

2006 No. 405

TRANSPORT AND WORKS, ENGLAND

TRANSPORT, ENGLAND

**The Greater Manchester (Light Rapid Transit System)
Order 2006**

Made - - - - - 20th February 2006

Coming into force - - - 13th March 2006

An application was made to the Secretary of State, in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000(a) (“the Rules”) made under sections 6, 6A, 7 and 10 of the Transport and Works Act 1992(b) (“the Act”), for an Order under sections 1 and 5 of the Act;

The Secretary of State invited written representations for the purpose of Rule 25 of the Rules;

The Secretary of State, having considered the objections made and not withdrawn and the written representations made under Rule 25 of the Rules, gave notice under section 13(4) of the Act that he proposed to make an Order giving effect to the proposals comprised in the application with modifications which in his opinion make substantial changes in the proposals;

Having considered representations duly made to him pursuant to section 13(4) of the Act, the Secretary of State has determined to make the following Order with such modifications;

Notice of the Secretary of State’s determination was published in the London Gazette on 7th February 2006;

Accordingly, the Secretary of State, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 1 to 4, 6 to 13 and 15 to 17 of Schedule 1 to, the Act, makes the following Order:—

Citation and commencement

1. This Order may be cited as the Greater Manchester (Light Rapid Transit System) Order 2006 and shall come into force on 13th March 2006.

Interpretation

2. In this Order “the Executive” means the Greater Manchester Passenger Transport Executive.

(a) S.I. 2000/2190.

(b) 1992 c. 42, as amended by S.I. 1995/1541 and S.I. 1998/2226.

Requirements as to level

3.—(1) Section 14 of the Greater Manchester (Light Rapid Transit System) Act 1988(a) is amended by the substitution in subsection (5) for the words after “have effect” of the words “as if the words after “half an inch” were deleted”.

(2) The following provisions shall cease to have effect—

- (a) section 17 of the Greater Manchester (Light Rapid Transit System) Act 1988;
- (b) article 22(3) of the Greater Manchester (Light Rapid Transit System) (Eccles Extension) Order 1996(b);
- (c) article 22(3) of the Greater Manchester (Light Rapid Transit System) (Airport Extension) Order 1997(c); and
- (d) article 24(3) of the Greater Manchester (Light Rapid Transit System) (Ashton-under-Lyne Extension) Order 1998(d).

General duty in respect of construction and maintenance

4.—(1) This article applies in relation to any tramway authorised by—

- The Greater Manchester (Light Rapid Transit System) Act 1988;
- The Greater Manchester (Light Rapid Transit System) (No. 2) Act 1988(e);
- The Greater Manchester (Light Rapid Transit System) Act 1990(f);
- The Greater Manchester (Light Rapid Transit System) (No. 2) Act 1990(g);
- The Greater Manchester (Light Rapid Transit System) Act 1991(h);
- The Greater Manchester (Light Rapid Transit System) Act 1992(i);
- The Greater Manchester (Light Rapid Transit System) Act 1994(j);
- The Greater Manchester (Light Rapid Transit System) (Eccles Extension) Order 1996;
- The Greater Manchester (Light Rapid Transit System) (Airport Extension) Order 1997;
- The Greater Manchester (Light Rapid Transit System) (Ashton-under-Lyne Extension) Order 1998;
- The Greater Manchester (Light Rapid Transit System) (Airport Extension Order 1997) (Moor Road Modification) Order 1999(k);
- The Greater Manchester (Light Rapid Transit System) (Mumps Surface Crossing) Order 2001(l); and
- The Greater Manchester (Light Rapid Transit System) (Trafford Depot) Order 2002(m).

(2) Where a tramway is constructed along a street or in any place to which the public has access (including a place to which the public has access only on making a payment) the Executive shall take such care as in all the circumstances is reasonable to ensure that the tramway is constructed and maintained so that the street or other place is safe for others.

(3) When considering what measures are required under paragraph (2) the Executive shall have particular regard to the character and usage of the street or other place and to those who could reasonably be expected to use it.

Liability in respect of repair of streets

5.—(1) In an action against the Executive in respect of damage resulting from any failure by it to maintain a street pursuant to its duty under—

- (a) article 13 of the Greater Manchester (Light Rapid Transit System) (Eccles Extension) Order 1996;

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- (a) 1988 c. i.
 - (b) S.I. 1996/2714.
 - (c) S.I. 1997/1266.
 - (d) S.I. 1998/1936 as amended by S.I. 2001/224.
 - (e) 1988 c. ii.
 - (f) 1990 c. xv.
 - (g) 1990 c. xxiii.
 - (h) 1991 c. xvi as amended by S.I. 2003/2907.
 - (i) 1992 c. xviii.
 - (j) 1994 c. vi.
 - (k) S.I. 1999/217.
 - (l) S.I. 2001/1368.
 - (m) S.I. 2002/1327.

- (b) article 14 of the Greater Manchester (Light Rapid Transit System) (Airport Extension) Order 1997; and
- (c) article 14 of the Greater Manchester (Light Rapid Transit System) (Ashton-under-Lyne Extension) Order 1998;

it shall be a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the Executive 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.

(2) For the purposes of a defence under paragraph (1), the court shall in particular have regard to the following matters—

- (a) the character of the street including its use for a railway, tramroad or 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 Executive 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 Executive 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 Executive had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the Executive had given him proper instructions with regard to the maintenance of the street and that he had carried out those instructions.

Cessation of general road maintenance liability

6. Section 28 of the Tramways Act 1870(a) (repair of part of road where tramway is laid) shall cease to apply to any part of the Executive's undertaking and, accordingly section 14 (application of Tramways Act 1870) of the Greater Manchester (Light Rapid Transit System) Act 1988 is amended by the insertion in subsection (9) of "28" after "sections".

Signed by the authority of the Secretary of State

Ellis Harvey
Head of the Transport and Works Act Orders Unit
Department for Transport

20th February 2006

(a) 1870 c. 78.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order modifies the obligations of Greater Manchester Passenger Transport Executive under the Greater Manchester (Light Rapid Transit System) Act 1988 and later local legislation by removing requirements respecting the levels of tram rails laid in streets and replacing these with a duty of care in relation to the construction and maintenance of tramways in streets or other places to which the public has access. It also provides the Executive with a defence in relation to its liability to maintain streets for a period of 12 months following their completion which is similar to that available to highway authorities under the Highways Act 1980. It disapplies the obligation upon the Executive under section 28 of the Tramways Act 1870 to maintain and repair streets.

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