the reasonable satisfaction of the highway authority and shall, unless otherwise agreed between the undertaker and the highway authority, 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 path or street is altered or diverted under this Order, the altered or diverted part of the path or 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) do not apply in relation to the structure of any bridge or tunnel carrying a street over or under the authorised busway.

Construction of bridges and tunnels

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

Agreements with street authorities

14.—(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 the authorised busway) 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 the authorised busway;
 - (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 8.
- (2) Such an agreement may, without prejudice to the generality of paragraph (1)—
- (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

15.—(1) The undertaker may construct the authorised busway so as to enable vehicles upon it to cross on the level any highway crossing the line of the authorised busway including the highways specified in Schedule 6 to this Order.

(2) The powers in paragraph (1) shall not be exercised in relation to any highway which is not specified in Schedule 6 to the Order without the consent of the highway authority, but such consent shall not be unreasonably withheld.

(3) The undertaker may provide, maintain and operate at or near any level crossing such barriers or other protective equipment as the Health and Safety Executive may in writing approve.

(4) 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.

(5) Without prejudice to the generality of article 6, the undertaker may in the exercise of the powers of this article alter the level of any highway specified in Schedule 6 to this Order.

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

(7) In this article—

“barrier” includes gate;

“level crossing” means the place at which the authorised busway crosses a highway on the level under the powers conferred by this article;

“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

Discharge of water

16.—(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 within the limits of deviation shown on the works plans or in any street along which the authorised busway is authorised to cross 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⁽¹⁵⁾.

(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 or a local authority;
- (b) “watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and
- (c) other expressions used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

Planning permission: supplementary powers

17.—(1) In relation to the application of paragraph (3)(c) of the Second Schedule of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Tree Preservation Order) Regulations 1969⁽¹⁶⁾ (including that paragraph as applied by regulation 3(ii) of the Town and Country Planning (Tree Preservation Order) (Amendment) and (Trees in Conservation Areas) (Exempted Cases) Regulations 1975⁽¹⁷⁾ as incorporated in any tree preservation order, any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to the works authorised by this Order shall be treated as deeming the permission to have been granted on application made under Part III of that Act.

(2) In relation to the application of article 5(1)(d) of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Trees) Regulations 1999⁽¹⁸⁾ as incorporated in any tree preservation order or as having effect by virtue of regulation 10(1)(a) of those Regulations, any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to the works authorised by this Order shall not be treated as an outline planning permission.

(3) Planning permission which is deemed by a direction under section 90(2A) of the 1990 Act to be granted in relation to works authorised by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a)(cases in which land is to be treated as operational land for the purposes of that Act) of that Act.

Power to survey and investigate land

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

⁽¹⁵⁾ 1991 c. 57.

⁽¹⁶⁾ S.I. 1969.17.

⁽¹⁷⁾ S.I. 1975/148.

⁽¹⁸⁾ S.I. 1999/1892.

- (a) survey or investigate any land within the limits of deviation and of land to be acquired shown on the works plans;
 - (b) without prejudice to the generality of sub-paragraph (a), 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) without prejudice to the generality of sub-paragraph (a), carry out archaeological investigations on any such land;
 - (d) 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
 - (e) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (d).
- (2) No land may be entered, or equipment placed or left on or removed from the land under paragraph (1), 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 1961 Act.
- (6) Nothing in this article shall obviate the need to obtain scheduled monument consent under the Ancient Monuments and Archaeological Areas Act 1979(19).

Obstruction of construction of busway

19. 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.

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

- 20.** The undertaker may acquire compulsorily—
- (a) so much of the land shown on the land plans within the limits of deviation for work and of land to be acquired and described in the book of reference as may be required for the purposes of the authorised works; and

- (b) so much of the land specified in columns (1) and (2) of Schedule 2 to this Order (being land shown on the land plans and described in the book of reference) as may be required for the purpose specified in relation to that land in column (3) of that Schedule;

and may use any land so acquired for those purposes or for any other purposes connected with or ancillary to its busway undertaking.

Application of Part I of the Compulsory Purchase Act 1965

21.—(1) Part I of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, shall apply to the acquisition of land under this Order—

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(20) applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part I of the 1965 Act, as so applied, shall have effect as if—

- (a) section 4 (which provides a time limit for compulsory purchase of land) and paragraph 3(3) of Schedule 3 (which makes provision as to the giving of bonds) were omitted; and
- (b) in section 11(1) (which confers power to enter on and to take possession of land subject to a notice to treat on giving not less than 14 days' notice) for the reference to 14 days' notice there were substituted—
 - (i) in a case where the notice to treat relates only to the acquisition of subsoil or the acquisition of an easement or other right over the land, a reference to notice of one month, or
 - (ii) in any other case, a reference to notice of 3 months.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

22.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(21) shall apply as if this Order were a compulsory purchase order.

(2) In its application by virtue of paragraph (1), the Compulsory Purchase (Vesting Declarations) Act 1981 shall have effect with the following modifications.

(3) In section 3 (preliminary notices) for subsection (1) there shall be substituted—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in subsection (3) in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in the London Gazette and in a local newspaper circulating in the area in which the land is situated.”.

(4) In that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)”, and after “given” there shall be inserted “and published”.

(5) In that section, for subsections (5) and (6) there shall be substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) he is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion; or

(20) 1981 c. 67.

(21) 1981 c. 66.

(b) he holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(6) In section 5 (earliest date for execution of declaration)—

(a) in subsection (1), after “publication” there shall be inserted “in the London Gazette or in a local newspaper circulating in the area in which the land is situated”; and

(b) subsection (2) shall be omitted.

(7) In section 7 (constructive notice to treat) in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted.

(8) References to the 1965 Act shall be construed as references to that Act as applied to the acquisition of land under article 21.

Powers to acquire new rights

23.—(1) The undertaker may compulsorily acquire such easements or other rights over any land referred to in paragraph (a) or (b) of article 20 as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

(2) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 7 to this Order), where the undertaker acquires a right over land under paragraph (1) the undertaker shall not be required to acquire a greater interest in it.

(3) Schedule 7 to this Order shall have effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right.

Powers to acquire subsoil only

24.—(1) The undertaker may compulsorily acquire so much of the subsoil of the land referred to in paragraph (a) or (b) of article 20 as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of the subsoil of land under paragraph (1) the undertaker shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) shall not prevent article 29 from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

Rights under or over streets

25.—(1) Subject to paragraph (2) the undertaker may enter upon and appropriate so much of the surface, subsoil of, or airspace over, any street shown on the land plans and described in the book of reference as may be required for the purposes of the authorised works and may use the surface, subsoil and airspace for those purposes or any other purpose connected with or ancillary to its busway undertaking.

(2) The power under paragraph (1) may be exercised in relation to a street without the undertaker being required to acquire any part of the street or any easement or right in the street, and except in relation to a street which is subject to stopping-up pursuant to article 9, the powers of compulsory acquisition of land conferred by this Order shall not apply in relation to the street.

(3) Any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person’s interest in the land, and who suffers loss by the exercise of that power, shall be entitled to compensation to be determined, in case of dispute, under Part I of the 1961 Act.

