
STATUTORY INSTRUMENTS

2022 No. 651

The Network Rail (Essex and Others
Level Crossing Reduction) Order 2022

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Network Rail (Essex and Others Level Crossing Reduction) Order 2022 and comes into force on 30th June 2022.

Commencement Information

11 Art. 1 in force at 30.6.2022, see [art. 1](#)

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 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(4);

“the 1984 Act” means the Road Traffic Regulation Act 1984(5);

“the 1990 Act” means the Town and Country Planning Act 1990(6);

“the 1991 Act” means the New Roads and Street Works Act 1991(7);

“the 2003 Act” means the Communications Act 2003(8);

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

“authorised works” means the works authorised by the Order;

“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;

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

(1) 1961 c. 33.
(2) 1965 c. 56.
(3) 1980 c. 66.
(4) 1981 c. 66.
(5) 1984 c. 27.
(6) 1990 c. 8.
(7) 1991 c. 22.
(8) 2003 c. 21.

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

“byway open to all traffic” has the same meaning as in section 66(1) (interpretation of Part 3) of the Wildlife and Countryside Act 1981⁽⁹⁾;

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

“cycle track” has the same meaning as in section 329(1)⁽¹⁰⁾ (further provisions as to interpretation) of the 1980 Act;

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

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

“electronic transmission” means a communication transmitted—

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

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

and in this definition “electronic communications network” has the same meaning as in section 32(1)⁽¹¹⁾ (meaning of electronic communications and networks and services) of the 2003 Act;

“footpath” and “footway” have the same meaning as in the 1980 Act;

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

“limits of deviation” means the limits of deviation for the scheduled works shown on the deposited plans;

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

“Network Rail” means Network Rail Infrastructure Limited (company registration number 02904587) whose registered office is at 1 Eversholt Street, London NW1 2DN;

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

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981⁽¹²⁾;

“restricted byway” has the same meaning as in the 1980 Act;

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

“statutory undertaker” means—

(a) any person who is a statutory undertaker for the purposes of the 1990 Act; and

(b) any public communications provider within the meaning of section 151(1) (interpretation of Chapter 1) of the 2003 Act;

“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; and

“the tribunal” means the Lands Chamber of the Upper Tribunal.

⁽⁹⁾ 1981 c. 69.

⁽¹⁰⁾ The definition of “cycle track” was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

⁽¹¹⁾ Section 32(1) was amended by S.I. 2011/1210.

⁽¹²⁾ 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34).

(2) All distances, directions and lengths referred to in this Order are approximate and are taken to be measured between the points shown on the deposited plans.

(3) References in this Order to points identified by letters and numbers are construed as references to points so shown on the deposited plans.

(4) 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 over its surface.

(5) References in this Order to numbered plots are references to plot numbers as shown on the deposited plans.

Commencement Information

I2 Art. 2 in force at 30.6.2022, see [art. 1](#)

Application of the 1991 Act

3.—(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.

(2) The provisions of the 1991 Act mentioned in paragraph (3) (which, together with other provisions of that Act, apply in relation to the carrying out 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 of a temporary nature by Network Rail under the powers conferred by article 9 (temporary stopping up of streets) and the carrying out of works under article 8 (power to execute street works) whether or not the stopping up, alteration or diversion, or the carrying out of such works, constitutes street works within the meaning of that Act.

(3) The provisions of the 1991 Act(14) referred to in paragraph (2) are—

- section 59(15) (general duty of street authority to co-ordinate works);
- section 60 (general duty of undertakers to co-operate);
- section 68 (facilities to be afforded to street authority);
- section 69 (works likely to affect other apparatus in the street);
- section 76 (liability for cost of temporary traffic regulation);
- section 77 (liability for cost of use of alternative route); and

all such other provisions as apply for the purposes of the provisions mentioned above.

(4) Nothing in article 10 (construction and maintenance of new or altered streets)—

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

(13) Section 64 was 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 1991 Act.

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

(15) Section 59 was amended by section 42 of the Traffic Management Act 2004.

to be taken to be a 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 with regard to which the provisions of Part 3 of the 1991 Act apply.

Commencement Information

I3 Art. 3 in force at 30.6.2022, see [art. 1](#)

Disapplication of legislative provisions

4.—(1) The following provisions do not apply in relation to any works executed under the powers conferred by this Order—

- (a) regulation 12(1)(a) (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(**16**) in relation to the carrying out of a relevant flood risk activity;
- (b) section 23 (prohibition on obstacles etc. in watercourses) of the Land Drainage Act 1991(**17**);
- (c) the provisions of any byelaws made under, or having effect as if made under, section 66(**18**) (powers to make byelaws) of the Land Drainage Act 1991, which require consent or approval for the carrying out of the works; and
- (d) the Neighbourhood Planning Act 2017(**19**) in so far as it relates to temporary occupation of land under articles 21 (temporary use of land for construction of works) and 22 (temporary use of land for maintenance of works).

