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STATUTORY INSTRUMENTS

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**1998 No. 1936**

**TRANSPORT AND WORKS**

**TRANSPORT**

**The Greater Manchester (Light Rapid Transit System) (Ashton-under-Lyne Extension) Order 1998**

*Made* - - - - *6th August 1998*

*Coming into force* - - *27th August 1998*

Whereas an application has been made to the Secretary of State for Transport, in accordance with the Transport and Works (Applications and Objections Procedure) Rules 1992(1) made under sections 6, 7 and 10 of the Transport and Works Act 1992(2) (“the Act”), for an Order under sections 1, 3 and 5 of the Act;

And whereas the Secretary of State for Transport caused an inquiry to be held for the purposes of the application pursuant to section 11 of the Act;

And whereas the Secretary of State for the Environment, Transport and the Regions (“the Secretary of State”), having considered the report of the person who held the inquiry, has determined to make an Order giving effect to the proposals comprised in the application with modifications which in his opinion do not make any substantial change in the proposals;

And whereas the Secretary of State is satisfied that the provision of an alternative right of way for each of the streets mentioned in Part III of Schedule 4 to this Order is not required;

And whereas notice of the Secretary of State’s determination was published in the London Gazette on 5th August 1998;

Now, therefore, the Secretary of State, in exercise of the powers conferred by sections 1, 3 and 5 of, and paragraphs 1 to 4, 6 to 13 and 15 to 17 of Schedule 1 to, the Act and of all other powers enabling him in that behalf, hereby makes the following Order:—

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(1) S.I.1992/2902.  
(2) 1992 c. 42.

## PART I

### PRELIMINARY

#### Citation and commencement

1. This Order may be cited as the Greater Manchester (Light Rapid Transit System) (Ashton-under-Lyne Extension) Order 1998 and shall come into force on 27th August 1998.

#### Interpretation

2.—(1) In this Order, unless the context otherwise requires—

“the 1965 Act” means the Compulsory Purchase Act 1965<sup>(3)</sup>;

“the 1984 Act” means the Road Traffic Regulation Act 1984<sup>(4)</sup>;

“the 1991 Act” means the New Roads and Street Works Act 1991<sup>(5)</sup>;

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

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

“authorised transit system” means the transit system (consisting of the authorised street tramways and the authorised tramroads) authorised by this Order;

“authorised works” means the scheduled works and any other works authorised by this Order;

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

“carriageway” has the same meaning as in the Highways Act 1980<sup>(6)</sup>;

“the exchange lands” means the lands marked as exchange land and shown coloured green on the public open space plans;

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

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

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

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

“owner”, in relation to land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of land (whether in possession or reversion) and includes a person holding, or entitled to the rents and profits of, the land under a lease or tenancy having an unexpired term exceeding 3 years;

“the public open space plans” means the plans numbered MS112 and MS113 attached to the land plans;

“reserved track tramway” means any section of a street tramway laid along part of a street which vehicles other than tramcars are deterred or prevented from using;

“the scheduled works” means the works specified in Schedule 1 to this Order or any part of them;

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(3) 1965 c. 56.

(4) 1984 c. 27.

(5) 1991 c. 22.

(6) 1980 c. 66.

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

“street” includes part of a street;

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

“street tramway” means any part of a transit system which is laid along a street—

- (a) whether or not the section of the street in which its rails are laid may be used by other traffic, and
- (b) whether the uppermost surface of the rails is level with, or raised above, the surrounding surfaces of the street;

“the telecommunications code” means Schedule 2 to the Telecommunications Act 1984(7);

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

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

“transit system” means a system of transport used wholly or mainly for the carriage of passengers and employing parallel rails which—

- (a) provide support and guidance for vehicles carried on flanged wheels, and
- (b) are laid in part along a street or in any other place to which the public has access (including a place to which the public has access only on making a payment);

“the tribunal” means the Lands Tribunal;

“the undertaker” means Greater Manchester Passenger Transport Executive;

“vehicle” includes mobile traction unit;

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

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

(3) In the case of any street in relation to which an order made under section 249(2) of the Town and Country Planning Act 1990(8) (a pedestrian planning order) is in force, the kerbline of the street, where there is no kerb, shall be taken to be the edge of the part of the street on which the passage of vehicles is permitted.

(4) Unless the context otherwise requires, any reference in this Order to a work identified by the number of the work shall be construed as a reference to the work of that number authorised by this Order.

(5) References in this Order to points identified by letters, with or without numbers, shall be construed as references to the points so marked on the works plans.

(6) All distances, directions and lengths stated in the description of the scheduled works or in any description of powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance, direction and length, and distances between points on a street tramway or tramroad shall be taken to be measured along the street tramway or tramroad.

### **Application of enactments relating to railways**

**3.—(1)** The following provisions of the Railways Clauses Consolidation Act 1845(9) shall be incorporated in this Order but shall apply only in relation to the authorised tramroads:—

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(7) 1984 c. 12.

(8) 1990 c. 8.

(9) 1845 c. 20.

section 46 (crossing of roads—level crossings);  
 section 58 (company to repair roads used by them), except for the words from “and if any question” to the end;  
 section 61 (company to make sufficient approaches and fences to highways crossing on the level);  
 section 68 (accommodation works by company);  
 section 71 (additional accommodation works by owners), except for the words “or directed by such justices to be made by the company” and “or, in case of difference, as shall be authorised by two justices”;  
 sections 72 and 73 (supplementary provisions relating to accommodation works);  
 section 75 (omission to fasten gates);  
 section 77 (presumption that minerals excepted from acquisition of land);  
 sections 78 to 85E and Schedules 1 to 3 (minerals under railways), as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923<sup>(10)</sup>; and  
 section 145 (recovery of penalties).

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

“the company” means the undertaker;

“goods” includes anything conveyed on the authorised tramroads;

“lease” includes an agreement for a lease;

“prescribed”, in relation to any such provision, means prescribed by this Order for the purposes of that provision;

“the railway” means the authorised tramroads and, except where the context otherwise requires, any authorised works ancillary to the authorised tramroads;

“the special Act” means this Order;

“toll” includes any rate or charge or other payment payable under this Order or any other enactment for any passenger or goods conveyed on any authorised tramroad.

(3) In section 46 of the said Act of 1845, as incorporated in this Order, for the proviso there shall be substituted the words “Provided always, that, with the consent of the highway authority and subject to such conditions as the authority may reasonably impose, the railway may be carried across a highway on the level”.

(4) The application of section 68 of the said Act of 1845 shall not be taken to require any fencing at the junction of an authorised tramroad with an authorised street tramway.

(5) The provisions of the Regulation of Railways Acts 1840 to 1893 shall not apply in relation to the authorised transit system.

(6) The provisions of the Highway (Railway Crossings) Act 1839<sup>(11)</sup> shall not apply in relation to the authorised transit system.

(7) Nothing in this article shall be taken as affecting the application to the authorised tramroads of sections 32 to 34 of the Offences Against the Person Act 1861<sup>(12)</sup>.

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<sup>(10)</sup> 1923 c. 20.

<sup>(11)</sup> 1839 c. 45.

<sup>(12)</sup> 1861 c. 100.

### **Application of 1991 Act**

4.—(1) Section 56 (directions as to timing) and section 58 (restrictions following substantial road works) of the 1991 Act shall not apply in relation to any works executed under the power of this Order.

(2) The provisions of the 1991 Act mentioned in paragraph (3) below 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, shall apply (with the necessary modifications) in relation to the stopping up, alteration or diversion of a street by the undertaker 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.

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

- section 54 (advance notice of certain works);
- section 55 (notice of starting date of works);
- section 57 (notice of emergency works);
- section 59 (general duty of street authority to co-ordinate works);
- section 60 (general duty of undertakers to co-operate);
- section 68 (facilities to be afforded to street authority);
- section 69 (works likely to affect other apparatus in the street);
- section 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.

(4) Nothing in article 14 of this Order shall—

- (a) prejudice the operation of section 87 of the 1991 Act (prospectively maintainable highways); and the undertaker shall not by reason of any duty under that article to maintain a street be taken to be the street authority in relation to that street for the purposes of Part III of that Act;
- (b) have effect in relation to street works as respects which the provisions of Part III of the 1991 Act apply.

## **PART II**

### **WORKS PROVISIONS**

#### *Principal powers*

#### **Power to construct and maintain works**

5.—(1) The undertaker may construct and maintain the scheduled works.

(2) Subject to article 6 below, the scheduled works may only be constructed in the lines or situations shown on the works plans and in accordance with the levels shown on the sections.

(3) Subject to paragraph (5) below, the undertaker may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, in connection with or in consequence of the construction of, the scheduled works, namely—

- (a) stations, platforms and stopping places,
  - (b) works required for, or in connection with, the control of any vehicular and pedestrian traffic on the authorised transit system,
  - (c) works for the strengthening, alteration or demolition of any building or structure,
  - (d) works to alter the position of any street furniture or apparatus, including mains, sewers, drains and cables,
  - (e) works to alter the course of, or otherwise interfere with, canals, non-navigable rivers, streams or watercourses,
  - (f) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the other authorised works, and
  - (g) replacement facilities and works for the benefit or protection of premises affected by the other authorised works.
- (4) Subject to paragraph (5) below, the undertaker may carry out such other works (of whatever nature) as may be necessary or expedient for the purposes of, in connection with, or in consequence of, the construction of the scheduled works.
- (5) Paragraphs (3) and (4) above shall only authorise the carrying out or maintenance of works—
- (a) within the limits of deviation for the scheduled works shown on the works plans,
  - (b) within the boundaries of any street along which the construction of a street tramway is shown on the works plans or which has a junction with such a street, and
  - (c) on land specified in columns (1) and (2) of Schedule 2 to this Order for the purpose specified in relation to that land in column (3) of that Schedule.
- (6) Paragraph 23 of the telecommunications code shall apply for the purposes of any works authorised by this Order save insofar as such purposes are regulated by the 1991 Act or any regulations made under that Act.

### **Power to deviate**

- 6.—(1) In constructing or maintaining any of the scheduled works, the undertaker may—
- (a) deviate laterally from the lines or situations shown on the works plans within the limits of deviation for that work shown on those plans, and
  - (b) deviate vertically from the levels shown on the sections—
    - (i) to any extent not exceeding 3 metres upwards, and
    - (ii) to any extent downwards.
- (2) In constructing or maintaining any work or part of a work shown on the works plans as being situated in a street and for which no limits of deviation are shown on that plan the undertaker may deviate laterally within the boundaries of that street.
- (3) The undertaker may in constructing or maintaining any of the authorised street tramways lay down—
- (a) double lines of rails in lieu of single lines,
  - (b) single lines of rails in lieu of double lines,
  - (c) interlacing lines of rails in lieu of double or single lines, or
  - (d) double or single lines of rails in lieu of interlacing lines.
- (4) The power in paragraph (3) above shall not be exercised in the case of any authorised street tramway without the consent of the street authority, but such consent shall not be unreasonably withheld.

(5) The undertaker may in constructing and maintaining any of the authorised tramroads provide within the limits of deviation for those tramroads such number of lines of rails and sidings as may be necessary or expedient.

### **Designation of works**

7.—(1) Notwithstanding anything in the description of scheduled works contained in Schedule 1 to this Order, the whole or any part of a scheduled work may be constructed within the limits of deviation for that work either along a street as a street tramway or off-street as a tramroad and shall be treated for the purposes of this Order as if it were so designated.

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

## *Streets*

### **Power to alter layout of streets**

8.—(1) The undertaker may alter the layout of any street specified in columns (1) and (2) of Schedule 3 to this Order in the manner specified in relation to that street in column (3) of that Schedule.

(2) Without prejudice to the specific powers conferred by paragraph (1) above but subject to paragraph (3) below, the undertaker 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 prejudice to the generality of the foregoing, the undertaker 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 by forming a reserved area in the street as a stopping place for tramcars or by carrying out other works for that purpose,
- (d) carry out works for the provision or alteration of parking places,
- (e) carry out traffic calming works which are of a description prescribed in the Highways (Traffic Calming) Regulations 1993(13) and which are constructed in compliance with those Regulations,
- (f) carry out works to the carriageway of the street for the purpose of deterring or preventing vehicles other than tramcars from passing along the transit system, and
- (g) make and maintain crossovers, sidings or passing places.

