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STATUTORY INSTRUMENTS

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**1998 No. 3269**

**The Tyne and Wear Passenger  
Transport (Sunderland) Order 1998**

**PART I  
PRELIMINARY**

**Citation and commencement**

**1.**—(1) This Order may be cited as the Tyne and Wear Passenger Transport (Sunderland) Order 1998 and shall come into force on 13th January 1999.

(2) The Tyne and Wear Passenger Transport Acts 1973 to 1989<sup>(1)</sup> and this Order may be cited together as the Tyne and Wear Passenger Transport Acts and Order 1973 to 1998.

**Interpretation**

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

“the 1965 Act” means the Compulsory Purchase Act 1965<sup>(2)</sup>;

“the 1990 Act” means the Town and Country Planning Act 1990<sup>(3)</sup>;

“the 1991 Act” means the New Roads and Street Works Act 1991<sup>(4)</sup>;

“the 1993 Act” means the Railways Act 1993<sup>(5)</sup>;

“the Applications Rules” means the Transport and Works (Applications and Objections Procedure) Rules 1992;

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

“the book of reference” means the book of reference described in rule 7(5) of the Applications Rules and 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 deposited plans” means the plans described in rule 7(1)(a) and (3) of the Applications Rules and certified by the Secretary of State as the deposited plans for the purposes of this Order, and references to land shown on those plans are references to land so shown in pursuance of the said rule 7(3);

“the deposited sections” means the sections described in rule 7(2) of the Applications Rules and certified by the Secretary of State as the deposited sections for the purposes of this Order;

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(1) 1973 c.xxxii. 1979 c.i. 1989 c.xiv.

(2) 1965 c. 56.

(3) 1990 c. 8.

(4) 1991 c. 22.

(5) 1993 c. 43.

(6) 1980 c. 66.

“existing” means existing at the date of the making of this Order;

“the further limits” means the limits delineated by the lines shown on the deposited plans and thereon marked “limit of land to be acquired or used”;

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

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

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace and “maintenance” 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;

“Railtrack” means Railtrack PLC and includes any associated company (as defined in section 416 of the Income and Corporation Taxes Act 1988(7)) of Railtrack which holds any property for railway purposes;

“the scheduled works” means the works specified in Schedule 1 to 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;

“the Sunderland extension” means—

- (a) the authorised works; and
- (b) either such rights as are granted, pursuant to this Order or any other enactment, to the undertaker over the existing railway from Newcastle to Hartlepool or any lands or works relating to that railway or, where the context so requires, any part of the said existing railway, lands or works over which such rights are granted;

“the tribunal” means the Lands Tribunal; and

“the undertaker” means the Tyne and Wear Passenger Transport Executive.

(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, and references to the subsoil of any land include references to any cellar, basement, vault, arch or other construction forming part of any such land.

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

(4) Unless the context otherwise requires, any reference in this Order to a work identified by the number of such 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 points so marked on the deposited plans.

(6) References in this Order to access to any place include egress from that place.

### **Incorporation of Railways Clauses Consolidation Act 1845**

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845<sup>(8)</sup> shall be incorporated in this Order—

- section 24 (obstructing construction of railway);
- section 58 (company to repair roads used by them), except for the words from “and if any question” to the end;
- 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 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>(9)</sup>;
- sections 103 and 104 (refusal to quit carriage at destination);
- section 105 (carriage of dangerous goods on railway);
- section 145 (recovery of penalties); and
- section 154 (transient offenders).

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

- “the company” means the undertaker;
- “goods” includes any thing conveyed on the railways authorised to be constructed by this Order;
- “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 any railway authorised to be constructed by this Order and, except where the context otherwise requires, any other authorised works;
- “the special Act” means this Order; and
- “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 railway authorised to be constructed by this Order.

### **Application of New Roads and Street Works Act 1991**

4.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway shall be treated for the purposes of Part III of the 1991 Act (street works) as major transport works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works), or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 of the Highways Act 1980 (dual carriageways and roundabouts).

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<sup>(8)</sup> 1845 c. 20.

<sup>(9)</sup> 1923 c. 20.

(2) The provisions of the 1991 Act mentioned in paragraph (3) below 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 where no street works are executed in that street as they would apply if the stopping up, alteration or diversion were occasioned by street works executed in that street by the undertaker.

(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 59 (general duty of street authority to co-ordinate works);
- section 60 (general duty of undertakers to co-operate);
- section 69 (works likely to affect other apparatus in the street);
- section 76 (liability for cost of temporary traffic regulations);
- 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) Sections 54 and 55 of the 1991 Act as applied by paragraph (2) above shall have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.