
STATUTORY INSTRUMENTS

2017 No. 1214

**The Blackpool Tramway (Blackpool
North Extension) Order 2017**

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Blackpool Tramway (Blackpool North Extension) Order 2017 and comes into force on 4th January 2018.

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 1980 Act” means the Highways Act 1980⁽³⁾;

“the 1984 Act” means the Road Traffic Regulation Act 1984⁽⁴⁾;

“the 1990 Act” means the Town and Country Planning Act 1990⁽⁵⁾;

“the 1991 Act” means the New Roads and Street Works Act 1991⁽⁶⁾;

“the 1992 Act” means the Transport and Works Act 1992;

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

“the Applications Rules” means the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006;

“the authorised street tramway” means any street tramway authorised by this Order;

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

“the authorised tram system” means the existing tram system, together with the tram system (consisting of the authorised street tramway and the authorised tramroad) authorised by this Order, or any part of that system;

“the authorised works” means the scheduled works and any other works or operations authorised by this Order, or any part of them;

“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;

(1) 1961 c. 33.
(2) 1965 c. 56.
(3) 1980 c. 66.
(4) 1984 c. 27.
(5) 1990 c. 8.
(6) 1991 c. 22.

“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;

“cycle track” has the same meaning as in the 1980 Act;

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

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

“electric line” has the meaning given by section 64(1) of the Electricity Act 1989(7);

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form;

“the existing tram system” means the tram system comprised in the tramways undertaking referred to in section 70 (definition of tramways undertaking) of the County of Lancashire Act 1984(8) continued and maintained by the promoter under Head B (tramways undertaking) of Part 12 of that Act;

“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 mentioned in article 7(1)(a) and (2) for the scheduled works;

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

“the Order limits” means the permanent limits and the temporary limits;

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(9);

“parking place” has the same meaning as in section 32 (power of local authorities to provide parking places) of the 1984 Act;

“the permanent limits” means the limits of deviation and of land to be acquired or used as shown on the deposited plans, and described in the book of reference;

“the promoter” means the Blackpool Borough Council;

“public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board, a local authority or a harbour authority within the meaning of the Harbours Act 1964(10);

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

“street” includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act;

“street tramway” means any part of a tram system which is laid along a street whether or not the section of the street in which its rails are laid may be used by other traffic;

(7) 1989 c. 29.

(8) 1984 c. xxi.

(9) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

(10) 1964 c. 40.

“the temporary limits” means the limits of land to be used temporarily as shown on the deposited plans, described in the book of reference and specified in columns (1) and (2) of Schedule 5 (land of which temporary possession may be taken);

“the traffic regulation plan” means the plan certified by the Secretary of State as the traffic regulation plan for the purposes of this Order;

“tramcar” means any vehicle (whether or not used for the carriage of passengers) carried on flanged wheels along the rails of a street tramway or tramroad;

“tramroad” means any part of a tram system which is not a street tramway;

“tram services” means passenger services utilising the authorised tram system;

“tram system” means a system of transport consisting of a street tramway or a tramroad or any combination of those modes of transport;

“the tribunal” means the Lands Chamber of the Upper Tribunal; and

“vehicle” includes mobile traction unit.

(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 airspace above its surface.

(3) Any reference in this Order to a work identified by the number of the work is to 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 plot numbers shown on the deposited plans.

(5) References in this Order to points identified by letters and numbers are to be construed as references to the points marked on the deposited plans and the traffic regulation plan.

(6) All distances, directions and lengths 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 are taken to be measured along the scheduled work.

Application of enactments relating to railways

3.—(1) The provisions of the Regulation of Railways Acts 1840 to 1893 do not apply in relation to the authorised tram system.

(2) The provisions of the Highway (Railway Crossings) Act 1839⁽¹¹⁾ do not apply in relation to the authorised tram system.

(3) Nothing in this article affects the application to the authorised tramroad of sections 32 to 34 of the Offences Against the Person Act 1861⁽¹²⁾.

Application of Order to existing Blackpool Tramway

4.—(1) From the beginning of the day on which the tram system authorised by this Order is first operated pursuant to an agreement under article 46 (powers of disposal, agreements for operation, etc.), the following provisions of this Order are to apply to the whole of the authorised tram system as they apply to the tram system authorised by this Order—

(a) article 24 (mode of construction and operation of tram system);

(b) article 38 (power to charge fares);

(c) article 39 (removal of obstructions);

(d) article 40 (traffic signs);

⁽¹¹⁾ 1839 c. 45.

⁽¹²⁾ 1861 c. 100.

- (e) article 41 (traffic regulation);
- (f) article 43 (trespass on tramroad);
- (g) subject to paragraph (3), article 44 (power to make byelaws);
- (h) article 45 (power to contract for police services);
- (i) article 46 (powers of disposal, agreements for operation, etc.);
- (j) article 47 (application of landlord and tenant law);
- (k) article 48 (tramcars deemed public service vehicles);
- (l) article 49 (substitute road services);
- (m) Part 5 (penalty fares); and
- (n) article 62 (defence to proceedings in respect of statutory nuisance).

(2) The following provisions of the County of Lancashire Act 1984 are repealed at the beginning of the day on which the tram system authorised by this Order is first operated pursuant to an agreement under article 46 (powers of disposal, agreements for operations, etc.)—

- (a) section 73 (tramways to be kept on level of surface of road);
- (b) section 76 (provisions as to use of electrical energy);
- (c) section 77 (temporary stoppage of roads);
- (d) section 78 (removal of obstructions);
- (e) subject to paragraph (3), section 79 (byelaws as to tramways undertaking);
- (f) section 80 (regulations as to tramways undertaking);
- (g) section 81 (power to charge for use of tramway);
- (h) section 82 (application of lost property regulations); and
- (i) section 83 (application of Tramways Act 1870).

(3) From the beginning of the day on which section 79 of the County of Lancashire Act 1984 is repealed by paragraph (2)(e), and despite the repeal of that section—

- (a) any byelaws then applying to the existing tram system under that section are to continue to apply to the existing tram system until they are revoked or amended by byelaws made under article 44 (power to make byelaws); and
- (b) any byelaws then applying to the existing tram system under that section are to apply to the tram system authorised by this Order as if they were made under article 44, until they are revoked or amended by byelaws made under article 44.

Application, modification and exclusion of legislative provisions relating to street works

5.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act 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) (which defines what highway authority works are major highway works) of that Act; 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(13) (dual carriageways and roundabouts) of the 1980 Act or section 184 (vehicle crossings) of that Act.

(13) As amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).

(2) In Part 3 of the 1991 Act references, in relation to major highway works, to the highway authority concerned are, in relation to works which are major transport works by virtue of paragraph (1), to be construed as references to the promoter.

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—

- section 56 (directions as to timing);
- section 56A (power to give directions as to placing of apparatus);
- section 58 (restrictions following substantial road works);
- section 58A (restriction on works following substantial street works);
- section 73A (power to require undertaker to re-surface street);
- section 73B (power to specify timing etc. of re-surfacing);
- section 73C (materials, workmanship and standard of re-surfacing);
- section 78A (contributions to costs of re-surfacing by undertaker); and
- Schedule 3A (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) which, together with other provisions of that Act, apply in relation to the execution of street works and any regulations made, or code of practice issued or approved under, those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street by the promoter under the powers conferred by this Order whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act(**14**) referred to in paragraph (4) are—

- section 54(**15**) (advance notice of certain works) subject to paragraph (6);
- section 55(**16**) (notice of starting date of works) subject to paragraph (6);
- section 57(**17**) (notice of emergency works);
- section 59(**18**) (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 75 (inspection fees);
- 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.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) 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.