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

### **Power to keep apparatus in streets**

9.—(1) The undertaker may, for the purposes of or in connection with the construction, maintenance and use of the authorised transit system, place and maintain in any street in which the transit system is or is to be laid and in any street having a junction with such a street any work,

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(13) S.I. 1993/1849.

equipment or apparatus including, without prejudice to the generality of the foregoing, foundations, platforms, road islands, substations, electric lines and any electrical or other apparatus.

(2) In this article—

- (a) “apparatus” has the same meaning as in Part III of the 1991 Act,
- (b) “electric line” has the meaning given by section 64(1) of the Electricity Act 1989<sup>(14)</sup>, and
- (c) 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**

**10.**—(1) The undertaker may, for the purpose of exercising the powers conferred by article 9 above and the other provisions of this Order, enter upon any street in which the authorised transit system is or is to be laid and any street having a junction with such a street and may execute any works required for or incidental to the exercise of those powers including, without prejudice to the generality of the foregoing, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street.

(2) This article is subject to paragraph 3 of Schedule 10 to this Order.

### **Stopping up of streets and extinguishment of rights**

**11.**—(1) Subject to the provisions of this article, the undertaker may, in connection with the construction of the authorised works, stop up each of the streets specified in columns (1) and (2) of Part I and Part III of Schedule 4 to this Order and extinguish all vehicular rights of access and egress in each of the streets mentioned in columns (1) and (2) of Part II of that Schedule to the extent specified, by reference to the letters and numbers shown on the works plans, in column (3) of Parts I, II and III of that Schedule.

(2) No street specified in columns (1) and (2) of Part I of Schedule 4 (being a street to be stopped up for which a substitute is to be provided) shall be wholly or partly stopped under this article until the new street to be substituted for it, and which is specified in relation to it by reference to one of the scheduled works in column (4) of that Part of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use.

(3) No street specified in columns (1) to (3) of Part III of Schedule 4 to this Order (being a street to be stopped up for which no substitute is to be provided) shall be wholly or partly stopped up under this article unless the condition specified in paragraph (4) below is satisfied in relation to all the relevant land; and for this purpose “relevant land” means any land which abuts on either side of the street to be stopped up.

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

- (a) the undertaker is in possession of the land, or
- (b) there is no right of access to the land from the street concerned, or
- (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 the subject of a stopping up under this article the undertaker may, without making any payment but subject to the provisions of sections 77 to 85E of, and Schedules 1 to 3 to, the Railways Clauses Consolidation Act 1845<sup>(15)</sup> (which, as incorporated by this Order,

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<sup>(14)</sup> 1989 c. 29.

<sup>(15)</sup> 1845 c. 20.



relate to minerals under the authorised tramroads), appropriate and use for the purposes of its transit system undertaking so much of the site of the street as is bounded on both sides by land owned by the undertaker.

(6) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part I of the Land Compensation Act 1961(16).

(7) This article is subject to paragraph 2 of Schedule 10 to this Order.

### **Temporary stopping up of streets**

**12.**—(1) The undertaker 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 (2) below, prevent all persons from passing along the street.

(2) The undertaker shall 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.

(3) Without prejudice to the generality of paragraph (1) above, the undertaker may exercise the powers of this article in relation to the streets specified in columns (1) and (2) of Schedule 4 and in columns (1) and (2) of Schedule 5 to this Order to the extent specified, by reference to the letters and numbers shown on the works plans, in column (3) of those Schedules.

(4) The undertaker shall not exercise the powers of this article—

- (a) in relation to any street specified as mentioned in paragraph (3) above without first consulting the street authority, and
- (b) in relation to any other street without the consent of the street authority, but such consent shall not be reasonably withheld.

(5) The temporary stopping up, alteration or diversion of any street authorised by this Order shall not affect any right of any telecommunications operator as provided for in accordance with paragraph 9 of the telecommunications code.

### **Access to works**

**13.** The undertaker may, for the purposes of the scheduled works, form and lay out means of access or improve existing means of access in such locations within the limits of deviation for the scheduled works shown on the works plan or, where article 6(2) above applies, within the boundaries of the street in question as may be approved by the highway authority, but such approval shall not be unreasonably withheld.

### **Construction and maintenance of new or altered streets**

**14.**—(1) Any street to be constructed under this Order shall be completed to the reasonable satisfaction of the highway authority and shall, unless otherwise agreed, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at 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 shall when completed to the reasonable satisfaction of the street authority, unless otherwise agreed, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(3) Paragraphs (1) and (2) above do not apply in relation to the structure of any bridge or tunnel carrying a street over or under any tramroad of the undertaker.

### **Construction of bridges and tunnels**

**15.** Any bridge or tunnel to be constructed under this Order for carrying a highway over or under a tramroad shall be constructed in accordance with plans and specifications approved by the highway authority, but such approval shall not be unreasonably withheld.

### **Restoration of streets if street tramway discontinued**

**16.** If the undertaker permanently ceases to operate any of the authorised street tramways (“the discontinued tramway”), it shall 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**

**17.—**(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street (including any structure carrying the street over or under a tramroad) under the powers conferred by this Order,
  - (b) the maintenance of any street or of the structure of any bridge or tunnel carrying a street over or under a tramroad,
  - (c) any stopping up, alteration or diversion of a street under the powers conferred by this Order, or
  - (d) the execution in the street of any of the works referred to in article 10(1) above.
- (2) Such an agreement may, without prejudice to the generality of paragraph (1) above—
- (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.

### **Level crossings**

**18.—**(1) The undertaker may construct the authorised transit system so as to carry it on the level across the highways specified in Parts I and II of Schedule 6 to this Order.

(2) The undertaker may provide, maintain and operate at or near any new level crossing such barriers or other protective equipment as the Secretary of State 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 shall be treated for the purposes of section 64(4) of the 1984 Act as having been placed as provided by that Act.

(4) Without prejudice to the generality of article 8 above, the undertaker may in the exercise of the powers of this article alter the level of any highway specified in Schedule 6 to this Order.

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

(6) In this article—

“barrier” includes gate;

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

“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*

#### **Attachment of equipment to buildings for purposes of transit system**

**19.—**(1) Subject to the following provisions of this article, the undertaker may affix to any building:—

- (a) any brackets, cables, wires, insulators and other apparatus required in connection with the authorised transit 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 transit system.

(2) The undertaker shall not under this article affix any apparatus to a building without the 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 shall not be unreasonably withheld.

(3) Where—

- (a) the undertaker 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 his consent unconditionally or give it subject to conditions or refuse it,

the consent shall be deemed to have been withheld.

(4) Where, in the opinion of the undertaker, a consent required under this article for the affixing of specified apparatus is unreasonably withheld or given subject to unreasonable conditions, it 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 it 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 undertaker not less than 28 days’ notice requiring the undertaker at its own expense temporarily to remove the apparatus during any reconstruction or repair of the building if such removal is reasonably necessary for that purpose, and
- (b) the undertaker shall have the right as against any person having an interest in the building to maintain the apparatus.

(6) The undertaker shall 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) above; and any dispute as to a person’s entitlement to compensation, or as to the amount of the compensation, shall be determined under Part I of the Land Compensation Act 1961.

(7) In this article—

“building” includes any structure and a bridge or aqueduct over the street; and

“relevant owner”—

- (a) in relation to a building occupied under a lease or tenancy having an unexpired term exceeding 5 years, means the 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 his 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**

**20.**—(1) Subject to article 43 below the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction 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 limits of deviation shown on the works plans 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) The undertaker shall 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 shall not be unreasonably withheld.

(3) The undertaker shall 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 shall not be unreasonably withheld.

(4) The undertaker shall 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.

(5) The undertaker shall 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.

(6) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by section 85(1), (2) or (3) of the Water Resources Act 1991(17).

(7) 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,
- (b) “watercourse” includes all 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 have the same meaning as in that Act.

### **Safeguarding works to buildings**

**21.**—(1) Subject to the following provisions of this article the undertaker may at its own expense and from time to time carry out such safeguarding works to any building lying within the limits of deviation or on the lands numbered 11, 17, 162 and 348 on the land plans as the undertaker 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

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(17) 1991 c. 57.

(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 undertaker may enter and survey any building falling within paragraph (1) above and any land belonging to it.

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

- (a) enter the building and any land belonging to it, 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) above to carry out safeguarding works to a building,
- (b) a right under paragraph (3) above to enter a building,
- (c) a right under paragraph (4)(a) above to enter a building or land, or
- (d) a right under paragraph (4)(b) above to enter land,

the undertaker shall, 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) above, specifying the safeguarding works proposed to be carried out.

(6) Where notice is served under paragraph (5)(a), (c) or (d) above, 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 51 below.

(7) The undertaker shall 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 undertaker shall compensate the owners and occupiers of the building for any damage sustained by them.

(9) Without prejudice to article 50 below nothing in this article shall relieve the undertaker from any liability to pay compensation under section 10(2) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) above shall be determined, in case of dispute, under Part I of the Land Compensation Act 1961(18).

(11) In this article—

- (a) “building” includes any structure or erection or any part of a building, structure or erection,
- (b) “safeguarding works”, in relation to a building, means—

- (i) 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,
- (ii) 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
- (iii) any works the purpose of which is to secure the safe operation of the transit system or to prevent or minimise the risk of such operation being disrupted.

### **Planning permission: supplementary matters**

**22.**—(1) In relation to the application of paragraph (3)(c) of the Second Schedule of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Tree Preservation Order) Regulations 1969<sup>(19)</sup> (including that paragraph as applied by regulation 3(ii) of the Town and Country Planning (Tree Preservation Order) (Amendment) and (Trees in Conservation Areas) (Exempted Cases) Regulations 1975<sup>(20)</sup>, or as incorporated in any tree preservation order), any direction under section 90(2A) of the Town and Country Planning Act 1990<sup>(21)</sup> deeming planning permission to be granted in relation to works authorised by this Order shall be treated as deeming the permission to have been granted on application made under Part III of that Act for the purposes of that Part.

(2) Planning permission which is deemed by a direction under section 90(2A) of the Town and Country Planning Act 1990 to be granted in relation to works authorised by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of the Town and Country Planning Act 1990.

### **Power to survey and investigate land**

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

- (a) survey or investigate any land within the limits of deviation shown on the works plans or in any street along which any authorised street tramway is authorised to be laid,
- (b) without prejudice to the generality of sub-paragraph (a) above, make trial holes in such positions as the undertaker thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples,
- (c) 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
- (d) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (c) above.

(2) No land may be entered, or equipment placed or left on or removed from the land under paragraph (1) above, 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 undertaker—

- (a) shall, if so required, before or after entering the land produce written evidence of his authority to do so, and
- (b) may take with him such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

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<sup>(19)</sup> S.I. 1969/17.

<sup>(20)</sup> S.I. 1975/148.

<sup>(21)</sup> 1990 c. 8.

(4) No trial holes shall be made under this article in a carriageway or footway without the consent of the street authority, but such consent shall not be unreasonably withheld.

(5) The undertaker shall make 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 I of the Land Compensation Act 1961.

### **Mode of construction and operation of transit system**

**24.**—(1) The authorised transit system shall be operated by electricity or, in an emergency or for the purposes of maintenance, by diesel power or other means.

(2) The authorised transit system shall be constructed on a gauge of 1,435 millimetres.

(3) Except with the consent of the street authority (which shall not be unreasonably withheld) the authorised street tramway (other than any reserved track tramway) shall be so constructed and maintained as to ensure that the uppermost surface of the rails is level with the surrounding surfaces of the street in which it is laid.

(4) In constructing stations and stopping places for the purposes of the authorised transit system the undertaker shall make provision, in so far as it is in the circumstances both practicable and reasonable and without prejudice to any requirement having effect under or by virtue of the Chronically Sick and Disabled Persons Act 1970<sup>(22)</sup>, for the needs of those members of the public using the authorised transit system whose mobility is impaired.

### **Obstruction of construction of transit system**

**25.** Any person who, without reasonable excuse, obstructs another person from constructing any of the authorised works under the powers conferred by this Order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **PART III**

### **ACQUISITION AND POSSESSION OF LAND**

#### *Powers of acquisition*

#### **Power to acquire land**

**26.**—(1) The undertaker may acquire compulsorily—

(a) so much of the land (other than the exchange lands) shown on the land plans within the limits of deviation for the scheduled works shown on those plans and described in the book of reference as may be required for the purposes of the authorised works, and

(b) so much of the land specified in columns (1) and (2) of Schedule 2 to this Order (being land shown on the land plans and described in the book of reference) as may be required for the purpose specified in relation to that land in column (3) of that Schedule;

and may use any land so acquired for those purposes or (except in the case of the exchange lands) for any other purposes connected with or ancillary to its transit system undertaking.

