
STATUTORY INSTRUMENTS

2005 No. 120

The Merseytram (Liverpool City Centre to Kirkby) Order 2005

PART 4

OPERATION OF TRAM SYSTEM

Power to operate and use tram system

42.—(1) Merseytravel may operate and use the authorised tram system and the other authorised works as a system, or part of a system, of transport for the carriage of passengers and goods.

(2) Subject to paragraph (4), article 52 and section 10 of the Transport Act 1968⁽¹⁾, Merseytravel shall, for the purpose of operating the tram system, have the exclusive right—

- (a) to use the rails, foundations, cables, masts, overhead wires and other apparatus used for the operation of the tram system; and
- (b) to occupy any part of the street in which that apparatus is situated.

(3) Any person who, without the consent of Merseytravel or other reasonable excuse, uses the apparatus mentioned in paragraph (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(4) Nothing in this article shall restrict the exercise of any public right of way over any part of a street in which apparatus is situated in pursuance of paragraph (2) except to the extent that the exercise of the right is constrained by the presence of the apparatus.

Maintenance of approved works, etc.

43.—(1) Where, pursuant to regulations⁽²⁾ made under section 41 of the 1992 Act (approval of works, plant and equipment) approval has been obtained from the Health and Safety Executive with respect to any works, plant or equipment (including vehicles) forming part of the authorised tram system, such works, plant and equipment shall not be used in a state or condition other than that in which they were at the time that the approval was given unless any change thereto does not materially impair the safe operation of the authorised tram system or detrimentally affect the safety of any other person.

(2) If without reasonable cause the provisions of paragraph (1) are contravened, Merseytravel shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) No proceedings shall be instituted in England and Wales in respect of an offence under this article except by or with the consent of the Health and Safety Executive or the Director of Public Prosecutions.

(1) 1968 c. 73.
(2) See S.I.1994/157.

Power to charge fares

44. Merseytravel may demand, take and recover or waive such charges for carrying passengers or goods on the authorised tram system, or for any other services or facilities provided in connection with the operation of the authorised tram system, as it thinks fit.

Removal of obstructions

45.—(1) If any obstruction is caused to tramcars using the authorised tram system by a vehicle waiting, loading, unloading or breaking down on any part of the tram system, the person in charge of the vehicle shall forthwith remove it; and if he fails to do so Merseytravel may take all reasonable steps to remove the obstruction and may recover the expenses reasonably incurred in doing so from—

- (a) any person by whom the vehicle was put or left so as to become an obstruction to tramcars; or
- (b) any person who was the owner of the vehicle at that time unless he shows that he was not, at that time, concerned in or aware of the vehicle being so put or left.

(2) If any obstruction is caused to tramcars using the authorised tram system by a load falling on the tram system from a vehicle, the person in charge of the vehicle shall forthwith remove the load from the tram system; and if he fails to do so, Merseytravel may take all reasonable steps to remove the load and may recover the expenses reasonably incurred in doing so from—

- (a) any person who was in charge of the vehicle at the time when the load fell from it; or
- (b) any person who was the owner of the vehicle at that time unless he shows that he was not concerned in, or aware of, the vehicle being in the place at which the load fell from it.

(3) For the purposes of this article the owner of a vehicle shall be taken to be the person by whom the vehicle is kept; and in determining for those purposes who was the owner of the vehicle at any time, it shall be presumed (unless the contrary appears) that the owner was the person in whose name the vehicle was at that time registered under the Vehicles Excise and Registration Act 1994(3).

Traffic signs

46.—(1) Merseytravel may, for the purposes of, or in connection with the operation of, the authorised tram system, place or maintain traffic signs of a type prescribed by regulations made under section 64(1)(a) of the 1984 Act or of a character authorised by the Secretary of State on any street in which the authorised tram system is laid or which gives access to such a street.

(2) Merseytravel—

- (a) shall consult with the traffic authority as to the placing of signs; and
- (b) unless the traffic authority is unwilling to do so and subject to any directions given under section 65 of the 1984 Act, shall enter into arrangements with the traffic authority for the signs to be placed and maintained by the traffic authority.

(3) Any power conferred by section 65 of the 1984 Act to give directions to a traffic authority or local traffic authority as to traffic signs shall include a power to give directions to Merseytravel as to traffic signs under this article; and, accordingly, the powers conferred by paragraph (1) shall be exercisable subject to and in conformity with any directions given under that section.

(4) A traffic authority or other authority having power under or by virtue of the 1984 Act to place and maintain, or cause to be placed and maintained, traffic signs on any street in which the authorised tram system is laid or which gives access to such a street shall consult with Merseytravel as to the placing of any traffic sign which would affect the operation of the authorised tram system.