- (4) Paragraph (2) shall not apply in relation to—
- (a) any subway or underground building; or
 - (b) any cellar, vault, arch or other construction in or on a street which forms part of a building fronting on to the street.

Temporary possession of land

Temporary use of land for construction of works

- 26.—(1) The undertaker may, in connection with the carrying out of the authorised works—
- (a) enter upon and take temporary possession of the land specified in columns (1) and (2) of Schedule 8 to this Order for the purpose specified in relation to that land in column (3) of that Schedule;
 - (b) remove any buildings and vegetation from that land; and
 - (c) construct temporary works (including the provision of means of access) and buildings on the land.

(2) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker shall serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of 2 years beginning with the date of completion of the works specified in relation to that land in column (4) of Schedule 8 to this Order.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker shall not be required to replace a building removed under this article.

(5) The undertaker shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, shall be determined under Part 1 of the 1961 Act.

(7) Without prejudice to article 55, nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (5).

(8) The powers of compulsory acquisition of land conferred by this Order shall not apply to the land referred to in this article.

(9) In this article and the following article, "building" includes structure or any other erection.

Temporary use of land for maintenance of works

27.—(1) At any time during the maintenance period relating to any of the scheduled works and without prejudice to any other powers available to it, the undertaker may—

- (a) enter upon and take temporary possession of any land shown on the land plans within the limits of deviation for work and of land to be acquired and lying within 20 metres from that work if such possession is reasonably required for the purpose of, or in connection with, maintaining the work or any ancillary works connected with it or securing the safe operation of any such work;

- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.
- (2) Paragraph (1) shall not authorise the undertaker to take temporary possession of—
 - (a) any house or garden belonging to a house; or
 - (b) any building (other than a house) if it is for the time being occupied.
- (3) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker shall serve notice of the intended entry on the owners and occupiers of the land.
- (4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance works for which possession of the land was taken.
- (5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.
- (6) The undertaker shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.
- (7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, shall be determined under Part I of the 1961 Act.
- (8) Without prejudice to article 55, nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (6).
- (9) Where the undertaker takes possession of land under this article, it shall not be required to acquire the land or any interest in it.
- (10) In this article—
 - (a) “the maintenance period”, in relation to a scheduled work, means the period of 5 years beginning with the date on which the work is opened for use;
 - (b) any reference to land within a specified distance of a work includes, in the case of a work under the surface of the ground, a reference to land within the specified distance of the point on the surface below which the work is situated.

Compensation

Disregard of certain interests and improvements

28.—(1) In assessing the compensation (if any) payable to any person on the acquisition from him of any land under this Order, the tribunal shall not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land;

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which he is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

Supplementary

Acquisition of part of certain properties

29.—(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 21(1) in any case where—

(a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or factory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and

(b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat and stating that he is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner shall be required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner shall be required to sell only the land subject to the notice to treat shall, unless the undertaker agrees to take the land subject to the counter-notice, be referred to the tribunal.

(5) If on such a reference the tribunal determine that the land subject to the notice to treat can be taken—

(a) without material detriment to the remainder of the land subject to the counter-notice; or

(b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner shall be required to sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determine that only part of the land subject to the notice to treat can be taken—

(a) without material detriment to the remainder of the land subject to the counter-notice; or

(b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat shall be deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determine that—

(a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but

(b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the tribunal determine that—

(a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and

(b) the material detriment is not confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.

(9) In any case where by virtue of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and if it does so shall pay to the owner compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or factory or of land consisting of a house with a park or garden, the undertaker shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of the interest acquired.

Extinction or suspension of private rights of way

30.—(1) All private rights of way over land subject to compulsory acquisition under this Order shall be extinguished—

(a) as from the acquisition of the land by the undertaker, whether compulsorily or by agreement, or

(b) on the entry on the land by the undertaker under section 11(1) of the 1965 Act, whichever is sooner.

(2) All private rights of way over land owned by the undertaker which, being within the limits of land which may be acquired shown on the land plans, is required for the purposes of this Order shall be extinguished on the appropriation of the land for any of those purposes by the undertaker.

(3) All private rights of way over land of which the undertaker takes temporary possession under this Order shall be suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(4) 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 1961 Act.

(5) This article does not apply in relation to any right of way to which section 271 or 272 of the 1990 Act (extinguishment of rights of statutory undertakers etc.) or paragraph 2 of Schedule 10 to this Order applies.

Time limit for exercise of powers of acquisition

31.—(1) No notice to treat shall be served under Part I of the 1965 Act, as applied to the acquisition of land under article 21, after the end of the period of 5 years beginning with the day on which this Order comes into force.

(2) The powers conferred by article 26 to enter upon and take temporary possession of land, shall cease at the end of the period of 5 years beginning on the day on which this Order comes into force, but this paragraph shall not prevent the undertaker remaining in possession of land in accordance with article 26 after the end of that period, if the land was entered and possession of it was taken before the end of that period.

PART 4

OPERATION OF AUTHORISED BUSWAY SYSTEM

Power to operate and use authorised busway system

32.—(1) The undertaker may operate and use the authorised busway 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 article 45 and to section 10 of the Transport Act 1968⁽²²⁾, the undertaker shall have the exclusive right to use the authorised busway and to permit others to do so on such terms as it sees fit.

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

Power to charge fares

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

Service subsidy agreements

34. Any service subsidy agreement relating to the operation of busway services shall be excluded from section 89(1) of the Transport Act 1985⁽²³⁾.

Registration of busway services

35. For the purposes of the application of Part I of the Transport Act 1985 but subject to article 36, the authorised busway shall be a road within the meaning of section 2 of that Act.

Substitute road services

36.—(1) The undertaker may provide or secure the provision by other persons of services for the carriage of passengers by road (“substitute services”) where the authorised busway has been temporarily interrupted, curtailed or discontinued.

(2) The route, frequency and stopping places of any substitute service need not correspond with the route of the interrupted, curtailed or discontinued service.

Maintenance of approved works, etc.

37.—(1) Where pursuant to regulations⁽²⁴⁾ made under section 41 of the Act (approval of works, plant and equipment) approval has been obtained from the Health and Safety Executive with respect to any works, plant or equipment (including vehicles) forming part of the authorised busway, such works, plant and equipment shall not be used in a state or condition other than that in which they were at the time that the approval was given unless any change thereto does not materially impair the safe operation of the authorised busway.

⁽²²⁾ 1968 c. 73.

⁽²³⁾ 1985 c. 67.

⁽²⁴⁾ See S.I. 1994/157.

(2) If without reasonable cause the provisions of paragraph (1) are contravened, the undertaker shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) No proceedings shall be instituted in England and Wales in respect of an offence under this article except by or with the consent of the Health and Safety Executive or the Director of Public Prosecutions.

Removal of obstructions

38.—(1) If any obstruction is caused to vehicles using the authorised busway by a vehicle waiting, loading, unloading or breaking down on any part of the authorised busway, the person in charge of the vehicle shall forthwith remove it; and if he fails to do so the 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 vehicles using the authorised busway; or
- (b) any person who was the owner of the vehicle at that time unless he shows that he was not, at that time, concerned in or aware of the vehicle being so put or left.