(7) Nothing in article 14 (construction and maintenance of new, altered or diverted streets)—

- (a) prejudices the operation of section 87 (prospectively maintainable highways) of the 1991 Act; and the promoter is not, by reason of any duty under that article to maintain a street,

(14) Sections 54, 55, 57, 60, 68 and 69 were amended by sections 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

(15) As also amended by section 49(1) of the Traffic Management Act 2004.

(16) As also amended by sections 49(2) and 51(9) of the Traffic Management Act 2004.

(17) As also amended by section 52(3) of the Traffic Management Act 2004.

(18) As amended by section 42 of the Traffic Management Act 2004.

to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or

- (b) has effect in relation to street works as respects which the provisions of Part 3 of the 1991 Act apply.

(8) To such extent as is reasonably necessary for protecting the authorised street tramway and its operation and use the promoter has the same powers as respects reinstatement as a street authority has under section 72 (powers of street authority in relation to reinstatement) of the 1991 Act.

(9) In its application to the authorised tram system section 93(3) (works affecting level crossings or tramways) of the 1991 Act also permits the promoter to make reasonable requirements—

- (a) for allowing it facilities to monitor the execution of the works; and
 (b) for the protection of the authorised tram system.

PART 2

WORKS PROVISIONS

Principal powers

Power to construct and maintain works

6.—(1) The promoter may construct and maintain the scheduled works.

(2) Subject to article 7 (power to deviate), the scheduled works may only be constructed in the lines or situations shown on the deposited plans and in accordance with the levels shown on the deposited sections.

(3) Subject to paragraph (7), the promoter may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the scheduled works, namely—

- (a) stations, platforms, junctions and tram stops;
 (b) works required for, or in connection with, the control of any vehicular and pedestrian traffic on the authorised tram system;
 (c) works required for the strengthening, improvement, repair or reconstruction of any street;
 (d) works for the strengthening, alteration or demolition of any building or structure;
 (e) works to remove or to alter the position of any street furniture or apparatus, including mains, sewers, drains, pipes, cables and lights;
 (f) landscaping, ecological and other works to mitigate any adverse effects of the construction, maintenance or operation of the other authorised works;
 (g) earthworks required for the carrying out of the authorised works; and
 (h) facilities and works for the benefit or protection of land or premises affected by the other authorised works.

(4) Subject to paragraph (7), the promoter may carry out and maintain such other works (of whatever nature) as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the authorised works.

(5) The promoter may remove any works constructed by it under this Order which have been constructed as temporary works or which it no longer requires.

(6) Where the promoter lays down conduits for the accommodation of cables or other apparatus for the purposes of or associated with the authorised works it may provide in, or in connection with, such conduits, accommodation for the apparatus of any other person, and manholes and other facilities for access to such accommodation, and may permit the use of such conduits and facilities on such terms and conditions as may be agreed between it and such other person.

(7) Paragraphs (3) and (4) only authorise the carrying out or maintenance of works—

- (a) within the Order limits; or
- (b) within the boundaries of any street.

(8) The powers of this article must not be exercised within the boundaries of a street outside of the Order limits without the consent of the street authority but such consent must not be unreasonably withheld.

(9) Regardless of the powers conferred by paragraph (3)(e) the promoter and a person responsible for any street furniture or apparatus may enter into agreements for that person to undertake under the powers conferred by this article or under its own powers any works to the apparatus which may be required by the promoter for the purposes of, or for purposes ancillary to, the construction of the scheduled works.

(10) The scheduled works may be constructed and maintained regardless of anything contained in or done under Head C (The Promenade) of Part 12 of the County of Lancashire Act 1984(19).

Power to deviate

7.—(1) In constructing or maintaining any of the scheduled works, the promoter may—

- (a) deviate laterally from the lines or situations shown on the deposited plans within the Order limits; and
- (b) deviate vertically from the levels shown on the deposited sections—
 - (i) to any extent upwards not exceeding 3 metres; and
 - (ii) to any extent downwards as may be found to be necessary or convenient.

(2) In constructing or maintaining any work or part of a work shown on the deposited plans as being situated in a street and for which no limits of deviation are shown on those plans, the promoter may deviate laterally within the boundaries of that street.

(3) The promoter may, in constructing or maintaining any of the authorised street tramway, lay down—

- (a) double lines of rails in place of single lines;
- (b) single lines of rails in place of double lines;
- (c) interlacing lines of rails in place of double or single lines; or
- (d) double or single lines of rails in place of interlacing lines.

(4) The power in paragraph (3) must not be exercised in the case of any authorised street tramway without the consent of the street authority, but such consent must not be unreasonably withheld.

(5) The promoter may in constructing or maintaining any of the authorised street tramway lay down such number of switches and crossings as may be necessary or expedient.

(6) The promoter may in constructing and maintaining any of the authorised tramroad provide within the limits of deviation for the tramroad such number of lines of rails and sidings, switches and crossings as may be necessary or expedient.

(7) Without limitation on the scope of paragraph (1), in constructing or maintaining the scheduled works the promoter may, to the extent it thinks fit, deviate laterally from their points of commencement and termination shown on the deposited plans.

Designation of works

8.—(1) Regardless of anything in the description of the scheduled works—

- (a) the whole or any part of an authorised street tramway may be constructed within the limits of deviation for that work off-street as a tramroad, and so far as it is so constructed is treated for the purposes of this Order as if it were so designated; and
- (b) the whole or any part of an authorised tramroad may be constructed within the limits of deviation for that work along a street as a street tramway, and so far as it is constructed is treated for the purposes of this Order as if it were so designated.

(2) Where, by means of the creation or extinguishment of rights of way, any part of the authorised tram system which has been constructed as a tramroad becomes a street tramway, or any part which was constructed as a street tramway becomes a tramroad, it is treated for the purposes of this Order as if it were so designated.

Streets

Power to alter layout, etc., of streets

9.—(1) The promoter may alter the layout of, and carry out other ancillary works in, any street specified in column (1) of Schedule 2 (streets subject to alteration of layout) in the manner specified in relation to that street in column (2) of that Schedule.

(2) Without limitation on the scope of the specific powers conferred by article 6 (power to construct and maintain works) or paragraph (1) but subject to paragraph (3), the promoter may for the purpose of constructing, maintaining or using any authorised street tramway alter the layout of the street along which the street tramway is or is to be laid and the layout of any street having a junction with such a street; and, without limitation on the scope of those powers, the promoter may—

- (a) increase or reduce the width of the whole or part of any carriageway, kerb, footway, cycle track or verge within the street;
- (b) alter the level of the whole or part of any such carriageway, kerb, footway, cycle track or verge;
- (c) replace or alter the surface or surface treatment of the street;
- (d) reduce the width of the carriageway of the street by forming a reserved area in the street as a stopping place for tramcars or by carrying out other works for that purpose;
- (e) carry out works for the provision or alteration of parking places, loading bays, bus stop clearways, cycle tracks and bus laybys;
- (f) carry out traffic calming works which are of a description prescribed in the Highways (Traffic Calming) Regulations 1999⁽²⁰⁾ and which are carried out in compliance with those regulations;
- (g) carry out works to the street for the purpose of deterring or preventing vehicles other than tramcars from passing along the tram system; and
- (h) make and maintain crossovers, sidings or passing places.