(2) On completion of the relevant authorised works—

- (a) section 10 of the London, Tilbury and Southend Extension Railway Act 1852(**20**) is disapplied as it relates to level crossings at—
 - (i) Ferry in the Borough of Castle Point, County of Essex;
 - (ii) No. 131 in Thurrock; and
 - (iii) Howells Farm in Thurrock; and
- (b) the Railtrack Long Green Level Crossing Order 1997; and
- (c) the Network Rail Johnsons Level Crossing Order 2003,

are revoked.

Commencement Information

I4 Art. 4 in force at 30.6.2022, see [art. 1](#)

(16) [S.I. 2016/1154](#).

(17) [1991 c. 59](#). Section 23 was amended by paragraph 192 of Schedule 22 of the Environment Act (c. 25), paragraphs 25 and 32 of Schedule 2 to the Flood and Management Act [2010 \(c. 29\)](#) and [S.I. 2013/755](#).

(18) Section 66 was amended by paragraphs 25 and 38 of Schedule 2 to the Flood and Water Management Act 2010 and section 86(1) and (3) of the Water Act [2014 \(c. 21\)](#).

(19) [2017 c. 20](#).

(20) 1852 c. lxxxiv.

PART 2

CROSSINGS

Power to construct and maintain works

5.—(1) Network Rail may construct and maintain the scheduled works.

(2) Subject to article 6 (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 (5), Network Rail may construct and maintain within the Order limits such works as are required—

- (a) to provide the public rights of way to the extent specified in column (4) of Part 1 of Schedule 2 (closure of level crossings);
- (b) in connection with the extinguishment of the rights of way specified in column (3) in Parts 1 and 2 of Schedule 2;
- (c) to provide the private rights of access to the extent specified in column (1) of Schedule 3 (land in which private rights of access may be acquired); and
- (d) in connection with the redesignation of highways specified in columns (3) and (4) and to the extent specified in column (2) of Schedule 4 (redesignation of highways);
including—
 - (e) works to lay out footpaths, footways, bridleways and cycle tracks, including any surfacing, fencing, stiles, gates, signs, ramps, steps, other means of access, and mounting blocks;
 - (f) works or other operations, for the purposes of drainage and flood prevention, including embankments, including ground reprofiling and culverts;
 - (g) works or other operations to level or stabilise the condition of any land, including ground reprofiling and embankments;
 - (h) works to install or alter the position of apparatus, including mains, sewers, drains and cables;
 - (i) works in the highway including provision of benches and handrails, provision of alteration to or removal of lighting, bollards and other traffic restraint systems, signage and signalling and installation of road side equipment,

or other conveniences as may be necessary or expedient for the purposes of the provision of or extinguishment of the rights of way or redesignation of highways.

(4) Subject to paragraph (5), Network Rail may carry out 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 scheduled works and authorised works described in paragraph (3).

(5) Paragraphs (3) and (4) only authorise the carrying out or maintenance of works outside the limits of deviation if such works are carried out on—

- (a) land specified in columns (1) and (2) of Schedule 5 (land in which only new rights etc., may be acquired) for the purposes specified in column (3) of that Schedule; or
- (b) land specified in columns (1) and (2) of Schedule 6 (land of which temporary possession may be taken) for the purposes specified in column (3) of that Schedule.

(6) Network Rail may, within the Order limits—

- (a) carry out and maintain landscaping and other works to mitigate any adverse effects of the construction, maintenance and operation of the authorised works (other than works authorised by this paragraph); and

- (b) carry out and maintain works for the benefit or protection of land affected by the authorised works (other than works authorised by this paragraph).

Commencement Information

I5 Art. 5 in force at 30.6.2022, see [art. 1](#)

Power to deviate

- 6.** In constructing or maintaining any of the scheduled works, Network Rail may—
- (a) deviate laterally from the lines or situations shown on the deposited plans to the extent of the limits of deviation for that work; and
- (b) deviate vertically from the levels shown on the deposited sections—
- (i) to any extent upwards not exceeding 3 metres; or
- (ii) to any extent downwards as may be found to be necessary or convenient.

Commencement Information

I6 Art. 6 in force at 30.6.2022, see [art. 1](#)

Power to alter layout etc. of streets

7.—(1) Network Rail may for the purposes of the authorised works alter the layout of, or carry out any works in, the street specified in columns (1) and (2) of Schedule 7 (streets subject to alteration of layout) in the manner specified in relation to that street in column (3) of that Schedule.