(2) The undertaker shall not under the powers of this Order acquire compulsorily any interest in the land numbered 149, 152, 195, 227, 229 and 261 in the book of reference.

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(22) 1970 c. 44.

### **Application of Part I of Compulsory Purchase Act 1965**

**27.**—(1) Part I of the 1965 Act, insofar as not modified by or inconsistent with the provisions of this Order, shall apply to the acquisition of land under this Order—

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(23) applies, and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part I of the 1965 Act, as so applied, shall have effect as if—

- (a) section 4 (which provides a time limit for compulsory purchase of land) and paragraph 3(3) of Schedule 3 (which makes provision as to the giving of bonds) were omitted, and
- (b) in section 11(1) (which confers power to enter on and to take possession of land subject to a notice to treat on giving not less than 14 days' notice) for the reference to 14 days' notice there were substituted—
  - (i) in a case where the notice to treat relates only to the acquisition of subsoil or the acquisition of an easement or other right over the land, a reference to notice of one month, or
  - (ii) in any other case, a reference to notice of 3 months.

### **Application of Compulsory Purchase (Vesting Declarations) Act 1981**

**28.**—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(24) shall apply as if this Order were a compulsory purchase order.

- (a) (2) (a) In its application by virtue of paragraph (1) above, the Compulsory Purchase (Vesting Declarations) Act 1981 shall have effect with the following modifications.

- (b) In section 3 (preliminary notices) for subsection (1) there shall be substituted—

“(1) Before making a declaration under section 4 below with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in subsection (3) below in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession), and
- (b) published in the London Gazette and in a local newspaper circulating in the area in which the land is situated.”.

- (c) In that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)”.

- (d) In that section, subsections (5) and (6) shall be omitted and at the end there shall be substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) he is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion, or
- (b) he holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

- (e) In section 5 (earliest date for execution of declaration)—

(i) in subsection (1), after “publication” there shall be inserted “in the London Gazette or in a local newspaper circulating in the area in which the land is situated”, and

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(23) 1981 c. 67.

(24) 1981 c. 66.



- (ii) subsection (2) shall be omitted.
- (f) In section 7 (constructive notice to treat) in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted.
- (g) References to the Compulsory Purchase Act 1965 shall be construed as references to that Act as applied to the acquisition of land under article 26 above.

### **Powers to acquire new rights**

**29.**—(1) The undertaker may compulsorily acquire such easements or other rights over any land referred to in paragraph (1)(a) or (b) of article 26 above as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

(2) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 7 to this Order), where the undertaker acquires a right over land under paragraph (1) above the undertaker shall not be required to acquire a greater interest in it.

(3) Schedule 7 to this Order shall have 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 undertaker may compulsorily acquire so much of the subsoil of the land referred to in paragraph (1)(a) or (b) of article 26 above as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of the subsoil of land under paragraph (1) above the undertaker shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) above shall not prevent article 35 below from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

### **Rights under or over streets**

**31.**—(1) The undertaker may enter upon and appropriate so much of the surface, subsoil of, or air-space over, any street shown on the land 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 air-space for those purposes or any other purpose connected with or ancillary to its transit system undertaking.

(2) The power under paragraph (1) above may be exercised in relation to a street without the undertaker being required to acquire any part of the street or any easement or right in the street.

(3) The undertaker shall not be required to pay any compensation for the exercise of the powers conferred by paragraph (1) above where the street is a highway; but where the street is not a highway any person suffering loss by the exercise of that power shall be entitled to compensation to be determined, in case of dispute, under Part I of the Land Compensation Act 1961.

(4) Paragraphs (2) and (3) above shall not apply in relation to—

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

### *Temporary possession of land*

#### **Temporary use of land for construction of works**

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

- (a) enter upon and take temporary possession of the land specified in columns (1) and (2) of Schedule 8 to this Order for the purpose specified in relation to that land in column (3) of that Schedule,
- (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 28 days before entering upon and taking temporary possession of land under this article the undertaker shall serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker 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 2 years beginning with the date of completion of the works specified in relation to that land in column (4) of Schedule 8 to this Order.

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

(5) The undertaker shall 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) above, or as to the amount of the compensation, shall be determined under Part I of the Land Compensation Act 1961.

(7) Without prejudice to article 50 below, nothing in this article shall affect any liability to pay compensation under section 10(2) 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) above.

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

(9) In this article "building" includes structure or any other erection.

#### **Temporary use of land for maintenance of works**

**33.**—(1) At any time during the maintenance period relating to any of the scheduled works, the undertaker may—

- (a) enter upon and take temporary possession of any land within the limits of deviation and lying within 20 metres from that work if such possession is reasonably required for the purpose of, or in connection with, maintaining the work or any ancillary works connected with it or securing the safe operation of any such work,
- (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) above shall not authorise the undertaker 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 undertaker shall serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance 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 undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker shall 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 powers conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6) above, or as to the amount of the compensation, shall be determined under Part I of the Land Compensation Act 1961(25).

(8) Without prejudice to article 50 below, nothing in this article shall affect any liability to pay compensation under section 10(2) 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) above.

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

(10) 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 use,
- (b) “building” includes structure or any other erection, and
- (c) 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 (if any) payable to any person on the acquisition from him of any land under this Order, the tribunal shall 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) above “relevant land” means the land acquired from the person concerned or any other land with which he 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*

#### **Acquisition of part of certain properties**

**35.**—(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 27 above) in any case where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or factory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”), and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat and stating that he is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner shall be required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner shall be required to sell only the land subject to the notice to treat shall, unless the undertaker agrees to take the land subject to the counter-notice, be referred to the tribunal.

(5) If on such a reference the tribunal determine that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice, or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner shall be required to sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determine that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice, or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat shall be deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determine that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice, but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the tribunal determine that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, and

(b) the material detriment is not confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.

(9) In any case where by virtue of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and if it does so shall pay to the owner compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or factory or of land consisting of a house with a park or garden, the undertaker shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of the interest acquired.

### **Extinction or suspension of private rights of way**

**36.—**(1) All private rights of way over land subject to compulsory acquisition under this Order shall be extinguished—

(a) as from the acquisition of the land by the undertaker, whether compulsorily or by agreement, or

(b) on the entry on the land by the undertaker under section 11(1) of the 1965 Act, whichever is sooner.

(2) All private rights of way over land owned by the undertaker which, being within the limits of land which may be acquired shown on the land plans, is required for the purposes of this Order shall be extinguished on the appropriation of the land for any of those purposes by the undertaker.

(3) All private rights of way over land of which the undertaker takes temporary possession under this Order shall be suspended and unenforceable for as long as the undertaker 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 shall be entitled to compensation to be determined, in case of dispute, under Part I of the Land Compensation Act 1961.

(5) This article does not apply in relation to any right of way to which section 271 or 272 of the Town and Country Planning Act 1990 (extinguishment of rights of statutory undertakers etc.) or paragraph 2 of Schedule 10 to this Order applies.

### **Public Open Space**

**37.—**(1) The undertaker shall not under the powers of this Order acquire compulsorily any interest in the public open spaces known as Linear Park, Audenshaw and Freedom Gardens, Ashton comprised in the lands numbered 288 and 345 in the book of reference other than the lands shown coloured red on the public open space plans.

(2) None of the land shown coloured red on either of the public open space plans shall vest in the undertaker until the undertaker has acquired the land coloured green on that plan and Tameside Metropolitan Borough Council has certified that a scheme for the replacement as public open space of the land so shown coloured red with the land so shown coloured green has been implemented to its satisfaction.

(3) Upon the requirements of paragraph (2) being satisfied in relation to the land shown coloured red on either of the public open space plans, the land so shown coloured green on that plan shall vest

in Tameside Metropolitan Borough Council subject to the like rights, trusts and incidents as attached to the land shown coloured red; and the land shown coloured red shall thereupon be discharged from all rights, trusts and incidents to which it was previously subject.

#### **Time limit for exercise of powers of acquisition**

**38.**—(1) The powers conferred by this Order to acquire land or rights over land compulsorily, and the power conferred by article 32 above to enter upon and take temporary possession of land, shall cease at the end of the period of 5 years beginning on the day on which this Order comes into force.

(2) Paragraph (1) above shall not prevent the undertaker remaining in possession of land in accordance with article 32 above after the end of that period, if the land was entered and possession of it was taken before the end of that period.

## **PART IV**

### **OPERATION OF TRANSIT SYSTEM**

#### **Application of provisions of 1996 Order**

**39.**—(1) The following provisions of the Greater Manchester (Light Rapid Transit System) (Eccles Extension) Order 1996(26) shall apply to the authorised transit system as they apply to the transit system authorised by that Order—

- Article 20 (Power to construct temporary transit systems)
- Article 35 (Power to operate and use transit system)
- Article 36 (Maintenance of approved works, etc.)
- Article 37 (Removal of obstructions)
- Article 38 (Traffic signs)
- Article 40 (Power to lop trees overhanging transit system)
- Article 41 (Trespass on tramroads)
- Article 42 (Power to make byelaws)
- Article 43 (Power to contract for police services)
- Article 44 (Powers of disposal, agreements for operation, etc.)
- Article 45 (Application of landlord and tenant law)
- Article 46 (Jurisdiction of Rail Users' Consultative Committee)
- Article 47 (Tramcars deemed public service vehicles)
- Article 51 (For protection of Environment Agency).

(2) In the case of conflict between—

- (a) any byelaws made under article 42 (power to make byelaws) of the Greater Manchester (Light Rapid Transit System) (Eccles Extension) Order 1996 as applied by paragraph (1) above, applying within Piccadilly Station and the approaches to that station; and
- (b) any byelaws made by Railtrack PLC (or having effect as so made by virtue of section 129(6) of the Railways Act 1993(27));

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(26) S.I. 1996/2714.

(27) 1993 c. 43.

the byelaws of Railtrack PLC shall prevail except insofar as provision to a contrary effect is made, with the express consent of Railtrack PLC (such consent not to be unreasonably withheld), in the byelaws of the undertaker.

### **Traffic restrictions**

**40.**—(1) Subject to the provisions of this article the undertaker may, for the purposes of the authorised transit system, at any time prior to the expiry of 12 months from the opening of the system for use and with the consent of the traffic authority in whose area the road is situated—

- (a) prohibit or restrict the waiting or the loading or unloading of vehicles on those roads specified in columns (1) and (2) of Part I of Schedule 9 to this Order along the lengths and between the points specified in column (3) of that Schedule respectively,
- (b) make provision as to the direction of vehicular traffic on the roads specified in columns (1) and (2) of Part II of Schedule 9 to this Order in the manner specified in column (3) of that Schedule,
- (c) prohibit vehicular access on those roads specified in columns (1) and (2) of Part III of Schedule 9 to this Order at the points and in the manner specified in column (3) of that Schedule,
- (d) revoke any traffic regulation order in so far as it is inconsistent with any prohibition, restriction or other provision made by the undertaker under this paragraph.

(2) The undertaker shall not exercise the powers of this article unless it has—

- (a) given not less than 12 weeks' notice in writing of its intention so to do 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 within 28 days of its receipt of notice of the undertakers' intention specify in writing.

(3) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) above shall have effect as if duly made by the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act.

## **PART V**

### **PROTECTIVE PROVISIONS**

#### **Statutory undertakers, etc.**

**41.** The provisions of Schedule 10 to this Order shall have effect.

#### **For protection of Railtrack**

**42.**—(1) For the protection of Railtrack the following provisions shall, unless otherwise agreed in writing between the undertaker and Railtrack, have effect.

