
STATUTORY INSTRUMENTS

2013 No. 1933

The Leeds Railway Station (Southern Entrance) Order 2013

PART 4

MISCELLANEOUS AND GENERAL

Planning permission

34. Planning permission which is deemed by a direction under section 90(2A) of the 1990 Act to be granted in relation to the authorised works (or any of them) is to be treated as specific planning permission for the purposes of section 264(3)(a) of that Act (cases in which land is to be treated as operational land for the purposes of that Act).

Power to lop trees overhanging the authorised works

35.—(1) The promoter may fell or lop any tree or shrub near any part of the authorised works, 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 authorised works or any apparatus used on the authorised works; or
- (b) from constituting a danger to passengers or other persons using the authorised works.

(2) In exercising the powers conferred by paragraph (1), the promoter must not cause unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from the exercise of those powers.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

Application of landlord and tenant law

36.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised works or the right to operate the same; and
- (b) any agreement entered into by the promoter with any person for the construction, maintenance, use or operation of the authorised works, or any part of them,

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.

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

(3) No such enactment or rule of law applies 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.

Obstruction of construction of authorised works

37. Any person who, without reasonable excuse—

- (a) obstructs any person acting under the authority of the promoter in setting out the lines of the scheduled works or in constructing any authorised work; or
- (b) interferes with, moves or removes any apparatus belonging to any person acting under the authority of the promoter,

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

Traffic signs

38.—(1) The promoter may, for the purposes of, or in connection with the construction or operation of, the authorised works, place or maintain traffic signs of a type prescribed by regulations made under section 64(1)(a) (general provisions as to traffic signs) of the 1984 Act or of a character authorised by the Secretary of State on any street specified in column (1) of Schedule 4 (streets subject to alteration of layout) or which gives access to such a street, or on any street in connection with any instrument made under article 39 (traffic regulation) or any other street as reasonably required for conveying information to traffic.

(2) The promoter—

- (a) must 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 (powers and duties of highway authorities as to placing of traffic signs) of the 1984 Act, must 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 includes a power to give directions to the promoter as to traffic signs under this article; and the powers conferred by paragraph (1) are 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 referred to in paragraph (1) must consult with the promoter as to the placing of any traffic signs which may affect the authorised works.

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

Traffic regulation

39.—(1) Subject to the provisions of this article, and the consent of the traffic authority in whose area the street concerned is situated, which consent must not be unreasonably withheld, the promoter may, for the purposes of the authorised works—

- (a) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles in the manner specified in Parts 1 and 2 of Schedule 11 (traffic regulation) on those streets specified in column (2) and along the lengths and between the points specified in column (3) of that Part of that Schedule;
- (b) make provision as to the movement of vehicular traffic in the manner specified in Part 3 of Schedule 11 on the street specified in column (2) as respects direction to the extent specified in column (3) of that Part of that Schedule; and
- (c) permit or prohibit driving in the manner specified in Part 4 of Schedule 11 to that street specified in column (2) and along the lengths, between the points to the extent specified in column (3) of that Part of that Schedule.

(2) Without limitation on the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the consent of the traffic authority in whose area the street concerned is situated, which consent must not be unreasonably withheld, the promoter 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 works—

- (a) revoke, amend or suspend the 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 street;
- (c) authorise the use as a parking place of any street;
- (d) restrict the speed of vehicles along a street;
- (e) make provision as to the direction or priority of vehicular traffic on any street; and
- (f) permit or prohibit vehicular access to any street,

either at all times or at times, on days or during such periods as may be specified by the promoter.

(3) The powers conferred by paragraphs (1) and (2) may be exercised at any time prior to the expiry of 12 months from the opening of the authorised works for public use but subject to paragraph (7) any prohibition, restriction or other provision made under paragraph (1) or (2) may have effect both before and after the expiry of that period.

(4) The promoter must consult the chief officer of police and the traffic authority in whose area the street is situated before complying with the provisions of paragraph (5).