(2) If any obstruction is caused to vehicles using the authorised busway by a load falling on the authorised busway from a vehicle, the person in charge of the vehicle shall forthwith remove the load from the authorised busway; and if he fails to do so, the 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 he shows that he 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 article 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 the 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(25).

Traffic signs

39.—(1) The undertaker may, for the purposes of, or in connection with the operation of, the authorised busway, and notwithstanding anything in section 64(4) of the 1984 Act, place or maintain traffic signs of a type prescribed by regulations made under section 64(1)(a) of that Act or of a character authorised by the Secretary of State on any street which has a junction with or otherwise gives access to the authorised busway.

(2) The undertaker—

- (a) shall consult 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 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 undertaker as to traffic signs under this article; and, accordingly, the powers conferred by paragraph (1) shall be exercisable subject to and in conformity with any directions given under that section.

(4) A traffic authority or other authority having power under or by virtue of the 1984 Act to place and maintain, or cause to be placed and maintained, traffic signs on or near any street along which

(25) 1994 c. 22.

the authorised busway runs or to which it gives access shall consult the undertaker as to the placing of any traffic sign which would affect the operation of the authorised busway.

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

Traffic regulation

40.—(1) Subject to the provisions of this article the undertaker may, for the purposes of the authorised busway, at any time prior to the expiry of 12 months from the opening of the system for use and with the consent of the traffic authority in whose area the road is situated—

- (a) prohibit or restrict the waiting or the loading or unloading of vehicles in the manner specified in Part 1 of Schedule 9 to this Order on those roads specified in column (2) and along the lengths and between the points specified in column (3) of that Part of that Schedule;
 - (b) establish bus lanes on the roads specified in column (2) and along the lengths and between the points specified in column (3) of Part 2 of Schedule 9 to this Order;
 - (c) make provision as to the direction of vehicular traffic in the manner specified in Part 3 of Schedule 9 to this Order on the roads specified in column (2) and as respects direction to the extent specified in column (3) of that Part of that Schedule;
 - (d) prohibit vehicular access in the manner specified in Part 4 of Schedule 9 to this Order on those roads specified in column (2) and at the points and as respects direction to the extent specified in column (3) of that Part of that Schedule;
 - (e) revoke any traffic regulation order in so far as it is inconsistent with any prohibition, restriction or other provision made by the undertaker under this paragraph.
- (2) The undertaker shall not exercise the powers of this article unless it has—
- (a) given not less than 12 weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
 - (b) advertised its intention in such manner as the traffic authority may within 28 days of its receipt of notice of the undertaker's intention specify in writing.

(3) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) shall have effect as if duly made by the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act and the instrument by which it is effected may specify savings (in addition to those mentioned in Schedule 9) to which the prohibition, restriction or other provision is subject.

Power to lop trees overhanging busway system

41.—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised busway, 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 authorised busway or any apparatus used for the purposes of the authorised busway; or
- (b) from constituting a danger to passengers or other persons using the authorised busway.

(2) In exercising the powers in paragraph (1), the 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) Nothing in this article shall be taken to affect the application of any tree preservation order made under section 198 of the 1990 Act.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of the compensation, shall be determined under Part I of the 1961 Act.

Trespass on busway system

42.—(1) Any person who—

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

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

(2) For the purposes of this article, trespassing on the authorised busway includes causing or permitting a vehicle to be upon any part of the authorised busway without permission.

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

Power to make byelaws

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

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

- (a) with respect to tickets issued for travel on the authorised busway, 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 busway or other facilities provided in connection with the authorised busway;
- (c) with respect to access to and the carriage, use or consumption of anything on authorised busway premises;
- (d) with respect to the prevention of nuisances on authorised busway premises;
- (e) with respect to trespass on the authorised busway or upon any authorised busway premises of the undertaker;
- (f) for regulating the passage of bicycles and other vehicles on ways and other places intended for the use of persons on foot within authorised busway premises;
- (g) for the safe custody and re-delivery or disposal of any property accidentally left on authorised busway premises and for fixing the charges made in respect of any such property; and
- (h) for prohibiting or restricting the placing or leaving of any vehicle without its driver on any part of the authorised busway or on authorised busway premises.

(3) In paragraphs (1) and (2) references to “authorised busway premises” are references to premises of the undertaker used for or in connection with the operation of the authorised busway including any authorised busway vehicle.

(4) Byelaws under this article 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.

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

(6) Byelaws under this article shall not come into operation until they have been confirmed by the Secretary of State.

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

(8) For at least 24 days before an application is made under this article for byelaws to be confirmed, a copy of the byelaws shall be kept at the principal office of the undertaker and shall at all reasonable hours be open to public inspection without payment.

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

(10) The Secretary of State may confirm with or without modification, or may refuse to confirm, any of the byelaws submitted under this article 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.

(11) The Secretary of State may charge the undertaker such fees in respect of any byelaws submitted for confirmation under this article as he may consider appropriate for the purpose of defraying any administrative expenses incurred by him in connection therewith.

(12) A copy of the byelaws when confirmed shall be printed and deposited at the principal office of the undertaker and shall at all reasonable hours be open to public inspection without payment, and the undertaker shall, at the request of any person, supply him with a copy of any such byelaws on payment of such reasonable sum as the undertaker shall determine.

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

- (a) that the byelaws were made by the undertaker;
- (b) that the copy is a true copy of the byelaws;
- (c) that on a specified date the byelaws were confirmed by the Secretary of State; and
- (d) the date when the byelaws came into operation,

shall be prima facie evidence of the facts stated in the certificate.

Power to contract for police services

44.—(1) The undertaker may enter into agreements with a police authority and its chief officer of police for the police force maintained by that authority to provide policing services for or in connection with the authorised busway, including at any busway premises.

(2) Any such agreement may provide for—

- (a) the undertaker to make such payment or other consideration for those policing services as the parties may agree; and
 - (b) such incidental and ancillary matters as the parties consider appropriate.
- (3) In this article—
- (a) “chief officer of police” means a chief officer of police within the meaning of the Police Act 1996⁽²⁶⁾ or the Chief Constable of the British Transport Police Force; and
 - (b) “police authority” means a police authority within the meaning of that Act or the British Transport Police Authority within the meaning of the Railways and Transport Safety Act 2003⁽²⁷⁾.

Power of disposal, agreements for operation, etc.

45.—(1) Without prejudice to its powers under section 10 of the Transport Act 1968 (general powers of the Executive)⁽²⁸⁾, the undertaker may, with the consent of the Secretary of State, sell, lease, charge or otherwise dispose of, on such terms and conditions as it thinks fit, the whole or any part of the authorised works and any land held in connection therewith or the right to operate the works under this Order.

(2) Without prejudice to the generality of paragraph (1), the undertaker may enter into and carry into effect agreements with respect to any of the following matters, namely, the construction, maintenance, use and operation of the authorised works, or any part of them, by any other person, and other matters incidental or subsidiary thereto or consequential thereon, and the defraying of, or the making of contributions towards, the cost of the matters aforesaid by the undertaker or any other person.