(2) In this article—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer to be appointed by Railtrack;

“plans” includes sections, designs, drawings, specifications, soil reports, calculations and descriptions (including descriptions of methods of construction), staging proposals and programmes;

“Railtrack” means Railtrack PLC and any associated company of Railtrack PLC which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 736 of the Companies Act 1985<sup>(28)</sup>) the holding company of Railtrack PLC, a subsidiary of Railtrack PLC or another subsidiary of the holding company of Railtrack PLC;

“railway property” means any railway of Railtrack and any works, apparatus and equipment of Railtrack connected therewith and includes any land held or used by Railtrack for the purposes of such railway or works, apparatus or equipment;

“specified works” means so much of the authorised works and any reconstruction of Work No. 7 authorised by the Greater Manchester (Light Rapid Transit System) Act 1988<sup>(29)</sup> as may be required for the purposes of or in connection with the authorised works as may be situated upon, across, under, over or within 15 metres of, or may in any way affect, railway property;

“the Station” means Railtrack’s Piccadilly Station in Manchester.

- (a) (3) (a) The undertaker shall not under the powers of this Order or otherwise for the purposes of the specified works at the Station acquire or use or acquire new rights over any railway property except with the consent of Railtrack which shall not be unreasonably withheld but may be given subject to reasonable conditions.
- (b) The undertaker shall fence off on a temporary and permanent basis the specified works from railway property to the reasonable satisfaction of the engineer where so required by him.

(4) The undertaker shall not exercise the power of article 23 above or the powers of section 11(3) of the 1965 Act in respect of any railway property except with the consent of Railtrack which consent shall not be unreasonably withheld but may be given subject to reasonable conditions.

- (a) (5) (a) Except with the consent of Railtrack the undertaker shall not in the exercise of the powers of this Order prevent pedestrian or vehicular access to the Station or any other railway property.
- (b) The undertaker shall not exercise the powers of sections 271 or 272 of the Town and Country Planning Act 1990<sup>(30)</sup>, as applied by Schedule 10 to this Order, in relation to any right of access of Railtrack to railway property but such right of access may be diverted with the consent of Railtrack.
- (c) The consent of Railtrack under this paragraph shall not be unreasonably withheld but may be given subject to reasonable conditions.
- (a) (6) (a) The undertaker shall before commencing construction of the specified works supply to Railtrack proper and sufficient plans for the reasonable approval of the engineer and shall not commence such construction of the specified works until plans thereof have been approved in writing by the engineer or settled by arbitration.
- (b) The approval of the engineer under this paragraph shall not be unreasonably withheld or delayed and if within 56 days after such plans have been supplied to Railtrack the engineer has not intimated his disapproval thereof and the grounds of his disapproval he shall be deemed to have approved the same.

(7) If within 56 days after such plans have been supplied to Railtrack, Railtrack gives notice to the undertaker that Railtrack desires itself to construct any part of the specified works which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Railtrack then, if the undertaker desires such part of the specified works to be constructed, Railtrack shall construct the same (together with any adjoining part of the specified

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<sup>(28)</sup> 1985 c. 6.

<sup>(29)</sup> 1988 c.i.

<sup>(30)</sup> 1990 c. 8.



works which the undertaker reasonably requires to be constructed in one operation with those works) with all reasonable dispatch on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled as aforesaid and under the supervision (where appropriate and if given) of the undertaker.

(8) Upon signifying his approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in his opinion should be carried out before the commencement of the specified works to ensure the safety or stability of railway property, the continuation of safe and efficient operation of the railways of Railtrack and the Station or the services of operators using the same (including any relocation of works, apparatus and equipment necessitated by the specified works) and such protective works as may be reasonably necessary for those purposes shall be constructed by Railtrack or by the undertaker, if Railtrack so desires, with all reasonable dispatch and the undertaker shall not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to his reasonable satisfaction.

(9) The specified works shall, when commenced, be constructed—

- (a) with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled as aforesaid,
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer,
- (c) in such manner as to cause as little damage to railway property as may be, and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe user of any railway of Railtrack or the traffic thereon, the operation of the Station and the use by passengers of railway property;

and, if any damage to railway property or any such interference or obstruction is caused or takes place in consequence of the construction of the specified works, the undertaker shall, notwithstanding any such approval as aforesaid, make good such damage and shall pay to Railtrack all reasonable expenses to which it may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(10) The undertaker shall—

- (a) at all times afford reasonable facilities to the engineer for access to the specified works during their construction; and
- (b) supply the engineer with all such information as he may reasonably require with regard to the specified works or the method of construction thereof.

(11) Railtrack shall at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Railtrack under this article during their construction and shall supply the undertaker with such information as it may reasonably require with regard to such works or the method of construction thereof.

- (a) (12) (a) If any alterations or additions, either permanent or temporary, to railway property are reasonably necessary during the construction of the specified works or during a period of 12 months after the completion thereof in consequence of the construction of the specified works, and Railtrack gives to the undertaker reasonable notice of its intention specifying the alterations or additions to be carried out the undertaker shall pay to Railtrack the reasonable cost thereof including, in respect of permanent alterations and additions, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Railtrack in maintaining, working and, when necessary, renewing any such alterations or additions.

- (b) The engineer shall in respect of the capitalised sums referred to in this paragraph and paragraph (13)(a) below, provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.
- (c) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving shall be set off against any sum payable by the undertaker to Railtrack under this paragraph.
- (13) The undertaker shall repay to Railtrack all reasonable fees, costs, charges and expenses reasonably incurred by Railtrack—
- (a) in constructing any part of the specified works on behalf of the undertaker as provided by paragraph (7) above or in constructing any protective works under the provisions of paragraph (8) above including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works,
- (b) in respect of the employment of any inspectors, signalmen, watchmen and other persons whom it is reasonably necessary to appoint for inspecting, watching, lighting and signalling railway property and for preventing as far as may be all interference, obstruction, danger or accident arising from the construction, maintenance, or failure of the specified works,
- (c) in respect of any special traffic working resulting from any speed restrictions which are necessary as a result of the construction, maintenance, or failure of the specified works and which may in the opinion of the engineer be required to be imposed or from the substitution, suspension or diversion of services which may be necessary for the same reason,
- (d) in respect of any additional temporary lighting of railway property in the vicinity of the specified works being lighting made reasonably necessary as a result of the specified works or the failure thereof, and
- (e) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by him of the construction of the specified works.
- (14) If at any time after the completion of the specified works, not being works vested in Railtrack, Railtrack gives notice to the undertaker informing it that the state of maintenance of the specified works appears to be such as adversely affects the operation of railway property, the undertaker shall, on receipt of such notice, take such steps as may be reasonably necessary to put the specified works in such state of maintenance as not adversely to affect railway property.
- (15) All temporary structures, erections, works, apparatus and appliances erected or placed by the undertaker under the powers of the Order upon, over or under any railway of Railtrack shall, as soon as reasonably practicable, be removed by the undertaker at times to be agreed with, and to the reasonable satisfaction of, the engineer and in such a way as to cause as little damage to railway property and as little interference with or delay or interruption to, the traffic on the railways of Railtrack as may be; and if any damage to railway property or such interference, delay or interruption is caused by any such failure to remove any such temporary structures, erections, works, apparatus or appliances, the undertaker shall forthwith make good such damage and pay to Railtrack the reasonable costs and expenses to which it may be put and reasonable compensation for any loss which it may sustain by reason of such damage, interference, delay or interruption.
- (16) If it is necessary for the protection and safety of railway property for Railtrack to purchase any minerals for the support of such property or to pay compensation for any minerals to be left unworked for the support thereof and the specified works also derive support from such minerals, the undertaker shall repay to Railtrack a reasonable proportion of the amount paid by Railtrack for or in respect of such minerals and the costs and expenses incurred by Railtrack in relation to any such purchase or payment of compensation.

(17) Before providing any illumination or illuminated traffic sign on or in connection with the specified works in the vicinity of any railway of Railtrack the undertaker shall consult with Railtrack and comply with its reasonable requirements for preventing confusion between such illumination or illuminated sign and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

(18) Any additional expenses which Railtrack may reasonably incur after giving 56 days' notice to the undertaker in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of the specified works shall be repaid by the undertaker to Railtrack.

(19) The undertaker shall be responsible for and make good to Railtrack all reasonable costs, charges, damages and expenses not otherwise provided for in this article which may be occasioned to or reasonably incurred by Railtrack—

- (a) by reason of the construction or maintenance of the specified works or the failure thereof, or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon the specified works;

and the undertaker shall indemnify Railtrack from and against all claims and demands arising out of or in connection with the specified works or any such failure, act or omission as aforesaid and the fact that any act or thing may have been done by Railtrack on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without negligence on the part of Railtrack or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this paragraph.

(20) Railtrack shall give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the undertaker.

- (a) (21) (a) The compensation payable under paragraph (19) above shall include a sum equivalent to the relevant costs.
- (b) Subject to the terms of any agreement between Railtrack and any train operator regarding the terms of payment of the relevant costs in respect of that train operator, Railtrack shall promptly pay to each train operator the amount of any compensation which Railtrack receives under this paragraph which relates to the relevant costs of that train operator.
- (c) In this paragraph “relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of use of Railtrack’s railway network as a result of the construction or maintenance or failure of the specified works or any such failure, act or omission as mentioned in paragraph (19) above.
- (d) The obligation under this paragraph to pay Railtrack the relevant costs shall, in the event of default, be enforceable direct by the train operator concerned.

(22) In the assessment of compensation payable under this article there shall not be taken into account any enhancement of that compensation attributable to any action taken or any agreement entered into by Railtrack if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining compensation or increased compensation and for the avoidance of doubt any reference in this paragraph to compensation shall be deemed to relate to any payment due to Railtrack under this article.

- (a) (23) (a) Section 41 (For protection of British Railways Board) of the Greater Manchester (Light Rapid Transit System) Act 1988(31) in its application to Railtrack shall

not apply to any reconstruction of Work No. 7 authorised by that Act which forms part of the specified works.

- (b) Section 42 (For further protection of British Railways Board) of the Greater Manchester (Light Rapid Transit System) Act 1988 shall have effect with the substitution of references to Railtrack for references to the railways board and as if the references therein to the light rapid transit system and to works authorised by that Act included references to the specified works and to any parts of the railways of Railtrack transferred to, and vested in, the undertaker by agreement with Railtrack under this Order.

(24) The undertaker and Railtrack may enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the Order plans and described in the book of reference,
- (b) any lands, works or other property held in connection with any such railway property, and
- (c) any rights and obligations (whether or not statutory) of Railtrack relating to any railway property.

#### **For protection of the British Waterways Board**

43.—(1) For the protection of the waterways board the following provisions shall, unless otherwise agreed in writing between the undertaker and the waterways board, have effect.

(2) In this article—

“the canal” means the Ashton Canal in so far as it is owned or managed by the waterways board, and any works connected therewith for the maintenance of which the waterways board are responsible, and includes any lands held or used by the waterways board for the purposes of the canal;

“construction” includes execution, placing, altering, replacing and relaying and includes removal;

“the engineer” means an engineer to be appointed by the waterways board;

“plans” includes sections, drawings, specifications and method statements;

“the specified works” means so much of any of the authorised works as is situated over or upon or abuts on or in any way affects the canal and includes the exercise of any of the powers of articles 5, 8, 9, 10, 12, 19 and 23 in relation to the canal;

“the waterways board” means the British Waterways Board.

(3) Notwithstanding anything in this Order or shown on the land plans, the undertaker shall not under the powers of this Order acquire compulsorily or occupy any land or other property of the waterways board or acquire compulsorily any easement or other right over such land, but it may subject to the consent of the waterways board (which consent shall not unreasonably be withheld) in accordance with the provisions of article 29 above acquire such easements and rights as it may reasonably require for the purposes of the authorised works in any such land or property delineated on the land plans.

