
STATUTORY INSTRUMENTS

2011 No. 1072

The Network Rail (Hitchin (Cambridge Junction)) Order 2011

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Network Rail (Hitchin (Cambridge Junction)) Order 2011 and shall come into force on 21st April 2011.

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(1);

“the 1965 Act” means the Compulsory Purchase Act 1965(2);

“the 1973 Act” means the Land Compensation Act 1973(3);

“the 1980 Act” means the Highways Act 1980(4);

“the 1981 Act” means the Acquisition of Land Act 1981(5);

“the 1984 Act” means the Road Traffic Regulation Act 1984(6);

“the 1990 Act” means the Town and Country Planning Act 1990(7);

“the 1991 Act” means the New Roads and Street Works Act 1991(8);

“address” includes any number or address used for the purposes of electronic transmission;

“the authorised railway” means any railway authorised by this Order;

“the 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 structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in the 1980 Act;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(1) 1961 c. 33.

(2) 1965 c. 56.

(3) 1973 c. 26.

(4) 1980 c. 66.

(5) 1981 c. 67.

(6) 1984 c. 27.

(7) 1990 c. 8.

(8) 1991 c. 22. As amended by the Traffic Management Act 2004 c. 18.

(b) by other means but while in electronic form;

“enactment” includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“footway” has the same meaning as in the 1980 Act;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“the limits of deviation” means the limits of lateral deviation for the scheduled works referred to in article 6(1)(a) and (2) (power to deviate);

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

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

“Network Rail” means Network Rail Infrastructure Limited (Company No. 02904587) whose registered office is at Kings Place, 90 York Way, London N1 9AG;

“the open space plan” means the open space plan included in the Order plans;

“the Order limits” means the limits of deviation and the limits of land to be acquired or used;

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

“owner”, in relation to land, has the same meaning as in the 1981 Act;

“the rights of way plan” means the rights of way plan included in the Order plans;

“the scheduled works” means the works specified in Schedule 1 (scheduled works) or any part of them;

“the sections” means the sections included in the Order plans;

“street” includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“the tribunal” means the Upper Tribunal;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows (whether or not the flow is intermittent) except a public sewer or drain; and

“the works and land plans” means the works and land plans included in the Order plans.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) 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 numbered plots are references to plots numbered on the works and land plans.

(5) References in this Order to points identified by letters, or letters and numbers, are to be construed as references to points on the Order plans.

(6) All distances, directions, lengths, points and areas stated in the description of the scheduled works or in any description of powers or lands are approximate and distances between points on a scheduled work shall be taken to be measured along the scheduled work.

Incorporation of Railways Clauses Consolidation Act 1845

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845⁽⁹⁾ shall be incorporated in this Order—

- section 46 (crossing of roads) except for the words from “Provided always that” to the end;
- section 58 (company to repair roads used by them), except for the words from “and if any question” to the end;
- section 68 (accommodation works by company);
- section 71 (additional accommodation works by owners), except for the words “or directed by such justices to be made by the company” and “or, in case of difference, as shall be authorised by two justices”;
- sections 72 and 73 (supplementary provisions relating to accommodation works);
- section 75 (omission to fasten gates);
- section 77 (presumption that minerals excepted from acquisition of land);
- sections 78 to 85E and Schedules 1 to 3 (minerals under railways), as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923⁽¹⁰⁾;
- section 105 (carriage of dangerous goods on railway); and
- section 145 (recovery of penalties).

(2) In those provisions, as incorporated in this Order—

- “the company” means Network Rail;
- “goods” includes any thing conveyed on the railway authorised to be constructed by this Order;
- “lease” includes an agreement for a lease;
- “prescribed”, in relation to any such provision, means prescribed by this Order for the purposes of that provision;
- “the railway” means any railway authorised to be constructed by this Order and any other authorised works;
- “the special Act” means this Order; and
- “toll” includes any rate or charge or other payment payable under this Order or any other enactment for any passenger or goods conveyed on any railway authorised to be constructed by this Order.

Application of the 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 3 of the 1991 Act (street works in England and Wales) 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 1980 Act (dual carriageways and roundabouts).

(2) The provisions of the 1991 Act mentioned in paragraph (3) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made,

⁽⁹⁾ 1845 c. 20.

⁽¹⁰⁾ 1923 c. 20.

or code of practice issued or approved, under those provisions shall apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by Network Rail under the powers conferred by article 10 (temporary stopping up and diversion of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

- (3) The provisions of the 1991 Act referred to in paragraph (2) are—
- section 54 (advance notice of certain works), subject to paragraph (4);
 - section 55 (notice of starting date of works), subject to paragraph (4);
 - 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 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.

(4) Sections 54 and 55 of the 1991 Act as applied by paragraph (2) shall have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

- (5) Nothing in article 12 (construction and maintenance of new or altered streets) shall—
- (a) prejudice the operation of section 87 of the 1991 Act (prospectively maintainable highways); and Network Rail shall not by reason of any duty under that article to maintain a street be taken to be a street authority in relation to that street for the purposes of Part 3 of that Act; or
 - (b) have effect in relation to street works with regard to which the provisions of Part 3 of the 1991 Act apply.