
STATUTORY INSTRUMENTS

2009 No. 1300

The Nottingham Express Transit System Order 2009

PART 2

WORKS PROVISIONS

Streets

Power to alter layout, etc., of streets

8.—(1) The promoter may alter the layout of, and carry out other ancillary works in any street specified in column (1) of Part 1 or Part 2 of Schedule 3 (streets subject to alteration of layout) in the manner specified in relation to that street in column (2) of Part 1 or Part 2 of that Schedule.

(2) Without limiting the scope of the specific powers conferred by article 5 (power to construct and maintain works) or paragraph (1) but subject to paragraph (3) the promoter may, for the purpose of constructing, maintaining or using any authorised street tramway, alter the layout of the street along which the authorised street tramway is or is to be laid and the layout of any street having a junction with such a street; and, without limiting the scope of that power, the promoter may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, 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, loading bays, bus stop clearways, cycle tracks and bus laybys;
- (e) carry out traffic calming works which are of a description prescribed in the Highways (Traffic Calming) Regulations 1999⁽¹⁾ and which are carried out 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 authorised street tramway; and
- (g) make and maintain crossovers, sidings or passing places.

(3) The powers in paragraph (2) 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 promoter may, for the purposes of or in connection with the construction, maintenance and use of the authorised tramway, place and maintain in any street in which the tramway is or is to be laid or in any street having a junction with such a street any work, equipment or

(1) S.I. 1999/1026.

apparatus including, without limiting the scope of that power, foundations, platforms, road islands, substations, electric lines and any electrical or other apparatus.

(2) The powers of this article shall not be exercised within the boundaries of a street outside of the Order limits which has a junction with a street along which the construction of a street tramway is shown on the works and land plans without the consent of the street authority, but such consent shall not be unreasonably withheld.

(3) In this article—

- (a) “apparatus” has the same meaning as in Part 3 of the 1991 Act; and
- (b) 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 promoter may, for the purpose of exercising the powers conferred by article 9 (power to keep apparatus in streets) or any other provision of this Order, enter upon any street in which the authorised tramway 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 limiting the scope of that power, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street.

(2) The powers of this article shall not be exercised within the boundaries of a street outside of the Order limits which has a junction with a street along which the construction of a street tramway is shown on the works and land plans without the consent of the street authority, but such consent shall not be unreasonably withheld.

Stopping up of streets and extinguishment of rights

11.—(1) Subject to the provisions of this article, the promoter may, in connection with the construction of the authorised works, stop up each of the streets specified in column (1) of Schedule 4 (streets to be permanently stopped up) to the extent specified, by reference to the letters and numbers shown on the works and land plans or the traffic regulation and rights of way plans, in column (2) of that Schedule.

(2) No street specified in column (1) of Part 1 or Part 2 of Schedule 4 (being a street to be stopped up for which a substitute is to be provided) shall be wholly or partly stopped up under this article unless either—

- (a) the new street to be substituted for it, and which is specified in relation to it by reference to one of the scheduled works or other works in column (3) of those Parts of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as is reasonably likely to have used the street to be stopped up is first provided and thereafter maintained by the promoter, to the reasonable satisfaction of the street authority, between the commencement and termination points of the street to be stopped up, until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) No street specified in column (1) of Part 3 or Part 4 of Schedule 4 (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) is satisfied in relation to all the land which abuts on either side of the street to be stopped up.

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

- (a) the promoter 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 stopped up under this article—
- (a) all rights of way over or along it shall be extinguished; and
 - (b) the promoter may appropriate and use for the purposes of its tramway undertaking so much of the site of the street as is bounded on both sides by land owned or appropriated by the promoter.
- (6) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article shall be entitled to be paid compensation by the promoter to be determined, in case of dispute, under Part 1 of the 1961 Act.
- (7) This article is subject to paragraph 2 of Schedule 11 (provisions relating to statutory undertakers, etc.).

