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STATUTORY INSTRUMENTS

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**1995 No. 2446**

**The Trafford Park Railway Order 1995**

**PART III**

**MISCELLANEOUS AND GENERAL**

**Power to operate, use and maintain the new railway**

6. The undertaker may operate, use and maintain the new railway and other authorised works as part of the undertaker's railway for the carriage of goods.

**Maintenance of approved works etc.**

7.—(1) Where pursuant to the Railways and other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994(1) approval has been obtained from the Secretary of State with respect to any works, plant or equipment (including vehicles) forming part of the railway authorised to be operated by this Order, such works, plant and equipment shall not be used in a state or condition other than that in which they were at the time that the approval was given unless any change thereto does not materially impair the safe operation of the railway so authorised.

(2) If without reasonable cause the provisions of paragraph (1) above are contravened, the undertaker shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) No proceedings shall be instituted in England and Wales in respect of an offence under this article except by or with the consent of the Secretary of State or the Director of Public Prosecutions.

**Service of notices**

8.—(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 is 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(2) 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,
- (b) in any other case, his last known address at the time of service.

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(1) S.I.1994/157.  
(2) 1978 c. 30.

(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—

- (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.

This article shall not be taken to exclude the employment of any method of service not expressly provided for by it.

### **No double recovery**

9. 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**

10. Any difference under any provision of this Order 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.

### **Provision of level crossings over new highway**

11.—(1) In this article and in Schedule 2 below:

“the highway authority” means Trafford Metropolitan Borough Council;

“protective equipment” includes lights, traffic signs (within the meaning of section 64(1) of the Road Traffic Regulation Act 1984(3)), manual, mechanical, automatic, electrical or telephonic equipment or other devices.

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

- (a) (3) (a) The undertaker shall provide, maintain and operate at or near each of the new level crossings the protective equipment specified in Part I of Schedule 2 to this Order or such additional or substituted protective equipment as the Secretary of State may in writing approve.
- (b) The undertaker shall observe and comply with the requirements as to the operation of the new level crossings specified in Part II of that Schedule or such additional or substituted requirements as the Secretary of State may in writing approve.

(4) Nothing contained in or incorporated with this Order shall require the provision of any building or keeper at any of the new level crossings.

### **Provision for abandonment of redundant railway**

12.—(1) In this article—

“the redundant railway” means those parts of the undertaker’s railway which extend

- (a) along Trafford Park Road, Trafford Park from a point B for 1580 metres westwards to a point A, and

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(3) 1984 c. 27.

(b) along the central reservation of Westinghouse Road, Trafford Park from a point D westwards for 670 metres to a point 100 metres east of point C,

all of which points and dimensions are more particularly shown on the deposited plans.

(2) At the date when the new railway and the new level crossings have become capable in all respects of being used as part of the undertaker's railway and any necessary approval of the kind referred to in article 7(1) has been obtained the redundant railway shall be abandoned and the undertaker shall be released from any obligation (statutory or otherwise) to maintain or operate the redundant railway.

(3) Any obligations (whether statutory or otherwise) of the undertaker to provide or maintain works, services or facilities in connection with the redundant railway shall be abrogated upon the abandonment of the redundant railway.

(4) Nothing in this article shall prejudice the operation of any statutory provision for the protection of the apparatus of North West Water Limited.