(20) S.I. 1999/1026.

(3) The powers in paragraph (2) must not be exercised without the consent of the street authority, but such consent must not be unreasonably withheld.

Power to keep apparatus in streets

10.—(1) The promoter may, for the purposes of or in connection with the construction, maintenance and use of the authorised tram system, place and maintain in any street any work, equipment or apparatus including, without limitation on the scope of the foregoing, foundations, platforms, road islands, substations, electric lines and any electrical or other apparatus.

(2) The powers of this article must not be exercised within the boundaries of a street outside of the Order limits without the consent of the street authority but such consent must not be unreasonably withheld.

(3) In this article—

- (a) “apparatus” has the same meaning as in Part 3 of the 1991 Act; and
- (b) the reference to any work, equipment, apparatus or other thing in a street includes a reference to any work, equipment, apparatus or other thing under, over, along or upon the street.

Power to execute street works

11.—(1) The promoter may, for the purpose of exercising the powers conferred by article 10 (power to keep apparatus in streets) or any other provision of this Order, enter upon any street, and may execute any works required for or incidental to the exercise of those powers including, without limitation on the scope of those powers, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street.

(2) The powers of this article must not be exercised within the boundaries of a street outside of the Order limits without the consent of the street authority but such consent must not be unreasonably withheld.

Temporary stopping up of streets

12.—(1) The promoter may, during and for the purposes of the execution of the authorised works temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limitation on the scope of paragraph (1), the promoter may use any street stopped up under the powers conferred by this article as a temporary working site.

(3) The promoter must provide at all times reasonable access for pedestrians going to or from premises abutting a street affected by the exercise of the powers conferred by this article if there would otherwise be no such access.

(4) Without limitation on the scope of paragraph (1), the promoter may exercise the powers conferred by this article in relation to the streets specified in column (1) of Schedule 3 (streets to be temporarily stopped up) to the extent specified in column (2) of that Schedule.

(5) The promoter must not exercise the powers conferred by this article—

- (a) in relation to any street specified as mentioned in paragraph (4) that is not a highway, without first consulting the street authority; and
- (b) in relation to any other street without the consent of the street authority, but such consent must not be unreasonably withheld.

(6) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(7) The powers conferred by this article may be exercised despite anything contained in or done under Head C (The Promenade) of Part 12 of the County of Lancashire Act 1984(21).

Access to works

13. The promoter may, for the purposes of the construction, operation or maintenance of the authorised works, form and lay out such means of access or improve such existing means of access, to any street, as may be approved by the highway authority, but such approval must not be unreasonably withheld.

Construction and maintenance of new, altered or diverted streets

14.—(1) Any street to be constructed under this Order must be completed to the reasonable satisfaction of the highway authority and must, unless otherwise agreed between the promoter and the highway authority, be maintained by and at the expense of the promoter for a period of 18 months from its completion and from the expiry of that period by and at the expense of the highway authority.

(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street must, when completed to the reasonable satisfaction of the street authority, unless otherwise agreed, be maintained by and at the expense of the promoter for a period of 18 months from its completion and from the expiry of that period by and at the expense of the street authority.

(3) In any action against the promoter in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the promoter had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(4) For the purposes of a defence under paragraph (3), the court must in particular have regard to the following matters—

- (a) the character of the street including its use for a tramway, and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the promoter knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the promoter could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the promoter had arranged for a competent person to carry out or supervise the maintenance of that part of the street to which the action relates unless it is also proved that the promoter had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

Restoration of streets if street tramway discontinued

15. If the promoter abandons the construction of, or permanently ceases to operate any of the authorised street tramway (“the discontinued tramway”), it must as soon as reasonably practicable and unless otherwise agreed with the street authority—

- (a) remove from any street in which the discontinued tramway is laid the rails and any other works, equipment and apparatus which have become redundant; and
- (b) restore, to the reasonable satisfaction of the street authority, the portion of the street along which the discontinued tramway was laid, regard being had to the condition of the street before the tramway was laid.

Agreements with street authorities

16.—(1) A street authority and the promoter may enter into agreements with respect to—

- (a) the construction of any new street under the powers conferred by this Order;
 - (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
 - (c) the maintenance of any street along or across which a street tramway is laid;
 - (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
 - (e) the execution in the street of any of the works referred to in article 11 (power to execute street works).
- (2) Such an agreement may, without limitation on the scope of paragraph (1)—
- (a) provide for the street authority to carry out any function under this Order which relates to the street in question; and
 - (b) contain such terms as to payment and otherwise as the parties consider appropriate.

New road crossings

17.—(1) Where by virtue of the creation of a highway or other road after the day on which application was made for this Order under section 6 (applications for orders under sections 1 and 3) of the 1992 Act, any authorised tramroad would cross that highway or road, then the promoter may construct the tramroad so as to carry it on the level across the highway or road.

(2) The promoter may provide, maintain and operate at or near any new road crossing such protective equipment as the Health and Safety Executive may in writing approve.

(3) Any traffic sign placed pursuant to this article on or near a highway or other road to which the public has access is to be treated for the purposes of section 64(4)(22) (general provisions as to traffic signs) of the 1984 Act as having been placed as provided by that Act.

(4) Without limitation on the scope of article 9 (power to alter layout, etc., of streets), the promoter may in the exercise of the powers of this article alter the level of any highway or road referred to in paragraph (1).

(5) The highway authority may enter into agreements with the promoter with respect to the construction and maintenance of any new road crossing; and such an agreement may contain such terms as to payment or otherwise as the parties consider appropriate.

(6) In this article—

“new road crossing” means the place at which an authorised tramroad crosses a highway or other road on the level under the powers conferred by this article; and

“protective equipment” includes lights, traffic signs (within the meaning of section 64(1) of the 1984 Act), manual, mechanical, automatic, electrical or telephonic equipment or other devices.

Supplemental powers

Attachment of equipment to buildings

18.—(1) Subject to the following provisions of this article, the promoter may affix to any building for the time being constructed on any land mentioned in the book of reference—

- (a) any brackets, cables, wires, insulators and other apparatus required in connection with the authorised tram system; and
- (b) any lamps, brackets, pipes, electric lines and other apparatus required for the provision of additional or substitute street lighting in consequence of the construction of the authorised tram system.

(2) The promoter must not under the powers conferred by this article affix any apparatus to a building without the written consent of the relevant owner of the building; and such consent may be given subject to reasonable conditions (including, where appropriate, the payment of rent) but must not be unreasonably withheld.

(3) Where—

- (a) the promoter serves on the relevant owner of a building a notice requesting the owner’s consent to the affixing of specified apparatus to the building; and
- (b) the relevant owner does not within the period of 56 days beginning with the date upon which the notice is served give consent unconditionally or give it subject to conditions or refuse it,

the consent is deemed to have been withheld.