(3) Any agreement under paragraph (2) may provide (among other things) for the exercise of the powers of the undertaker in respect of the authorised works or any part thereof, and for the transfer to any person of the authorised works or any part or parts thereof together with the rights and obligations of the undertaker in relation thereto.

(4) The exercise of the powers of any enactment by any person in pursuance of any sale, lease, charge or disposal under paragraph (1), or any agreement under paragraph (2), shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those powers were exercised by the undertaker.

(5) Nothing in section 15(2) of the Transport Act 1968 (restriction on alteration of charges) shall apply in relation to the operation of the authorised busway by any person other than the undertaker, but this paragraph is without prejudice to any provision with respect to charges that may be made in an agreement under paragraph (1) or (2).

Application of landlord and tenant law

46.—(1) This article applies to any agreement for leasing to any person the whole or any part of the authorised busway or the right to operate the same, and any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised busway, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person’s use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of any agreement to which this article applies.

⁽²⁶⁾ 1996 c. 16.

⁽²⁷⁾ 2003 c. 20.

⁽²⁸⁾ 1968 c. 73.

(3) Accordingly no such enactment or rule of law shall apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Town and country planning: statutory undertakers

47.—(1) The authorised busway shall be regarded as a road transport undertaking for the purposes of section 262(1) of the 1990 Act (meaning of “statutory undertakers”).

(2) Planning permission which is deemed by a direction under section 90(2A) of the 1990 Act to be granted in relation to works authorised by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of that Act (cases in which land is to be treated as operational land for the purposes of that Act).

PART 5

PROTECTIVE PROVISIONS

Statutory undertakers, etc.

48. The provisions of Schedule 10 to this Order shall have effect.

For protection of Environment Agency

49.—(1) For the protection of the Environment Agency (in this article referred to as “the Agency”) the following provisions shall, unless otherwise agreed in writing between the undertaker and the agency, have effect.

(2) Nothing in this Order or in any enactment incorporated with or applied by this Order shall prejudice or affect the operation of section 109 of the Water Resources Act 1991(**29**) or any byelaws made under that Act or the Land Drainage Act 1991(**30**) in relation to anything done under or in pursuance of this Order.

(3) Before carrying out any works under the powers of this Order involving the erection or raising of any obstruction to the flow, or alteration to the course, of any watercourse which is not part of a main river within the meaning of section 113 of the Water Resources Act 1991 or the construction, alteration or replacement of any culvert or any structure designed to contain or divert the flow for any such watercourse in, under or through any land held for the purposes of or in connection with the authorised busway the undertaker shall furnish to the Agency proper and sufficient plans thereof for the approval of the Agency and shall not carry out the said works until the said plans have been approved in writing by the Agency.

(4) The approval of plans furnished under paragraph (3) shall not be unreasonably withheld and if, within two months from the day the plans are received by the Agency, it does not indicate in

(29) 1991 c. 57.

(30) 1991 c. 59.

writing its disapproval and the grounds of its disapproval, it shall be deemed to have approved the plans as supplied.

(5) For the purposes of this article, “plans” includes sections, drawings, specifications, calculations and descriptions.

(6) Any culvert or any structure designed to contain or divert the flow of any watercourse situated within any land held for purposes of or in connection with the authorised busway, whether constructed under the powers of this Order or in existence prior to the making thereof, shall be maintained by the undertaker in good repair and condition and free from obstruction.

(7) Nothing in this article shall have the effect of requiring the undertaker to carry out works of maintenance in respect of any culvert or structure which the Agency or any other person are liable to maintain.

(8) If any obstruction is erected or raised or any culvert is constructed, altered or replaced in contravention of this article the undertaker shall upon receiving notice from the Agency take such action as may be necessary to remedy the effect of the contravention to the Agency’s satisfaction and in default the Agency may itself take such action as may be necessary and recover the expenses reasonably incurred by it in doing so from the undertaker as a debt due from them to the Agency.

Minerals

50. Nothing in this Order shall affect the right of any person entitled to any mine or minerals of any description whatsoever under a street along which the authorised busway is laid to work the mine or get the minerals; but this shall not affect any liability (whether civil or criminal) of the person so entitled in respect of damage to the authorised busway resulting from the exercise of any such right.

Arrangements with highway authorities

51.—(1) The following provisions shall, unless otherwise agreed in writing between the undertaker and the highway authority concerned, have effect.

(2) In this article—

“highway” means a street vested in or maintainable by the highway authority;

“highway operations” means the construction of any part of the authorised works which will involve interference with a highway or the traffic in a highway and any temporary stopping up, alteration or diversion of a highway; and

“plans” includes sections, drawings, specifications and particulars (including descriptions of methods of construction).

(3) Wherever in this article provision is made with respect to the approval or consent of the highway authority, that approval or consent shall be in writing and may be given subject to such reasonable terms and conditions as the highway authority may require in the interests of safety and in order to minimise inconvenience to persons using the highway, but shall not be unreasonably withheld.

(4) Prior to seeking approval under paragraph (5), the undertaker shall consult the highway authority concerned as to any works to and changes in the management of the highway network which may be required to ensure the effective integration of the authorised busway with other forms of highway traffic and, within 28 days of being requested in writing by the undertaker so to do, the highway authority shall provide the undertaker with its opinion on the subject.

(5) Without prejudice to the application of sections 59 and 60 of the 1991 Act (duty of street authority to co-ordinate and undertakers to co-operate) before commencing any highway operations, the undertaker shall submit to the highway authority for its approval proper and sufficient plans

and shall not commence the highway operations until such plans have been approved or settled by arbitration.

(6) If, within 56 days after any plans have been submitted to a highway authority under paragraph (5), it has not intimated its disapproval and the grounds of disapproval, it shall be deemed to have approved them.

(7) In the event of any disapproval of plans by a highway authority the undertaker may re-submit the plans with modifications and, in that event, if the highway authority has not intimated its disapproval and the grounds of disapproval within 28 days of the plans being re-submitted, it shall be deemed to have approved them.

(8) In submitting plans under paragraph (5), the undertaker shall—

- (a) ensure that the design of any lighting for new station areas is such as not to cause confusion to highway users operating under normal highway lighting;
- (b) ensure that the design of foundations, platforms, road islands, substations, electric lines and other apparatus are compatible, so far as reasonably practicable, with street furniture vested in the highway authority; and
- (c) ensure that the design of any traffic signalling system for the authorised busway is fully compatible with traffic signalling for other traffic users whilst achieving priority signalling for buses using the authorised busway wherever practicable.

(9) Except in an emergency or where reasonably necessary to secure the safety of the public no direction or instruction shall be given by the highway authority to the contractors, servants or agents of the undertaker regarding the highway operations without the prior consent in writing of the undertaker.

(10) The highway authority shall not be liable for any additional costs which may be incurred as a result of the giving of instructions or directions pursuant to this article.

