
STATUTORY INSTRUMENTS

2005 No. 2222

The River Tyne (Tunnels) Order 2005

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the River Tyne (Tunnels) Order 2005 and shall come into force on 26th August 2005.

Interpretation

2.—(1) In this Order—

“the 1965 Act” means the Compulsory Purchase Act 1965(1);

“the 1976 Act” means the Tyne and Wear Act 1976(2);

“the 1984 Act” means the Road Traffic Regulation Act 1984(3);

“the 1991 Act” means the New Roads and Street Works Act 1991(4);

“appointed day” means the date on which this Order comes into force;

“authorised activities” means the construction, carrying out and maintenance of the authorised works, the operation, use and maintenance of the tunnel crossing and the exercise of any power, authority or discretion for the time being vested in or exercisable by the undertaker under this Order or otherwise;

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

“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;

“building” includes any building, structure or erection or any part of a building, structure or erection;

“concessionaire” means any person with whom the undertaker enters into a concession agreement from time to time together with the successors and assigns of any such person;

“concession agreement” means a legally binding arrangement which may be comprised in one or more documents that makes provision for any or all of—

- (a) the design, construction, financing, refinancing, operation and maintenance of the new tunnel;
- (b) the financing, refinancing, operation and maintenance of the existing tunnels; and
- (c) any other matter in respect of the tunnel crossing;

(1) 1965 c. 56.
(2) 1976 c. xxxvi.
(3) 1984 c. 27.
(4) 1991 c. 22.

“concession toll date” means the date upon which an order made by the Secretary of State under section 13(2) of the 1976 Act as substituted by this Order revising the tolls or charges under article 42(1) in accordance with a determination of the undertaker under paragraph 4 of Schedule 14 to this Order comes into effect;

“the deposited plans” means the works plans and the land plans;

“the deposited sections” means the sections certified by the Secretary of State as the deposited sections for the purposes of this Order;

“the effective date” means the date upon which an order made by the Secretary of State under section 13(2) of the 1976 Act as substituted by this Order revising the tolls and charges chargeable under article 42(1) comes into effect;

“the existing foot tunnels” means Works Nos. 3, 3A and 4 as set out in Part I of Schedule 1 to the 1976 Act together with all approaches, tunnels, lifts, stairs, escalators, subways, passages, means of ingress or egress, shafts, stagings, buildings, apparatus, plant, machinery and subsidiary and incidental works;

“the existing tunnels” means the existing foot tunnels and the Tyne Tunnel;

“function” includes any power, authority or discretion for the time being vested in or exercisable by the undertaker under this Order, or otherwise, in relation to the tunnel crossing or any part of it or any of the authorised activities;

“highway” and “highway authority” have the same meaning as in the Highways Act 1980(5);

“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 deviation for the scheduled works shown on the works plans;

“the limits of land to be acquired or used” means the limits of land to be acquired or used shown on the works plans;

“maintain” includes maintain, inspect, repair, adjust, alter, remove, clear, refurbish, reconstruct, replace and improve and “maintenance” shall be construed accordingly;

“new tunnel” means the new tunnel comprised in the authorised works together with—

- (a) all tunnels, lifts, stairs, escalators, subways, passages, means of ingress or egress, shafts, stagings, buildings, apparatus, plant, machinery and subsidiary and incidental works; and
- (b) all piles, fenders, booms, dolphins, embankments, abutments, wharves, walls, fences, drains, buildings and other works and conveniences, in the River Tyne or Howdon Basin and the banks, bed and foreshore thereof,

constructed or provided in connection therewith;

“operational land” shall, in respect of the tunnel crossing, have the meaning given to it in the Town and Country Planning Act 1990(6);

“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;

“the Port Authority” means the Port of Tyne Authority;

“the scheduled works” means the works specified in Schedule 1 to this Order or any part of them, as the same may be varied pursuant to article 4;

(5) 1980 c. 66.

(6) 1990 c. 8.

“street works”, in relation to a street, has the same meaning as in Part III of the 1991 Act;

“street authority”, in relation to a street, has the same meaning as in Part III of the 1991 Act;

“subsoil” means subsoil lying more than 1 metre beneath the level of the surface of the land; and for this purpose “the level of the surface of the land” means—

- (a) in the case of any land on which a building is erected, the level of the surface of the ground adjoining the building,
- (b) in the case of a river, dock, canal, navigation, watercourse or other water area, the level of the surface of the ground nearest to it which is at all times above water level, or
- (c) in any other case, ground surface level;

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

“the tribunal” means the Lands Tribunal;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“tunnel area” means so much of the land lying within the limits of land to be acquired or used as is situated within the River Tyne and Howdon Basin and their banks and beds;

“tunnel crossing” means the existing tunnels and the new tunnel together with—

- (a) the tunnel roads; and
- (b) any land not forming part of the tunnel roads which comprises operational land of the undertaker for the purposes of the tunnel crossing;

“tunnel roads” means the roads that run through the Tyne Tunnel and the new tunnel and Works Nos. 1B, 1C, 1D, 1E, 2C, 7A (part), 7B (part), 7K (part), 7L (part) and 7Q;

“Tyne Tunnel” means the existing road tunnel beneath the River Tyne and Howdon Basin between and in the Metropolitan Boroughs of North Tyneside and South Tyneside;

“the undertaker” means the Tyne and Wear Passenger Transport Authority;

“undertaking” includes the undertaking of the undertaker in connection with this Order, the authorised activities, the tunnel crossing, the functions and the property vested in the undertaker by article 3 of the Tyne Tunnel Order 1986(7); and

“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, and references to the subsoil of any land include references to any cellar, basement, vault, arch or other construction forming part of any such land.

(3) Except in Part 2 of Schedule 10 to this Order, all directions, distances, areas and dimensions stated in this Order shall be construed as if the words “or thereabouts” were inserted after each such direction, distance, area and dimension.

(4) The expression “includes” shall be construed without limitation.