(4) Where, in the opinion of the promoter, a consent required under this article for the affixing of specified apparatus is unreasonably withheld or given subject to unreasonable conditions, the promoter may apply to the magistrates’ court, who may either allow the apparatus to be affixed subject to such conditions, if any, as it thinks fit or may disallow the application.

(5) Where apparatus is affixed to a building under this article—

- (a) any owner for the time being of the building may serve on the promoter not less than 56 days’ notice requiring the promoter at its own expense temporarily to remove the apparatus during any reconstruction, demolition or repair of the building if such removal is reasonably necessary for that purpose; and
- (b) the promoter has the right as against any person having an interest in the building to use and maintain the apparatus.

(6) Where, in the opinion of the promoter, a requirement temporarily to remove any apparatus affixed to a building under this article during any reconstruction, demolition or repair of the building is not reasonably necessary for that purpose, the promoter may refer the matter to an arbitrator under article 66 (arbitration), who may either allow the apparatus to be temporarily removed or may order that it must not be temporarily removed.

(7) The promoter must pay compensation to the owners and occupiers of the building for any loss or damage sustained by them by reason of the exercise of the powers conferred by paragraphs (1) and (5)(b); and any dispute as to a person’s entitlement to compensation, or as to the amount of the compensation, is determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

- (8) In this article “relevant owner” means—
- (a) in relation to a building occupied under a lease or tenancy having an unexpired term exceeding 5 years, means that occupier of the building; or
 - (b) in relation to any other building, means the person for the time being receiving the rack rent of the building whether on the person’s own account or as agent or trustee for any other person, or who would so receive it if the building were let at a rack rent.

Discharge of water

19.—(1) The promoter may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction, operation or maintenance of the authorised works and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits or in any street along which any authorised street tramway is authorised to be laid, make openings into, and connections with, the watercourse, sewer or drain.

(2) Any dispute arising from the exercise of the powers conferred by paragraph (1) to connect to or use a public sewer or drain is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991**(23)**.

(3) The promoter must not discharge any water into any watercourse, public sewer or drain except with the consent of the authority to which it belongs; and such consent may be given subject to such terms and conditions as the authority may reasonably impose but must not be unreasonably withheld.

(4) The promoter must not make any opening into any public sewer or drain except in accordance with plans approved by, and under the superintendence (if provided) of, the authority to which the sewer or drain belongs, but such approval must not be unreasonably withheld.

(5) The promoter must not, in the exercise of the powers conferred by this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The promoter must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance or oil or matter in suspension or any other potentially polluting material.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016**(24)**.

- (8) In this article—
- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board, a local authority, or a harbour authority within the meaning of the Harbours Act 1964**(25)**;
 - (b) “watercourse” includes all docks, rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows, except a public sewer or drain; and
 - (c) other expressions used both in this article and in the Water Resources Act 1991**(26)** have the same meaning as in that Act.

(23) 1991 c. 56. Section 106 was amended by sections 35(1) and (8) and 43(2) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(24) S.I. 2016/1154.

(25) 1964 c. 40.

(26) 1991 c. 57.

Safeguarding works to buildings

20.—(1) Subject to the following provisions of this article, the promoter may at its own expense and from time to time carry out such safeguarding works to any building lying within the Order limits as the promoter considers to be necessary or expedient.

(2) Safeguarding works may be carried out—

- (a) at any time before or during the construction, in the vicinity of the building, of any part of the authorised works (other than works authorised by this article); or
- (b) after the completion of the construction of that part of the authorised works (other than works authorised by this article), at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised works is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the promoter may (subject to paragraph (5)) enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out safeguarding works under this article to a building the promoter may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land adjacent to the building, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out safeguarding works to a building;
- (b) a right under paragraph (3) to enter a building and any within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building or land and any land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the promoter must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and in a case falling within sub-paragraph (a) or (c), specifying the safeguarding works proposed to be carried out.

(6) Where notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the safeguarding works or to enter the building or land to be referred to arbitration under article 66 (arbitration).

(7) The promoter must compensate the owners and occupiers of any building or land in relation to which the powers of this article have been exercised for any loss or damage arising to them by reason of the exercise of those powers.

(8) Where—

- (a) safeguarding works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised works constructed within the vicinity of the building is first opened for use, it appears that the safeguarding works are inadequate to protect the building against damage caused by the construction or operation of that part of the works,

the promoter must compensate the owners and occupiers of the building for any damage sustained by them.

(9) Without affecting article 65 (no double recovery), nothing in this article relieves the promoter from any liability to pay compensation under section 10(2)(27) (further provision as to compensation for injurious affection) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) In this article “safeguarding works”, in relation to a building, means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, maintenance or operation of the authorised works;
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, maintenance or operation of the authorised works; and
- (c) any works the purpose of which is to secure the safe operation of the tram system or to prevent or minimise the risk of such operation being disrupted.

Power to construct temporary street tramway

21.—(1) The promoter may, if it considers it necessary or expedient in consequence of any works executed or proposed to be executed in a street along which an authorised street tramway is constructed—

- (a) remove or discontinue the operation of the authorised street tramway; and
- (b) lay, maintain and operate in that street or in a street near to that street a temporary street tramway in lieu of the authorised street tramway.

(2) The powers conferred by this article may only be exercised with the consent of the street authority but such consent must not be unreasonably withheld.

(3) The provisions of article 9(2) (power to alter layout etc., of streets), article 10 (power to keep apparatus in streets), article 11 (power to execute street works) and article 40 (traffic signs) apply in relation to any temporary street tramway laid under this article as they apply in relation to the authorised street tramway.

Planning permission

22.—(1) Planning permission which is deemed by a direction under section 90(2A)(28) (development with government authorisation) of the 1990 Act to be granted in relation to the authorised works is to be treated as specific planning permission for the purposes of section 264(3) (a) (cases in which land is to be treated as operational land for the purposes of that Act) of that Act.

Power to survey and investigate land, etc.

23.—(1) The promoter may for the purposes of this Order—

- (a) survey or investigate any land within the Order limits, any street along which any authorised street tramway is authorised to be laid and any street having a junction with such a street;
- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions as the promoter thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;

(27) Section 10 was amended by section 4 of, and paragraph 13(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.

(28) Section 90(2A) was inserted by section 16(1) of the Transport and Works Act 1992 (c. 42).

- (c) without limitation on the scope of sub-paragraph (a), carry out archaeological investigations on any such land;
 - (d) take steps to protect or remove any flora or fauna on the land where the flora or fauna may be affected by the carrying out of the authorised works;
 - (e) place on, leave on and remove from the land apparatus for use in connection with the exercise of any of the powers conferred by sub-paragraphs (a) to (d); and
 - (f) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (e).
- (2) No land may be entered, or equipment placed or left on or removed from the land, under paragraph (1), unless at least 7 days' notice has been served on every owner and occupier of the land.
- (3) Any person entering land under this article on behalf of the promoter—
- (a) must, if so required, before or after entering the land produce written evidence of the person's authority to do so; and
 - (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.
- (4) No trial holes are to be made under this article in a carriageway or footway without the consent of the street authority, but such consent must not be unreasonably withheld.
- (5) The promoter must pay compensation for any damage occasioned, by the exercise of the powers conferred by this article, to the owners and occupiers of the land, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.
- (6) Nothing in this article overrides the requirement to obtain scheduled monument consent under the Ancient Monuments and Archaeological Areas Act 1979(29).