(11) To facilitate liaison with the undertaker, the highway authority concerned shall provide so far as is reasonably practicable a representative to attend meetings arranged by the undertaker respecting highway operations.

(12) So much of the authorised works as forms part of or is intended to become public highway, or part of any such highway, and which are not street works as respects which the provisions of Part III of the 1991 Act apply shall be completed in accordance with the reasonable requirements of the highway authority or, in case of difference between the undertaker and the highway authority as to whether those requirements have been complied with or as to their reasonableness, in accordance with such requirements as may be approved or settled by arbitration.

(13) The undertaker shall not, except with the consent of the highway authority, alter or interfere with any sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith, or any other property or work belonging to, or under the jurisdiction or control of, the highway authority on or under any highway or repairable by them or the access thereto.

(14) The undertaker shall not, except with the consent of the highway authority, deposit any soil or materials or stand any vehicle or plant on or over any highway so as to obstruct or render less safe the use of the highway by any person or, except with the like consent, deposit any soil or materials on any highway except within a hoarding.

(15) The undertaker shall, if reasonably so required by the highway authority, provide and maintain during such time as the undertaker may occupy any part of a highway for the purpose of the construction of any part of the authorised works, temporary ramps for vehicular traffic or pedestrian traffic, or both, and any other traffic measures required to protect the safety of road users in accordance with the standard recommended in Chapter 8 of the Traffic Signs Manual issued for

the purposes of the Traffic Signs Regulations and General Directions 2002(31) in such position as may be necessary to prevent undue interference with the flow of traffic in any highway.

(16) The undertaker shall not place any hoardings on any part of any highway except for such period and in such manner as may be reasonably necessary.

(17) The undertaker shall indemnify the highway authority against any claim which may arise as a result of any subsidence of, or damage to, any highway or any sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith or any other property or work belonging to, or under the jurisdiction or control of, the highway authority on or under any highway, or maintainable by them, which may be caused by, or in consequence of, any act or default of the undertaker, its contractors, servants or agents.

(18) Unless otherwise agreed between the parties any difference arising between the undertaker and the highway authority under this article (other than a difference as to its meaning or construction) shall be determined by arbitration.

PART 6

MISCELLANEOUS AND GENERAL

Disclosure of confidential information

52. A person who—

- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 18; and
- (b) discloses to any person any information obtained by him relating to any manufacturing process or trade secret,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale unless the disclosure is made in the course of performing his duty in connection with the purposes for which he was authorised to enter the land.

Certification of plans, etc.

53. The undertaker shall, as soon as practicable after the making of this Order, submit copies of the book of reference, the land plans, the rights of way maps, the technical development plans, and the works plans and sections to the Secretary of State for certification that they are true copies of, respectively, the book of reference, maps, plans and sections referred to in this Order; and a document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

54.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served by post.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(ff) as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) is, if he has given an address for service, that address, and otherwise—

(31) S.I. 2002/3113.

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body, and
 - (b) in any other case, his last known address at the time of service.
- (4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and his name or address cannot be ascertained after reasonable enquiry, the notice may be served by—
- (a) addressing it to him by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it), and
 - (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.
- (5) This article shall not be taken to exclude the employment of any method of service not expressly provided for by it.

No double recovery

55. Compensation shall not be payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law.

Arbitration

56. Unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

Signed by authority of the Secretary of State

Ellis Harvey
Head of the Transport and Works Act Orders
Unit
Department for Transport

13th July 2005

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULES

SCHEDULE 1

Article 4

SCHEDULED WORKS

<i>(1)</i> Number of Work	<i>(2)</i> Description of Work
In the Borough of Wigan	
Work No. 1	A guided busway 431 metres in length commencing at the junction of East Bond Street and Princess Street and running in a north-easterly direction before terminating at Holden Road, where the busway crosses the existing highway.
Work No. 2	A guided busway 1613 metres in length commencing by the termination of Work No. 1, running in a north-easterly direction along part of the former Leigh to Patricroft rail line formation, crossing Green Lane before terminating at the crossing of Millers Lane.
Work No. 3	A guided busway 755 metres in length commencing by the termination of Work No. 2, running in an easterly direction along part of the former Leigh to Patricroft rail line formation before terminating at the crossing of Cooling Lane.
Work No. 4	A guided busway 742 metres in length commencing by the termination of Work No. 3, running in an easterly direction along part of the former Leigh to Patricroft rail line formation before terminating at the crossing of Astley Street.
Work No. 5	A guided busway 915 metres in length commencing by the termination of Work No. 4 at Astley Street becoming guided after 120m and, running in an easterly direction along part of the former Leigh to Patricroft rail line formation, crossing Well Street before terminating at the crossing of Upton Lane.
Work No. 5A	A realignment of the Well Street carriageway commencing 85 metres south of Manchester Road for a distance of 115 metres in a southerly direction.

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<i>(1)</i> <i>Number of Work</i>	<i>(2)</i> <i>Description of Work</i>
Work No. 6	A guided busway 448 metres in length commencing by the termination of Work No. 5 at Upton Lane, running in an easterly direction along part of the former Leigh to Patricroft rail line formation before terminating at the crossing of Hough Lane.
Work No. 7	A guided busway 774 metres in length commencing by the termination of Work No. 6 at Hough Lane, running in an easterly direction along part of the former Leigh to Patricroft rail line formation before terminating at the crossing of Sale Lane.
Work No. 8	A guided busway 1025 metres in length commencing by the termination of Work No. 7 at Sale Lane, running in an easterly direction along part of the former Leigh to Patricroft rail line formation before terminating where the former rail line crossed over City Road.
In the Borough of Wigan and City of Salford	
Work No. 9	A guided busway 447.5 metres in length commencing by the termination of Work No. 8 at City Road, running in an easterly direction along part of the former Leigh to Patricroft rail line formation before terminating where it meets Newearth Road.
In the Borough of Wigan	
Work No. 10	A guided busway 401 metres in length commencing 7 metres to the east of the termination of Work No. 3 and the commencement of Work No. 4, running in a southerly direction along Cooling Lane before terminating 33 metres north of Richmond Drive.

SCHEDULE 2

Articles 4 and 20

ACQUISITION OF CERTAIN LAND

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on land plan</i>	<i>(3)</i> <i>Purpose for which land may be acquired</i>
Borough of Wigan	1 to 20	Provision of bus lane and associated highway

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<i>(1)</i> Area	<i>(2)</i> Number of land shown on land plan	<i>(3)</i> Purpose for which land may be acquired
		remodelling in Leigh Town Centre
	51	Construction of Lilford Park Brook Bridge
	52	Construction of Lilford Park Brook Bridge and works to Lilford Park Brook
	56, 57, 60 to 62, 65 to 68, 70, 97 and 99	Path realignment and access control measures
	85 to 87	Creation of new access to Park and Ride site off Hart Street
	100	Path realignment and construction of retaining walls
City of Salford	112	Construction of bridleway to connect with Newearth Road
	114	Provision of busway access and associated highway remodelling of Newearth Road
	115	Construction of footpath to connect with Newearth Road

KEY TO SCHEDULES 3 TO 5 AND 9

BL	Bus Lane
CE	Prohibition on waiting etc.
DT	Prohibited direction of travel
NP	New Way
NS	Narrowing of street
PA	Prohibition of Access
PD	Permanent Diversion
PS	Permanent stopping up
RS	Realignment of street
TS	Temporary stopping up
WE	Kerb-line modification
WS	Widening of street

The reference letters and numbers are marked on the works plans and rights of way maps.

