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STATUTORY INSTRUMENTS

2009 No. 2726

TRANSPORT

**The Greater Manchester (Light Rapid Transit System)
(Exemptions) Order 2009**

Made - - - - *6th October 2009*

Laid before Parliament *13th October 2009*

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 7(1), (2) and (9), 16A(3A), 16B(1), (2), (3) and (5), 20(1), (2) and (8), 23(3), 24(1), (2) and (8) and 151(5) of the Railways Act 1993(a) and sections 25(7) and 38(1) and (2) of the Railways Act 2005(b).

In accordance with sections 7(1), 16B(1) and 20(1) of the Railways Act 1993 the Secretary of State has consulted with the Office of Rail Regulation.

Citation and commencement

1.—(1) This Order may be cited as the Greater Manchester (Light Rapid Transit System) (Exemptions) Order 2009 and, except as otherwise provided in this article, shall come into force on 12th November 2009.

(2) Articles 3, 4, 6, 7, 8, 9 and 10 shall come into force on 19th February 2010 as regards the section of Metrolink Phase 3A between the junction with Metrolink Phase 1 at Talbot Road, Manchester and St Werburgh's Road stations and network stations, network trains and railway passenger services associated with that section.

(3) Articles 3, 4, 6, 7, 8, 9 and 10 shall come into force on 31st May 2010 as regards the section of Metrolink Phase 3A between the junction with Metrolink Phase 1 at Collyhurst Road,

(a) 1993 c.43; section 7 was amended by the Transport Act 2000 (c.38) section 216 and Schedule 17 (Part 1, paragraphs 1 and 2), the Railways and Transport Safety Act 2003 (c.20) section 16 and Schedule 2 (Part 1, paragraphs 1 and 3) and the Railways Act 2005 (c.14) sections 1 and 59 and Schedules 1 (Part 1, paragraph 1) and 13 (Part 1); section 16A(3A) was inserted by the Railways Act 2005, section 1(1) and Schedule 1 (Part 1, paragraph 11(3)); section 16B was inserted by the Transport Act 2000 section 223 and was amended by the Railways and Transport Safety Act 2003 section 16 and Schedule 2 (Part 1, paragraphs 1 and 3) and the Railways Act 2005 section 1 and Schedule 1 (Part 1, paragraph 11); section 20 was amended by the Transport Act 2000 sections 252 and 274 and Schedules 27 (paragraphs 17 and 23) and 31 (Part 1) and the Railways and Transport Safety Act 2003 section 16 and Schedule 2 (Part 1, paragraphs 1 and 3); section 23 was amended by the Transport Act 2000 section 215 and Schedule 16 (paragraphs 8 and 14) and the Railways Act 2005 section 1 and Schedule 1 (Part 1, paragraph 13); section 24 was amended by the Railways Act 2005 section 1 and Schedule 1 (Part 1, paragraph 14).

(b) 2005 c.14; see the definitions of "special procedure excluded service" and "the national authority" in section 25(7).

Manchester and Central Park stations and network stations, network trains and railway passenger services associated with that section.

(4) Articles 3 and 4 shall come into force on 8th June 2010 as regards the network depot shown as the Proposed Metrolink Depot on the Map.

(5) Articles 3, 4, 6, 7, 8, 9 and 10 shall come into force on 24th September 2010 as regards the section of Metrolink Phase 3A between Central Park and Oldham Mumps stations and network stations, network trains and railway passenger services associated with that section.

(6) Articles 3, 4, 6, 7, 8, 9 and 10 shall come into force on 27th June 2011 as regards the section of Metrolink Phase 3A between Piccadilly and Droylsden stations and network stations, network trains and railway passenger services associated with that section.

(7) Articles 3, 4, 6, 7, 8, 9 and 10 shall come into force on 30th June 2011 as regards the section of Metrolink Phase 3A between Oldham Mumps and Rochdale Railway stations and network stations, network trains and railway passenger services associated with that section.