(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 authorised 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, create or increase the width of any such kerb, footpath, footway, bridleway, cycle track or verge;
- (c) reduce the width of the carriageway of the street; and
- (d) provide pedestrian refuges.

(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) are not to 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.

Commencement Information

I7 Art. 7 in force at 30.6.2022, see [art. 1](#)

Power to execute street works

8.—(1) Network Rail may, for the purposes of the authorised works, enter on any of the streets specified in Schedule 8 (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.

Commencement Information

18 Art. 8 in force at 30.6.2022, see [art. 1](#)

Temporary stopping up of streets

9.—(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 on 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 9 (streets to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the deposited plans, 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, as if it were a 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.

Commencement Information

19 Art. 9 in force at 30.6.2022, see [art. 1](#)

Construction and maintenance of new or altered streets

10.—(1) This article applies to streets which are not a byway open to all traffic, restricted byway, bridleway or footpath.

(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 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 street authority.

(3) Paragraph (2) does not apply in relation to the structure of any bridge or tunnel carrying a street over or under any railway of Network Rail and except as provided in those paragraphs Network Rail is not liable to maintain the surface of any street under or over which the scheduled works are constructed, or the immediate approaches to any such street.

(4) In any action against Network Rail in respect of loss or damage resulting from any failure by it to maintain a street 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 street 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 street 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 Network Rail 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 Network Rail 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 Network Rail had arranged for a competent person to carry out or supervise the maintenance of the part of the street 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 street and that the competent person had carried out those instructions.

(6) Nothing in this article—

- (a) affects the operation of section 87 (prospectively maintainable highways) of the 1991 Act; and Network Rail is not by reason of any duty under this article to maintain a street to be taken to be a street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) has effect in relation to the street works with regard to which the provisions of Part 3 of the 1991 Act apply.

Commencement Information

I10 Art. 10 in force at 30.6.2022, see [art. 1](#)

Access to works

11.—(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 10 (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)(b), that highway authority is deemed to have granted approval.

Commencement Information

I11 Art. 11 in force at 30.6.2022, see [art. 1](#)

Highways subject to redesignation

12.—(1) Subject to the provisions of this article, the highways specified in column (2) of Schedule 4 (redesignation of highways) shall, on completion of works, cease to be highways of the description specified on the definitive map and statement as specified in column (3) and are designated as highways as described in column (4) of Schedule 4.

(2) In each case where a highway has been redesignated, the redesignation is to have effect as if that highway had been stopped up and immediately redesignated as described in column (4) of Schedule 4.

(3) Expressions used in this article and in the Wildlife and Countryside Act 1981⁽²¹⁾ have the same meaning in this article as in that Act.

Commencement Information

I12 Art. 12 in force at 30.6.2022, see [art. 1](#)

Closure of level crossings subject to opening of new rights of way

13.—(1) Subject to paragraphs (3) and (5), the level crossings specified in column (2) of Part 1 of Schedule 2 (closure of level crossings) are stopped-up and discontinued.

(2) Subject to paragraphs (3) and (5), upon the stopping up and discontinuance of the level crossings referred to in paragraph (1)—

- (a) any rights of way over those crossings are extinguished to the extent specified in column (2) of Part 1 in Schedule 2; and
- (b) any public rights of way specified in column (3) of Part 1 of Schedule 2 are extinguished to the extent specified, by reference to the numbers and letters shown on the deposited plans.

(3) Paragraphs (1) and (2) are not to have effect until in respect of each level crossing in Part 1 of Schedule 2—

- (a) the new highway specified in column (4) has been constructed and completed, to the extent specified by reference to the numbers and letters shown on the deposited plans, to the

(21) 1981 c. 69.

reasonable satisfaction of the highway authority in accordance with article 15 (creation and maintenance of new highway) and is open for use; and

(b) such other alterations to existing highways authorised by this Order, as agreed with the highway authority, have been made.

(4) 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, as if it were a dispute under Part 1 of the 1961 Act.

(5) This article does not extinguish the rights of statutory undertakers.

Commencement Information

I13 Art. 13 in force at 30.6.2022, see [art. 1](#)

Closure of level crossings

14.—(1) Subject to paragraphs (3) and (4) and, the level crossings listed in column (2) of Part 2 of Schedule 2 (closure of level crossings) are stopped-up and discontinued.