SCHEDULE 3

Article 6

STREETS SUBJECT TO ALTERATION OF LAYOUT

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
Borough of Wigan	Princess Street	Realignment of street between RS3 and RS4 between Queen Street and Lord Street South. Kerb-line to be set back between WS1 and WS2 between Lord Street South and East Bond Street.
	Lord Street South	Realignment of street between RS5 and RS6 between Spinning Jenny Way and Princess Street.
	Queen Street	Realignment of street between RS7 and RS8 between Brown Street and Princess Street.
	Gas Street	Realignment of street between RS9 and RS10 between access to Gas Street car park and Brown Street.
	Brown Street	Realignment of street between RS11 and RS12 between Gas Street and Queen Street.
	Spinning Jenny Way	Kerb-line to be set back between WS3 and WS4 on the north side of the road between Brown Street South and Lord Street South with associated kerb-line re-alignment (setting forward) on the south side of the adjacent length of Chapel Street.
	East Bond Street	Kerb-line to be altered between WE1 and WE2 on north side of road.
	Holden Road	Kerb-line to be altered between WE3 and WE4 on the east and west side of the road.
	Sandringham Drive	Kerb-line to be altered between WE15 and WE16 on the east side of the road.

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
	Astley Street	Kerb-line to be altered between WE5 and WE6 on the east and west side of the road.
	Well Street	Realignment of street between RS1 and RS2.
	Hough Lane	Kerb-line to be altered between WE7 and WE8 on the east and west side of the road.
	Manchester Road	Kerb-line to be altered between WE9 and WE10 on the south side of the road.
	Hart Street	Kerb-line to be set forward between NS1 and NS2 on the east and west side of the road.
	Sale Lane	Kerb-line to be altered between WE11 and WE12 on the east and west side of the road.
City of Salford	Newearth Road	Kerb-line to be altered between WE13 and WE14 on the east and west side of the road.

SCHEDULE 4

Articles 9 and 10

PATHS AND STREETS TO BE STOPPED UP AND PROVISION OF SUBSTITUTES

PART 1

NEW PATHS OR STREETS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>New path or street</i>
Borough of Wigan	Cycletrack between NP132 and NP134
	Footpath between NP3 and NP4
	Footpath between NP107 and NP108
	Footpath between NP5 and NP6
	Footpath between NP16 and NP18
	Footpath between NP113 and NP114
	Footpath between NP20 and NP21
	Footpath between NP31 and NP32

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>New path or street</i>
	Bridleway between NP25 and NP26
	Bridleway between NP30, NP34 and NP131
	Footpath between NP34, NP110 and NP35
	Footpath between NP36 and NP37
	Footway between NP42, NP43 and NP45
	Footpath between NP43 and NP44
	Footpath between NP128 and NP129
	Footway between NP44 and NP48
	Footpath between NP49 and NP50
	Footpath between NP51 and NP52
	Footpath between NP51, NP127 and NP52
	Footpath between NP52, NP53 and NP54
	Footpath between NP55 and NP56
	Footpath between NP52, NP55 and NP57
	Bridleway between NP136 and NP137
	Footpath between NP65 and NP66
	Footpath between NP71 and NP72
	Footpath between NP116 and NP109
	Footpath between NP62 and NP64
	Footpath between NP72 and NP119
	Footpath between NP84 and NP85
	Footpath between NP89 and NP90
	Bridleway between NP91 and NP92
	Footpath between NP103 and NP104
	Footpath between NP98, NP101 and NP102
	Footpath between NP83, NP87 and NP121

PART 2

PATHS FOR WHICH SUBSTITUTES ARE TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
Borough of Wigan	Footpath 108	Between PD132 and PD142	Cycletrack between NP112 and NP133

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
	Footpath 109	Between PD143 and PD133	Cycletrack between NP135 and NP106
	Informal path	Between PD150 and PD133	Cycletrack between NP112 and NP132 and NP134 and NP106
	Greenway	Between PD76 and PD77	Bridleway between NP1 and NP19
	Greenway	Between PD80 and PD81	Footpath between NP10 and NP11
	Bridleway B(A)	Between PD82 and PD83	Bridleway between NP12 and NP113
	Footpath 93	Between PD112 and PD113	Footpath between NP109 and NP6
	Footpath 92	Between PD3 and PD4	Footpath between NP6, NP7, NP10 and NP11
	Footpath 111	Between PD5 and PD6	Footpath between NP8 and NP9
	Footpath 71	Between PD9 and PD10	Footpath between NP110 and NP13
	Footpath (D)	Between PD 15 and PD16	Footpath between NP14 and NP15
	Footpath (E)	Between PD17 and PD18	Footpath between NP16 and NP17
	Footpath 75	Between PD114 and PD115	Footpath between NP19 and NP23
	Bridleway B(B)	Between PD84 and PD85	Bridleway between NP113 and NP31
	Footpath 62	Between PD19 and PD20	Footpath between NP19, NP20 and NP22
	Footpath (F)	Between PD120 and PD 121	Bridleway between NP31, NP30 and NP115
	Bridleway 216	Between PD134 and PD135	Bridleway between NP24, NP25 and NP122
	Bridleway 217	Between PD134 and PD23	Bridleway between NP33, NP30, NP23 and NP24
	Bridleway 215	Between PD135 and PD24	Bridleway between NP122 and NP27

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
	Footpath 79	Between PD24, PD136 and PD141	Bridleway between NP27 and NP124
	Footpath 78	Between PD136 and PD137	Bridleway between NP124 and NP29
	Footpath (X)	Between PD139 and PD140	Footpath between NP125 and NP126
	Bridleway 208	Between PD24 and PD138	Bridleway between NP27 and NP28
	Footpath 209	Between PD29 and PD30	Footpath between NP40, NP39, NP38 and NP41
	Greenway	Between PD126 and PD127	Bridleway between NP131, NP45, NP46 and NP47
	Greenway	Between PD88 and PD89	Cycletrack between NP58 and NP59
	Greenway	Between PD94 and PD95	Bridleway between NP60, NP73 and NP74
	Greenway	Between PD116 and PD 117	Footpath between NP65 and NP111 and NP66
	Greenway	Between PD100 and P101	Bridleway between NP73 and NP77
	Greenway	Between PD50 and PD 51	Footpath between NP111, NP65, NP61, NP62 and NP63
	Footpath 180	Between PD52 and PD53	Footpath between NP67, NP68, NP117 and NP118
	Informal Path	Between PD130 and PD131	Footpath between NP70, NP69, NP71 and NP119
	Greenway	Between PD102 and PD104	Bridleway between NP78, NP77, NP81, NP83 and NP120
	Informal Path	Between PD56 and PD57	Bridleway between NP77 and NP78
	Footpath 149	Between PD58 and PD59	Footpath between NP80, NP81 and NP82
	Footpath (Q)	Between PD60 and PD152	Footpath between NP93 and NP92

