
STATUTORY INSTRUMENTS

2002 No. 412

The Chester Guided Busway Order 2002

PART V

MISCELLANEOUS AND GENERAL

Statutory undertakers etc.

35. The provisions of Schedule 5 to this Order shall have effect.

Protection of interests

36. The provisions of Schedule 6 to this Order shall have effect.

Application of existing enactments

37.—(1) In this article—

“the Board” means the British Railways Board;

“the former railway” means so much of the former Mickle Trafford to Shotton railway as is situated within the limits of deviation or the limits of land to be acquired;

“the relevant date” means—

- (a) in relation to so much of the former railway as is owned by the Council at the date of the coming into force of this Order, that date; or
- (b) in relation to any part of the former railway which at that date is not so owned, the earlier of the date upon which the Council acquires that part or the date upon which the Council takes entry for the purpose of constructing the authorised works.

(2) Except as may be otherwise provided in this Order, as from the relevant date the former railway or any part thereof shall continue to be subject to all statutory and other provisions applicable to the former railway, or any part thereof, at that date (in so far as the same are still subsisting and capable of taking effect) and the Council shall to the exclusion of the Board be entitled to the benefit of, and to exercise, all rights, powers and privileges and be subject to all obligations statutory or otherwise relating to the former railway (in so far as the same are still subsisting and capable of taking effect) to the intent that the Board as the case may be, shall be released from all such obligations.

(3) Section 31 (Provisions in relation to certain works within the City of Chester) of the Chester and West Cheshire Junction Railway Act 1865(1) shall cease to apply to the former railway.

(4) Any enactment by which the former railway was authorised shall have effect subject to the provisions of this Order.

Crown rights

38.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege or exemption of the Crown and in particular, and without prejudice to the generality of the foregoing, nothing in this Order shall authorise the Council or any other person to take, use, enter upon or in any manner interfere with any land or hereditament or any rights of whatsoever description belonging to Her Majesty in right of the Crown and under the management of the Crown Estate Commissioners without the consent in writing of those Commissioners.

(2) Consent under this article may be given unconditionally or subject to such terms or conditions as shall be considered necessary or appropriate.

Minerals

39.—(1) Parts II and III of Schedule 2 to the Acquisition of Land Act 1981 (exception of minerals from compulsory purchase and regulation of the working of mines or minerals underlying an authorised undertaking) shall have effect in relation to land to which article 15 applies as if it were comprised in a compulsory purchase order providing for the incorporation with that order of those parts of that Schedule.

(2) In their application by virtue of paragraph (1), Parts II and III of Schedule 2 to the Acquisition of Land Act 1981 shall have effect with the following modifications—

- (a) references to the acquiring authority shall be construed as references to the Council; and
- (b) references to the undertaking shall be construed as references to the undertaking which the Council is authorised by this Order to carry on.

Certification of plans etc.

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

Service of notices

41.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served by post.

(2) Where the person on whom a notice or other document is to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(2) as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) is, if he has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, his last known address at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and his name or address cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to him by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
 - (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.
- (5) This article shall not be taken to exclude the employment of any method of service not expressly provided for by it.

No double recovery

42. 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.

Disclosure of confidential information

43. A person who—

- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 13; and
- (b) discloses to any person any information obtained by him relating to any manufacturing process or trade secret,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale unless the disclosure is made in the course of performing his duty in connection with the purposes for which he was authorised to enter the land.

Arbitration

44. Where under this Order any difference (other than a difference to which the provisions of the 1965 Act apply) is to be determined by or referred to arbitration, then, unless otherwise provided, the difference shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other), by the President of the Institution of Civil Engineers.

Withholding of consent

45. Where it is provided in this Order that any consent or approval is not to be unreasonably withheld, any dispute as to whether it is unreasonably withheld or as to any conditions subject to which it is given shall be determined by arbitration.