(4) The undertaker shall not use any land or property of the waterways board (including the towing paths comprised in the canal) for the passage of vehicles, plant or machinery employed in the construction of the specified works other than—

- (a) with the consent in writing of the engineer, whose consent shall not be unreasonably withheld, and
- (b) subject to compliance with such reasonable requirements as the engineer may from time to time specify—

- (i) for the prevention of damage to such land and property and of danger to persons thereon, and
  - (ii) in order to avoid or reduce any inconvenience to the waterways board, their officers and agents and all other persons lawfully on such land or property.
- (5) If as a result of the construction of the specified works any part of the towing path comprised in the canal or any public right of way giving access thereto (“the closed section”) is closed to persons on foot or on cycles the undertaker shall to the reasonable satisfaction of the waterways board provide in substitution a sufficient and convenient way between the points of commencement and termination of the closed section and maintain that way throughout the period of closure.
- (a) (6) (a) The undertaker shall, before commencing the construction of the specified works, supply to the waterways board proper and sufficient plans thereof for the approval of the engineer and such further particulars available to it as the waterways board may within 28 days of the submission of the plans reasonably require, and shall not commence the specified works until plans thereof have been approved in writing by the engineer or settled by arbitration.
  - (b) Approval of plans supplied under this sub-paragraph shall not be unreasonably withheld and, if within 56 days after such plans have been supplied to the waterways board the engineer shall not have intimated his disapproval thereof and the grounds of his disapproval, he shall be deemed to have approved the plans as supplied.
  - (c) Upon signifying his approval of the plans the engineer may specify—
    - (i) any protective works, whether temporary or permanent, which in his opinion should be carried out before the commencement of the specified works, and
    - (ii) such other requirements as may be necessary, to ensure the safety or stability of, or to prevent the obstruction of, the canal.
  - (d) Such protective works as may be specified under sub-paragraph (c) above shall be constructed by the undertaker with all reasonable dispatch.
- (7) The undertaker shall pay to the waterways board a capitalised sum representing the increased or additional cost of maintaining and, when necessary, renewing any permanent protective works provided under paragraph (6) above, but if the cost of maintaining the canal, or of works of renewal on the canal, is reduced in consequence of any such protective works, a capitalised sum representing such saving shall be set off against any sum payable by the undertaker to the waterways board under this paragraph.
- (8) The undertaker shall give to the engineer 28 days' notice of its intention to commence the construction or repair of any of the specified works, or, in the case of repair carried out in an emergency, such notice as may be reasonably practicable.
- (9) The undertaker shall at all times afford reasonable facilities to the engineer for access to the specified works during their construction and shall supply him with all such information as he may reasonably require with regard to the specified works or the method of construction thereof.
- (10) When construction of any specified works is commenced the works shall be carried out—
- (a) in accordance with the plans approved or deemed to be approved or settled as provided in paragraph (6) above, and any requirements made under sub-paragraph (6)(c) above,
  - (b) under the supervision (if given) and to the reasonable satisfaction of the engineer,
  - (c) so as not to interfere with or obstruct the use of the towing paths of the canal so far as is reasonably practicable, and
  - (d) so as not to interfere with or obstruct the passage of vessels on the canal.

(11) Following the completion of the construction of the specified works the undertaker shall restore the canal to a condition no less satisfactory than its condition immediately prior to the commencement of those works.

(12) The undertaker shall not in the course of constructing or repairing the specified works do or permit anything which may result in the pollution of the canal or the deposit of materials therein and shall take such steps as the engineer may reasonably require to avoid or make good any breach of its obligations under this sub-paragraph.

(13) Nothing in article 20 above shall authorise the undertaker—

- (a) to discharge any water directly or indirectly into the canal except with the consent in writing of the waterways board, or
- (b) to carry out any works to, or make any opening in, or otherwise interfere with, the canal (including the banks and bed thereof).

(14) The undertaker shall pay to the waterways board all costs, charges and expenses reasonably incurred by them in respect of—

- (a) the approval by the engineer of plans supplied by the undertaker under paragraph (6) above, and
- (b) the supervision by him of the construction of the specified works.

(15) Subject to paragraph (17)(b) below, if any damage to the canal or other land or property of the waterways board, any stoppage of the canal or any interference with the passage of vessels using the canal shall be caused by the carrying out of works for the construction of the specified works, the undertaker shall make good such damage and pay to the waterways board all reasonable expenses to which they may be put and compensation for any loss which they may sustain by reason of any such damage, stoppage or interference.

(16) Nothing in this Order shall authorise the undertaker to make or maintain any permanent works in or over the canal so as to reduce the width thereof if such reduction in width would impede or prevent the passage of any vessel of a kind (as to its dimensions) for which the waterways board are required by section 105(1)(b) and (2) of the Transport Act 1968(32) to maintain the canal.

- (a) (17) (a) The undertaker shall be responsible for and make good to the waterways board all costs, charges, damages and expenses not otherwise provided for in this article which may be occasioned to, or reasonably incurred by, the waterways board—
  - (i) by reason of the construction or repair of the specified works or the failure thereof, or
  - (ii) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon the construction or repair of the specified works;

and the undertaker shall indemnify the waterways board from and against all claims and demands arising out of, or in connection with, the construction or repair of the specified works or any such failure, act or omission as aforesaid.

- (b) Nothing in this paragraph shall impose any liability on the undertaker with respect to any damage, expense or loss which is attributable to the act, neglect or default of the waterways board or their servants, agents or contractors but the fact that any act or thing has been done by the waterways board on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without neglect or default on the part of the waterways board or of any person in their employ or of their contractors or agents) excuse the undertaker from any liability under this paragraph.

- (c) The waterways board shall give to the undertaker reasonable notice of any claim or demand under this paragraph and no settlement or compromise thereof shall be made without the prior consent of the undertaker.

(18) Paragraph 3 of Schedule 10 below shall not apply in relation to a street under the control or management of, or maintainable by, the waterways board forming part of the canal.

### **Minerals**

44. Nothing in this Order shall affect 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 shall 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**

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

### **Arrangements with highway authorities**

46. The following provisions shall, unless otherwise agreed in writing between the undertaker and the highway authority concerned, have effect:—

- (1) In this article “highway” means a street vested in or maintainable by the highway authority; “highway operations” means the construction of any part of the authorised works which will involve interference with a highway or the traffic in a highway and any temporary stopping up, alteration or diversion of a highway; “plans” includes sections, drawings, specifications and particulars (including descriptions of methods of construction).

(2) Wherever in this article provision is made with respect to the approval or consent of the highway authority, that approval or consent shall be in writing and may be given subject to such reasonable terms and conditions as the highway authority may require in the interests of safety and in order to minimise inconvenience to persons using the highway, but shall not be unreasonably withheld.

(3) Prior to seeking approval under paragraph (4) below, the undertaker shall consult the highway authority concerned as to any works to and changes in the management of the highway network which may be required to ensure the effective integration of the authorised transit system with other forms of highway traffic and, within 28 days of being requested in writing by the undertaker so to do, the highway authority shall provide the undertaker with its opinion on the subject.

- (a) (4) (a) Without prejudice to the application of sections 59 and 60 of the 1991 Act (duty of street authority to co-ordinate and undertakers to co-operate) before commencing any highway operations, the undertaker shall submit to the highway authority for its approval proper and sufficient plans and shall not commence the highway operations until such plans have been approved or settled by arbitration.
- (b) If, within 56 days after any plans have been submitted to a highway authority under subparagraph (a) above, it has not intimated its disapproval and the grounds of disapproval, it shall be deemed to have approved them.
- (c) In the event of any disapproval of plans by a highway authority under this paragraph, the undertaker may re-submit the plans with modifications and, in that event, if the highway

authority has not intimated its disapproval and the grounds of disapproval within 28 days of the plans being re-submitted, it shall be deemed to have approved them.

- (5) In submitting plans under paragraph (4) above, the undertaker shall—
- (a) ensure that the design of any lighting for new station areas is such as not to cause confusion to highway users operating under normal highway lighting,
  - (b) ensure that the design and positioning of any poles and brackets required for overhead line equipment and the design of foundations, platforms, road islands, substations, electric lines and other apparatus are compatible, so far as reasonably practicable, with street furniture vested in the highway authority, and
  - (c) ensure that the design of any traffic signalling system for the authorised transit system is fully compatible with traffic signalling for other traffic users whilst achieving priority signalling for tramcars using the authorised transit system wherever practicable.
- (a) (6) (a) Except in an emergency or where reasonably necessary to secure the safety of the public no direction or instruction shall be given by the highway authority to the contractors, servants or agents of the undertaker regarding the highway operations without the prior consent in writing of the undertaker.
- (b) The highway authority shall not be liable for any additional costs which may be incurred as a result of the giving of instructions or directions pursuant to this article.

(7) To facilitate liaison with the undertaker, the highway authority concerned shall provide so far as is reasonably practicable a representative to attend meetings arranged by the undertaker respecting highway operations.

(8) So much of the authorised works as forms part of or is intended to become public highway, or part of any such highway, and which are not street works as respects which the provisions of Part III of the 1991 Act apply shall be completed in accordance with the reasonable requirements of the highway authority or, in case of difference between the undertaker and the highway authority as to whether those requirements have been complied with or as to their reasonableness, in accordance with such requirements as may be approved or settled by arbitration.

(9) The undertaker shall not, except with the consent of the highway authority, alter or interfere with any sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith, or any other property or work belonging to, or under the jurisdiction or control of, the highway authority on or under any highway or repairable by them or the access thereto.

(10) The undertaker shall not, except with the consent of the highway authority, deposit any soil or materials or stand any vehicle or plant on or over any highway so as to obstruct or render less safe the use of the highway by any person or, except with the like consent, deposit any soil or materials on any highway except within a hoarding.

(11) The undertaker shall, if reasonably so required by the highway authority, provide and maintain during such time as the undertaker may occupy any part of a highway for the purpose of the construction of any part of the authorised works, temporary ramps for vehicular traffic or pedestrian traffic, or both, and any other traffic measures required to protect the safety of road users in accordance with the standard recommended in Chapter 8 of the Traffic Signs Manual issued for the purposes of the Traffic Signs Regulations and General Directions 1994(33) in such position as may be necessary to prevent undue interference with the flow of traffic in any highway.

(12) The undertaker shall not place any hoardings on any part of any highway except for such period and in such manner as may be reasonably necessary.

(13) The undertaker shall indemnify the highway authority against any claim which may arise as a result of any subsidence of, or damage to, any highway or any sanitary convenience, refuge, sewer,

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(33) S.I. 1994/1519.



drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith or any other property or work belonging to, or under the jurisdiction or control of, the highway authority on or under any highway, or maintainable by them, which may be caused by, or in consequence of, any act or default of the undertaker, its contractors, servants or agents.

(14) Unless otherwise agreed between the parties any difference arising between the undertaker and the highway authority under this article (other than a difference as to its meaning or construction) shall be determined by arbitration.

## PART VI

### MISCELLANEOUS AND GENERAL

#### **Disclosure of confidential information**

47. A person who—

- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 23 above, and
- (b) discloses to any person any information obtained by him relating to any manufacturing process or trade secret,

shall be 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 his duty in connection with the purposes for which he was authorised to enter the land.

#### **Certification of plans, etc.**

48. The undertaker shall, as soon as practicable after the making of this Order, submit copies of the book of reference, the sections, the land plans, the public open space plans and the works plans to the Secretary of State for certification that they are true copies of, respectively, the book of reference, sections and plans referred to in this Order; and a document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

#### **Service of notices**

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

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978<sup>(34)</sup> as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) above is, if he 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, his 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 his name or address cannot be ascertained after reasonable enquiry, the notice may be served by—

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(34) 1978 c. 30.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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- (a) addressing it to him 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) This article shall not be taken to exclude the employment of any method of service not expressly provided for by it.

**No double recovery**

**50.** Compensation shall 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.

**Arbitration**

**51.** 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) shall 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 notice in writing to the other) by the President for the time being of the Institution of Civil Engineers.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

6th August 1998

*A S D Whybrow*  
Head of Charging and Local Transport Division,  
Department of the Environment, Transport and  
the Regions

## SCHEDULE 1

Article 5

### SCHEDULED WORKS

#### ASHTON-UNDER-LYNE EXTENSION

In the City of Manchester—

Work No. 1 A tramroad 910 metres in length (double line) commencing by a junction with the existing light rapid transit system at the Sheffield Street portal of Piccadilly undercroft and running eastward across Sheffield Street, Portugal Street East, Fletcher Square, Fair Street and Longacre Street, under Great Ancoats Street, then alongside and to the north of Pollard Street across Boond Street and Munday Street before terminating at a point 7 metres west of the junction of Pollard Street with Carruthers Street.

Work No. 1B A new highway (road) 230 metres in length diverting and replacing Sheffield Street.

Work No. 1C A new highway (road) 38 metres in length diverting and replacing Baird Street at its junction with Sheffield Street.

Work No. 1D A reinstatement of Longacre Street 168 metres in length.

Work No. 1E A new pedestrian bridge over the Ashton Canal 18 metres in length.

Work No. 1F A new highway (road) 42 metres in length replacing Munday Street.