Mode of construction and operation of tram system

- 24.—(1) The authorised tram system is to be operated by electricity or, in an emergency or for the purposes of maintenance, by diesel power or other means.
- (2) The authorised street tramway and authorised tramroad is to be constructed on a nominal gauge of 1,435 millimetres.
- (3) Where a tramway is constructed along a street or in any place to which the public has access (including any place to which the public has access only on making a payment), the promoter must take such care as in all the circumstances is reasonable to ensure that the tramway is constructed and maintained so that the street or other place is safe for other users.
- (4) When considering what measures are required under paragraph (3) the promoter must have particular regard to the character and usage of the street or other place and to those who could reasonably be expected to use it.
- (5) Where the authorised street tramway has been constructed in a street, works by any person which affect or are likely to affect the promoter's obligations under paragraph (3), including works to any street surfaces and works affecting any equipment or apparatus placed in the street under article 10 (power to keep apparatus in streets) must not be carried out without the consent of the promoter, which may be given subject to such reasonable terms and conditions as the promoter may require but must not be unreasonably withheld.

Obstruction of construction of authorised works

25. Any person who, without reasonable excuse—

- (a) obstructs another person from constructing any of the authorised works under the powers conferred by this Order; 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.

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

26. The promoter may acquire compulsorily so much of the land shown on the deposited plans as lying within the permanent limits as may be required for or in connection with the authorised works and may use any land so acquired for those purposes or for any other purposes that are ancillary to its tram system undertaking.

Application of Part 1 of the 1965 Act

27.—(1) Part 1 of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, applies to the acquisition of land under this Order—

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981⁽³⁰⁾ applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part 1 of the 1965 Act, as applied by paragraph (1), has effect with the following modifications.

(3) Omit section 4 (which provides a time limit for compulsory purchase of land).

(4) In section 4A(1)⁽³¹⁾(extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase order), the three year period mentioned in section 4”, substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 36 (time limit for exercise of powers of acquisition) of the Blackpool Tramway (Blackpool North Extension) Order 2017⁽³²⁾”.

(5) In section 11A⁽³³⁾ (powers of entry: further notices of entry)—

- (a) in subsection (1)(a), after “land” insert “under that provision”;
- (b) in subsection (2), after “land” insert “under that provision”.

(6) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 36 (time limit for exercise of powers of acquisition) of the Blackpool Tramway (Blackpool North Extension) Order 2017”.

⁽³⁰⁾ 1981 c. 67.

⁽³¹⁾ As inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).

⁽³²⁾ S.I. 2017/1214.

⁽³³⁾ As inserted by section 186(3) of the Housing and Planning Act 2016.

- (7) In Schedule 2A(34) (counter-notice requiring purchase of land not in notice to treat)—
- (a) for paragraphs 1(2) and 14(2) substitute—
- “(2) But see article 30(3) (power to acquire subsoil only) of the Blackpool Tramway (Blackpool North Extension) Order 2017, which excludes the acquisition of subsoil only from this Schedule.”;
- (b) after paragraph 29, insert—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 20 (safeguarding works to buildings), 32 (temporary use of land for construction of works) or 33 (temporary use of land for maintenance of works) of the Blackpool Tramway (Blackpool North Extension) Order 2017.”

Application of Compulsory Purchase (Vesting Declarations) Act 1981

28.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(35) applies as if this Order were a compulsory purchase order.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as applied by paragraph (1), has effect with the following modifications.

(3) In section 5 (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.

(4) Omit section 5A(36) (time limit for general vesting declaration).

(5) In section 5B(37) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 and 3), the five year period mentioned in article 36 (time limit for exercise of powers of acquisition) of the Blackpool Tramway (Blackpool North Extension) Order 2017”.

(6) In section 6(38) (notices after execution of declaration), in subsection (1)(b), for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 14A of the Transport and Works Act 1992”.

(7) In section 7(39) (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(8) In Schedule A1(40) (counter-notice requiring purchase of land not in general vesting declaration) for paragraph 1(2) substitute—

“(2) But see article 30(3) (power to acquire subsoil only) of the Blackpool Tramway (Blackpool North Extension) Order 2017, which excludes the acquisition of subsoil only from this Schedule.”

(34) As inserted by paragraph 3 of Schedule 3 to the Housing and Planning Act 2016 (c. 22).

(35) 1981 c. 66.

(36) As inserted by section 182(2) of the Housing and Planning Act 2016 (c. 22).

(37) As inserted by section 202(2) of the Housing and Planning Act 2016 (c. 22).

(38) As amended by paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016 (c. 22).

(39) As amended by paragraph 3 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(40) As inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(9) References to the 1965 Act are construed as references to that Act as applied to the acquisition of land by article 27 (application of Part 1 of the 1965 Act).

Powers to acquire new rights

29.—(1) The promoter may compulsorily acquire such easements or other rights over any land within the permanent limits as may be required for any purpose for which that land may be acquired, by creating them as well as by acquiring easements or other rights already in existence.

(2) Subject to Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 5(8) of Schedule 4 (modification of compensation and compulsory purchase enactments for creation of new rights)), where the promoter acquires a right over land under paragraph (1) the promoter is not required to acquire a greater interest in that land.

(3) Schedule 4 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right.

Powers to acquire subsoil only

30.—(1) The promoter may compulsorily acquire so much of the subsoil of the land within the permanent limits as may be required for any purpose for which that land may be acquired instead of acquiring the whole of the land.

(2) Where the promoter acquires any part of the subsoil of land under paragraph (1) the promoter is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the Compulsory Purchase (Vesting Declarations) Act 1981; and
- (c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the Town and Country Planning Act 1990.

(4) Paragraphs (2) and (3) are to be disregarded where the promoter acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Rights under or over streets

31.—(1) The promoter may enter upon and appropriate so much of the surface, subsoil of, or airspace over, any street shown on the deposited plans and described in the book of reference as may be required for the purposes of the authorised works and may use the surface, subsoil and airspace for those purposes or any other purpose ancillary to its tram system undertaking.

(2) Subject to paragraph (4), the power under paragraph (1) may be exercised in relation to a street without the promoter being required to acquire any part of the street or any easement or right in the street.

(3) Any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the promoter acquiring any part of that person's interest in the land, and who suffers loss by the exercise of that power, is entitled to compensation, the amount of such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting on to the street.

(5) Compensation is not payable under paragraph (3) to any person who is an undertaker, to whom section 85 (sharing of cost of necessary measures) of the 1991 Act applies, in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary possession of land

Temporary use of land for construction of works

32.—(1) The promoter may, in connection with the carrying out of the authorised works—

- (a) enter upon and take temporary possession of—
 - (i) so much of the land specified in columns (1) and (2) of Schedule 5 (land of which temporary possession may be taken) as shown on the deposited plans as lying within the temporary limits for the purpose specified in relation to that land in column (3) of that Schedule relating to the scheduled works specified in column (4) of that Schedule; and
 - (ii) any of the land within the permanent limits in respect of which no notice of entry has been served under section 11(41) (powers of entry) of the 1965 Act or no declaration has been made under section 4(42) (execution of declaration) of the Compulsory Purchase (Vesting Declarations) Act 1981;
- (b) remove any buildings and vegetation from that land; and
- (c) construct temporary works (including the provision of means of access) and buildings on the land.

