
STATUTORY INSTRUMENTS

1998 No. 1936

The Greater Manchester (Light Rapid Transit System) (Ashton-under-Lyne Extension) Order 1998

PART I
PRELIMINARY

Citation and commencement

1. This Order may be cited as the Greater Manchester (Light Rapid Transit System) (Ashton-under-Lyne Extension) Order 1998 and shall come into force on 27th August 1998.

Interpretation

- 2.—(1) In this Order, unless the context otherwise requires—
- “the 1965 Act” means the Compulsory Purchase Act 1965(1);
 - “the 1984 Act” means the Road Traffic Regulation Act 1984(2);
 - “the 1991 Act” means the New Roads and Street Works Act 1991(3);
 - “authorised street tramway” means any street tramway authorised by this Order;
 - “authorised tramroad” means any tramroad authorised by this Order;
 - “authorised transit system” means the transit system (consisting of the authorised street tramways and the authorised tramroads) 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;
 - “carriageway” has the same meaning as in the Highways Act 1980(4);
 - “the exchange lands” means the lands marked as exchange land and shown coloured green on the public open space plans;
 - “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 lateral deviation for the scheduled works mentioned in article 6(1)(a) and (2);
 - “maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace and “maintenance” shall be construed accordingly;

(1) 1965 c. 56.
(2) 1984 c. 27.
(3) 1991 c. 22.
(4) 1980 c. 66.

“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;

“the public open space plans” means the plans numbered MS112 and MS113 attached to the land plans;

“reserved track tramway” means any section of a street tramway laid along part of a street which vehicles other than tramcars are deterred or prevented from using;

“the scheduled works” means the works specified in Schedule 1 to this Order or any part of them;

“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;

“street tramway” means any part of a transit system which is laid along a street—

- (a) whether or not the section of the street in which its rails are laid may be used by other traffic, and
- (b) whether the uppermost surface of the rails is level with, or raised above, the surrounding surfaces of the street;

“the telecommunications code” means Schedule 2 to the Telecommunications Act 1984⁽⁵⁾;

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

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

“transit system” 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 in part 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);

“the tribunal” means the Lands Tribunal;

“the undertaker” means Greater Manchester Passenger Transport Executive;

“vehicle” includes mobile traction unit;

“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 air-space over its surface.

(3) In the case of any street in relation to which an order made under section 249(2) of the Town and Country Planning Act 1990⁽⁶⁾ (a pedestrian planning order) is in force, the kerbline 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) Unless the context otherwise requires, 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) 1984 c. 12.

(6) 1990 c. 8.

(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 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 tramway or tramroad shall be taken to be measured along the street tramway or tramroad.

Application of enactments relating to railways

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845⁽⁷⁾ shall be incorporated in this Order but shall apply only in relation to the authorised tramroads:—

section 46 (crossing of roads—level crossings);

section 58 (company to repair roads used by them), except for the words from “and if any question” to the end;

section 61 (company to make sufficient approaches and fences to highways crossing on the level);

section 68 (accommodation works by company);

section 71 (additional accommodation works by owners), except for the words “or directed by such justices to be made by the company” and “or, in case of difference, as shall be authorised by two justices”;

sections 72 and 73 (supplementary provisions relating to accommodation works);

section 75 (omission to fasten gates);

section 77 (presumption that minerals excepted from acquisition of land);

sections 78 to 85E and Schedules 1 to 3 (minerals under railways), as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923⁽⁸⁾; and

section 145 (recovery of penalties).

(2) In those provisions, as incorporated in this Order—

“the company” means the undertaker;

“goods” includes anything conveyed on the authorised tramroads;

“lease” includes an agreement for a lease;

“prescribed”, in relation to any such provision, means prescribed by this Order for the purposes of that provision;

“the railway” means the authorised tramroads and, except where the context otherwise requires, any authorised works ancillary to the authorised tramroads;

“the special Act” means this Order;

“toll” includes any rate or charge or other payment payable under this Order or any other enactment for any passenger or goods conveyed on any authorised tramroad.

(3) In section 46 of the said Act of 1845, as incorporated in this Order, for the proviso there shall be substituted the words “Provided always, that, with the consent of the highway authority and subject to such conditions as the authority may reasonably impose, the railway may be carried across a highway on the level”.

(4) The application of section 68 of the said Act of 1845 shall not be taken to require any fencing at the junction of an authorised tramroad with an authorised street tramway.

(7) 1845 c. 20.

(8) 1923 c. 20.

(5) The provisions of the Regulation of Railways Acts 1840 to 1893 shall not apply in relation to the authorised transit system.

(6) The provisions of the Highway (Railway Crossings) Act 1839⁽⁹⁾ shall not apply in relation to the authorised transit system.

(7) Nothing in this article shall be taken as affecting the application to the authorised tramroads of sections 32 to 34 of the Offences Against the Person Act 1861⁽¹⁰⁾.

Application of 1991 Act

4.—(1) 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.

(2) The provisions of the 1991 Act mentioned in paragraph (3) below 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.

(3) The provisions of the 1991 Act referred to in paragraph (2) above 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.

(4) Nothing in article 14 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.

⁽⁹⁾ 1839 c. 45.
⁽¹⁰⁾ 1861 c. 100.