(3) 1994 c. 22.

(5) Tramcars shall be taken to be public service vehicles for the purposes of section 122(2)(c) of the 1984 Act.

(6) Expressions used in this article and in the 1984 Act shall have the same meaning in this article as in that Act.

Traffic regulation

47.—(1) Subject to the provisions of this article Merseytravel may, for the purposes of the authorised tram system, at any time prior to the expiry of 12 months from the opening of the system for use and with the consent of the traffic authority in whose area the road concerned is situated—

- (a) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles in the manner specified in Part 1 of Schedule 10 to this Order on those roads specified in column (2) and along the lengths and between the points specified in column (3) of that Part of that Schedule;
- (b) authorise the use as a parking place in the manner specified in Part 2 of Schedule 10 to this Order of those roads specified in column (2) and along the lengths, between the points and to the extent specified in column (3) of that Part of that Schedule;
- (c) make provision as to the direction of vehicular traffic in the manner specified in Part 3 of Schedule 10 to this Order on the roads specified in column (2) and along the lengths, between the points and as respects direction to the extent specified in column (3) of that Part of that Schedule;
- (d) permit or prohibit vehicular access in the manner specified in Part 4 of Schedule 10 to this Order to those roads specified in column (2) and along the lengths, between the points and as respects direction to the extent specified in column (3) of that Part of that Schedule; and
- (e) revoke or amend in whole or in part any prohibition, restriction or other provision specified in Part 5 of Schedule 10 to this Order to the extent specified in that Part of that Schedule.

(2) Without prejudice to the specific powers conferred by paragraph (1) but subject to the provisions of this article Merseytravel may, in so far as may be necessary or expedient for the purposes of, in connection with, or in consequence of the construction, maintenance or operation of the authorised tram system, at any time prior to the expiry of 12 months from the opening of that system for use and with the consent of the traffic authority in whose area the road is situated or, in relation to parking places, with the consent of the local authority—

- (a) revoke or amend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road.

(3) Merseytravel shall not exercise the powers of paragraphs (1) and (2) unless it has—

- (a) given not less than—
 - (i) 12 weeks' notice in writing of its intention so to do in the case of a permanent prohibition, restriction or other provision; or
 - (ii) 4 weeks' notice in writing of its intention so to do in the case of a temporary prohibition, restriction or other provision;

to the chief officer of police and to the traffic authority in whose area the road is situated; and

- (b) advertised its intention in such manner as the traffic authority may reasonably specify in writing within—
 - (i) 28 days of its receipt of notice of Merseytravel’s intention in the case of paragraph (i) of sub-paragraph (a); or
 - (ii) 7 days in the case of paragraph (ii) of sub-paragraph (a).
- (4) Any prohibition, restriction or other provision made by Merseytravel under paragraph (1) or (2) shall have effect as if duly made by, as the case may be—
 - (a) the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act; or
 - (b) the local authority in whose area the road is situated as an order under section 32 of the 1984 Act;

and the instrument by which it is effected may specify savings and exemptions (in addition to those mentioned in Schedule 10 to this Order) to which the prohibition, restriction or other provision is subject.

(5) Any prohibition, restriction or other provision made under this article may be varied or revoked by Merseytravel from time to time by subsequent exercise of the powers of paragraph (2) within a period of 24 months from the opening of the authorised tram system for use.

(6) Any prohibition, restriction or other provision made by Merseytravel under paragraph (1) or (2) may also be varied or revoked from time to time by, as the case may be—

- (a) the traffic authority in whose area the road is situated by an order under the 1984 Act; or
- (b) the local authority in whose area the road is situated by an order under section 32 of the 1984 Act;

provided that no such order may be made so as to vary or revoke any provision previously made by Merseytravel under this article without the consent of Merseytravel, such consent not to be unreasonably withheld.

(7) Any consent required under this article shall not be unreasonably withheld but before giving any consent under paragraph (2) of this article the traffic authority or the local authority (as the case may be) shall consult such persons as it considers necessary and appropriate and shall take into consideration any representations made to it by any such person.

(8) Expressions used in this article and in the 1984 Act shall have the same meaning in this article as in that Act.

(9) The powers conferred on Merseytravel by this article with respect to the prohibition of vehicular access to any road shall have effect subject to any agreement entered into by Merseytravel with any person with an interest in premises served by the road.

Power to lop trees overhanging tram system

48.—(1) Merseytravel may fell or lop any tree or shrub near any part of the authorised tram system, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the tram system or any apparatus used for the purposes of the tram system; or
- (b) from constituting a danger to passengers or other persons using the tram system.