(2) Not less than 14 days before exercising the powers of paragraph (1) the promoter must serve notice of the intended entry on the owners and occupiers of the land.

(3) The promoter may not, without the agreement of the owners of the land, remain in possession of any land of which temporary possession has been taken under this article—

- (a) in the case of land lying within the temporary limits, after the end of the period of 2 years beginning with the date of completion of the work or works specified in relation to that land in column (4) of Schedule 5; or
- (b) in the case of land within the permanent limits, after the end of the period of 2 years beginning with the date of completion of the work or works for which temporary possession of the land was taken unless the promoter has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the promoter must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the promoter is not required to replace a building removed under this article.

(41) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and S.I. 2009/1307.

(42) Section 4 was amended by section 184 and 185 of, and paragraph 1 and 2 of Schedule 18 to, the Housing and Planning Act 2016 (c. 22).

(5) The promoter must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) Without affecting article 65 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2)(43) (further provision as to compensation for injurious affection) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (5).

(8) Where the promoter takes possession of land under this article, it is not required to acquire the land or any interest in it.

(9) Section 13(44) (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 27(1) (application of Part 1 of the 1965 Act).

Temporary use of land for maintenance of works

33.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any of the scheduled works, the promoter may—

- (a) enter upon and take temporary possession of any land within the Order limits and lying within 20 metres from that work if such possession is reasonably required for the purpose of maintaining the work or any ancillary works connected with it or securing the safe operation of any such work; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the promoter to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the promoter must serve notice of the intended entry on the owners and occupiers of the land.

(4) The promoter may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of works for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the promoter must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The promoter must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(43) Section 10 was amended by section 4 of, and paragraph 13(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.

(44) Section 13 was amended by sections 62(3) and 139 of, and paragraph 27 and 28 of Schedule 13, and Part 3 of Schedule 23, to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(8) Without prejudice to article 65 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2) (further provision as to compensation for injurious affection) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the promoter takes possession of land under this article, it is not required to acquire the land or any interest in it.

(10) The powers of this article must not be exercised in relation to any street without the consent of the street authority, which must not be unreasonably withheld.

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 27(1) (application of Part 1 of the 1965 Act).

(12) In this article—

- (a) “the maintenance period”, in relation to a scheduled work, means the period of 5 years beginning with the date on which the work is opened for public use; and
- (b) any reference to land within a specified distance of a work includes, in the case of a work under the surface of the ground, a reference to land within the specified distance of the point on the surface below which the work is situated.

Compensation

Disregard of certain interests and improvements

34.—(1) In assessing the compensation payable to any person on the acquisition from that person of any land under this Order, the tribunal must not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

Supplementary

Extinction or suspension of private rights of way

35.—(1) Subject to the provisions of this article, all private rights of way over land subject to compulsory acquisition under this Order are extinguished—

- (a) as from the acquisition of the land by the promoter, whether compulsorily or by agreement; or
- (b) on the entry on the land by the promoter under section 11(1)(45) (powers of entry) of the 1965 Act,

(45) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5

whichever is sooner.

(2) Subject to the provisions of this article, all private rights of way over land owned by the promoter which is within the permanent limits and is required for the purposes of this Order, are extinguished on the appropriation of the land for any of those purposes by the promoter.

(3) Subject to the provisions of this article, all private rights of way over land of which the promoter takes temporary possession under this Order are suspended and unenforceable for as long as the promoter remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) This article does not apply in relation to any right of way to which section 271 or 272 (extinguishment of rights of statutory undertakers, etc.) of the 1990 Act⁽⁴⁶⁾ applies.

(6) Paragraphs (1), (2) and (3) have effect subject to—

(a) any notice given by the promoter before

- (i) the completion of the acquisition of;
- (ii) the promoter's appropriation of;
- (iii) the promoter's entry onto; or
- (iv) the promoter's taking temporary possession of,

the land, that any or all of those paragraphs do not apply to any right of way specified in the notice; and

(b) any agreement made (whether before or after any of the events mentioned in subparagraph (a) and before or after the coming into force of this Order) between the promoter and the person in or to whom the right of way in question is vested or belongs.

(7) If any such agreement as is referred to in paragraph (6)(b) which is made with a person in or to whom the right of way is vested or belongs is expressed to have effect also for the benefit of those deriving title from or under the person, it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

Time limit for exercise of powers of acquisition

36.—(1) After the end of the period of five years beginning with the day on which this Order comes into force—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act, as applied to the acquisition of land by article 27 (application of Part 1 of the 1965 Act); and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the Compulsory Purchase (Vesting Declarations) Act 1981, as applied by article 28 (application of Compulsory Purchase (Vesting Declarations) Act 1981)⁽⁴⁷⁾.

(2) The powers conferred by article 32 (temporary use of land for construction of works) to enter upon and take temporary possession of land cease at the end of the period mentioned in paragraph (1); but nothing in this paragraph prevents the promoter from remaining in possession of land in accordance with article 33 (temporary use of land for maintenance of works) after the end of that period, if the land was entered and possession of it was taken before the end of that period.

to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.
⁽⁴⁶⁾ Section 272 was amended by paragraph 103(1) and (2) of Schedule 17 to the Communications Act 2003 (c. 21).
⁽⁴⁷⁾ 1981 c. 66. Section 4 was amended by sections 184 and 185 of, and paragraphs 1 and 2 of Part 1 of Schedule 18 to, the Housing and Planning Act 2016 (c. 22).

PART 4

OPERATION OF TRAM SYSTEM

Power to operate and use tram system

37.—(1) The promoter 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) and article 46 (powers of disposal, agreements for operation, etc.), the promoter, for the purpose of operating the tram system, has 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 the promoter or other reasonable excuse, uses the apparatus mentioned in paragraph (2) is 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 restricts 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.

Power to charge fares

38. The promoter 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

39.—(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 must remove it immediately; and if that person fails to do so the promoter 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 that person shows that that person 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 must immediately remove the load from the tram system; and if that person fails to do so, the promoter 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 the person shows that, at that time, the person 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 is 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 is 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(48).

Traffic signs

40.—(1) The promoter may, for the purposes of, or in connection with the operation of, the authorised tram system, place or maintain traffic signs on any street in which the authorised tram system is laid or which gives access to such a street.

(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, accordingly, the powers conferred by paragraph (1) is 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 must consult with the promoter as to the placing of any traffic sign which would affect the operation of the authorised tram system.

(5) Tramcars are taken to be public service vehicles for the purposes of section 122(2)(c) (exercise of functions by local authorities) of the 1984 Act.

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

Traffic regulation

41.—(1) Subject to the provisions of this article the promoter 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 public use—

- (a) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles in the manner specified in Part 1 of Schedule 6 (traffic regulation) 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 6 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 6 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; and
- (d) permit or prohibit vehicular access in the manner specified in Part 4 of Schedule 6 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.

(2) Without limitation on the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article 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 tram system, at any time prior to the expiry of 12 months from the opening of that system for public use—

- (a) revoke, amend or suspend 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,

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

(3) The promoter must 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 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
- (b) advertised its intention in such manner as it considers appropriate.

