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STATUTORY INSTRUMENTS

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**2022 No. 1194**

**The Portishead Branch Line (MetroWest Phase 1) Order 2022**

**PART 3**

**Streets, Highways and Level Crossings**

**Application of the 1991 Act**

**12.**—(1) Works carried out under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major transport works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (which defines what highway authority works are major highway works) of that Act; or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64(1) (dual carriageways and roundabouts) of the 1980 Act.

(2) In Part 3 of the 1991 Act references to the highway authority concerned are, in relation to works which are major highway works by virtue of paragraph (1), to be construed as references to the undertaker.

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers of this Order—

- (a) section 56(2) (power to give directions as to timing of street works);
- (b) section 56A(3) (power to give directions as to placing of apparatus);
- (c) section 58(4) (restriction on works following substantial road works);
- (d) section 58A(5) (restriction on works following substantial street works); and
- (e) section 73A (power to require undertaker to re-surface street);
- (f) section 73B (power to specify timing etc. of re-surfacing);
- (g) section 73C (materials, workmanship and standard of re-surfacing);
- (h) section 78A (contributions to costs of re-surfacing by undertaker); and
- (i) Schedule 3A(6) (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the carrying out of street works) and any regulations made, or code of practice issued or approved, under those provisions apply (with the necessary

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(1) Section 64 was amended by Schedule 17 to the Local Government Act 1985 (c. 51) and Schedule 9 to the 1991 Act.  
(2) Section 56 was amended by sections 40 and 43 of the Traffic Management Act 2004 (c. 18).  
(3) Section 56A was inserted by section 44 of the Traffic Management Act 2004.  
(4) Sections 58 was amended by section 51 of the Traffic Management Act 2004.  
(5) Section 58A was inserted by section 52(1) of the Traffic Management Act 2004.  
(6) Schedule 3A was inserted by section 52 of, and Schedule 4 to, the Traffic Management Act 2004.

modifications) in relation to the carrying out of works under article 13 (street works and power to alter the layout etc. of streets) or any stopping up, alteration or diversion of a street under article 15 (temporary stopping up of streets and public rights of way) whether or not the carrying out of such works constitutes street works within the meaning of that Act.

- (5) The provisions of the 1991 Act(7) referred to in paragraph (4) are—
- (a) section 54(8) (advance notice of certain works), subject to paragraph (6);
  - (b) section 55(9) (notice of starting date of works), subject to paragraph (6);
  - (c) section 57(10) (notice of emergency works);
  - (d) section 59(11) (general duty of street authority to co-ordinate works);
  - (e) section 60 (general duty of undertakers to co-operate);
  - (f) section 68 (facilities to be afforded to street authority);
  - (g) section 69 (works likely to affect other apparatus in the street);
  - (h) section 76 (liability for cost of temporary traffic regulation); and
  - (i) 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.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

### **Street works and power to alter the layout etc. of streets**

**13.—**(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 3 (streets subject to street works) as are within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel within or under it;
- (b) tunnel or bore under the street or carry out any works to strengthen or repair the carriageway;
- (c) remove or use all earth and material in or under the street;
- (d) place and keep apparatus under the street;
- (e) maintain, alter or renew apparatus in the street or change its position;
- (f) demolish, remove, replace and relocate any street furniture within the street;
- (g) execute any works to improve sight lines;
- (h) execute and maintain any works to provide hard and soft landscaping;
- (i) carry out re-lining and placement of road markings;
- (j) remove and install temporary and permanent signage;
- (k) make and maintain crossovers and passing places;
- (l) execute any works of surfacing or re-surfacing of the highway; and
- (m) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (l).

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(7) Sections 54, 55, 57, 60, 68 and 69 were amended by section 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004.

(8) Section 54 was amended by section 49(1) of the Traffic Management Act 2004.

(9) Section 55 was amended by sections 49(2) and 51(9) of the Traffic Management Act 2004.

(10) Section 57 was amended by section 52(3) of the Traffic Management Act 2004.

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

(2) Without limitation on the scope of the specific powers conferred by paragraph (1) but subject to paragraph (4), the undertaker may, for the purposes of constructing and maintaining any part of the authorised development, alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without limitation on the scope of that power, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, splitter island, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, splitter island, footpath, footway, cycle track or verge; and
- (c) reduce the width of the carriageway of the street.

(3) The undertaker must restore to the reasonable satisfaction of the street authority any street which has been temporarily altered under this article.

(4) The powers conferred by paragraph (2) are not to be exercised without the consent of the street authority, but such consent must not be unreasonably withheld.

(5) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

### **Permanent stopping up of streets**

**14.**—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development—

- (a) stop up the street specified in columns (1) and (2) of Part 1 of Schedule 4 (streets to be stopped up) to the extent specified in column (3) of that part of that Schedule; and
- (b) stop up the streets specified in columns (1) and (2) of Part 2 of Schedule 4 to the extent specified in column (3) of that part of that Schedule.

(2) The street specified in columns (1) and (2) of Part 1 of Schedule 4 is not to be wholly or partly stopped up under this article unless—

- (a) the new street to be constructed and substituted for it, which is specified in column (4) of that Part of that Schedule, has been constructed and 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 could have used the street to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) Where a street has been stopped up under this article—

- (a) all rights of way over or along the street so stopped up are extinguished; and
- (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the street as is bounded on both sides by land owned by the undertaker.

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

(5) This article is subject to article 42 (apparatus and rights of statutory undertakers in stopped up streets).