Work No. 1G A new highway (road) 112 metres in length replacing an access to the Victoria Industrial Estate off Pollard Street.

Work No. 2 A street tramway 294 metres in length (double line) commencing by a junction with the termination of Work No. 1 and running eastward across the junction of Pollard Street with Carruthers Street and along Merrill Street before terminating at a point 7 metres east of the junction of Beswick Street and Merrill Street.

Work No. 2A A new highway (road) 24 metres in length connecting Price Street with Every Street.

Work No. 2B A new highway (road) 83 metres in length connecting Beswick Street with Work No. 2.

Work No. 2C A new highway (road) 22 metres in length connecting Work No. 2B with the rear of the Mitchell Arms Public House.

Work No. 3 A tramroad 137 metres in length (double line) commencing by a junction with the termination of Work No. 2 and running in an easterly direction before terminating along Holt Town at a point 40 metres east of the junction with Cavalier Street.

Work No. 3A A new highway (road) 167 metres in length commencing at Cavalier Street and running south and east before terminating at a point 55 metres west of Cambrian Street viaduct.

Work No. 4 A street tramway 121 metres in length (double line) commencing by a junction with the termination of Work No. 3 and running in an easterly direction before terminating at Cambrian Street viaduct.

Work No. 5 A tramroad 1,257 metres in length (double line) commencing by a junction with the termination of Work No. 4 and running in an easterly direction under the Cambrian Street viaduct, over the River Medlock, under New Viaduct Street and the Ardwick Branch railway line, across Broming Street, alongside and to the south of the Ashton Canal, under Forge Lane, under Alan Turing Way, under Gibbon Street and then alongside to the south of Gibbon Street and Corbett Street, terminating 70 metres to the north of Ashton New Road.

Work No. 5A A new highway (road) 73 metres in length connecting Upper Helena Street with the Holt Town Industrial Estate.

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Work No. 6 A tramroad 795 metres in length (double line) commencing by a junction with the termination of Work No. 5 and running in a southerly direction before turning east to cross Corbett Street then under the mineral railway viaduct, over the Ashton Canal, across Ashton New Road, across the western end of Croft Street, crossing Linfield Street and Clayton Lane terminating on the eastern side of that street 110 metres east of its junction with Ashton New Road.

Work No. 6A A new cycle track 60 metres in length running from Linfield Street to Clayton Lane.

Work No. 6B A new cycle track 65 metres in length running from Eccleshall Street to Ashton New Road.

#### In the City of Manchester and Borough of Tameside

Work No. 7 A street tramway 1,073 metres in length (double line) commencing by a junction with Work No. 6 and running eastward along Ashton New Road and Manchester Road before terminating on the northern side of Manchester Road at a point 50 metres east of the junction of Manchester Road with Edge Lane. In the Borough of Tameside

Work No. 8 A tramroad 110 metres in length (double line) commencing by a junction with Work No. 7 and running alongside and to the north of Manchester Road before terminating on the northern side of that road 15 metres to the west of the junction of Manchester Road with Cooper Street.

Work No. 9 A street tramway 541 metres in length (double line) commencing by a junction with Work No. 8 and running eastward along Manchester Road before terminating on the southern side of that road 45 metres west of the junction of Manchester Road with John Street.

Work No. 9A A new highway (road) 40 metres in length, connecting Kershaw Street with Manchester Road by the Jolly Carter Public House.

Work No. 10 A tramroad 163 metres in length (double line) commencing by a junction with Work No. 9 and running alongside and to the south of Manchester Road before terminating on the southern side of that road 40 metres west of the junction of Manchester Road with Clegg Street.

Work No. 11 A street tramway 551 metres in length (double line) commencing by a junction with Work No. 10 and running eastward along Manchester Road before terminating on the north east side of the junction of Manchester Road with Market Street and Ashton Road.

Work No. 11A A new taxi standing area in front of Villemomble Square.

Work No. 12 A tramroad 104 metres in length (double line) commencing by a junction with Work No. 11 and running alongside and to the north of Ashton Road across Henry Street before terminating on the northern side of Ashton Road 106 metres east of Market Street.

Work No. 12A A new highway (road) 36 metres in length connecting Church Street to Pickmere Close.

Work No. 13 A street tramway 808 metres in length (double line) commencing by a junction with Work No. 12 and running eastward along Ashton Road and Droylsden Road to a point on the eastern side of the junction of Lumb Lane with Droylsden Road.

Work No. 14 A tramroad 119 metres in length commencing by a junction with Work No. 13 and running easterly and to the south of Droylsden Road before terminating at a point 50 metres west of the junction with Assheton Avenue.

Work No. 15 A street tramway 123 metres in length commencing by a junction with Work No. 14 and running eastward along Droylsden Road and Manchester Road before terminating at a point 55 metres east of the junction of Droylsden Road and Assheton Avenue.

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Work No. 15A A new highway (road) 90 metres in length commencing at a junction with Work No. 15 and running north west to a junction with Assheton Avenue.

Work No. 16 A tramroad 2,781 metres in length (double line) commencing by a junction with Work No. 15 and running east to the south of Windsor Drive, across Gainsborough Road then running north following the proposed route of Ashton Northern Relief Road, over the proposed M66 extension, over Robinson Lane, across Richmond Street, over the Ashton Moss South Junction railway lines, across Wellington Road and Oldham Road before terminating at a point 120 metres east of Oldham Road.

Work No. 16A A footpath 136 metres in length commencing from a junction with Work No. 15A and terminating at a junction with Gainsborough Road.

Work No. 16B A new highway (road) commencing at a point 35 metres south of a junction with Wellington Road and Cavendish Street and running eastward for 51 metres.

## SCHEDULE 2

Articles 5 and 26

### ACQUISITION OF CERTAIN LAND

(1) <i>Area</i>	(2) <i>Number of land shown on land plan</i>	(3) <i>Purpose for which land may be acquired</i>
City of Manchester	42, 43	Highway turning head.
	35, 36, 37	Highway realignment.
	40, 44, 45, 46	Highway widening of Little Holme Street and provision of turning head.
	49, 50, 51, 52, 53, 54, 90	Provide highway improvements.
	65	Highway improvement.
Borough of Tameside	155, 156	Highway narrowing.
	157, 159	Remove Bollards.
	158, 160	Remove Bollards.
	164 to 178	Highway improvement.
	205, 347	Highway improvement.
	287	Exchange land.
	292 to 309	Exchange land.
	345	Exchange land.
	246	School Access.
	261	Substation.
266 to 275	Construction Site.	
	286, 287, 288, 350	Highway improvements.

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### KEY TO SCHEDULES 3 TO 5 AND 9

BRS	Banned turning movement
ES	Extension of street
FS	Footpath diversion
RS	Realignment of street
SS	Stopping up of street
SU	Substitute street
TS	Temporary stopping up of street
VS	Vehicular rights of street to be stopped up
WS	Widening of street
NS	Narrowing of street
PB	Sheltered parking space
WE	Kerbline modification
m	Metres

The reference letters and numbers are marked on the works plans.

### SCHEDULE 3

Article 8

#### STREETS SUBJECT TO ALTERATION OF LAYOUT

(1) <i>Area</i>	(2) <i>Street subject to alteration of layout</i>	(3) <i>Description of alteration</i>
City of Manchester	Baird Street	Road realigned between RS3 at junction with Sheffield Street and RS4.
	Baird Street	Extension of street to provide turning head between ES1 and ES2.
	Portugal Street East	Extension of street to provide turning head between ES3 and ES4.
	Pollard Street	Road narrowing to facilitate tramroad alignment between NS1 and NS2.
	Pollard Street	Closure of works access to Victoria Industrial Estate at WE1.
	Carruthers Street	Extension of street to provide turning head on eastern edge of

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(1) Area	(2) Street subject to alteration of layout	(3) Description of alteration
		Carruthers Street between ES5 and ES6.
	Pollard Street	Road narrowing between NS3 and NS4.
	Pollard Street	Sheltered parking bay to be provided along southern side of Pollard Street between PB1 and PB2.
	Carruthers Street	Road realigned between RS5, at junction with Pollard Street and Merrill Street, and RS6.
	Carruthers Street	Road narrowed from NS3A to NS4A.
	Merrill Street	Road widening from WS1 at junction with Carruthers Street to WS2.
	Merrill Street	Closure of access to car park for bank and public house at WE2.
	Little Holme Street	Road widening from WS3 at junction with Pollard Street to WS4.
	Merrill Street/Ashton New Road	Kerb line to be set back along northern edge of Merrill Street/ Ashton New Road between WS5 and WS6.
	Merrill Street/Ashton New Road	Kerb line to be set back along southern edge of Merrill Street/ Ashton New Road between WS7 and WS8.
	Branson Street	Kerb line to be set back between WS9 and WS10 on north and south sides at junction with Beswick Street.
	Beswick Street	Road realigned between RS7 and RS8.
	Branson Street	Kerb line to be set back between WS11 and WS12 on south side at junction with Cavalier Street.
	Cavalier Street	Kerb line to be extended between WS13 and WS14 on west side of Cavalier Street.

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(1) <i>Area</i>	(2) <i>Street subject to alteration of layout</i>	(3) <i>Description of alteration</i>
City of Manchester	Upper Helena Street	Extension of street to provide access to Holt Town Industrial Estate between ES7 and ES8.
	Corbett Street	Extension of street to provide turning head between ES9 and ES10.
	Corbett Street	Kerb line to be extended between WS15 and WS16 on east and west sides of Corbett Street.
	Croft Street	Extension of street to provide turning head between ES11 and ES12.
	Croft Street	Extension of street to provide turning head between ES13 and ES14.
	Ashton New Road	Road narrowing between NS5 and NS6.
	Ashton New Road	Sheltered parking bay to be provided along northern side of Ashton New Road between PB3 and PB4.
	Ashton New Road	Sheltered parking bay to be provided along southern side of Ashton New Road between PB5 and PB6.
	Ashton New Road	Sheltered parking bay to be provided along northern side of Ashton New Road between PB7 and PB8.
	Ashton New Road	Sheltered parking bay to be provided along northern side of Ashton New Road between PB9 and PB10.
	Ashton New Road	Sheltered parking bay to be provided along southern side of Ashton New Road between PB11 and PB12.
	Ashton New Road	Sheltered parking bay to be provided along northern side of Ashton New Road between PB13 and PB14.



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(1) Area	(2) Street subject to alteration of layout	(3) Description of alteration
	Ashton New Road	Sheltered parking bay to be provided along southern side of Ashton New Road between PB15 and PB16.
	Ashton New Road	Sheltered parking bay to be provided along northern side of Ashton New Road between PB17 and PB18.
	Ashton New Road	Sheltered parking bay to be provided along southern side of Ashton New Road between PB19 and PB20.
	Ashton New Road	Sheltered parking bay to be provided along northern side of Ashton New Road between PB21 and PB22.
	Ashton New Road	Sheltered parking bay to be provided along southern side of Ashton New Road between PB23 and PB24.
	Bailey Street	Extension of street between ES15 at junction with Howgill Street and ES16.
	Arbroath Street	Extension of street between ES17 at junction with Howgill Street and ES18.
Borough of Tameside	Manchester Road/Edge Lane	Kerb line to be set back along northern edge of Manchester Road/Edge Lane between WS17 and WS18.
	Charles Street	Extension of street between ES17A and ES18A.
	Manchester Road	Kerb line to be set back along southern side of Manchester Road/Edge Lane between WS19 and WS20.
	Manchester Road	Sheltered parking bay to be provided along southern side of Manchester Road between PB25 and PB26.
	Manor Road	Sheltered parking bay to be provided along northern side of Manor Road between PB27 and PB28.

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(1) Area	(2) Street subject to alteration of layout	(3) Description of alteration
	Manor Road	Sheltered parking bay to be provided along southern side of Manor Road between PB29 and PB30.
	Manor Road	Road realigned between RS11 and RS12.
	Manchester Road	Kerb line to be set back along northern edge of Manchester Road between WS21 and WS22.
	Manchester Road	Kerb line to be set back along southern edge of Manchester Road between WS23 and WS24.
	Manchester Road	Road narrowing between NS9 and NS10.
	Cooper Street	Kerb line to be set back along west side of Cooper Street between WS25 and WS26.
	Manor Road	Road narrowing between NS11 and NS12.
	Dawlish Avenue	Kerb line to be set back on the east side between WS27 and WS28.
	Windsor Road	Kerb line to be set back on the east side between WS29 and WS30.
	Eastwood Avenue	Kerb line to be set back between WS31 and WS32 on west side of junction with Manchester Road.
	Manchester Road	Road narrowing along north side between NS13 and NS14.
	Manchester Road	Road narrowing along south side between NS15 and NS16.
	Manchester Road	Sheltered parking bay to be provided along northern side of Manchester Road between PB31 and PB32.
	Manchester Road	Sheltered parking bay to be provided along southern side of Manchester Road between PB33 and PB34.