(2) In exercising the powers in paragraph (1), Merseytravel shall do no unnecessary damage to any tree or shrub and shall pay compensation to any person for any loss or damage arising from the exercise of those powers.

(3) Nothing in this article shall be taken to affect the application of any tree preservation order made under section 198 of the 1990 Act.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of the compensation, shall be determined under Part I of the 1961 Act.

Trespass on tramroads

49.—(1) Any person who—

- (a) trespasses on any authorised tramroad; or
- (b) trespasses upon any land of Merseytravel in dangerous proximity to any authorised tramroad or to any electrical or other apparatus used for or in connection with the operation of the authorised tramroads;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) No person shall be convicted of an offence under this article unless it is shown that a notice warning the public not to trespass upon the tramroads was clearly exhibited and maintained at the tram stop on the authorised tram system nearest the place where the offence is alleged to have been committed.

Power to make byelaws

50.—(1) Merseytravel may make byelaws regulating the use and operation of, and travel on, the authorised tram system, the maintenance of order on the authorised tram system and on tram system premises or other facilities provided in connection with the authorised tram system and the conduct of all persons, including employees of Merseytravel, while on the authorised tram system or on tram system premises.

(2) Without prejudice to the generality of paragraph (1), byelaws under this article may make provision—

- (a) with respect to tickets issued for travel on the authorised tram system, the payment of fares and charges and the evasion of payment of fares and charges;
- (b) with respect to interference with, or obstruction of, the operation of the authorised tram system or other facilities provided in connection with the authorised tram system;
- (c) with respect to access to and the carriage, use or consumption of anything on tram system premises;
- (d) with respect to the prevention of nuisances on tram system premises;
- (e) for regulating the passage of bicycles and other vehicles on ways and other places intended for the use of persons on foot within tram system premises;
- (f) for the safe custody and re-delivery or disposal of any property accidentally left on tram system premises and for fixing the charges made in respect of any such property;
- (g) for prohibiting or restricting the placing or leaving of any vehicle without its driver on any part of the authorised tram system or on tram system premises; and
- (h) subject to article 19(6)(a), for regulating (but not requiring) the maintenance of the façades of buildings to which any equipment has been attached pursuant to article 19 above.

(3) In paragraphs (1) and (2) references to “tram system premises” are references to premises of Merseytravel used for or in connection with the operation of the authorised tram system including any depot or building and any tramcar.

(4) Byelaws under this article may provide for it to be an offence for a person to contravene, or to fail to comply with, a provision of the byelaws and for such a person to be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Without prejudice to the taking of proceedings for an offence included in byelaws by virtue of paragraph (4), if the contravention of, or failure to comply with, any byelaw under this article is attended with danger or annoyance to the public, or hindrance to Merseytravel in the operation of the tram system, Merseytravel may summarily take action to obviate or remove the danger, annoyance or hindrance.

(6) Before making any byelaws under this article Merseytravel shall consult the Council on the proposed byelaws.

(7) Byelaws under this article shall not come into operation until they have been confirmed by the Secretary of State.

(8) At least 28 days before applying for any byelaws to be confirmed under this article, Merseytravel shall publish in such manner as may be approved by the Secretary of State a notice of its intention to apply for the byelaws to be confirmed and of the place at which and the time during which a copy of the byelaws will be open to public inspection; and any person affected by any of the byelaws may make representations on them to the Secretary of State within a period specified in the notice, being a period of not less than 28 days.

(9) For at least 24 days before an application is made under this article for byelaws to be confirmed, a copy of the byelaws shall be kept at the principal office of Merseytravel and shall at all reasonable hours be open to public inspection without payment.

(10) Merseytravel shall, at the request of any person, supply him with a copy of any such byelaws on payment of such reasonable sum as Merseytravel may determine.

(11) The Secretary of State may confirm with or without modification, or may refuse to confirm, any of the byelaws submitted under this article for confirmation and, as regards any byelaws so confirmed, may fix a date on which the byelaws shall come into operation; and if no date is so fixed the byelaws shall come into operation after the expiry of 28 days after the date on which they were confirmed.

(12) The Secretary of State may charge Merseytravel such fees in respect of any byelaws submitted for confirmation under this article as he may consider appropriate for the purpose of defraying any administrative expenses incurred by him in connection therewith.

(13) A copy of the byelaws when confirmed shall be printed and deposited at the principal office of Merseytravel and shall at all reasonable hours be open to public inspection without payment, and Merseytravel shall, at the request of any person, supply him with a copy of any such byelaws on payment of such reasonable sum as Merseytravel shall determine.