Interpretation

2. In this Order—

“the 1993 Act” means the Railways Act 1993;

“the 2005 Act” means the Railways Act 2005;

“the Contractor” means—

(a) the person providing all of the railway passenger services on the Metrolink Light Rail Network pursuant to an agreement with the GMPTE for the time being, and

(b) any person operating railway facilities (but not providing railway passenger services) on the Metrolink Light Rail Network pursuant to an agreement with the GMPTE for the time being,

and includes any third parties acting on behalf of those persons;

“the GMPTE” means the Greater Manchester Passenger Transport Executive;

“the Map” means the coloured map in the Schedule;

“the Metrolink Light Rail Network” means Metrolink Phase 1, Metrolink Phase 2 and Metrolink Phase 3A;

“Metrolink Phase 1” means the light rail track constructed on the route shown on the Map as “Metrolink Phase 1”, together with any network installations associated with any of that track;

“Metrolink Phase 2” means the light rail track constructed on the route shown on the Map as “Metrolink Phase 2”, together with any network installations associated with any of that track;

“Metrolink Phase 3A” means the light rail track constructed or, as applicable, to be constructed on the route shown on the Map as “Metrolink Phase 3A”, together with any network installations associated with any of that track;

“network depot” means a light maintenance depot which is used or, as applicable, is to be used for the provision of light maintenance services which relate to locomotives and other rolling stock used in connection with railway passenger services provided on the Metrolink Light Rail Network;

“network installation” means any installation (other than track) which is comprised in a network;

“network station” means a station at which the only regular railway passenger services which are provided or, as applicable, are to be provided operate on the Metrolink Light Rail Network; and

“network trains” means trains being used on the Metrolink Light Rail Network for the purpose of carrying passengers or for engineering or maintenance purposes.

Licence exemption

3.—(1) Subject to article 11, exemption is granted to the GMPTE and to the Contractor from the requirement in section 6 of the 1993 Act(a) (prohibition on unauthorised operators of railway assets) to be authorised by licence to be the operator of the Metrolink Light Rail Network and such network depots, network stations, network interchanges and network trains as are used predominantly in connection with the provision of railway passenger services on that network.

(2) In determining the predominant use of a railway asset for the purposes of this article, temporary use for any purpose and any use for emergency purposes shall be disregarded.

(3) In this article, “network interchange” means, in relation to a station which is not a network station, such part of that station as is operated by the GMPTE or the Contractor in connection with the provision of regular railway passenger services on the Metrolink Light Rail Network.

Facility improvement exemption

4.—(1) Subject to article 16, exemption is granted to the GMPTE and to the Contractor from the provisions of section 16A(2) of the 1993 Act(b) (provision, improvement and development of railway facilities) in respect of the Metrolink Light Rail Network and such network depots, network stations and network interchanges as are used predominantly in connection with the provision of railway passenger services on that network.

(2) In determining the predominant use of a railway facility for the purposes of this article, temporary use for any purpose and any use for emergency purposes shall be disregarded.

(3) In this article, “network interchange” means, in relation to a station which is not a network station, such part of that station as is used exclusively for the provision of railway passenger services on the Metrolink Light Rail Network.

Facility exemption

5.—(1) Subject to article 11, exemption is granted to the GMPTE, Network Rail Infrastructure Limited and to the Contractor from the provisions of sections 17, 18 and 22A(c) of the 1993 Act (access agreements) in respect of the Metrolink Light Rail Network and such network depots and network stations as are used predominantly in connection with the provision of railway passenger services on that network.

(2) In determining the predominant use of a railway facility for the purposes of this article, temporary use for any purpose and any use for emergency purposes shall be disregarded.

(3) Subject to article 11, exemption is granted to the GMPTE, Network Rail Infrastructure Limited and to the Contractor from the provisions of sections 17, 18 and 22A of the 1993 Act (access agreements) in respect of network interchanges.

(4) In this article, “network interchange” means, in relation to a station which is not a network station, such part of that station as is used exclusively for the provision of railway passenger services on the Metrolink Light Rail Network.

(a) 1993 c.43; subsections (1A), (2) and (2A) were inserted by S.I. 1998/1340 regulation 21(2),(3) and (4) and were substituted by S.I. 2003/3050 regulation 3 and Schedule 1 (Part 1, paragraphs 3(1), (2), 3(a) and (4)); subsection (4) was substituted by the Railways and Transport Safety Act 2003 (c.20) section 16(5) and Schedule 2 (Part 1, paragraphs 1 and 3 (a)).