(2) Upon the stopping up and discontinuance of the level crossings referred to in paragraph (1)—

(a) any rights of way over those crossings are extinguished; and

(b) any public rights of way specified in column (3) of Part 2 of Schedule 2 are extinguished to the extent specified, by reference to the numbers and letters shown on the deposited plans.

(3) 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, as if it were a dispute under Part 1 of the 1961 Act.

(4) This article does not apply so as to extinguish the rights of statutory undertakers to maintain their apparatus.

Commencement Information

I14 Art. 14 in force at 30.6.2022, see [art. 1](#)

Creation and maintenance of new highway

15.—(1) The new highways specified in column (4) of Part 1 in Schedule 2 (closure of level crossings) are to be completed to the reasonable satisfaction of the highway authority and are to be maintained by and at the expense of Network Rail for a period of 12 months from their completion and after the expiry of that period by and at the expense of the highway authority.

(2) On completion of each new highway in accordance with paragraph (1), and subject to article 29 (traffic regulation), it is to have the designation specified in column (4) of Part 1 in Schedule 2.

(3) Section 28(22) (compensation for loss caused by public path creation order) of the 1980 Act is to apply to each new highway specified in column (4) of Part 1 in Schedule 2 as if that new highway had been created by a public path creation order.

(4) Section 28 of the 1980 Act has effect with the modifications mentioned in paragraphs (5) to (7).

(22) Section 28 was amended by [S.I. 2006/1177](#).

(5) In sub-section (1), substitute “Network Rail” for “the authority by whom the Order was made”.

(6) For sub-section (2), substitute—

“(2) A claim for compensation under this section is to be made to Network Rail in writing before the end of the period of 6 months beginning with the day on which the public right of way first becomes exercisable and is to be served on Network Rail by delivering it at, or by sending it by pre-paid post to the registered office of Network Rail Infrastructure Limited.”

(7) Sub-section (3) is omitted.

(8) For the purposes of paragraphs (3) to (7), section 307 (disputes as to compensation which are to be determined by Upper Tribunal and related provisions) of the 1980 Act, in its application to section 28 by virtue of section 307(1), is to have effect as if in sub-section (2) for “the authority from whom the compensation in question is claimed”, the words “Network Rail” are substituted.

(9) In any action against Network Rail in respect of loss or damage resulting from any failure by it to maintain the new highway, 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 new highway to which the action relates was not dangerous to traffic.

(10) For the purposes of a defence under paragraph (9), the court must in particular have regard to the following matters—

- (a) the character of the new 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 new highway;
- (d) whether Network Rail knew, or could reasonably have been expected to know, that the condition of the part of the new highway to which the action relates was likely to cause danger to users of the new highway;
- (e) where Network Rail could not reasonably have been expected to repair that part of the new 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 new 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 new highway and that the competent person had carried out those instructions.

(11) The new highways are to be treated as completed to the satisfaction of the highway authority for the purpose of paragraph (1) if it fails to reply to a request for certification that it is satisfied with the work within 28 days of receiving the request.

(12) Where any highway created under this article passes over a scheduled work, the highway extends to include the scheduled work.

Commencement Information

I15 Art. 15 in force at 30.6.2022, see [art. 1](#)

Supplemental powers

Discharge of water

16.—(1) Network Rail 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, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by Network Rail under paragraph (1) 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) Network Rail must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) Network Rail must not make any opening into any public sewer or drain except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) Network Rail 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) Network Rail 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, oil or matter in suspension.

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

(8) If a person who receives an application for consent or approval fails to notify Network Rail of a decision within 28 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be.

(9) 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, or a local authority; and
- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991⁽²⁵⁾ have the same meaning as in that Act.

Commencement Information

I16 Art. 16 in force at 30.6.2022, see [art. 1](#)

Power to survey and investigate land

17.—(1) Network Rail may for the purposes of this Order—

- (a) survey or investigate any land shown within the Order limits;

⁽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⁾ 1991 c. 57.

- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as Network Rail thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
 - (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land;
 - (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes; and
 - (e) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (d).
- (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) Notice given in accordance with paragraph (2) must include—
- (a) a statement of the recipient's rights under paragraph (14); and
 - (b) a copy of any warrant issued under paragraph (7).
- (4) If Network Rail proposes to do any of the following, the notice must include details of what is proposed—
- (a) searching, boring or excavating;
 - (b) leaving apparatus on the land;
 - (c) taking samples; and
 - (d) an aerial survey.
- (5) If Network Rail obtains a warrant after giving notice in accordance with paragraph (2) it must give a copy of the warrant to whom it gave that notice.
- (6) Any person entering land under this article on behalf of Network Rail—
- (a) must, if so required, before or after entering the land produce written evidence of authority to do so including any warrant issued under paragraph (7);
 - (b) may not use force unless a justice of the peace has issued a warrant under paragraph (7) authorising the person to do so;
 - (c) 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;
 - (d) may only enter and survey at a reasonable time; and
 - (e) must, if the land is unoccupied or the occupier is absent from the land when the person enters it, leave it secure against trespassers as when the person entered it.
- (7) A justice of the peace may issue a warrant authorising a person to use force in the exercise of the power conferred by this article if satisfied—
- (a) that another person has prevented or is likely to prevent the exercise of that power; and
 - (b) that it is reasonable to use force in the exercise of that power.
- (8) The force that may be authorised by the warrant is limited to that which is reasonably necessary.
- (9) A warrant authorising the person to use force must specify the number of occasions on which Network Rail can rely on the warrant when entering and surveying or valuing land.
- (10) The number specified must be the number which the justice of the peace considers appropriate to achieve the purpose for which the entry and survey or valuation are required.
- (11) Any evidence in proceedings for a warrant under this article must be given on oath.
- (12) No trial holes are to be made under this article—

- (a) in a carriageway or footway without the consent of the highway authority; or
 - (b) in a private street without the consent of the street authority,
- but such consent must not be unreasonably withheld.

(13) Network Rail must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, as if it were a dispute under Part 1 of the 1961 Act.

(14) If either a highway authority or a street authority which receives an application for consent fails to notify Network Rail of its decision within 28 days of receiving the application for consent—

- (a) under paragraph (12)(a) in the case of a highway authority; or
 - (b) under paragraph (12)(b) in the case of a street authority,
- that authority is deemed to have granted consent.

Commencement Information

I17 Art. 17 in force at 30.6.2022, see [art. 1](#)

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Application of Part 1 of the 1965 Act

18.—(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 any interests in land under this Order—

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(**26**) applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part 1 of the 1965 Act as so applied 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)(**27**) (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 27 (time limit for exercise of powers of acquisition) of the Network Rail (Essex and Others Level Crossing Reduction) Order 2022.”.

(5) In section 11(1B)(**28**) (power of entry) in a case where the notice to treat relates only to the acquisition of an easement or other right over land, for “3 months” substitute “1 month”.

(6) In section 11A(**29**) (powers of entry: further notices of entry)—

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

(26) 1981 c. 67.

(27) Section 4A(1) was inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).

(28) Subsection (1B) of section 11 was inserted by section 186(1) and (2)(b) of the Housing and Planning Act 2016.

(29) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016.

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

(7) 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 27 (time limit for exercise of powers of acquisition) of the Network Rail (Essex and Others Level Crossing Reduction) Order 2022.”.

(8) In Schedule 2A(30) (counter-notice requiring purchase of land not in notice to treat)—

(a) omit paragraphs 1(2) and 14(2); and

(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 articles 21 (temporary use of land for construction works) and 22 (temporary use of land for maintenance of works) of the Network Rail (Essex and Others Level Crossing Reduction) Order 2022.”.

Commencement Information

118 Art. 18 in force at 30.6.2022, see [art. 1](#)

Application of the 1981 Act

19.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as so 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(31) (time limit for general vesting declaration).

(5) In section 5B(32) (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 or 3), the five year period mentioned in article 27 (time limit for exercise of powers of acquisition) of the Network Rail (Essex and Others Level Crossing Reduction) Order 2022”.

(6) In section 6(33) (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(34) (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(30) Schedule 2A was inserted by paragraph 3 of Schedule 3 to the Housing and Planning Act 2016.

(31) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016.

(32) Section 5B was inserted by section 202(2) of the Housing and Planning Act 2016.

(33) Section 6 was 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.

(34) Section 7 was amended by paragraph 3 of Schedule 18 to the Housing and Planning Act 2016.

(8) In Schedule A1(35) (counter-notice requiring purchase of land not in general vesting declaration), omit paragraph 1(2).

(9) References to the 1965 Act are construed as references to that Act as applied to the acquisition of land under article 18 (application of Part 1 of the 1965 Act).

Commencement Information

I19 Art. 19 in force at 30.6.2022, see [art. 1](#)

Power to acquire new rights

20.—(1) Network Rail may acquire compulsorily such rights of access or other easements specified in column (2) of Schedule 3 (land in which private rights of access may be acquired) to the extent specified in column (1) of that Schedule as may be required for the benefit of the land specified in column (2) of that Schedule by creating them as well as by acquiring rights of access or other easements already in existence.