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(1) Area	(2) Street subject to alteration of layout	(3) Description of alteration
	Manchester Road	Sheltered parking bay to be provided along northern side of Manchester Road between PB35 and PB36.
Borough of Tameside	Manchester Road	Closure of access to Jolly Carter Public House at WE3.
	Manchester Road	Sheltered parking bay to be provided along southern side of Manchester Road between PB37 and PB38.
	Cemetery Road	Kerblines to be set back between WS33 and WS34 on east side of junction with Manchester Road.
	Manchester Road	Sheltered parking bay to be provided along northern side of Manchester Road between PB39 and PB40.
	Manchester Road	Sheltered parking bay to be provided along southern side of Manchester Road between PB41 and PB42.
	Manchester Road	Kerb line on south side to be set back between WS35 and WS36.
	Manchester Road	Kerb line to be set back between WS37 and WS38 on west side of junction with Market Street.
	Henry Street	Kerb line to be set back between WS41 and WS42 on east and west sides at junction with Church Street.
	Church Street	Extension of street between ES19 and ES20 to provide through route to Pickmere Close and car park for St Mary's Church.
	Ashton Road	Road narrowing between NS17 and NS18.
	Ashton Road	Sheltered parking bay to be provided along northern side of Ashton Road between PB43 and PB44.

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(1) Area	(2) Street subject to alteration of layout	(3) Description of alteration
	Ashton Road	Kerb line to be set back between WS39 and WS40 on north side of Ashton Road.
	Ashton Road	Kerb line to be set back between WS43 and WS44 on north side of Ashton Road.
	Droylsden Road	Sheltered parking bay to be provided along northern side of Droylsden Road between PB45 and PB46.
	Droylsden Road	Sheltered parking bay to be provided along southern side of Droylsden Road between PB47 and PB48.
	Droylsden Road	Sheltered parking bay to be provided along northern side of Droylsden Road between PB49 and PB50.
	Droylsden Road	Sheltered parking bay to be provided along southern side of Droylsden Road between PB51 and PB52.
	Droylsden Road	Road narrowing between NS19 and NS20.
	Droylsden Road	Kerb line to be set back along north side of Droylsden Road between WS45 and WS46.
	Lumb Lane	Kerb line to be set back between WS47 and WS48 on east side of junction with Droylsden Road.
Borough of Tameside	Lumb Lane	Road realigned between RS13 and RS14.
	Droylsden Road	Sheltered parking bay to be provided along northern side of Droylsden Road between PB53 and PB54.
	Droylsden Road	Closure of access to Assheton Avenue at WE3A.
	Snipe Gyratory	Road narrowed between NS21 and NS22.
	Droylsden Road	Road narrowed between NS23 and NS24.

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(1) <i>Area</i>	(2) <i>Street subject to alteration of layout</i>	(3) <i>Description of alteration</i>
	Ashton Old Road	Road narrowed between NS25 and NS26.
	Manchester Road/Droylsden Road	Kerblines to be set back along north side of Manchester Road/Droylsden Road between WS49 and WS50.
	Wellington Road	Closure of private access to rear of properties between 107 and 109 Wellington Road at WE4.

**SCHEDULE 4**

Article 11

**STREETS TO BE STOPPED UP OR TO HAVE VEHICULAR RIGHTS EXTINGUISHED**

**PART I**

**STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED**

(1) <i>Area</i>	(2) <i>Street to be stopped up</i>	(3) <i>Extent of stopping up</i>	(4) <i>New street to be substituted</i>
City of Manchester	Sheffield Street	Between SS1 and SS2	Work No. 1B between SU1 and SU2.
	Munday Street	Between SS7 and SS8 at entry to Pollard Street	Work No. 1F between SU3 and SU4.
	Frost Street	Between SS17 at entry to Merrill Street and SS18 at entry to Beswick Street	Work No. 2B between SU9 and SU10.
	Holt Town	Between SS19 and SS20 at entry to Ashton New Road	Work No. 3A between SU11 and SU12.
	Holt Town	Between SS25 and SS26 at entry to Holt Town Industrial Estate	Work No. 5A between ES7 and ES8.
Borough of Tameside	John Street	Between SS35 and SS36 at entry to Manchester Road	Work No. 9A between SU13 and SU14.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

**PART II**  
**STREETS OVER WHICH VEHICULAR**  
**RIGHTS ONLY ARE TO BE EXTINGUISHED**

(1) <i>Area</i>	(2) <i>Street affected</i>	(3) <i>Extent of stopping up</i>
City of Manchester	Baird Street/Portugal Street East	Between VS1 and VS2.
	Price Street	Between VS3 and VS4.
	Holt Town	Between VS9 and VS10 at entry to Cavalier Street.
	Corbett Street	Between VS9A and VS10A at entry to Ashton New Road.
	Croft Street	Between VS11 and VS12.
	Linfield Street	Between VS13 and VS14 at entry to Croft Street.
	Eccleshall Street	Between VS15 at entry to Clayton Lane and VS16.
Borough of Tameside	Howgill Street	Between VS19 and VS20 at entry to Manchester Road.
	Charles Street	Between VS21 and VS22 at entry to Manchester Road.
	Assheton Avenue	Between VS23 and VS24 at entry to Droylsden Road.

**PART III**  
**STREETS FOR WHICH NO SUBSTITUTE WILL BE PROVIDED**

(1) <i>Area</i>	(2) <i>Street affected</i>	(3) <i>Extent of stopping up</i>
City of Manchester	Fletcher Square	Between SS1A and SS2A at entry to Longacre Street.
	Fair Street	Between SS3 and SS4 at entry to Longacre Street and Chapeltown Street.
	Boond Street	Between SS5 and SS6 at entry to Depot Yard.
	Carruthers Street	Between SS11 and SS12 at entry to Merrill Street/Pollard Street.

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(1) <i>Area</i>	(2) <i>Street affected</i>	(3) <i>Extent of stopping up</i>
Borough of Tameside	Teer Street	Between SS21 and SS22 at entry to Holt Town.
	Pump Street	Between SS23 and SS24 at entry to Holt Town.
	Linfield Street	Between SS29 and SS30.
	Sidebottom Street	Between SS37 and SS38 at entry to Manchester Road.
	Henry Street	Between SS39 and SS40 at entry to Ashton Road.

#### SCHEDULE 5

Article 12

#### STREETS TO BE TEMPORARILY STOPPED UP

(1) <i>Area</i>	(2) <i>Street affected</i>	(3) <i>Extent of stopping up</i>
City of Manchester	Longacre Street	Between TS1 and TS2 at junction with Chapeltown Street.
	Gibbon Street	Between TS3 and TS4 at junction with Alan Turing Way.
Borough of Tameside	Gainsborough Road	Between TS5 and TS6 at junction with Manchester Road.

#### SCHEDULE 6

Article 18

#### LEVEL CROSSINGS

#### PART I

#### TRAMROAD LEVEL CROSSINGS

(1) <i>Area</i>	(2) <i>Highway to be crossed on the level</i>
City of Manchester	Sheffield Street/Work No. 1B
	Portugal Street East
	Work No. 1F

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(1) <i>Area</i>	(2) <i>Highway to be crossed on the level</i>
Borough of Tameside	Work No. 3A Corbett Street Ashton New Road Croft Street Clayton Lane Gainsborough Road Temporary access road to the rear of The Snipe Public House Access road at rear of The Snipe Public House Moss Lodge Lane Moss Lane Richmond Street Cavendish Street Oldham Road

## PART II

### TRAMWAY LEVEL CROSSINGS

(1) <i>Area</i>	(2) <i>Highway to be crossed on the level</i>
City of Manchester Borough of Tameside	Work No. 2B/Every Street Edge Lane Davenport Street/Buxton Lane Cemetery Road/Clegg Street Market Street Kershaw Lane Lumb Lane Snipe Gyratory Manchester Road (Eastbound Carriageway)



## SCHEDULE 7

Article 29

### MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

#### *Compensation enactments*

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without prejudice to the generality of paragraph 1 above, the Land Compensation Act 1973<sup>(35)</sup> shall have effect subject to the modifications set out in sub-paragraphs (2) and (3) below.

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4 below—

- (a) for the words “land is acquired or taken” there shall be substituted the words “a right over land is purchased”, and
- (b) for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable”.

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5 below—

- (a) for the word “part” in paragraphs (a) and (b) there shall be substituted the words “a right over land consisting”,
- (b) for the word “severance” there shall be substituted the words “right over the whole of the house, building or manufactory or of the house and the park or garden”,
- (c) for the words “part proposed” there shall be substituted the words “right proposed”, and
- (d) for the words “part is” there shall be substituted the words “right is”.

#### *Adaptation of the 1965 Act*

3.—(1) The 1965 Act shall have effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to:—

- (a) the right acquired or to be acquired, or
- (b) the land over which the right is or is to be exercisable.

(2) Without prejudice to the generality of sub-paragraph (1) above, Part I of the 1965 Act shall apply in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

4. For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which

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(35) 1973 c. 26.

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the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

5. For section 8 of the 1965 Act (provisions as to divided land) there shall be substituted the following:—

(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the person satisfies the tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—
  - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land, or
  - (ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

the Greater Manchester (Light Rapid Transit System) (Ashton-under-Lyne Extension) Order 1998 (“the Order”) shall, in relation to that person cease to authorise the purchase of the right and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section shall be determined by the tribunal.

(3) Where in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”.

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say:—

- (a) section 9(4) (failure by owners to convey),
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity),
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners), and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

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7. Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act shall be modified correspondingly.

8. Section 20 of the 1965 Act (protection for interests of tenants at will etc.) shall apply with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

9. Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

## SCHEDULE 8

Article 32

### LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) <i>Area</i>	(2) <i>Number of land shown on land plans</i>	(3) <i>Purpose for which temporary possession may be taken</i>	(4) <i>Authorised work</i>
City of Manchester	133	Work site	Work No. 6.
Borough of Tameside	230	Work site	Works Nos. 10 and 11.

## SCHEDULE 9

Article 40

### TRAFFIC REGULATION ORDERS

#### PART I

#### PROHIBITION OF WAITING AND LOADING/UNLOADING

(1) <i>Area</i>	(2) <i>Street affected</i>	(3) <i>Length</i>	(4) <i>Notes</i>
City of Manchester	Sheffield Street	On the south side of the realigned Sheffield Street to a point 50 m either side of and including the level crossing.	Replaces existing traffic order.

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(1) <i>Area</i>	(2) <i>Street affected</i>	(3) <i>Length</i>	(4) <i>Notes</i>
		On the north side of the realigned Sheffield Street to a point 50 m either side of and including the level crossing including the junction of Baird Street for a distance of 17 m from its junction with the realigned Sheffield Street.	For the purposes of maintaining adequate visibility at the level crossing.
	Pollard Street access Road	On the east and west sides of the new access road from its junction with Pollard Street to and including the level crossing.	Replaces existing traffic regulation order.
	Pollard Street at Carruthers Street Junction	On the west side and from a point 60 m from the junction with Carruthers Street on both sides of Pollard Street.	Replaces existing traffic regulation order.
	Pollard Street at Carruthers Street	On the east side of the junction with Carruthers Street, both sides for a distance of 40 m.	Extends and replaces single yellow order on this section.
	Carruthers Street North	For a distance of 40 m from the junction with Pollard Street, both sides.	Extends and replaces single yellow order on this section.
City of Manchester	Carruthers Street South	For a distance of 40 m south of the junction with Pollard Street and Merrill Street.	
	Merrill Street	From its junction with Pollard Street to its junction with Every Street and Ashton New Road, both sides for a distance of 210 m.	Replaces existing traffic regulation order.
	Realigned Frost Street	From its junction with Merrill Street both sides for a distance of 15 m.	