(b) 1993 c.43; section 16A(2) was inserted by the Transport Act 2000 (c.38) section 223 and was amended by the Railways and Transport Safety Act 2003 (c.20) section 16 and Schedule 2 (Part 1, paragraphs 1 and 3) and the Railways Act 2005 (c.14) section 1 and Schedule 1 (Part 1, paragraph 11).

(c) Section 17 was amended by the Transport Act 2000 (c.38) sections 233, 252 and 274 and Schedules 27 (paragraphs 17 and 21) and 31 (Part 4), the Railways Transport and Safety Act 2003 (c.20) section 16 and Schedule 2 (Part 1, paragraphs 1 and 3(a)) and the Railways Act 2005 (c.14) sections 1(1) and 54(4) and Schedules 1 (Part 1, paragraph 12(1) and 12(2)(a)) and 11 (paragraphs 1 and 3a); section 18 was amended by the Transport Act 2000 sections 212, 230, 252 and 274 and Schedules 27 (paragraphs 17 and 22) and 31(Part 4), the Railways and Transport Safety Act 2003 section 16 and Schedule 2 (Part 1, paragraph 1 and 3) and the Railways Act 2005 section 1 and Schedule 1 (Part 1, paragraph 12); section 22A was inserted by the Transport Act 2000 section 232(2) and was amended by the Railways Transport and Safety Act 2003 section 16 and Schedule 2 (Part 1, paragraphs 1 and 3).

Franchise exemption

6. Subject to article 11, exemption from designation under section 23(1) of the 1993 Act(a) (passenger services to be subject to franchise agreements) is granted to the GMPTE and the Contractor in respect of railway passenger services provided exclusively on the Metrolink Light Rail Network.

Disapplication of closure provisions

7. Subject to article 12, every railway passenger service which operates wholly or substantially on the Metrolink Light Rail Network is a service in relation to which the application of sections 22 to 24 of the 2005 Act (discontinuance of railway passenger services) is excluded.

8. Subject to article 13, the Metrolink Light Rail Network is a network in relation to which the application of sections 26 to 28 of the 2005 Act (discontinuance of operation of passenger networks) is excluded.

9.—(1) Subject to article 14, every network station and network interchange is a station in relation to which the application of sections 29 to 31 of the 2005 Act (discontinuance of use or operation of stations) is excluded.

(2) In this article, “network interchange” means, in relation to a station which is not a network station, such part of that station as is used exclusively for the provision of railway passenger services on the Metrolink Light Rail Network.

Application of provisions for discontinuation of excluded services

10. Subject to article 15, every railway passenger service which operates wholly or substantially on the Metrolink Light Rail Network is designated as a special procedure service for the purposes of section 25 of the 2005 Act.

Existing exemptions

11. Articles 3, 5 and 6 shall not apply to the Metrolink Light Rail Network to the extent that at the date this Order comes into force in accordance with article 1(1), such network and railway assets associated with it have the benefit of a licence exemption, facility exemption and franchise exemption by virtue of articles 3, 5 and 6 respectively of the Railways (Class and Miscellaneous Exemptions) Order 1994(b).

12. Article 7 shall not apply to railway passenger services on the Metrolink Light Rail Network to the extent that at the date this Order comes into force in accordance with article 1(1), article 7(1) of the Railways (Class and Miscellaneous Exemptions) Order 1994 provides that section 37 of the 1993 Act is not to have effect in relation to those services.

13. Article 8 shall not apply to the Metrolink Light Rail Network to the extent that at the date this Order comes into force in accordance with article 1(1), article 7(2) of the Railways (Class and Miscellaneous Exemptions) Order 1994 provides that section 39 of the 1993 Act is not to have effect in relation to that network.

14. Article 9 shall not apply to any network station or network interchange to the extent that at the date this Order comes into force in accordance with article 1(1), article 7(3) or 7(4) of the Railways (Class and Miscellaneous Exemptions) Order 1994 provides that section 41 of the 1993 Act is not to have effect in relation to that railway facility.

15. Article 10 shall not apply to the Metrolink Light Rail Network to the extent that at the date this Order comes into force in accordance with article 1(1), article 2 of the Railways (Alternative

(a) Section 38(4) of the Railways Act 2005 (c.14) provides that S.I. 1994/606 shall have effect as an order made under that section, providing exclusions from the closure provisions of sections 22 to 24, 26 to 31 of that Act.

(b) S.I. 1994/606.