### **Temporary stopping up of streets and public rights of way**

15.—(1) Subject to paragraph (4) the undertaker, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter or divert any street or public right of way or any part of a street or public right of way within the Order limits and may for any reasonable time—

- (a) divert the traffic from the street or public right of way; and
- (b) subject to paragraph (3), prevent all persons from passing along the street or public right of way.

(2) Without limitation on the scope of paragraph (1) the undertaker may use any street or public right of way temporarily stopped up and lying within the Order limits as a temporary working site under the powers conferred by this article.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or public right of way affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) The street specified in columns (1) and (2) of Part 1 of Schedule 5 (streets to be stopped up temporarily) is not to be wholly or partly stopped up under this article to the extent specified, by reference to the letters and numbers shown on the permanent and temporary stopping up and diversion plan, in column (3) of that Schedule, unless the temporary alternative route to be constructed and substituted for it, which is specified in column (4) of that Part of that Schedule, has been constructed and completed to the reasonable satisfaction of the street authority and is open for use.

(5) Without limitation on the scope of paragraph (1), the undertaker may temporarily stop up the public rights of way described in Part 2 of Schedule 5 to the extent specified in column (3) of that part of that Schedule.

- (6) The undertaker may not temporarily stop up, alter, divert or use as a temporary working site—
- (a) any street or public right of way specified as mentioned in Schedule 3 (streets subject to street works) or paragraphs (4) or (5) without first consulting the street authority; and
  - (b) any other street or public right of way without the consent of the street authority which may attach reasonable conditions to any consent.

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

### **Bridleways, cycle tracks and footpaths**

16.—(1) The public right of way specified in columns (1) and (2) of Part 1 of Schedule 6 (bridleways, cycle tracks and footpaths) and all private rights of way (if any) over that route are stopped up to the extent specified in column (3) of that Part of that Schedule.

(2) With effect from the date of the coming into force of this Order the section of footpath specified in column (4) of Part 1 of Schedule 6 is created.

(3) Unless otherwise agreed with the relevant planning authorities, the new public rights of way set out in Part 2 of Schedule 6 and identified on the new highways plans are to be constructed by the undertaker in the specified locations and open for use from the date that part of the authorised development consisting of the new railway is first open for use.

### **Access to works**

17. The undertaker may, for the purposes of the authorised development—

- (a) form and lay out means of access, or improve existing means of access, in the locations specified in columns (1) and (2) of Schedule 7 (access to works) and shown on the compounds, haul roads and access to works plan; and
- (b) with the approval of the relevant planning authority after consultation with the relevant highway authority, form and lay out such other means of access, or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

### **Agreements with street authorities**

- 18.**—(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 railway authorised by the Order;
  - (b) the strengthening, improvement, repair or reconstruction of any street under the powers of this Order;
  - (c) the maintenance of the structure of any bridge or tunnel carrying a street over or under any authorised railway;
  - (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
  - (e) the carrying out in the street of any of the works referred to in article 13(1) (street works and power to alter the layout etc. of streets);
- (2) Such an agreement may, without limitation on the scope of paragraph (1)—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
  - (b) include an agreement between the undertaker and the street authority specifying a reasonable time for the completion of the works; and
  - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

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

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

(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street must, when completed to the reasonable satisfaction of the street authority, unless otherwise agreed with the street authority, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and from the expiry of that period by and at the expense of the street authority.

(3) The date of completion of any works referred to in paragraphs (1) and (2) is to be agreed between the undertaker and the street authority, acting reasonably.

### **Closure of level crossings and crossings over disused railway**

**20.**—(1) Subject to paragraph (3), the crossing specified in columns (1) and (2) of Part 1 of Schedule 8 (closure of crossings) is to be permanently stopped up and discontinued.

(2) Subject to paragraph (3), upon the stopping up and discontinuance of any crossing referred to in paragraph (1), all public or private rights of way (if any) over the part of the crossing specified in relation to it in column (3) of Part 1 of Schedule 8 are extinguished.

(3) Paragraphs (1) and (2) are not to take effect with respect to the permanent stopping up and discontinuance of the crossing specified in columns (1), (2) and (3) of Part 1 of Schedule 8 until the replacement specified in relation to it in column (4) of that Part of that Schedule has been constructed and completed to the reasonable satisfaction of the street authority and is open for use.

(4) The crossings specified in columns (1) and (2) of Part 2 of Schedule 8 are permanently stopped up and discontinued to the extent specified in column (3) of that Part of that Schedule.

(5) Upon the permanent closure of each of the crossings referred to in paragraph (4), all public or private rights of way (if any) over the part of the crossings specified in relation to it in column (3) of Part 2 of Schedule 8 are extinguished.

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

(7) In this article and in Schedule 8 “crossing” includes a level crossing, a former level crossing and a permissive crossing of the railway or disused railway.

#### **Accommodation and occupation crossings**

**21.**—(1) Subject to paragraph (2) and regardless of anything in section 68 (accommodation works by Company) of the Railways Clauses Consolidation Act 1845 as incorporated in the Portishead Railway Acts or any other enactment or instrument, all public or private rights of way (if any) afforded by means of the accommodation or occupation facilities specified in columns (1) and (2) of Parts 1 and 2 of Schedule 9 (accommodation and occupation crossings), including those specified in column (3) of Parts 1 and 2 of that Schedule, are extinguished.

(2) Paragraph (1) does not take effect with respect to the extinguishment of the public or private rights of way (if any) by means of a facility specified in columns (1) and (2) of Part 1 of Schedule 9 until the works specified in relation to it in column (4) of Part 1 of that Schedule have been provided.

(3) Paragraph (1) takes effect with respect to the extinguishment of the public or private rights of way (if any) specified in column (3) of Part 2 of Schedule 9 on the date this order comes into force.

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