(2) Network Rail may acquire compulsorily such easements or other rights over the land specified in column (2) of Schedule 5 (land in which only new rights etc., may be acquired) as may be required for the purposes specified in column (3) of that Schedule, by creating them as well as by acquiring easements or other rights already in existence.

(3) 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 12 (modification of compensation and compulsory purchasing enactments for creation of new rights) where Network Rail acquires a right over land under paragraphs (1) or (2), Network Rail is not required to acquire a greater interest in that land.

(4) Schedule 12 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.

Commencement Information

I20 Art. 20 in force at 30.6.2022, see [art. 1](#)

Temporary possession or use of land

Temporary use of land for construction of works

21.—(1) — Network Rail may in connection with the carrying out of the authorised works enter upon and take temporary possession of the land specified in columns (1) and (2) of Schedule 6 (land of which temporary possession may be taken) for the purposes specified in relation to that land in column (3) of that Schedule.

(2) Not less than 14 days before entering upon and taking temporary possession of land under this article Network Rail must serve notice of the intended entry on the owners and occupiers of the land.

(3) Network Rail may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of completion of the authorised works for the purposes of which temporary possession of that land was taken.

(35) Schedule A1 was inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016.

(4) Before giving up possession of land of which temporary possession has been taken under this article, Network Rail must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but Network Rail is not required to—

- (a) replace a building removed in connection with the carrying out of the authorised works; or
- (b) restore the land on which any permanent works have been constructed under article 5 (power to construct and maintain works).

(5) Network Rail 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 as if it were a dispute under Part 1 of the 1961 Act.

(7) Without affecting article 36 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2)(36) (further provision as to compensation for injurious affection) of the 1965 Act or under any other enactment in respect of loss or damage for which compensation is payable under paragraph (5).

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

(9) Section 13(37) (refusal to give possession to the 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 compulsory acquisition of land under this Order by virtue of article 18 (application of Part 1 of the 1965 Act).

Commencement Information

I21 Art. 21 in force at 30.6.2022, see [art. 1](#)

Temporary use of land for maintenance of works

22.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any of the authorised works, Network Rail may—

- (a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised works; and
- (b) construct such temporary works (including the provision of means of access) as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise Network Rail 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 Network Rail must serve notice of the intended entry on the owners and occupiers of the land.

(4) Network Rail 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.

(36) 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.

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

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

(6) Network Rail 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 as if it were a dispute under Part 1 of the 1961 Act.

(8) Without affecting article 36 (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 Network Rail takes possession of land under this article, it is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to the 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 compulsory acquisition of land under this Order by virtue of article 18 (application of Part 1 of the 1965 Act).

(11) In this article "the maintenance period" in relation to an authorised work means the period of one year beginning with the date on which the work is opened for use.

Commencement Information

I22 Art. 22 in force at 30.6.2022, see [art. 1](#)

Compensation

Disregard of certain interests and improvements

23.—(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.

Commencement Information

I23 Art. 23 in force at 30.6.2022, see [art. 1](#)

Supplementary

Extinction or suspension of private rights of way

24.—(1) All private rights of way over land subject to compulsory acquisition under this Order are extinguished—

- (a) as from the date of acquisition of the land by Network Rail, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by Network Rail under section 11(1)(**38**) (powers of entry) of the 1965 Act,

whichever is the sooner.

(2) All private rights of way over land owned by Network Rail which, being within the Order limits, is required for the purposes of this Order are extinguished on the appropriation of the land for any of those purposes by Network Rail.

(3) Subject to the provisions of this article, all private rights of way over land subject to the compulsory acquisition of rights under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right—

- (a) as from the date of the acquisition of the right by Network Rail, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by Network Rail under section 11(1) of the 1965 Act,

whichever is the sooner.

(4) Subject to paragraph (6), all private rights of way over land of which Network Rail takes temporary possession under this Order are suspended and unenforceable for as long as Network Rail remains in lawful possession of the land.

(5) 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, as if it were a dispute under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right of way to which section 271 or 272(**39**) (extinguishment of rights of statutory undertakers etc.) of the 1990 Act applies.

(7) Paragraphs (1), (2), (3) and (4) have effect subject to—

- (a) any notice given by Network Rail before—
 - (i) the completion of the acquisition of;
 - (ii) Network Rail's appropriation of;
 - (iii) Network Rail's entry onto; or
 - (iv) Network Rail'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 between Network Rail and the person in or to whom the right of way in question is vested or belongs which makes reference to this article; whether that agreement was made before or after any of the events mentioned in sub-paragraph (a), or before or after the coming into force of this Order.

(38) 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) Measures 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.

(39) Section 272 was amended by paragraph 103(1) and (2) of Schedule 17 to the 2003 Act.