Closure Procedure) Order 1994(a) provides that the railway passenger services operating on that network are subject to the alternative closure provisions in Schedule 5 to the 1993 Act.

16. Article 4 shall not apply to the Metrolink Light Rail Network to the extent that at the date this Order comes into force in accordance with article 1(1), such network (and facilities associated with such network) has the benefit of an exemption from the provisions of section 16A(2) of the 1993 Act by virtue of the Railways (Provision etc. of Railway Facilities) (Exemptions) Order 2005(b).

Revocation of exemptions

17.—(1) Subject to paragraph (2), the Secretary of State may revoke an exemption conferred by this Order under article 3, 4, 5 or 6 in relation to any person or railway asset to whom or to which the exemption applies.

(2) Before exercising the power conferred by paragraph (1) the Secretary of State shall—

- (a) serve notice in writing on the relevant person, or on the operator of the railway asset in question, as the case may be, and on the GMPTE, informing them of the intention to revoke the exemption in respect of that person or asset, and inviting them to make representations in writing to the Secretary of State within such period, not being less than 28 days from the service of the notice, as may be specified in the notice; and
- (b) consider any representations so made.

18. The Greater Manchester (Light Rapid Transit System) (Exemptions) Order 2004(c) is revoked.

Signed by authority of the Secretary of State for Transport

6th October 2009

Sadiq Khan
Minister of State
Department for Transport

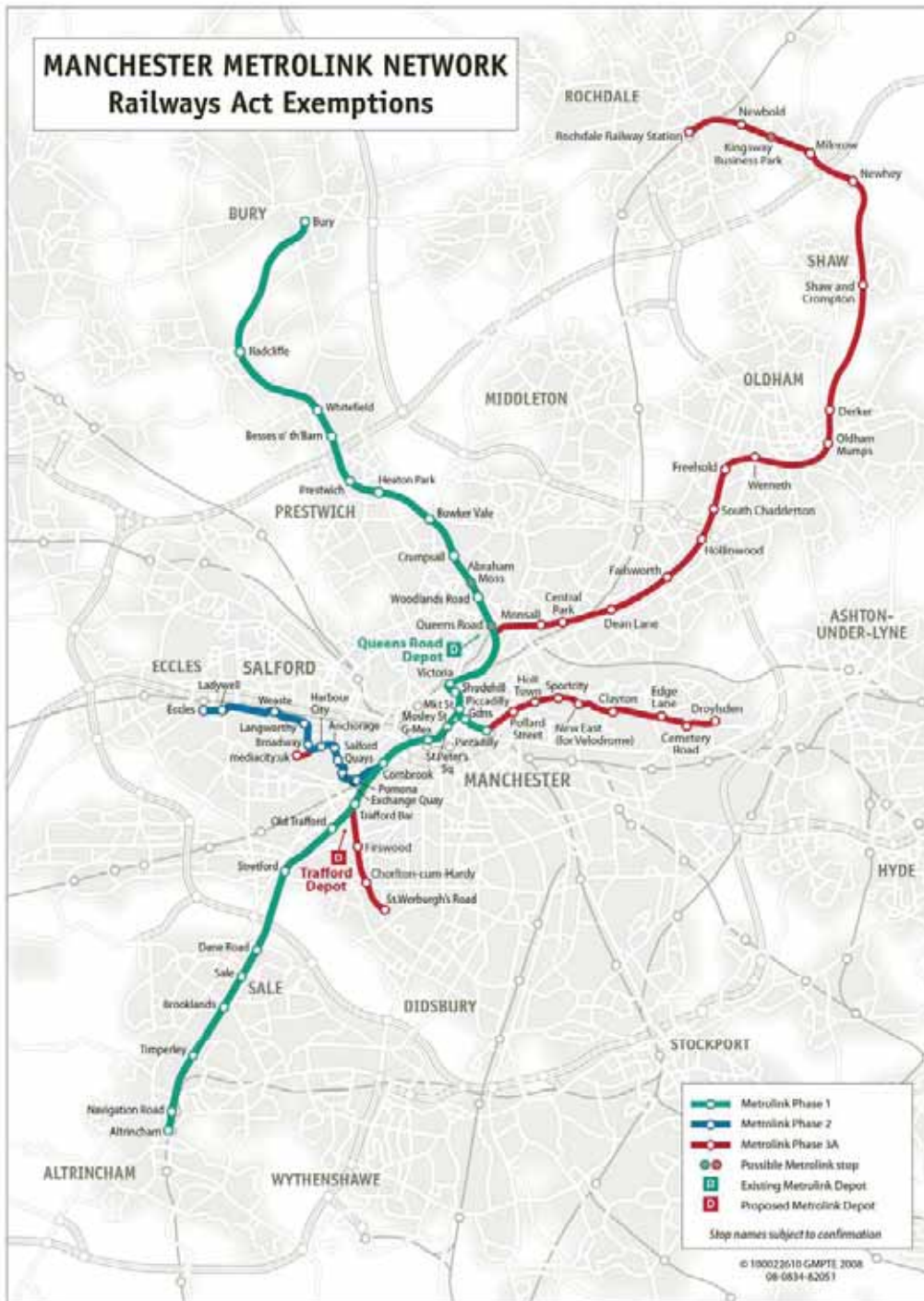
(a) S.I. 1994/607 to which there are amendments not relevant to this order. Section 25(10) of the Railways Act 2005 (c.14) provides that S.I. 1994/607 shall have effect as an order made under that section designating any services or description of services to which it applies as special procedure excluded services.