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
	Greenway	Between PD103 and PD 105	Footpath between NP88 and NP120
	Footpath	Between PD152 and PD 61	Bridleway between NP92 and NP130
	Footpath (R)	Between PD62 and PD63	Cycletrack between NP130, NP103 and NP100
	Footpath 134	Between PD118 and PD119	Footpath between NP94, NP95, NP96 and NP97
Borough of Wigan and City of Salford	Footpath (R)	Between PD62 and PD63	Bridleway between NP130, NP103 and NP1000

PART 3

PATHS AND STREETS FOR WHICH NO SUBSTITUTES WILL BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street affected</i>	<i>(3)</i> <i>Extent of stopping up</i>
Borough of Wigan	Chapel Street	Between PS3 and PS4 (at junction with Queen Street)
	Greenway	Between PS78 and PS79
	Footpath (A)	PS7 and PS8
	Footpath (C)	Between PS13 and PS14
	Footpath (I)	Between PS122 and PS123
	Greenway	Between PS124 and PS125
	Greenway	Between PS108 and PS109
	Footpath (J)	Between PS31 and PS32
	Footpath (K)	Between PS33 and PS34
	Greenway	Between PS35 and PS36
	Footpath (L)	Between PS37 and PS38
	Footpath (O)	Between PS43 and PS44 and between PS45 and PS46
	Greenway	Between PS90 and PS91
	Greenway	Between PS92 and PS93
	Footpath (P)	Between PS47 and PS48
	Greenway	Between PS96 and PS97

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street affected</i>	<i>(3)</i> <i>Extent of stopping up</i>
Borough of Wigan and City of Salford	Greenway	Between PS128 and PS129
	Greenway	Between PS98 and PS99
	Footpath (T)	Between PS70 and PS71
	Footpath (V)	Between PS74 and PS75
	Footpath (U)	Between PS106 and PS107

SCHEDULE 5

Article 10

PATHS AND STREETS TO BE TEMPORARILY STOPPED UP

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street affected</i>	<i>(3)</i> <i>Extent of stopping up</i>
Borough of Wigan	City Road/New City Road	Between TS1 and TS2 at crossing of City Road by railway bridge
	Footpath 93	Between TS110 and TS111
	Footpath 91	Between TS1 and TS2
	Footpath 72	Between TS11 and TS12
	Informal Path	Between TS124 and TS125
	Footpath 218	Between TS21 and TS22 and between TS25 and TS26
	Greenway	Between TS86, TS28 and TS87
	Greenway	Between TS27 and TS28
	Footpath (M)	Between TS39 and TS40
	Footpath (N)	Between TS41 and TS42
Borough of Wigan and City of Salford	Footpath 176	Between TS54 and TS55
	Footpath 135	Between TS66 and TS67

SCHEDULE 6

Article 15

HIGHWAYS TO BE CROSSED ON THE LEVEL

Holden Road
Cooling Lane
Astley Street

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Well Street
Upton Lane
Hough Lane
Sale Lane

SCHEDULE 7

Article 23

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without prejudice to the generality of paragraph 1, the Land Compensation Act 1973⁽³²⁾ shall have effect subject to the modifications set out in sub-paragraphs (2) and (3).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4—

- (a) for the words “land is acquired or taken” there shall be substituted the words “a right over land is purchased”; and
- (b) for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable”.

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5—

- (a) for the word “part” in paragraphs (a) and (b) there shall be substituted the words “a right over land consisting”;
- (b) for the word “severance” there shall be substituted the words “right over the whole of the house, building or manufactory or of the house and the park or garden”;
- (c) for the words “part proposed” there shall be substituted the words “right proposed”; and
- (d) for the words “part is” there shall be substituted the words “right is”.

Adaptation of the 1965 Act

3.—(1) The 1965 Act shall have effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

(32) 1973 c. 26.

(2) Without prejudice to the generality of sub-paragraph (1), Part I of the 1965 Act shall apply in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

4. For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

5. For section 8 of the 1965 Act (provisions as to divided land) there shall be substituted the following—

“8.—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the person satisfies the tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—
 - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land, or
 - (ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

the Greater Manchester (Leigh Busway) Order 2005 (“the Order”) shall, in relation to that person cease to authorise the purchase of the right and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section shall be determined by the tribunal.

(3) Where in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”.

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);

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- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
 (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land);

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

7. Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act shall be modified correspondingly.

8. Section 20 of the 1965 Act (protection for interests of tenants at will etc.) shall apply with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

9. Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

SCHEDULE 8

Article 26

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on land plan</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Authorised work</i>
Borough of Wigan	48 to 50	Construction and working area	Work No. 2
	53	Construction working area	Work No. 1
	72 and 80	Construction and working area	Work No. 4
	83	Construction and working area	Work No. 5
	103 to 105	Construction access and working area	Works Nos. 8 and 9

SCHEDULE 9

Article 40

TRAFFIC REGULATION ORDERS

PART 1

PROHIBITION AND RESTRICTIONS OF STOPPING AND WAITING

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street Affected</i>	<i>(3)</i> <i>Description of Regulation</i>
Borough of Wigan	Princess Street (Both sides)	No Waiting/No Loading at any time from CE17 to CE18 (Lord Street South and East Bond Street)
	Lord Street South Both sides)	No Waiting/No Loading at any time from CE21 To CE22 (junction with Princess Street to junction with Brown Street North)
	East Bond Street (Both sides)	No Waiting/No Loading at any time from CE1 to CE2 (15 metres west of western kerb-line of Princess Street to westerly kerb-line of Dukinfield Street)
	High Street/East Bond Street Park and Ride Site Access (Both sides)	No Waiting/No Loading at any time from CE19 to CE20 (Access Road's junction with High Street for a distance of 55 metres to the entrance to the Park and Ride car park)
	Holden Road (Both sides)	No Waiting/No Loading at any time from CE3 to CE4 (10 metres north west of Rosebury Avenue for a distance of 70 metres in a south easterly direction)
	Sandringham Drive (Both sides)	No Waiting/No Loading at any time from CE5 to CE6 (northerly kerb-line of Richmond Drive to Leigh Guided Busway Higher Fold spur (including turning area immediately south of Leigh Guided Busway Higher Fold spur)
	Astley Street (Both sides)	No Waiting/No Loading at any time from CE7 to CE8 (50