(5) The promoter must not exercise the powers conferred by paragraph (1) or (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 prohibition, restriction or other provision intended to have effect permanently; or
 - (ii) 4 weeks' notice in writing of its intention so to do in the case of a prohibition, restriction or other provision intended to have effect temporarily,

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

- (b) advertised its intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of the promoter's intention in the case of sub-paragraph (a) (i), or within 7 days of its receipt of notice of the promoter's intention in the case of sub-paragraph (a)(ii).

(6) Any prohibition, restriction or other provision made by the promoter under paragraph (1) or (2)—

(a) has effect as if duly made by, as the case may be—

the traffic authority in whose area the street is situated, as a traffic regulation order under the 1984 Act; or

the local authority in whose area the street 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 11) to which the prohibition, restriction or other provision is subject; and

(b) be deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004⁽¹⁾ (road traffic contraventions subject to civil enforcement).

(7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the promoter from time to time by subsequent exercise of the powers conferred by paragraph (2) within a period of 24 months from the opening of the authorised works for public use.

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

Defence to proceedings in respect of statutory nuisance

40.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990⁽²⁾ (summary proceedings by person aggrieved by statutory nuisances) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows—

(a) that the nuisance relates to premises used by the promoter for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to authorised works; and

(b) that the nuisance is attributable to the carrying out of authorised works which are being carried out in accordance with a notice served under section 60, or a consent given under section 61 or 65, of the Control of Pollution Act 1974 ⁽³⁾; or

(c) that the nuisance is a consequence of the operation of the authorised works and that it cannot reasonably be avoided.

(2) The following provisions of the Control of Pollution Act 1974, namely—

(a) section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990); and

(b) section 65(8) (corresponding provision in relation to consent for registered noise level to be exceeded),

do not apply where the consent relates to the use of premises by the promoter for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to works.

⁽¹⁾ 2004 c. 18.

⁽²⁾ 1990 c. 43.

⁽³⁾ 1974 c. 40.

(3) The provisions of this article do not affect the application to the authorised works of section 122 of the 1993 Act⁽⁴⁾ (statutory authority as a defence to actions in nuisance, etc.) or any rule of common law having similar effect.

Trespass

41.—(1) Any person who trespasses on any part of the land occupied by the promoter for the purposes of constructing the scheduled works is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) No person is to be convicted of an offence under this article unless it is shown that a notice warning the public not to trespass on such land was clearly exhibited and maintained in close proximity to all such land occupied by the promoter.

Disclosure of confidential information

42. A person who—

- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 14 (protective works to buildings, roads or apparatus of a statutory undertaker) or article 15 (power to survey and investigate land); and
- (b) discloses to any person any information obtained pursuant to sub-paragraph (a) and relating to any manufacturing process or trade secret,

is 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 that person's performance of a duty in connection with the purposes for which the person was authorised to enter the land.

Statutory undertakers etc.

43. The provisions of Schedule 12 (provisions relating to statutory undertaker etc.) have effect.

For the protection of specified undertakers

44. The provisions of Schedule 13 (for the protection of specified undertakers) have effect.

For the protection of operators of electronic communications code networks

45. The provisions of Schedule 14 (for the protection of operators of electronic communications code networks) have effect.

For the protection of the Trust

46. The provisions of Schedule 15 (for the protection of the Trust) have effect.

For the protection of the Environment Agency

47. The provisions of Schedule 16 (for the protection of the Environment Agency) have effect.

Certification of plans etc.

48. The promoter must, as soon as practicable after the making of this Order, submit copies of the book of reference, the deposited plans and the deposited sections to the Secretary of State for certification that they are, respectively, true copies of the book of reference, the deposited plans and

(4) 1993 c. 43 as amended by the Transport Act 2000 (c. 38) and the Railways Act 2005 (c. 14).

the deposited sections referred to in this Order; and a document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

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

- (a) by post; or
- (b) with the consent of the recipient and subject to paragraphs (6) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document 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⁽⁵⁾ as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person 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, the last known address of that person 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 the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person 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) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is taken to be fulfilled where the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission either in writing or by electronic transmission.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

(5) 1978 c. 30.

No double recovery

50. Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law.

Arbitration

51. Any difference under any provision of this Order, unless otherwise provided for, must 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 giving notice in writing to the other) by the President of the Institution of Civil Engineers.