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

Commencement Information

I24 Art. 24 in force at 30.6.2022, see [art. 1](#)

Extinguishment of private rights over accommodation crossings

25.—(1) Subject to paragraphs (3) and (4) all private rights of way (if any) over the level crossing specified in paragraph (2) are extinguished.

(2) The level crossing referred to in paragraph (1) is Ugley Lane crossing between points P097 and P098 in the Parish of Henham, District of Uttlesford, County of Essex.

(3) Paragraph (1) must not take effect with respect to the extinguishment of the private rights of way by means of the level crossing specified in paragraph (2) until the authorised works relating to that crossing have been completed.

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

Commencement Information

I25 Art. 25 in force at 30.6.2022, see [art. 1](#)

Grant of rights over level crossings

26.—(1) The level crossings specified in paragraph (2) are subject to continued rights of access for vehicular traffic for authorised users.

(2) The level crossings referred to in paragraph (1) are—

- (a) Trinity Lane crossing between points R001 and R002 in the Borough of Broxbourne, County of Hertfordshire; and
- (b) Parsonage Lane crossing between points P147 and P148 in the Parish of Margaretting, City of Chelmsford, County of Essex.

(3) In this article, “authorised user” means any person to whom Network Rail grants a permit on written request to use any crossing referred to in paragraph (2) for such purposes or to access such land as may be specified in the permit on such terms and conditions as Network Rail may reasonably specify.

Commencement Information

I26 Art. 26 in force at 30.6.2022, see [art. 1](#)

Time limit for exercise of powers of acquisition

27.—(1) After the end of the period of 5 years beginning on 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 18 (application of Part 1 of the 1965 Act); and
- (b) no declaration is to be executed under section 4(40) (execution of declaration) of the 1981 Act as applied by article 19 (application of the 1981 Act).

(2) The powers conferred by article 20 (power to acquire new rights) and article 21 (temporary use of land for construction of works) cease at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents Network Rail from remaining in possession of land after the end of that period, if the land was entered and possession of it was taken before the end of that period.

Commencement Information

I27 Art. 27 in force at 30.6.2022, see [art. 1](#)

PART 4

TRAFFIC REGULATION

Traffic signs

28.—(1) Network Rail may, for the purposes of or in connection with the construction or operation of the authorised works, place or maintain traffic signs on any street within the Order limits, or on any street in connection with any instrument made under article 29 (traffic regulation) or any other street as reasonably required for conveying information to traffic.

(2) Network Rail—

- (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(41) (powers and duties of traffic authorities as to placing of traffic signs) of the 1984 Act, must enter into arrangements with the traffic authority for any such 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 Network Rail as to traffic signs under this article; and, accordingly, the powers conferred by paragraph (1) are exercisable subject to and in conformity with any directions given under that section.

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

Commencement Information

I28 Art. 28 in force at 30.6.2022, see [art. 1](#)

(40) Section 4 was amended by sections 184 and 185 of, and paragraphs 1 and 2 of Schedule 18 to, the Housing and Planning Act 2017 (c. 22).

(41) Section 65 was amended by section 153 of the Local Government and Housing Act 1989 (c. 42); section 168(1) of, and paragraph 48 of Part 2 of Schedule 8 to, the 1991 Act; section 48 of, and paragraph 29 of Schedule 4 to, the Road Traffic Act 1991 (c. 40) and section 1(6) of, and paragraphs 70 and 82 of Schedule 1 to, the Infrastructure Act 2015 (c. 7).

Traffic regulation

29.—(1) Subject to the provisions of this article and the consent of the traffic authority in whose area the road concerned is situated, such consent not to be unreasonably withheld, Network Rail may, in so far as may be necessary or expedient for the purposes of, in connection with, or in consequence of, the construction, maintenance or operation of the authorised works—

- (a) revoke, amend or suspend 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 or priority of vehicular traffic on any road;
- (e) make provision for vehicular speed limits on any road; and
- (f) 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 Network Rail.

(2) The powers conferred by paragraph (1) may be exercised at any time prior to the opening of the authorised works for use but subject to paragraph (5) any prohibition, restriction or other provision made under paragraph (1) may have effect both before and after the expiry of that period.

(3) Network Rail must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (4).

(4) Network Rail must not exercise the powers conferred by paragraph (1) unless it has—

- (a) given not less than—
 - (i) 12 weeks' notice in writing of its intention to do so in the case of a permission, prohibition, restriction or other provision intended to have effect permanently; or
 - (ii) 4 weeks' notice in writing of its intention to do so in the case of a permission, prohibition, restriction or other provision intended to have effect temporarily,
 to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of Network Rail's intention in the case of subparagraph (a) (i), or within 7 days of its receipt of notice of Network Rail's intention in the case of subparagraph (a)(ii).

