



Greater Nottingham Light Rapid Transit Act 1994

1994 CHAPTER xv

PART IV

PROTECTIVE PROVISIONS

39 As to highways, traffic, etc

for the protection of highway authorities the following provisions shall, unless otherwise agreed in writing between the undertakers and the highway authority concerned, have effect:—

- (1) in this section “highway” means a street vested in, or repairable or maintained by, the highway authority;
- (2) wherever in this section 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, but shall not be unreasonably withheld;
- (3) before commencing to construct any part of the authorised works which will involve interference with a highway, or the traffic in any highway, or before temporarily stopping up any highway, the undertakers shall consult the highway authority as to—
 - (a) the time when such part shall be commenced;
 - (b) the extent of the surface of the highway which it may be reasonably necessary for the undertakers to occupy, or the nature of the interference which may be caused to that traffic in the construction of such part; or
 - (c) the time during which, and the extent to which, such highway shall be stopped up; and
 - (d) the conditions under which such part shall be constructed or the highway shall be stopped up;

so as to reduce so far as possible inconvenience to the public and to ensure the safety of the public; and

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- (i) such part shall not be constructed and the surface of the highway shall not be occupied by the undertakers; or
- (ii) such highway shall not be stopped up and the interference with traffic shall not be caused by the undertakers;

except at such time, to such extent, and in accordance with such conditions, as may be agreed between the undertakers and the highway authority or determined by arbitration:

- (4) At least 14 days before commencing to make any trial holes in any part of any highway in exercise of the powers of section 11 (3) of the Act of 1965 as applied by this Act, the undertakers shall serve notice in writing on the highway authority of their intention to do so describing the place or places at which the trial holes are intended to be made, and, if within 14 days after the receipt of such notice any objection is made by the highway authority, the matter shall (unless otherwise agreed) be determined by arbitration before the making of any trial hole is commenced, but if no such objection is made the undertakers may proceed with the making of any trial hole of which notice has been so given:
- (5) So much of the authorised works as is intended to become public highway, or part of any such highway, shall be completed in accordance with the reasonable requirements of the local highway authority or, in case of difference between the undertakers and the highway authority as to whether those requirements have been complied with or as to their reasonableness, in accordance with the determination of the Secretary of State upon any such difference:
- (6) It shall be lawful for the proper officer of the highway authority at all reasonable times, on giving to the undertakers such notice as may in the circumstances be reasonable, to enter upon and inspect any part of the authorised works in any highway, or which may affect any highway or any property or work of the highway authority, during the execution thereof, and the undertakers shall give to such officer all reasonable facilities for such inspection:
- (7) The undertakers shall not, except with the consent of the highway authority, alter, disturb or in any way 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:
- (8) If the highway authority, after giving to the undertakers not less than 28 days' notice (or in the case of emergency such other notice as is reasonably practicable) of their intention to do so, incur any extra expense in the signposting of traffic diversions or the taking of other measures in relation thereto, or in the repair of any highway, by reason of the diversion thereto of traffic from a road of a higher classification in consequence of the construction of the authorised works, the undertakers shall repay the amount of the expense reasonably so incurred by the highway authority:
- (9) The undertakers 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:
- (10) The undertakers shall, if reasonably so required by the highway authority, provide and maintain to the reasonable satisfaction of the highway authority, during such time as the undertakers may occupy any part of a highway for the purpose of the

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construction of any part of the authorised works, temporary bridges and temporary ramps for vehicular traffic or pedestrian traffic, or both, in such position as may be necessary to prevent undue interference with the flow of traffic in any highway:

- (11) Where any part of any highway shall have been temporarily broken up or disturbed by the undertakers, the undertakers shall make good the subsoil foundations and surface of such part of the highway to the reasonable satisfaction of the highway authority and maintain the same to the reasonable satisfaction of the highway authority for such time as may be reasonably required for the permanent reinstatement of the highway:

Provided that the reinstatement of such part of the highway shall in the first instance be of a temporary nature only and the permanent reinstatement shall be carried out by the highway authority as soon as reasonably practicable after the completion of the temporary reinstatement, and the costs, charges and expenses reasonably incurred by the highway authority in so doing shall be repaid by the undertakers:

- (12) It shall not be lawful for the undertakers to place any hoardings on any part of any highway except for such period and in such manner as may be reasonably necessary, and the provisions of sections 172 and 173 of the Highways Act 1980 shall apply to any hoarding erected on any part of any highway, and, for the purposes of the said section 172, any such hoarding shall be deemed to have been erected in compliance with subsection (1) of that section:
- (13) The undertakers shall make compensation to the highway authority for 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 undertakers, their contractors, servants or agents, whether such damage or subsidence shall happen during the construction of the authorised works or at any time thereafter:
- (14) The highway authority may require that the authorised works, so far as they involve any serious interference with the movement of traffic in any highway, shall be carried on, so far as reasonably practicable, continuously by day and night, and the undertakers shall take all such steps as may be reasonably necessary to reduce so far as possible the period of such interference:
- (15) Except as provided in paragraph (5) above, any difference arising between the undertakers and the highway authority under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.