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STATUTORY INSTRUMENTS

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**2009 No. 1300**

**The Nottingham Express Transit System Order 2009**

**PART 1**

**PRELIMINARY**

**Citation and commencement**

**1.** This Order may be cited as the Nottingham Express Transit System Order 2009 and shall come into force on 9th June 2009.

**Commencement Information**

**II** Art. 1 in force at 9.6.2009, see [art. 1](#)

**Interpretation**

**2.—(1)** In this Order—

“the 1961 Act” means the Land Compensation Act 1961**(1)**;

“the 1965 Act” means the Compulsory Purchase Act 1965**(2)**;

“the 1980 Act” means the Highways Act 1980**(3)**;

“the 1984 Act” means the Road Traffic Regulation Act 1984**(4)**;

“the 1990 Act” means the Town and Country Planning Act 1990**(5)**;

“the 1991 Act” means the New Roads and Street Works Act 1991**(6)**;

“the 1994 Act” means the Greater Nottingham Light Rapid Transit Act 1994**(7)**;

“address” includes any number or address used for the purposes of electronic transmission;

“the authorised street tramway” means any street tramway authorised by this Order;

“the authorised tramroad” means any tramroad authorised by this Order;

“the authorised tramway” means the tramway (consisting of the authorised street tramway and the authorised tramroad) authorised by this Order, or any part of that tramway;

“the authorised works” means the scheduled works and any other works authorised by this Order, or any part of them;

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**(1)** 1961 c. 33.

**(2)** 1965 c. 56.

**(3)** 1980 c. 66.

**(4)** 1984 c. 27.

**(5)** 1990 c. 8.

**(6)** 1991 c. 22. As amended by the Traffic Management Act 2004 c. 18.

**(7)** 1994 c. xv.

“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;

“building” includes any structure or erection, or any part of a building, structure or erection;

“the canal” means the Nottingham Beeston Canal;

“carriageway” has the same meaning as in the 1980 Act;

“the City” means the City of Nottingham;

“the City Council” means Nottingham City Council;

“the County Council” means The Nottinghamshire County Council;

“cycle track” has the same meaning as in the 1980 Act;

“electric line” has the meaning given by section 64(1) of the Electricity Act 1989<sup>(8)</sup>;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“footway” has the same meaning as in the 1980 Act;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“the limits of deviation” means the limits of lateral deviation for the scheduled works mentioned in article 6(1)(a) and (2) (power to deviate);

“Line One” means the light rail transit system authorised by the 1994 Act, comprising railways and tramways and all works and conveniences provided in connection with those railways and tramways, as that system is constructed, extended or altered from time to time;

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace and “maintenance” shall be construed accordingly;

“the Nottingham Inclosure Act” means the Act of Parliament whose long title is “An Act for inclosing Lands in the Parish of Saint Mary in the Town and County of the Town of Nottingham”<sup>(9)</sup>;

“the open space and exchange land plans” means the plans that are each headed “open space and exchange land plan”, which are attached to the works and land plans and which are certified by the Secretary of State as the open space and exchange land plans for the purposes of this Order;

“the Order limits” means the permanent limits and the temporary limits;

“owner”, in relation to land, has the same meaning as in the Acquisition of Land Act 1981<sup>(10)</sup>;

“parking place” has the same meaning as in section 32 of the 1984 Act;

“the permanent limits” means the limits of deviation and of land to be acquired or used and the limits of additional land to be acquired or used, as shown on the works and land plans, described in the book of reference and (in the case of the additional land) specified in columns (1) and (2) of Schedule 2 (additional land which may be acquired or used);

“the promoter” means the County Council and the City Council, or either of them;

“the relevant part of the canal” means so much of the canal as is within the Order limits relating to Work No.7, or any part of it;

“the relevant part of the river” means so much of the River Trent as is within the Order limits relating to Work No.12, or any part of it;

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<sup>(8)</sup> 1989 c. 29.

<sup>(9)</sup> 8 & 9 Vict. c. 7.

<sup>(10)</sup> 1981 c. 67.