(4) Any prohibition, restriction or other provision made by the promoter under paragraph (1) or (2) has 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(49) (power of local authorities to provide parking spaces) of the 1984 Act,

and the instrument by which it is effected may specify savings and exemptions (in addition to those mentioned in Schedule 6) to which the prohibition, restriction or other provision is subject.

(5) 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 of paragraph (2) within a period of 24 months from the opening of the authorised tram system for use.

(6) Before exercising the powers of paragraph (2) of this article the promoter must consult such persons as it considers necessary and appropriate and must take into consideration any representations made to it by any such person.

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

Power to lop trees overhanging tram system

42.—(1) The promoter 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—

(49) As amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(1) of, and paragraph 39 of Schedule 8 to, the 1991 Act.

(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 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) Nothing in this article affects the application of any tree preservation order made under section 198 (power to make tree preservation orders) 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, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Trespass on tramroad

43.—(1) Any person who—

(a) trespasses on any authorised tramroad; or

(b) trespasses upon any land of the promoter 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 tramroad,

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 upon the tramroad was clearly exhibited and maintained at the stop on the authorised tram system nearest the place where the offence is alleged to have been committed.

Power to make byelaws

44.—(1) The promoter 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 the promoter, while on the authorised tram system or on tram system premises.

(2) Without limitation on the scope 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 18(5)(a), for regulating (but not requiring) the maintenance of the facades of buildings to which any equipment has been attached pursuant to article 18 (attachment of equipment to buildings) or which front onto the authorised tram system.

(3) In paragraphs (1) and (2) references to “tram system premises” are references to premises of the promoter 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 affecting 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 the promoter in the operation of the tram system, the promoter may summarily take action to obviate or remove the danger, annoyance or hindrance.

(6) If, in accordance with an agreement entered into under article 46 (powers of disposal, agreements for operation, etc.), the power to make byelaws under this article is being exercised by any person other than Blackpool Borough Council, before making any byelaws that person must consult Blackpool Borough Council on the proposed byelaws.

(7) Byelaws under this article do 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, the promoter must 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 28 days before an application is made under this article for byelaws to be confirmed, a copy of the byelaws must be kept at the principal office of the promoter and must at all reasonable hours be open to public inspection without payment.

(10) The promoter must, at the request of any person, supply that person with a copy of any such byelaws on payment of such reasonable sum as the promoter 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 come into operation; and if no date is so fixed the byelaws come into operation after the expiry of 28 days after the date on which they were confirmed.

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

(13) A copy of the byelaws when confirmed must be printed and deposited at the principal office of the promoter and must at all reasonable hours be open to public inspection without payment, and the promoter must, at the request of any person, supply that person with a copy of any such byelaws on payment of such reasonable sum as the promoter may 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 the promoter stating—

- (a) that the byelaws were made by the promoter;
- (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,
is rebuttable evidence of the facts stated in the certificate.

Power to contract for police services

45.—(1) The promoter may enter into any agreement with a local policing body and its chief officer for the police force maintained by that body 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) the promoter 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” means a chief officer of police or the Chief Constable of the British Transport Police Force;
- (b) “local policing body” means a local policing body within the meaning of that Act or the British Transport Police Authority within the meaning of the Railways and Transport Safety Act 2003(50); and
- (c) “tram system premises” means any premises of the promoter 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.

46.—(1) The promoter 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 with them or the right to operate the authorised works under this Order.

(2) Without limitation on the scope of paragraph (1), the promoter 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 to or consequential on those matters, and the defraying of, or the making of contributions towards, the cost of those matters by the promoter or any other person.

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

(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), is subject to the same restrictions, liabilities and obligations as would apply under this Order if those powers were exercised by the promoter.

Application of landlord and tenant law

47.—(1) This article applies to—

- (a) 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
- (b) any agreement entered into by the promoter 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.

(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.

Tramcars deemed public service vehicles

48.—(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⁽⁵¹⁾ has 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) The promoter 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) The promoter must publish in a newspaper circulating in its area, notice—

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

and the day so fixed must 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 Chief Executive of the promoter 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 (b) is evidence of the publication of the notice and of the date of publication.

Substitute road services

49.—(1) The promoter 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.

(51) 1981 c. 14.

(3) Section 6 (registration of local services) of the Transport Act 1985(52) does not apply to any substitute services.

PART 5

PENALTY FARES

Interpretation of Part 5

50.—(1) In this Part, unless the context otherwise requires—

“authorised person” means, in relation to any purpose, a person authorised for that purpose by the promoter;

“fare ticket” means a ticket authorising the person in respect of whom it is issued to travel on a tramcar;

“general travel authority” means any permit, other than a fare ticket, authorising the person in respect of whom it is issued to travel on a tramcar;

“passenger” means a person travelling on a tramcar;

“penalty fare” means a penalty fare payable pursuant to article 52 (penalty fares);

“the penalty fare provisions” means articles 50 to 57; and

“tram system stop” means a station or other regular stopping place on the authorised tram system at which passengers may get on or off tramcars.

(2) Any reference in this Part to a passenger producing a fare ticket or general travel authority on being required to do so by an authorised person is a reference to producing, when so required, a fare ticket or general travel authority which, either by itself or together with any other document produced by that passenger at the same time, is valid for the journey made by the passenger.

(3) For the purposes of paragraph (2), a passenger who is on a tramcar is taken to have made a journey ending at the next scheduled tram system stop.

Operation of Part 5

51.—(1) The penalty fare provisions have effect in relation to travel on any tramcar on and after such day as the Secretary of State may specify.

(2) On the application of the promoter, or if the Secretary of State suspects on reasonable grounds that the promoter is not complying with the requirements of this Part, the Secretary of State may provide that the penalty fare provisions cease to have effect on and after such day as the Secretary of State may specify.

(3) Paragraph (2) does not affect the power of the Secretary of State to specify further days on and after which the penalty fare provisions have effect.

(4) Any day specified by the Secretary of State for the purposes of paragraph (1) or (2) must be published in a newspaper circulating in the promoter’s area not later than one week before that date.

(5) No day may be specified under paragraph (1) except at the request of the promoter.

Penalty fares

52.—(1) If a passenger travelling on a tramcar, on being required to do so by an authorised person, fails to produce a fare ticket or a general travel authority, the passenger is liable to pay a penalty fare if required to do so by an authorised person.

(2) A passenger is not liable to pay a penalty fare if at the tram system stop where, and the time when, the passenger boarded the tramcar and if on the tramcar there were no facilities for the sale of the necessary fare ticket for the passenger's journey.

(3) Paragraphs (4) and (5) have effect with respect to the burden of proof in any action for the recovery of a penalty fare under this article so far as concerns the question whether the facts of the case fall within paragraph (2).

(4) In any case where the passenger has provided the authorised person with a relevant statement in due time it is for the authorised person to show that the facts of the case do not fall within paragraph (2), and in any other case it is for the passenger to show that the facts of the case fall within that provision.

(5) For the purposes of paragraph (4)—

- (a) a relevant statement is a statement giving an explanation of the passenger's failure to produce a fare ticket or general travel authority, together with any information as to the passenger's journey relevant to that explanation (including, in every case, an indication of the tram system stop where the passenger boarded the tramcar); and
- (b) a statement is provided in due time if it is provided when the passenger is required to produce a fare ticket or general travel authority, or at any later time before the expiration of the period of 21 days beginning with the day following the day on which the journey is completed.

