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STATUTORY INSTRUMENTS

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**2001 No. 3627**

**The South Hampshire Rapid Transit Order 2001**

**PART I**  
**PRELIMINARY**

**Citation and commencement**

1. This Order may be cited as the South Hampshire Rapid Transit Order 2001 and shall come into force on 24th July 2001.

**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 guided busway” means the authorised guided busway forming part of Work No 8;

“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 guided busway, the authorised street tramways and the authorised tramroads) authorised by this Order or any part of that system;

“authorised works” means the scheduled works and any other works authorised by this Order;

“the book of reference” means the book of reference (incorporating a schedule of subsoil interests) 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);

“cycletrack” means a way over which the public have a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the Road Traffic Act 1988)(5) with a right of way on foot;

“guided busway” means a way provided for the use of vehicles which are constructed or adapted to carry more than eight passengers for hire or reward and use a mode prescribed in article 2(e), (f), (g) or (h) of the Transport and Works (Guided Transport Modes) Order 1992(6);

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(1) 1965 c. 56.  
(2) 1984 c. 27.  
(3) 1991 c. 22.  
(4) 1980 c. 66.  
(5) 1988 c. 52.  
(6) S.I. 1992/3231, amended by S.I. 1997/1951.

“the harbour” means the whole of Portsmouth harbour below the level of mean high-water springs;

“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;

“mooring” means any buoy, pile, pontoon, chain or other apparatus used for the mooring of vessels;

“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;

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

“Queen’s Harbour Master” means the person appointed to be Queen’s Harbour Master of the Dockyard Port of Portsmouth under the Dockyard Ports Regulation Act 1865(7);

“Railtrack” means Railtrack PLC and includes any person who derives title to any property from Railtrack PLC and holds that property for railway purposes;

“rapid transit vehicle” means a tramcar or a vehicle guided by means of the guidance system of a guided busway;

“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, or
- (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(8);

“tidal work” means so much of any work as is on, over or under tidal waters or tidal land below the level of mean high-water springs;

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

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

“transit services” means passenger services utilising the authorised transit system;

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(7) 1865 c. 125 (28 & 29 Vict).

(8) 1984 c. 12.

“transit system” means a system of transport consisting of a guided busway, a street tramway or a tramroad or any combination of those modes of transport;

“the tribunal” means the Lands Tribunal;

“the tunnel” means Work No. 8A;

“tunnel area” means so much of the land lying within the limits of deviation and the limits of land to be used shown on the works plans as is situated in the harbour;

“the undertaker” means Hampshire County Council and Portsmouth City Council acting jointly or, in the case of any provision contained in Part III of this Order, jointly or severally;

“vehicle” includes mobile traction unit; and

“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) 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.

(4) 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.

(5) 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 scheduled work shall be taken to be measured along the scheduled work.

### **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 transit system.

(2) The provisions of the Highway (Railway Crossings) Act 1839<sup>(9)</sup> shall not apply in relation to the authorised transit system.

(3) 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<sup>(10)</sup>.

### **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 III of the 1991 Act (street works) 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 Highways Act 1980<sup>(11)</sup> (dual carriageways and roundabouts).

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<sup>(9)</sup> 1839 c. 45.

<sup>(10)</sup> 1861 c. 100.

<sup>(11)</sup> 1980 c. 66.

(2) 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.

(3) The provisions of the 1991 Act mentioned in paragraph (4) 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.

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

(5) 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; or
- (b) have effect in relation to street works with regard to which the provisions of Part III of the 1991 Act apply.