(b) S.I. 2005/2628.

(c) S.I. 2004/1072.

SCHEDULE

Map of Manchester Metrolink Network



EXPLANATORY NOTE

(This note is not part of the Order)

This Order relates to the Greater Manchester Light Rapid Transit System, also known as Metrolink (“Metrolink”).

The Order revokes the Greater Manchester (Light Rapid Transit System) (Exemptions) Order 2004 and consolidates the exemptions granted by that order to Phases 1 and 2 with new exemptions which extend to Metrolink Phase 3A.

Article 3 exempts certain persons operating railway assets used predominantly in connection with railway passenger services on the Metrolink network from the requirement of section 6 of the Railways Act 1993 (“the 1993 Act”) that they be licensed to do so.

Article 4 exempts certain persons operating railway assets used predominantly in connection with railway passenger services on the Metrolink network from the requirement of section 16A(2) of the 1993 Act that they be required by direction of the Office of Rail Regulation (“the ORR”) to improve or develop railway facilities.

Article 5 exempts certain persons operating or owning railway assets used predominantly in connection with railway passenger services on the Metrolink network from being subject to sections 17, 18 and 22A of the 1993 Act, which relate to the role of the ORR in respect of access agreements.

Article 6 exempts certain persons operating railway passenger services exclusively on the Metrolink network from the scope of section 23 of the 1993 Act, relating to the designation of services eligible for provision under franchise agreements.

Article 7 disapplies, in relation to railway passenger services operating wholly or substantially on the Metrolink network, sections 22 to 24 of the Railways Act 2005 (“the 2005 Act”) relating to the discontinuance of railway passenger services.

Article 8 disapplies, in relation to the Metrolink network, sections 26 to 28 of the 2005 Act relating to the discontinuance of operation of passenger networks.

Article 9 disapplies, in relation to stations or parts of stations used exclusively for the provision of railway passenger services on the Metrolink network, sections 29 to 31 of the 2005 Act relating to the discontinuance of use or operation of stations.

Article 10 designates every railway passenger service operating wholly or substantially on the Metrolink network as a special procedure excluded service for the purposes of section 25 of the 2005 Act.

Articles 11, 12 and 13 provide that exemptions granted by the Order do not apply to those parts of the Metrolink rail passenger services, network or stations which are currently exempt by virtue of the Railways (Class and Miscellaneous Exemptions) Order 1994.

Article 15 provides that exemptions granted by the Order do not apply to those parts of the Metrolink network which are currently exempt by virtue of the Railways (Alternative Closure Procedure) Order 1994.

Article 16 provides that exemptions granted by the Order do not apply to those parts of the Metrolink network which are currently exempt by virtue of the Railways (Provision etc. of Railway Facilities) (Exemptions) Order 2005.

Article 17 reserves to the Secretary of State an express power to revoke the exemptions granted by articles 3, 4, 5 and 6 subject to consultation.

Article 19 revokes the Greater Manchester (Light Rapid Transit System) (Exemptions) Order 2004.

An Explanatory Memorandum is annexed to this instrument and is available with the instrument on the OPSI website (www.opsi.org.uk).

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