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STATUTORY INSTRUMENTS

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**2001 No. 1367**

**The Greater Manchester (Light Rapid Transit System) (Trafford Park) Order 2001**

**PART I**  
**PRELIMINARY**

**Citation and commencement**

**1.** This Order may be cited as the Greater Manchester (Light Rapid Transit System) (Trafford Park) Order 2001 and shall come into force on 2nd March 2001.

**Interpretation**

- 2.**—(1) In this Order, unless the context otherwise requires—
- “the 1965 Act” means the Compulsory Purchase Act 1965(1);
  - “the 1992 Act” means the Greater Manchester (Light Rapid Transit System) Act 1992(2);
  - “authorised works” means the works authorised by the 1992 Act;
  - “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;
  - “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 work mentioned in article 4(1)(a);
  - “maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace and “maintenance” shall be construed accordingly;
  - “occupier” means a person occupying land under a tenancy for a period of more than one month (not being a statutory tenant within the meaning of the Rent Act 1977(3) or the Rent (Agriculture) Act 1976(4);
  - “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 the 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 agreement, where the unexpired term of that lease or agreement exceeds 3 years;
  - “the scheduled work” means the work specified in Schedule 1 to this Order or any part of it;

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(1) 1965 c. 56.  
(2) 1992 c. xviii.  
(3) 1977 c. 42. See section 2(1) and Schedule 1, as amended by the Housing Act 1980 (c. 51), sections 76 and 153(2) and Schedule 26, and the Housing Act 1988 (c. 50), section 39(1).  
(4) 1976 c. 80. See section 4, as amended by the Rent Act 1977, section 155 and Schedule 23, and the Housing Act 1980, section 76(3).

“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 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;

“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;

“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) All distances, directions and lengths stated in the description of the scheduled work 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 tramroad shall be taken to be measured along the tramroad.

## PART II

### WORKS PROVISIONS

#### *Principal powers*

#### **Power to construct and maintain work**

**3.—**(1) Subject to paragraphs (5) and (6) below, the undertaker may construct and maintain the scheduled work in lieu of so much of Work No. 3 of the 1992 Act as lies between the commencement and termination points of the scheduled work and may construct and maintain the remainder of that work under the 1992 Act to join the scheduled work.

(2) Subject to article 4 below, the scheduled work 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) 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 work, namely—

- (a) stations, platforms and stopping places,
- (b) works required for, or in connection with, the control of any vehicular and pedestrian traffic,

- (c) works for the strengthening, alteration or demolition of any building or structure,
- (d) works to alter the position of any street furniture or apparatus, including mains, sewers, drains and cables,
- (e) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses,
- (f) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the other works authorised by this Order, and
- (g) replacement facilities and works for the benefit or protection of premises affected by the other works authorised by this Order.

(4) 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 work.

(5) If the undertaker constructs the scheduled work, the undertaker shall not construct that part of Work No. 3 of the 1992 Act in lieu of which the scheduled work is authorised to be constructed.

(6) If the undertaker constructs any part of Work No. 3 of the 1992 Act between the commencement and termination points of the scheduled work, the undertaker shall not construct the scheduled work.

#### **Power to deviate**

4.—(1) In constructing or maintaining the scheduled work, 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 or maintaining the scheduled work provide within the limits of deviation such number of lines of rails and sidings as may be necessary or expedient.

#### **Application of the Greater Manchester (Light Rapid Transit System) Act 1992**

5. The following provisions of the 1992 Act shall apply to the scheduled work as if it were a work authorised by that Act and were included within the definition of “the tramroads” in section 2 of that Act—

- section 6 (gauge of tramroads and tramway),
- section 8 (plans to be approved by Secretary of State before works commenced),
- section 9 (approval of Secretary of State),
- section 10 (certain works to be deemed tramways, etc.),
- section 11 (extension of powers).

## PART III

### ACQUISITION AND POSSESSION OF LAND

#### *Powers of acquisition*

#### **Power to acquire land**

6. The undertaker may acquire compulsorily so much of the land shown on the land plans and described in the book of reference as may be required for the purposes of the scheduled work or the authorised works and may use any land so acquired for those purposes or for any other purposes connected with or ancillary to its transit system undertaking.

#### **Application of Part I of the Compulsory Purchase Act 1965**

7.—(1) Part I of the 1965 Act, insofar 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(5) 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**

8.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(6) shall apply as if this Order were a compulsory purchase order.

(2) In its application by virtue of paragraph (1) above, 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 below with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in subsection (3) below 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.”.

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(5) 1981 c. 67.

(6) 1981 c. 66.

(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, subsections (5) and (6) shall be omitted and at the end there shall be inserted—

“(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
- (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)—

- (i) in subsection (1), after “publication” there shall be inserted “in the London Gazette and in a local newspaper circulating in the area in which the land is situated”, and
- (ii) 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 Compulsory Purchase Act 1965 shall be construed as references to that Act as applied to the acquisition of land under article 7 above.

### **Powers to acquire new rights**

9.—(1) The undertaker may compulsorily acquire such easements or other rights over any land referred to in paragraph (1)(a) or (b) of article 6 above 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 2 to this Order), where the undertaker acquires a right over land under paragraph (1) above the undertaker shall not be required to acquire a greater interest in it.

(3) Schedule 2 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.

### **Rights under or over streets**

10.—(1) The undertaker may enter upon and appropriate so much of the surface, subsoil of, or air-space over, any street shown on the land plans and described in the book of reference as may be required for the purposes of the scheduled work or the authorised works and may use the surface, subsoil and air-space for those purposes or any other purpose connected with or ancillary to its transit system undertaking.

(2) The power under paragraph (1) above 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 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) above 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 Land Compensation Act 1961(7).

(4) Paragraph (2) above shall not apply in relation to—

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(7) 1961 c. 33.

- (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.

### *Compensation*

#### **Disregard of certain interests and improvements**

**11.**—(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) above “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**

**12.**—(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 7 above) 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) that 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**

**13.—**(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 is within the limits of land which may be acquired shown on the land plans and which 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 Land Compensation Act 1961.

#### **Modification of 1992 Act**

14. Part IV of the 1992 Act (protective provisions), other than section 17 (for protection of British Railways Board), and sections 43 (for protection of electricity, gas and water undertakers) and 44 (for protection of North West Water Authority) of the Greater Manchester (Light Rapid Transit System) Act 1988<sup>(8)</sup> as applied by the 1992 Act, shall have effect as if the powers of compulsory acquisition contained in this Order were contained in the 1992 Act and as if the reference to the deposited plans in subsection (3) of section 43 included a reference to the land plans prepared for the purposes of this Order.

#### **Time limit for exercise of powers of acquisition**

15. The powers conferred by this Order to acquire any land shall be deemed to have been exercised if, before the end of the period of 5 years beginning on the day on which this Order comes into force, notice to treat has been served in respect of the land but, subject thereto, the powers shall cease to have effect at the end of that period.

## **PART IV**

### **MISCELLANEOUS AND GENERAL**

#### **Certification of plans etc.**

16. The undertaker shall, as soon as practicable after the making of this Order, submit copies of the book of reference, the sections, the land plans and the works plans to the Secretary of State for certification that they are true copies of, respectively, the book of reference, sections and plans 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.

#### **No double recovery**

17. 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.

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(8) 1988 c. i.



Signed by authority of the Secretary of State for the Environment, Transport and the Regions

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