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(1) <i>Area</i>	(2) <i>Street affected</i>	(3) <i>Length</i>	(4) <i>Notes</i>
	Ashton New Road at Holt Town Bridge	From the junction with Every Street, Merrill Street and the realigned Frost Avenue for a distance of 70 m both sides.	Extends existing traffic regulation order on Ashton New Road.
	Cavalier Street and extension	70 m both sides of level crossing.	To provide adequate visibility to the street tramway.
	Ashton New Road	35 m either side of the level crossing on both sides.	To extend existing order to cover the approaches to the level crossing.
	Clayton Street	From the junction with Ashton New Road for 70 m both sides.	To protect the level crossing.
	Ashton New Road	For a distance of 60m on both sides, to commence 70 m west of Clayton Hall Road.	To keep signalised crossing clear.
	Ashton New Road	At the junction with Canberra Street, on the north side 55 m west, and 10 m east and on the south side 55 m west and 120 m east.	To protect the street tramway operation.
	Ashton New Road	At the junction with Seymour Road, on the north side, 10 m to the west and 30 m to the east and including the junction itself.	To safeguard the operation of the junction.
		On the south side for a distance of 70 m west and 10 m east including the unnamed access to the retail park.	Replaces existing traffic order.
	Manchester Road	To the west of Edge Lane, on the north side for a distance of 60 m, on the south side for a distance of 110 m including the junction with Edge Lane.	To extend the existing double yellow order to protect the operation of the street tramway.

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(1) <i>Area</i>	(2) <i>Street affected</i>	(3) <i>Length</i>	(4) <i>Notes</i>
Borough of Tameside	Manchester Road	To the east of Edge Lane, on the north side for a distance of 70 m, on the south side for a distance of 55 m including the junction with Edge Lane.	To retain the existing traffic regulation order.
	Manor Road	To the east of Edge Lane, to the north side for a distance of 35 m and on the south side for a distance of 80 m.	To protect the operation of the street tramway.
	Manchester Road	At the junction with Cooper Street, on the north side for a distance of 20 m to the west and 18 m to the east including the junction with Cooper Street.  On the south side, for a distance of 80 m to the west of Eastwood Avenue.	To protect the operation of the street tramway.
	Manchester Road	On the south side, in the parking bay to the east of Buxton Lane for a distance of 30 m.	To enable school traffic to set down and pick up only for daytime operation only.
	Manchester Road	At the junction with Sunnybank Road, on the north side for a distance of 85 m to the west and to the east for a distance of 210 m. On the south side for a distance of 110 m to the east of the junction with Beard Street.	To protect the operation of the street tramway.
	Manchester Road	At the junction with Cemetery Road and Clegg Street, on the north side 15 m west and 10 m east of the junction and on the south side, 25 m west	To protect the operation of the street tramway.

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(1) <i>Area</i>	(2) <i>Street affected</i>	(3) <i>Length</i>	(4) <i>Notes</i>
		and 15 m east of the junction.	
	Manchester Road	On the north side from the junction with Water Lane to the junction with Market Street, on the south side from a point 30 m west of the junction with Mellor Street to the junction with Market Street.	To extend the existing traffic regulation order to protect the operation of the street tramway.
Borough of Tameside	Ashton Road	On the north side for a distance of 305 m from the junction with Market Street.	To protect the operation of the street tramway.
	Ashton Road	At the junction with Williamson Lane, on the south side to the west for a distance of 60 m and to the east for a distance of 80 m.	To protect the operation of the street tramway.
	Droylsden Road	On the north side from the junction with North Drive to a point 20 m east of the junction with Lumb Lane.  On the south side from the junction with Kingsley Grove to Lumb Lane, including the junction with Lumb Lane.	To protect operation of the street tramway.
	Droylsden Road	On the north side from the junction with Assheton Avenue for a distance of 60 m eastwards.	To protect the operation of the street tramway.
	Manchester Road	70 m east of the junction with Gainsborough Road on the north side slip road.	To ensure the lane is not blocked.
	Gainsborough Road	On both sides for a distance of 40 m	To protect the level crossing.

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(1) <i>Area</i>	(2) <i>Street affected</i>	(3) <i>Length</i>	(4) <i>Notes</i>
		from the junction with Manchester Road.	

## PART II

### DIRECTION OF TRAFFIC

(1) <i>Area</i>	(2) <i>Street affected</i>	(3) <i>Direction</i>
City of Manchester	Pollard Street	Closure to west bound traffic from Merrill Street.
	Carruthers Street	Closure to south bound traffic from the Pollard Street junction.
	Ronald Street	Closure to north bound traffic at the Ashton New Road junction.
Borough of Tameside	Cooper Street	Opening to two-way traffic from Manchester Road to Manor Road.

## PART III

### PROHIBITION ON ACCESS

(1) <i>Area</i>	(2) <i>Street affected</i>	(3) <i>Description</i>
City of Manchester	Carruthers Street	Banned right turn movement, BRS1, on exit from Carruthers Street at junction with Merrill Street.
	Merrill Street	Banned right turn movement, BRS2, on exit from Merrill Street at junction with Pollard Street.
	Merrill Street	Banned right turn movement, BRS3, on exit from Merrill Street at junction with Every Street.
Borough of Tameside	Manor Road	Banned left turn movement, BRS4A, into Windsor Road at junction with Manor Road.



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(1) <i>Area</i>	(2) <i>Street affected</i>	(3) <i>Description</i>
	Manchester Road	Banned right turn movement, BRS5, into Eastwood Avenue at junction with Manchester Road.
	Manchester Road	Banned right turn movement, BRS6, into Mellor Street at junction with Manchester Road.
	Craven Street	Banned right turn movement, BRS7, on exit from Craven Street at junction with Manchester Road.
	Villemomble Square	Banned right turn movement, BRS8, on exit from Villemomble Square at junction with Market Street.
	Droylsden Road	Banned right turn movement, BRS9, into Kershaw Lane at junction with Droylsden Road.
	Droylsden Road	Banned right turn movement, BRS10, into North Drive at junction with Droylsden Road.
	Droylsden Road	Banned left turn movement, BRS11, into Lumb Lane at junction with Droylsden Road.
	Park Road	Banned right turn movement, BRS12, on exit from Park Road at junction with Manchester Road.
	Gainsborough Road	Banned right turn movement, BRS13, on exit from Gainsborough Road at junction with Manchester Road.

## SCHEDULE 10

Articles 10, 11, 36 and 41

### PROVISIONS RELATING TO STATUTORY UNDERTAKERS, ETC.

#### *Apparatus of statutory undertakers, etc. on land acquired*

1.—(1) Sections 271 to 274 of the 1990 Act (power to extinguish rights of statutory undertakers etc. and power of statutory undertakers etc. to remove or re-site apparatus) shall apply in relation to any land acquired or appropriated by the undertaker under this Order subject to the following provisions of this paragraph; and all such other provisions of that Act as apply for the purposes

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of those provisions (including sections 275 to 278, which contain provisions consequential on the extinguishment of any rights under sections 271 and 272, and sections 279(2) to (4), 280 and 282, which provide for the payment of compensation) shall have effect accordingly.

(2) In the provisions of the 1990 Act, as applied by sub-paragraph (1) above, references to the appropriate Minister are references to the Secretary of State.

(3) Where any apparatus of public utility undertakers or of a public telecommunications operator is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the 1990 Act, as applied by sub-paragraph (1) above, any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(4) Sub-paragraph (3) above shall not apply in the case of the removal of a public sewer but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that paragraph, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer, or
- (b) the owner of a private sewer which communicated with that sewer,

shall be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of making his drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

(5) The provisions of the 1990 Act mentioned in sub-paragraph (1) above, as applied by that sub-paragraph, shall not have effect in relation to apparatus as respects which paragraph 2 below or Part III of the 1991 Act applies.

(6) In this paragraph—

“the 1990 Act” means the Town and Country Planning Act 1990(36);

“public telecommunications operator” means—

- (a) a person authorised, by a licence to which section 9 of the Telecommunications Act 1984(37) applies, to run a public telecommunications system, or
- (b) a person to whom the telecommunications code has been applied pursuant to section 10 of that Act; and

“public utility undertakers” has the same meaning as in the Highways Act 1980(38).

#### *Apparatus of statutory undertakers etc. in stopped up streets*

2.—(1) Where a street is stopped up under article 11 of this Order any statutory utility whose apparatus is under, in, upon, over, along or across the street shall have the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Order had not been made.

(2) The undertaker shall give not less than 28 days' notice in writing of its intention to stop up any street under article 11 of this Order to any statutory utility whose apparatus is under, in, upon, over, along or across that street.

(3) Where notice under sub-paragraph (2) above has been given any statutory utility whose apparatus is under, in, upon, over, along or across the street may and, if reasonably requested so to do by the undertaker, shall—

(36) 1990 c. 8.

(37) 1984 c. 12.

(38) 1980 c. 66.

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- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the statutory utility may reasonably determine and have power to place it, or
  - (b) provide other apparatus in substitution for the existing apparatus and place it in such position as aforesaid.
- (4) Subject to the following provisions of this paragraph, the undertaker shall pay to any statutory utility an amount equal to the cost reasonably incurred by the statutory utility in or in connection with—
- (a) the execution of relocation works required in consequence of the stopping up of the street, and
  - (b) the doing of any other work or thing rendered necessary by the execution of relocation works.
- (5) If in the course of the execution of relocation works under sub-paragraph (3) above—
- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions except where this has been solely due to using the nearest available type, capacity or dimension, or
  - (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,
- and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the statutory utility by virtue of sub-paragraph (4) above shall be reduced by the amount of that excess.
- (6) For the purposes of sub-paragraph (5) above—
- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus, and
  - (b) where the provisions of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.
- (7) An amount which apart from this sub-paragraph would be payable to a statutory utility in respect of works by virtue of sub-paragraph (4) above (and having regard, where relevant, to sub-paragraph (5) above) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7.5 years earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit as calculated in accordance with the Code of Practice entitled “Measures Necessary where Apparatus is Affected by Major Works (Diversionary Works)” and dated June 1992 and approved by the Secretary of State on 30 June 1992, as revised and re-issued from time to time.
- (8) Sub-paragraphs (4) to (7) above shall not apply where the authorised works constitute major transport works for the purposes of Part III of the 1991 Act, but instead—
- (a) the allowable costs of the relocation works shall be determined in accordance with section 85 of that Act (sharing of costs of necessary measures) and any regulations for the time being having effect under that section, and

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- (b) the allowable costs shall be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.
- (9) In this paragraph—
- “apparatus” has the same meaning as in Part III of the 1991 Act;
  - “relocation works” means works executed, or apparatus provided, under sub-paragraph (3) above; and
  - “statutory utility” means a statutory undertaker for the purposes of the Highways Act 1980 or a public telecommunications operator as defined in paragraph 1(6) above.

### *Railway and navigation undertakings*

**3.—(1)** Subject to the following provisions of this paragraph, the powers under article 10 of this Order to break up or open a street shall not be exercisable where the street, not being a highway maintainable at public expense (within the meaning of the Highways Act 1980)—

- (a) is under the control or management of, or is maintainable by, railway or tramway undertakers or a navigation authority, or
- (b) forms part of a level crossing belonging to any such undertakers or to such an authority or to any other person,

except with the consent of the undertakers or authority or, as the case may be, of the person to whom the level crossing belongs.

(2) Sub-paragraph (1) above shall not apply to the carrying out under this Order of emergency works, within the meaning of Part III of the 1991 Act.

(3) A consent given for the purposes of sub-paragraph (1) above may be made subject to such reasonable conditions as may be specified by the person giving it but shall not be unreasonably withheld.

(4) In this paragraph “navigation authority” means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock.

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises Greater Manchester Passenger Transport Executive to construct works and compulsorily to acquire land and rights in land for the purpose of extending the Metrolink light rapid transit system to run from Manchester Piccadilly Station to Ashton-under-Lyne.

Copies of the works plans, the sections, the land plans, the public open space plans and the book of reference are available for inspection free of charge during working hours at—

GMPTE, 9 Portland Street, Piccadilly Gardens, Manchester M60 1HX;

City Planning Department Reception, Manchester City Council, Level 7, Town Hall Extension, Lloyd Street Entrance, Manchester M60 2JT;

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Planning and Engineering Department, Tameside Metropolitan Borough Council, Level 5,  
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