(14) The production of a printed copy of byelaws confirmed under this article on which is endorsed a certificate purporting to be signed by a person duly authorised by Merseytravel stating—

- (a) that the byelaws were made by Merseytravel;
- (b) that the copy is a true copy of the byelaws;
- (c) that on a specified date the byelaws were confirmed by the Secretary of State; and
- (d) the date when the byelaws came into operation;

shall be *prima facie* evidence of the facts stated in the certificate.

(15) In this article—

- (a) “building” includes any structure and a bridge or aqueduct; and
- (b) “the Council” means Liverpool City Council in relation to its area and Knowsley Metropolitan Borough Council in relation to its area.

Power to contract for police services

51.—(1) Merseytravel may enter into any agreement with a police authority and its chief officer of police for the police force maintained by that authority to provide policing services for or in connection with the authorised tram system, including at any tram system premises.

(2) Any such agreement may provide for—

- (a) Merseytravel to make such payment or other consideration for those policing services as the parties may agree; and
- (b) such incidental and ancillary matters as the parties consider appropriate.

(3) In this article—

- (a) “chief officer of police” means a chief officer of police within the meaning of the Police Act 1996⁽⁴⁾ or the Chief Constable of the British Transport Police Force;
- (b) “police authority” means a police authority within the meaning of that Act or the British Transport Police Authority; and
- (c) “tram system premises” means any premises of Merseytravel used for or in connection with the operation of the authorised tram system, including the operations and control centre, any other building and any tramcar.

Powers of disposal, agreements for operation, etc.

52.—(1) Merseytravel may, with the consent of the Secretary of State, sell, lease, charge or otherwise dispose of, on such terms and conditions as it thinks fit, the whole or any part of the authorised works and any land held in connection therewith or the right to operate the authorised works under this Order.

(2) Without prejudice to the generality of paragraph (1), Merseytravel may enter into and carry into effect agreements with respect to any of the following matters, namely, the construction, maintenance, use and operation of the authorised works, or any part or parts of them, by any other person, and other matters incidental or subsidiary thereto or consequential thereon, and the defraying of, or the making of contributions towards, the cost of the matters aforesaid by Merseytravel or any other person.

(3) Any agreement under subsection (2) may provide among other things for the exercise of the powers of Merseytravel in respect of the authorised works or any part or parts thereof, and for the transfer to any person of the authorised works or any part or parts thereof together with the rights and obligations of Merseytravel in relation thereto.

(4) The exercise of the powers of any enactment by any person in pursuance of any sale, lease, charge or disposal under paragraph (1), or any agreement under paragraph (2), shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those powers were exercised by Merseytravel

Application of landlord and tenant law

53.—(1) This article applies to any agreement for leasing to any person the whole or any part of the authorised tram system or the right to operate the same, and any agreement entered into by Merseytravel with any person for the construction, maintenance, use or operation of the authorised tram system, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person’s use.

(4) 1996 c. 16.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of any agreement to which this article applies.

(3) Accordingly no such enactment or rule of law shall apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Tramcars deemed public service vehicles

54.—(1) On such day as may be appointed under paragraph (2), regulations made, or having effect as if made, under sections 24, 25 or 60(1)(j) or (k) of the Public Passenger Vehicles Act 1981⁽⁵⁾ shall have effect as if the tramcars used on the authorised tram system were public service vehicles used in the provision of a local service within the meaning of the Transport Act 1985.

(2) Merseytravel may by resolution appoint a day for the purpose of any regulation mentioned in paragraph (1), the day so appointed being fixed in accordance with paragraph (3).

(3) Merseytravel shall publish in a newspaper circulating in its area, notice—

- (a) of the passing of any such resolution and of the day fixed thereby; and
- (b) of the general effect of the enactments for the purposes of which the day has been fixed;

and the day so fixed shall not be earlier than the expiration of 28 days from the date of the publication of the notice.

(4) A photostatic or other reproduction certified by the secretary of Merseytravel to be a true reproduction of a page, or part of a page, of any newspaper bearing the date of its publication and containing the notice mentioned in sub-paragraph 3(b) shall be evidence of the publication of the notice and of the date of publication.

Substitute road services

55.—(1) Merseytravel may provide or secure the provision by other persons of services for the carriage of passengers by road (“substitute services”) where the tram system has been temporarily interrupted, curtailed or discontinued.

(2) The route, frequency and stopping places of any substitute service need not correspond with the route of the interrupted, curtailed or discontinued service.

(3) Section 6 of the Transport Act 1985⁽⁶⁾ shall not apply to any substitute services.

⁽⁵⁾ 1981 c. 14.

⁽⁶⁾ 1985 c. 67.