Temporary stopping up of streets

- 12.**—(1) The promoter 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 (3), prevent all persons from passing along the street.
- (2) Without limiting the scope of paragraph (1), the promoter may use any street stopped up under the powers of this article as a temporary working site.
- (3) The promoter shall provide at all times reasonable access for pedestrians going to or from premises abutting on a street affected by the exercise of the powers conferred by this article if there would otherwise be no such access.
- (4) Without limiting the scope of paragraph (1), the promoter may exercise the powers of this article in relation to the streets specified in column (1) of Schedule 4 (streets to be permanently stopped up) to the extent specified, by reference to the letters and numbers shown on the works and land plans or the traffic regulation and rights of way plans and set out in column (2) of that Schedule, and in relation to the streets specified in Schedule 5 (streets to be temporarily stopped up).
- (5) The promoter shall not exercise the powers of this article—
- (a) in relation to any street specified as mentioned in paragraph (4), without first consulting the street authority; and
 - (b) in relation to any other street, without the consent of the street authority which may attach reasonable conditions to any consent, but such consent shall not be unreasonably withheld.
- (6) Any person who suffers loss by the suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Access to works

- 13.** The promoter may, for the purposes of the construction, operation or maintenance of the authorised works, form and lay out such means of access, or improve such existing means of access, at such locations within the Order limits as the promoter reasonably requires for the purposes of the authorised works, as may be approved by the highway authority, but such approval shall not be unreasonably withheld.

Construction and maintenance of new, altered or diverted 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 between the promoter and the highway authority, be maintained by and at the expense of the promoter for a period of 12 months from its completion and after 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 promoter for a period of 12 months from its completion and after the expiry of that period by and at the expense of the street authority.

(3) Paragraphs (1) and (2) do not apply in relation to the structure of any bridge or tunnel carrying a street over a tramroad or carrying a tramroad over a street and except as provided in those paragraphs the promoter shall not be liable to maintain the surface of any street in, on, under or over which the scheduled works shall be constructed, or the immediate approaches to any such street, unless otherwise agreed with the street authority.

(4) In any action against the promoter in respect of loss or damage resulting from any failure by it to maintain a street under this article, it shall be a defence (without affecting any other defence or the application of the law relating to contributory negligence) to prove that the promoter had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(5) For the purposes of a defence under paragraph (4), the court shall in particular have regard to the following matters—

- (a) the character of the street including its use for a tramway, and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the promoter knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the promoter could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant that the promoter had arranged for a competent person to carry out or supervise the maintenance of that part of the street to which the action relates unless it is also proved that the promoter had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

Construction of bridges and tunnels

15. Any bridge or tunnel to be constructed under this Order for carrying a highway over or under the authorised 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 promoter abandons the construction of, or 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, or redundant works, equipment and apparatus were laid, regard being had to—
 - (i) the condition of the street before the tramway was laid; and
 - (ii) the nature of the traffic using the street at the time of the discontinuance.

Agreements with street authorities

- 17.**—(1) A street authority and the promoter may enter into agreements with respect to—
- (a) the construction of any new street (including any structure carrying the street over or under the authorised tramroad) under the powers conferred by this Order;
 - (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
 - (c) the maintenance of any street along or across which a street tramway is laid, or of the structure of any bridge or tunnel carrying a street over or under the authorised street tramway or the authorised tramroad;
 - (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
 - (e) the execution in the street of any of the works referred to in article 10 (power to execute street works).
- (2) Such an agreement may, without limiting the scope of paragraph (1)—
- (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.

New road crossings

18.—(1) Where by virtue of the creation of a highway or other road after the day on which application was made for this Order under section 6 of the Transport and Works Act 1992⁽²⁾, the authorised tramroad would cross that highway or road, then the promoter may construct the tramroad so as to carry it on the level across the highway or road.

(2) The promoter may provide, maintain and operate at or near any new road crossing such protective equipment as the Office of Rail Regulation 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 limiting the scope of article 8 (power to alter layout, etc., of streets), the promoter may in the exercise of the powers conferred by this article alter the level of any highway or road referred to in paragraph (1).

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

(6) In this article—

(2) 1992 c. 42. As amended by S.I. 1995/1541, 1998/2226, 2003/3199 and 2006/958.

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

“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.