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STATUTORY INSTRUMENTS

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**2005 No. 120**

**The Merseytram (Liverpool City Centre to Kirkby) Order 2005**

**PART 6**

**PROTECTIVE PROVISION**

**Statutory undertakers, etc.**

**64.** The provisions of Schedule 11 to this Order shall have effect.

**Minerals**

**65.** 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**

**66.** 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**

**67.—(1)** The following provisions shall, unless otherwise agreed in writing between Merseytravel and the highway authority concerned, have effect.

(2) In this article—

“highway” means a street vested in or maintainable by the highway authority;

“highway operations” means the construction or non-routine maintenance of any part of the authorised works which will involve interference with a highway or the traffic in a highway, any temporary stopping up, alteration or diversion of a highway, any occupation of the surface of a highway or any placing of equipment or apparatus in a highway; and

“plans” includes sections, drawings, specifications and particulars (including descriptions of methods of construction).

(3) 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.

(4) Prior to seeking approval under paragraph (6), Merseytravel 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 tram system with other

forms of highway traffic and, within 28 days of being requested in writing by Merseytravel to do so, the highway authority shall provide Merseytravel with its opinion on the subject.

(5) Prior to seeking approval under paragraph (6) Merseytravel shall consult the highway authority concerned as to the design of any lighting for tram stops, the design and positioning of any poles and brackets required for overhead line equipment and the design of any traffic signalling system for the authorised tram system.

(6) 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, Merseytravel 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.

(7) If, within 56 days after any plans have been submitted to a highway authority under paragraph (6), it has not intimated its disapproval and the grounds of disapproval, it shall be deemed to have approved them.

(8) In the event of any disapproval of plans by a highway authority under this paragraph, Merseytravel 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.

(9) In submitting plans under paragraph (6), Merseytravel shall—

- (a) ensure that the design of any lighting for tramcar stops 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 tram system is fully compatible with traffic signalling for other traffic users whilst achieving appropriate priority signalling for tramcars using the authorised tram system wherever practicable.

(10) 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 Merseytravel regarding the highway operations without the prior consent in writing of Merseytravel but 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 paragraph.

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

(12) 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 Merseytravel 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.

(13) Merseytravel 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.

(14) Merseytravel 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.

(15) Merseytravel shall, if reasonably so required by the highway authority, provide and maintain during such time as Merseytravel 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 2002<sup>(1)</sup> in such position as may be necessary to prevent undue interference with the flow of traffic in any highway.

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

(17) Merseytravel 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, 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 Merseytravel, its contractors, servants or agents.

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

#### **For protection of the Environment Agency**

**68.**—(1) For the protection of the Environment Agency (in this article referred to as “the Agency”) the following provisions shall, unless otherwise agreed in writing between Merseytravel and the Agency, have effect.

(2) Before carrying out any works under the powers of this Order involving the erection or raising of any obstruction to the flow of any watercourse or the construction, alteration or replacement of any culvert or any structure designed to contain or divert the flow of any such watercourse in, under or through any land held for the purposes of or in connection with the authorised tram system, Merseytravel shall furnish to the Agency proper and sufficient plans thereof for the approval of the Agency and shall not carry out the said works until the said plans have been approved in writing by the Agency.

(3) The approval of plans furnished under this article shall not be unreasonably withheld and if, within two months of such plans being supplied to the Agency, the Agency does not indicate in writing its disapproval and the grounds of its disapproval, it shall be deemed to have approved the plans as supplied.

(4) For the purposes of this article, “plans” includes sections, drawings, specifications, calculations and descriptions.

(5) Any culvert or any structure designed to contain or divert the flow of any watercourse situated within any land held for purposes of or in connection with the authorised tram system and constructed under the powers of this Order shall be maintained by Merseytravel in good repair and condition and free from obstruction.

(6) Nothing in this article shall have the effect of requiring Merseytravel to carry out works of maintenance in respect of any culvert or structure which the Agency or any other person are liable to maintain.

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(1) S.I.2002/3113.

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(7) If any obstruction is erected or raised or any culvert is constructed, altered or replaced in contravention of this article Merseytravel shall, upon receiving notice from the Agency, take such action as may be necessary to remedy the effect of the contravention to the Agency's satisfaction and in default the Agency may itself take such action as may be necessary and recover the expenses reasonably incurred by it in doing so from Merseytravel as a debt due from it to the Agency.

**For protection of specified undertakers**

**69.** The provisions of Schedule 12 to this Order shall have effect.

**For protection of British Waterways Board**

**70.** The provisions of Schedule 13 to this Order shall have effect.