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STATUTORY INSTRUMENTS

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**2001 No. 3627**

**The South Hampshire Rapid Transit Order 2001**

**PART II**

**WORKS PROVISIONS**

*Supplemental*

**Attachment of equipment to buildings for purposes of transit system**

**27.**—(1) Subject to the following provisions of this article, the undertaker may affix to any building, other than an excepted building—

- (a) any brackets, cables, wires, insulators and other apparatus required in connection with the authorised transit system; and
- (b) any lamps, brackets, pipes, electric lines and other apparatus required for the provision of additional or substitute street lighting in consequence of the construction of the authorised transit system.

(2) The undertaker shall not under this article affix any apparatus to a building without the written consent of the relevant owner of the building; and such consent may be given subject to reasonable conditions (including, where appropriate, the payment of rent) but shall not be unreasonably withheld.

(3) Where—

- (a) the undertaker serves on the relevant owner of a building a notice requesting the owner's consent to the affixing of specified apparatus to the building, and
- (b) the relevant owner does not within the period of 56 days beginning with the date upon which the notice is served give his consent unconditionally or give it subject to conditions or refuse it,

the consent shall be deemed to have been withheld.

(4) Where, in the opinion of the undertaker, a consent required under this article for the affixing of specified apparatus is unreasonably withheld or given subject to unreasonable conditions, it may apply to the magistrates' court, who may either allow the apparatus to be affixed subject to such conditions, if any, as it thinks fit or may disallow the application.

(5) Where apparatus is affixed to a building under this article—

- (a) any owner for the time being of the building may serve on the undertaker not less than 28 days' notice requiring the undertaker at its own expense temporarily to remove the apparatus during any reconstruction or repair of the building if such removal is reasonably necessary for that purpose; and
- (b) the undertaker shall have the right as against any person having an interest in the building to maintain the apparatus.

(6) The undertaker shall pay compensation to the owners and occupiers of the building for any loss or damage sustained by them by reason of the exercise of the powers conferred by paragraphs (1) and (5)(b) above; and any dispute as to a person's entitlement to compensation, or as to the amount of the compensation, shall be determined under Part I of the Land Compensation Act 1961(1).

(7) In this article—

“building” includes any structure and a bridge or aqueduct over the street;

“excepted building” means any building existing at the time of this Order at—

26 and 33 Hartland's Road, 158 Redlands Lane and 115/117, 131, 147, 149, 153, 183, 192 and 203 West Street;

3 and 14 Carlyle Road, 5 Ford Road, 9 Forton Road and 21 St Ann's Crescent, Gosport; and

1 to 5 and 61 Queen Street, Portsmouth; and

“relevant owner”—

- (a) in relation to a building occupied under a lease or tenancy having an unexpired term exceeding 5 years, means the occupier of the building; and
- (b) in relation to any other building, means the person for the time being receiving the rack rent of the building whether on his own account or as agent or trustee for any other person, or who would so receive it if the building were let at a rack rent.