
STATUTORY INSTRUMENTS

2020 No. 114

**The Network Rail (East West Rail) (Bicester
to Bedford Improvements) Order 2020**

PART 2

WORKS PROVISIONS

Streets

Power to alter layout etc. of streets

11.—(1) Network Rail may for the purposes of the authorised works alter the layout of, or carry out any works in, the streets specified in columns (1) and (2) of Schedule 8 (streets subject to alteration of layout) in the manner specified in relation to that street in column (3).

(2) Without limitation on the scope of the specific powers conferred by paragraph (1), but subject to paragraph (3), Network Rail may, for the purposes of constructing and maintaining any scheduled work, alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without limitation on the scope of that power, Network Rail may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street; and
- (d) temporarily remove any road hump within the street.

(3) Network Rail must restore to the reasonable satisfaction of the street authority any street which has been temporarily altered under this article.

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

(5) If within 28 days of receiving an application for consent under paragraph (4) a street authority fails to notify Network Rail of its decision or refuses consent without giving any grounds for its refusal, that street authority is deemed to have granted consent.

Power to execute street works

12.—(1) Network Rail may, for the purposes of the authorised works, enter upon any of the streets specified in Schedule 9 (streets subject to street works) as are within the Order limits to the extent necessary and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) place apparatus in the street;
- (c) maintain apparatus in the street or change its position; and

(d) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b) and (c).

(2) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

Stopping up of streets

13.—(1) Subject to the provisions of this article, Network Rail may, in connection with the carrying out of the authorised works, stop up each of the streets specified in column (2) of Parts 1 and 2 of Schedule 10 (streets to be stopped up) to the extent specified in column (3) of that Part of that Schedule.

(2) No street specified in column (2) of Part 1 of Schedule 10 is to be wholly or partly stopped up under this article unless—

- (a) the new street to be constructed and substituted for it, which is specified in column (4) of that Part of that Schedule, has been constructed and completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and then maintained by Network Rail, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) No street specified in columns (1) and (2) of Part 2 of Schedule 10 to this Order (being a street to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the street to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) Network Rail is in possession of the land;
- (b) there is no right of access to the land from the street concerned;
- (c) there is reasonably convenient access to the land otherwise than from the street concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

(5) Where a street has been stopped up under this article—

- (a) all rights of way over or along the street so stopped up are extinguished; and
- (b) Network Rail may appropriate and use for the purpose of its railway undertaking so much of the site of the street as is bounded on both sides by land owned by Network Rail.

(6) Any person who suffers loss by the suspension or extinguishment 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) Paragraphs (8) to (13) of article 9 (which provide for creation of new public rights of way) apply in relation to any replacement footpath or bridleway specified in column (4) of Part 1 of Schedule 10 as they apply to replacement rights of way specified in column (4) of Part 1 of Schedule 6.

Temporary stopping up of streets

14.—(1) Network Rail, during and for the purposes of the execution of the authorised works, may 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), Network Rail may use any street stopped up under the powers conferred by this article within the Order limits as a temporary working site.
- (3) Network Rail must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.
- (4) Without limitation on the scope of paragraph (1), Network Rail may temporarily stop up, alter or divert the streets specified in columns (1) and (2) of Schedule 11 (streets to be temporarily stopped up) to the extent specified in column (3) of that Schedule.
- (5) Network Rail must not exercise the powers conferred by this article—
 - (a) in relation to any street specified as mentioned in paragraph (4) without first consulting the street authority; and
 - (b) in relation to any other street without the consent of the street authority which may attach reasonable conditions to any consent, 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) If within 28 days of receiving an application for consent under paragraph (5)(b) a street authority fails to notify Network Rail of its decision or refuses consent without giving any grounds for its refusal that street authority is deemed to have granted consent.

Construction and maintenance of new or altered highways

- 15.**—(1) Any highway to be constructed under this Order must be completed to the reasonable satisfaction of the highway authority and, unless otherwise agreed in writing between Network Rail and the highway authority in whose area the highway lies, must be maintained by and at the expense of Network Rail for a period of 12 months from its completion and from the expiry of that period by and at the expense of the highway authority.
- (2) Where a highway is altered or diverted under this Order, the altered or diverted part of the highway must, when completed to the reasonable satisfaction of the highway authority in whose area the highway lies, unless otherwise agreed in writing with the street authority, be maintained by and at the expense of Network Rail for a period of 12 months from its completion and from the expiry of that period by and at the expense of the highway authority.
 - (3) Paragraphs (1) and (2) do not apply in relation to the structure of any bridge or tunnel carrying a highway over or under any railway of Network Rail.
 - (4) In any action against Network Rail in respect of loss or damage resulting from any failure by it to maintain a highway under this article, it is a defence (without affecting any other defence or the application of the law relating to contributory negligence) to prove that Network Rail had taken such care as in all the circumstances was reasonably required to secure that the part of the highway to which the action relates was not dangerous to traffic.
 - (5) For the purposes of a defence under paragraph (4), the court must in particular have regard to the following matters—
 - (a) the character of the highway and the traffic which was reasonably to be expected to use it;
 - (b) the standard of maintenance appropriate for a highway of that character and used by such traffic;
 - (c) the state of repair in which a reasonable person would have expected to find the highway;
 - (d) whether Network Rail knew, or could reasonably have been expected to know, that the condition of the part of the highway to which the action relates was likely to cause danger to users of the highway; and

- (e) where Network Rail could not reasonably have been expected to repair that part of the highway 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 Network Rail had arranged for a competent person to carry out or supervise the maintenance of the part of the highway to which the action relates unless it is also proved that Network Rail had given the competent person proper instructions with regard to the maintenance of the highway and that the competent person had carried out those instructions.

Access to works

16.—(1) Network Rail may, for the purposes of the authorised works—

- (a) form and lay out means of access, or improve existing means of access, in the locations specified in columns (1) and (2) of Schedule 12 (access to works); and
- (b) with the approval of the highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as Network Rail reasonably requires for the purposes of the authorised works.

(2) If a highway authority fails to notify Network Rail of its decision within 28 days of receiving an application for approval under paragraph (1), that highway authority is deemed to have granted approval.

Agreements with street authorities

17.—(1) A street authority and Network Rail may enter into agreements with respect to—

- (a) the construction of any new street (including any structure carrying the street over or under a railway) 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 the structure of any bridge constructed under the powers conferred by this Order;
- (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 12(1) (power to execute street works).

(2) Such an agreement may, without limitation on the scope of paragraph (1)—

- (a) make provision 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.

Construction of bridges

18.—(1) Any bridge to be constructed under this Order for carrying a highway over or under a railway must be constructed in accordance with the plans and specifications approved by the highway authority, but such approval not to be unreasonably withheld.

(2) If within 28 days of receiving an application for approval under paragraph (1) a highway authority fails to notify Network Rail of its decision or refuses approval without giving any grounds for its refusal that highway authority is deemed to have granted approval.