(5) Any prohibition, restriction or other provision made by Network Rail under paragraph (1)—

- (a) has effect as if duly made by, as the case may be—
 - (i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act or, in the case of provision for vehicle speed limits, as an order under section 84(42) (speed limits on roads other than restricted roads) of that Act; or
 - (ii) the local authority in whose area the road is situated, as an order under section 32(43) (power of local authorities to provide parking places) or section 45(44) (designation of paying parking places on highways) of the 1984 Act,

(42) Section 84 was amended by section 168(1) of, and paragraph 61 of Part 2 of Schedule 8 to, the 1991 Act; section 45 of the Road Traffic Act 1991 (c. 40) and section 1(6) of, and paragraphs 70 and 88 of Part 2 of Schedule 1 to, the Infrastructure Act 2015 (c. 7).

(43) Section 32 was 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. There are other amendments to section 32 that are not relevant to this Order.

(44) Section 45 was amended by sections 8 and 102 of, and paragraph 4(19)(b) of Schedule 5 and Schedule 17 to, the Local Government Act 1985 (c. 51); section 1 of the Road Traffic Regulation (Parking) Act 1986 (c. 27); section 168(1) of, and

and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and

- (b) except in the case of provision for vehicle speed limits, is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004⁽⁴⁵⁾.

(6) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by Network Rail from time to time by subsequent exercise of the powers conferred by paragraph (1) within a period of 24 months from the opening of the authorised works for use.

(7) Before exercising the powers conferred by paragraph (1) Network Rail must consult such persons as it considers necessary and appropriate and must take into consideration any representations made to it by any such person.

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

(9) The powers conferred on Network Rail by this article with respect to any road have effect subject to any agreement entered into by Network Rail with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

Commencement Information

I29 Art. 29 in force at 30.6.2022, see [art. 1](#)

PART 5

MISCELLANEOUS AND GENERAL

Power to lop trees overhanging the authorised works

30.—(1) Network Rail may fell or lop any tree or shrub near any part of the authorised works, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised works or any apparatus used on the authorised works; or
- (b) from constituting a danger to persons using the authorised works.

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

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

Commencement Information

I30 Art. 30 in force at 30.6.2022, see [art. 1](#)

paragraph 44 of Part 2 of Schedule 8 to, the 1991 Act and section 281 of, and Part 6 of Schedule 34 to, the Greater London Authority Act 1999 (c. 29). There are other amendments to section 45 that are not relevant to this Order.

⁽⁴⁵⁾ 2004 c. 18.

Obstruction of construction of authorised works

31. Any person who, without reasonable excuse—

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

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

Commencement Information

I31 Art. 31 in force at 30.6.2022, see [art. 1](#)

Statutory undertakers, etc.

32. The provisions of Schedule 11 (apparatus and rights of statutory undertakers, etc.) have effect.

Commencement Information

I32 Art. 32 in force at 30.6.2022, see [art. 1](#)

Certification of plans, etc.

33. Network Rail must, as soon as practicable after the making of this Order, submit copies of the book of reference, the deposited plans and the deposited sections to the Secretary of State for certification that they are true copies of, respectively, the book of reference, deposited plans, and the deposited sections referred to in this Order; and a document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Commencement Information

I33 Art. 33 in force at 30.6.2022, see [art. 1](#)

Service of notices

34.—(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⁽⁴⁶⁾ as it applies for the purposes of this article, the proper address of any person in relation to the service

(46) 1978 c. 30.

on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner” or, as the case may be, “occupier” of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

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

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

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

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

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

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

Commencement Information

I34 Art. 34 in force at 30.6.2022, see [art. 1](#)

Protection of interests

35. Schedule 13 (for the protection of drainage authorities and the Environment Agency) has effect.

Commencement Information

I35 Art. 35 in force at 30.6.2022, see [art. 1](#)

No double recovery

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

Changes to legislation: There are currently no known outstanding effects for the The Network Rail (Essex and Others Level Crossing Reduction) Order 2022. (See end of Document for details)

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Commencement Information

I36 Art. 36 in force at 30.6.2022, see [art. 1](#)

Arbitration

37. Any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

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Commencement Information

I37 Art. 37 in force at 30.6.2022, see [art. 1](#)

Signed by authority of the Secretary of State

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

9th June 2022

Changes to legislation:

There are currently no known outstanding effects for the The Network Rail (Essex and Others Level Crossing Reduction) Order 2022.