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street Affected</i>	<i>(3)</i> <i>Description of Regulation</i>
		metres south of southerly kerb-line of Upper George Street for a distance of 115 metres in a southerly direction)
	Well Street (Both sides)	No Waiting/No Loading at any time from CE9 to CE10 (northerly kerb-line of Garden Street for a distance of 110 metres in a northerly direction)
	Hough Land (Both sides)	No Waiting/No Loading at any time from CE11 to CE12 (guided busway to the junction of Sale Lane in a northerly direction. From the guided busway to a point 70 metres in a southerly direction)
	Hart Street (Hough Lane Park and Ride Site) (Both sides)	No Waiting/No Loading at any time from CE23 To CE24 (junction with Manchester Road for a distance of 40 metres to the car park of Park and Ride Site)
	Manchester Road (South side)	No Waiting/No Loading at any time from CE25 To CE26 (from junction with Hart Street for a distance of 25 metres in a westerly direction)
	Sale Lane (Both sides)	No Waiting/No Loading at any time from CE13 to CE14 (45 metres north of authorised busway to a point 85 metres south of authorised busway)
	Newearth Road (Both Sides)	No Waiting/No Loading at any time from CE15 to CE16 (from junction with Sherbrook Road to the junction with Ellenbrook Road)

PART 2

BUS LANES

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street Affected</i>	<i>(3)</i> <i>Description of Regulation</i>
Borough of Wigan	Spinning Jenny Way (westbound)	Bus lane from BL1 to BL2 170 metres west of the western

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street Affected</i>	<i>(3)</i> <i>Description of Regulation</i>
		kerb-line of Lord Street South for a distance of 250 metres in a westerly direction
	Spinning Jenny Way (eastbound)	Bus lane from BL3 to BL4 130 metres west to a point 10 metres west of the western kerb-line of Lord Street South
	Lord Street South (northbound)	Bus lane from BL5 to BL6 (Spinning Jenny Way and Princess Street)
	Lord Street South (southbound)	Bus lane from BL7 to BL8 (Princess Street and Spinning Jenny Way—offside)
	Newearth Road (southbound)	Bus Lane from BL9 to BL10 (offside from a point 45 metres south of the southerly kerb-line of Hurstfield Road, for a distance of 20 metres)
	Newearth Road (northbound)	Bus Lane from BL11 to BL12 (nearside from 50 metres north of the northerly kerb-line of Ellenbrook Road to the authorised busway)

PART 3

DIRECTION OF TRAVEL

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street Affected</i>	<i>(3)</i> <i>Description of Regulation</i>
Borough of Wigan	Lord Street South	One way—eastern side of dual carriageway from DT1 to DT2 (Princess Street and Spinning Jenny Way) in that direction
	Lord Street South	One way—western side of dual carriageway from DT3 to DT4 (Spinning Jenny Way and Princess Street) in that direction
	Spinning Jenny Way/Queen Street Link Road	One way—DT5 to DT6 (Spinning Jenny Way and Queen Street) in that direction

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PART 4

PROHIBITION OF ACCESS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street Affected</i>	<i>(3)</i> <i>Description of Regulation</i>
Borough of Wigan	Lord Street South	No entry except buses - PA1 10 metres north of junction with Spinning Jenny Way (offside lane)
	Lord Street South	No entry except buses - PA2 (Princess Street and Spinning Jenny Way—offside)

SCHEDULE 10

Articles 8, 9, 30 and 48

PROVISIONS RELATING TO STATUTORY UNDERTAKERS, ETC.

Apparatus of statutory undertakers, etc. on land acquired

1.—(1) Sections 271 to 274 of the 1990 Act (power to extinguish rights of statutory undertakers etc. and power of statutory undertakers etc. to remove or re-site apparatus) shall apply in relation to any land acquired or appropriated by the undertaker under this Order subject to the following provisions of this paragraph; and all such other provisions of that Act as apply for the purposes of those provisions (including sections 275 to 278, which contain provisions consequential on the extinguishment of any rights under sections 271 and 272, and sections 279(2) to (4), 280 and 282, which provide for the payment of compensation) shall have effect accordingly.

(2) In the provisions of the 1990 Act, as applied by sub-paragraph (1), references to the appropriate Minister are references to the Secretary of State.

(3) Where any apparatus of public utility undertakers or of a public communications provider is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the 1990 Act, as applied by sub-paragraph (1), any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(4) Sub-paragraph (3) shall not apply in the case of the removal of a public sewer but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that paragraph, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer;

shall be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of making his drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

(5) The provisions of the 1990 Act mentioned in sub-paragraph (1), as applied by that sub-paragraph, shall not have effect in relation to apparatus as respects which paragraph 2 or Part III of the 1991 Act applies

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- (6) In this paragraph—“the 1990 Act” means the Town and Country Planning Act 1990⁽³³⁾; and “public utility undertakers” has the same meaning as in the Highways Act 1980⁽³⁴⁾.

Apparatus of statutory undertakers, etc. in stopped up streets

2.—(1) Where a street is stopped up under article 9 of this Order any statutory utility whose apparatus is under, in, upon, over, along or across the street shall have the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Order had not been made.

(2) he undertaker shall give not less than 28 days' notice in writing of its intention to stop up any street under article 9 of this Order to any statutory utility whose apparatus is under, in, upon, over, along or across that street.

(3) Where notice under sub-paragraph (2) has been given any statutory utility whose apparatus is under, in, upon, over, along or across the street may and, if reasonably requested so to do by the undertaker, shall—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the statutory utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as aforesaid.

(4) Subject to the following provisions of this paragraph, the undertaker shall pay to any statutory utility an amount equal to the cost reasonably incurred by the statutory utility in or in connection with—

- (a) the execution of relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of relocation works.

(5) If in the course of the execution of relocation works under sub-paragraph (3)—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions except where this has been solely due to using the nearest available type, capacity or dimension; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was;

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the statutory utility by virtue of sub-paragraph (4) shall be reduced by the amount of that excess.

(6) For the purposes of sub-paragraph (5)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

⁽³³⁾ 1990 c. 8.

⁽³⁴⁾ 1980 c. 66.

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(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.

(7) An amount which apart from this sub-paragraph would be payable to a statutory utility in respect of works by virtue of sub-paragraph (4) (and having regard, where relevant, to sub-paragraph (5)) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and six months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit as calculated in accordance with the Code of Practice entitled “Measures Necessary where Apparatus is Affected by Major Works (Diversionary Works)” and dated June 1992 and approved by the Secretary of State on 30th June, 1992.

(8) Sub-paragraphs (4) to (7) shall not apply where the authorised works constitute major transport works for the purposes of Part III of the 1991 Act, but instead—

(a) the allowable costs of the relocation works shall be determined in accordance with section 85 of that Act (sharing of costs of necessary measures) and any regulations for the time being having effect under that section; and

(b) the allowable costs shall be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(9) In this paragraph—

“apparatus” has the same meaning as in Part III of the 1991 Act;

“relocation works” means works executed, or apparatus provided, under sub-paragraph (3); and

“statutory utility” means a statutory undertaker for the purposes of the Highways Act 1980 or a public telecommunications provider.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Greater Manchester Passenger Transport Executive to construct works and compulsorily to acquire land and rights in land for the purpose of a guided busway between Leigh and Newearth Road in Greater Manchester and includes powers for the operation and regulation of the guided busway and for traffic regulation and improvements on connecting roads.

Copies of the works plans, the sections, the land plans, the rights of way maps, the technical development plans and the book of reference are available for inspection free of charge during working hours at GMPTE, 9 Portland Street, Piccadilly Gardens, Manchester M60 1HX.