Amount of penalty fare

53.—(1) Subject to paragraph (2), a penalty fare is £20 and is payable to the promoter before the expiration of the period of 21 days beginning with the day following the day on which the journey in respect of which it is payable is completed.

(2) The promoter may from time to time vary the amount of the penalty fare provided that—

- (a) the consent of the Secretary of State is obtained in writing to such a variation; and
- (b) a notice stating the amount of the penalty fare as so varied is published in a newspaper circulating in the promoter's area not later than 28 days before the day on which the penalty fare, as so varied, is to take effect.

Document to be issued in connection with penalty fare requirement

54.—(1) An authorised person who requires a passenger to pay a penalty fare must give the passenger either a receipt for the payment of the amount of the penalty (where the passenger makes that payment to the authorised person) or a notice stating that the requirement has been made.

(2) A receipt or notice given under paragraph (1) must specify the passenger's destination on the tramcar on which the passenger is travelling when required to pay the penalty fare, and operates as an authority to the passenger to complete the passenger's journey to that destination.

(3) For the purposes of paragraph (2), the passenger's destination is (unless only one destination is possible in the circumstances) taken to be the destination stated by the passenger or, in default of any statement by the passenger identifying the passenger's destination, such destination as may be specified by the authorised person.

Notice of penalty fare provisions

55.—(1) It is the duty of the promoter to secure that a warning notice meeting the requirements of paragraph (2) is posted—

- (a) at every tram system stop, in such a position as to be readily visible to prospective passengers; and
- (b) in every tramcar, in such a position as to be readily visible to passengers travelling on that tramcar.

(2) A warning notice posted pursuant to paragraph (1) must (however expressed) indicate the circumstances (as provided in article 52 (penalty fares)) in which passengers may be liable to pay a penalty fare and state the amount of the penalty fare.

Supplementary provisions

56.—(1) A passenger who is required to pay a penalty fare must, unless the passenger pays, immediately and in cash, the amount of the penalty fare to an authorised person requiring such payment, give to that authorised person, if that authorised person requires the passenger to do so, the passenger’s name and address; and any passenger failing to do so is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) Where an authorised person requires any passenger to do anything pursuant to any provision of this Order the authorised person must, if so requested by the passenger concerned, produce to that passenger a duly authenticated document showing evidence of the authorised person’s authority; and a requirement by an authorised person is of no effect if, as respects that requirement, the authorised person fails to comply with this paragraph.

Exclusion of double liability

57.—(1) Where a passenger has become liable to pay a penalty fare in respect of any journey (referred to below as “the relevant journey”), no proceedings may be brought against that passenger for either of the offences specified in paragraph (2) before the end of the period mentioned in article 53(1) (amount of penalty fare); and no such proceedings may be brought after the end of that period if—

- (a) the passenger has paid the penalty fare to the promoter before the end of that period; or
- (b) an action has been brought against the passenger for the recovery of that fare.

(2) The offences mentioned in paragraph (1) are—

- (a) any offence under byelaws made under article 44 (power to make byelaws) involving a failure to obtain or produce a fare ticket or general travel authority for the relevant journey; and
- (b) any offence under section 25(3) (regulation of conduct of passengers) of the Public Passenger Vehicles Act 1981⁽⁵³⁾ of contravening or failing to comply with any provision of regulations for the time being having effect by virtue of that section by failing to pay the fare properly payable for the relevant journey or any part of it.

(3) If proceedings are brought against any such passenger for any such offence the person ceases to be liable to pay the penalty fare and, if the person has paid it, the promoter is liable to repay to the passenger an amount equal to the amount of that fare.

⁽⁵³⁾ 1981 c. 14. Section 25(3) was amended by sections 37 and 46 of the Criminal Justice Act 1982 (c. 48).

PART 6

PROTECTIVE PROVISIONS

Minerals

58. Nothing in this Order affects the right of any person entitled to any mine or minerals of any description whatsoever under a street along which any authorised street tramway is laid to work the mine or get the minerals; but this does not affect any liability (whether civil or criminal) of the person so entitled in respect of damage to the authorised street tramway resulting from the exercise of any such right.

Saving for highway authorities

59. Nothing in this Order affects any power of a highway authority to widen, alter, divert or improve any highway along which a street tramway is laid.

Statutory undertakers, etc.

60. The provisions of Schedule 7 (provisions relating to statutory undertakers, etc.) have effect.

PART 7

MISCELLANEOUS AND GENERAL

Disclosure of confidential information

61. A person who—

- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 20 (safeguarding works to buildings) or article 23 (power to survey and investigate land, etc.); and
- (b) discloses to any other person any information obtained by the person 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 performing the person's duty in connection with the purposes for which the person was authorised to enter the land.

Defence to proceedings in respect of statutory nuisance

62.—(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990⁽⁵⁴⁾ in relation to a nuisance falling within paragraph (g) of section 79(1)⁽⁵⁵⁾ (noise emitted from premises so as to be prejudicial to health or a nuisance) of that Act no order is to be made, and no fine is to 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

⁽⁵⁴⁾ 1990 c. 43.

⁽⁵⁵⁾ Section 79(1) was amended by section 2(2) of the Noise and Statutory Nuisance Act 1993, section 120 of, and paragraph 2(a) of Schedule 17 and paragraph 89(2) of Schedule 22 to, the Environment Act 1995, sections 101(2) and 102(2) of the Clean Neighbourhoods and Environment Act 2005 (c. 16) and sections 109(2), 110(2), 111(2) and 112(2)(a) of the Public Health etc. (Scotland) Act 2008 (asp. 5).

authorised works and that the nuisance is attributable to the carrying out of works which are being carried out in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61(56) (prior consent for work on construction sites) of the Control of Pollution Act 1974(57); or

- (b) that the nuisance is a consequence of the operation of the works authorised by this Order and that it cannot reasonably be avoided.

(2) 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) of the Control of Pollution Act 1974 does 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.

- (3) The provisions of this article do not affect any rule of common law having similar effect.

Certification of plans, etc.

63. 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 traffic regulation plan to the Secretary of State for certification that they are true copies of, respectively, the book of reference, the deposited plans and the traffic regulation plan 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

64.—(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 (references to service by post) of the Interpretation Act 1978(58) as it applies for the purposes of this article, the proper address of any person in relation to the service on the person of a notice or document under paragraph (1) is, if the 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 person's 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 the person's name or address cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to the person by name or by the description of "owner", or as the case may be "occupier", of the land (describing it); and

(56) Section 61 was amended by Schedule 7 to the Building Act 1984 (c. 55), paragraph 15(3) of Schedule 15 to the Environmental Protection Act 1990 (c. 43), Schedule 24 to the Environment Act 1995 and paragraph 10 of Schedule 6 to the Building (Scotland) Act 2003 (asp. 8).

(57) 1974 c. 40.

(58) 1978 c. 30.

(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 is not to be taken to exclude the employment of any method of service not expressly provided for by it.

No double recovery

65. Compensation is 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, or under two or more different provisions of this Order.

Arbitration

66. Unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) is to 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.

Signed by the authority of the Secretary of State

Natasha Kopala
Head of the Transport and Works Act Orders
Unit
Department for Transport

14th December 2017