“the scheduled works” means the works specified in Schedule 1 (scheduled works), or any part of them;

“the sections” means the sections included in the works and land plans;

“street” includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“street tramway” means any part of a tramway which is laid along a street, whether or not the section of the street in which its rails are laid may be used by other traffic;

“the temporary limits” means the limits of land to be used temporarily as shown on the works and land plans, described in the book of reference and specified in columns (1) and (2) of Schedule 9 (land of which temporary possession may be taken);

“the traffic regulation and rights of way plans” means the plans certified by the Secretary of State as the traffic regulation and rights of way plans for the purposes of this Order;

“tramcar” means any vehicle (whether or not used for the carriage of passengers) carried on flanged wheels along the rails of a tramway;

“tramroad” means any part of a tramway which is not a street tramway;

“tram services” means passenger services utilising the authorised tramway;

“tramway” means a system of transport used wholly or mainly for the carriage of passengers and employing parallel rails which—

- (a) provide support and guidance for vehicles carried on flanged wheels; and
- (b) are laid wholly or mainly along a street or in any other place to which the public has access (including a place to which the public has access only on making a payment);

“tramway premises” means any premises of the promoter used for or in connection with the operation or maintenance of the authorised tramway, including any depot, test track, building, park & ride site and any tramcar;

“the tribunal” means the Lands Tribunal;

“watercourse” includes all docks, rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows (whether or not the flow is intermittent) except a public sewer or drain; and

“the works and land plans” means the plans and sections certified by the Secretary of State as the works and land 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 air space over its surface.

(3) 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.

(4) References in this Order to points identified by letters, with or without numbers, or by numbers, shall be construed as references to the points so marked on the works and land plans or, in the case of Schedule 10 (traffic regulation), to the points so marked on the traffic regulation and rights of way plans.

(5) All distances, directions, lengths and points 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, length and point, and distances between points on a scheduled work shall be taken to be measured along the scheduled work.

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**Commencement Information**

**I2** Art. 2 in force at 9.6.2009, see [art. 1](#)

**Application of enactments relating to railways**

**3.—**(1) The provisions of the Regulation of Railways Acts 1840 to 1893 shall not apply in relation to the authorised tramway.

(2) The provisions of the Highway (Railway Crossings) Act 1839(**11**) shall not apply in relation to the authorised tramway.

(3) Sections 32 to 34 of the Offences Against the Person Act 1861(**12**) shall apply in relation to the authorised tramway as if the word “tramway” were substituted for “railway” throughout those sections.

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**Commencement Information**

**I3** Art. 3 in force at 9.6.2009, see [art. 1](#)

**Application of 1991 Act**

**4.—**(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway shall be treated for the purposes of Part 3 of the 1991 Act (street works in England and Wales) as major transport works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works); or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 of the 1980 Act (dual carriageways and roundabouts) or section 184 of that Act (vehicle crossings over footways and verges).

(2) In Part 3 of the 1991 Act references, in relation to major highway works, to the highway authority concerned shall, in relation to works which are major transport works by virtue of paragraph (1), be construed as references to the promoter.

(3) The following provisions of the 1991 Act shall not apply in relation to any works executed under the powers of this Order—

- section 56 (directions as to timing);
- section 56A (power to give directions as to placing of apparatus);
- section 58 (restrictions following substantial road works);
- section 58A (restriction on works following substantial streetworks);
- section 73A (power to require undertaker to re-surface street);
- section 73B (power to specify timing etc. of re-surfacing);
- section 73C (materials, workmanship and standard of re-surfacing);
- section 78A (contributions to costs of re-surfacing by undertaker); and

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(11) 1839 c. 45.

(12) 1861 c. 100.

Schedule 3A (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (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 any stopping up, alteration or diversion of a street of a temporary nature by the promoter under the powers conferred by article 12 (temporary stopping up of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

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

- section 54 (advance notice of certain works), subject to paragraph (6);
- section 55 (notice of starting date of works), subject to paragraph (6);
- 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); and
- 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.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) shall have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 14 (construction and maintenance of new, altered or diverted streets) shall—

- (a) affect the operation of section 87 of the 1991 Act (prospectively maintainable highways), and the promoter 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 3 of that Act; or
- (b) have effect in relation to street works as respects which the provisions of Part 3 of the 1991 Act apply.

(8) To such extent as is reasonably necessary for protecting the authorised street tramways and their operation and use the promoter shall have the same powers as respects reinstatement as a street authority has under section 72 of the 1991 Act.

(9) In its application to the authorised tramway section 93(3) of the 1991 Act shall also permit the promoter to make reasonable requirements—

- (a) for allowing it facilities to monitor the execution of the works; and
- (b) for the protection of the authorised tramway.

**Commencement Information**

**I4** Art. 4 in force at 9.6.2009, see [art. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Nottingham Express Transit System Order 2009, PART 1.