
STATUTORY INSTRUMENTS

2016 No. 17

**The East Midlands Gateway Rail Freight
Interchange and Highway Order 2016**

PART 1

PRELIMINARY

Citation and Commencement

1. This Order may be cited as the East Midlands Gateway Rail Freight Interchange and Highway Order 2016 and comes into force on 2nd February 2016.

Commencement Information

II Art. 1 in force at 2.2.2016, see [art. 1](#)

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(1);

“the 1965 Act” means the Compulsory Purchase Act 1965(2);

“the 1980 Act” means the Highways Act 1980(3);

“the 1984 Act” means the Road Traffic Regulation Act 1984(4);

“the 1988 Act” means the Road Traffic Act 1988(5);

“the 1990 Act” means the Town and Country Planning Act 1990(6);

“the 1991 Act” means the New Roads and Street Works Act 1991(7);

“the 2008 Act” means the Planning Act 2008;

“the 2009 EIA Regulations” means the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009(8);

“abnormal load vehicle” means an abnormal indivisible load vehicle, within the meaning given in paragraph 3 of Schedule 1 (abnormal indivisible load vehicles) to the Road Vehicles

(1) 1961 c. 33.

(2) 1965 c. 56.

(3) 1980 c. 66.

(4) 1984 c. 27.

(5) 1988 c. 52.

(6) 1990 c. 8.

(7) 1991 c. 22.

(8) S.I.2009/2263, as amended by S.I. 2011/98, 2011/1043, S.I. 2012/635 and S.I. 2012/787.

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(Authorisation of Special Types) (General) Order 2003⁽⁹⁾, whose use on roads is authorised by that Order;

“access and rights of way plans” means the plans certified as the access and rights of way plans by the Secretary of State for the purposes of this Order;

“address” includes any number or address used for the purposes of electronic transmission;

“airport” means the airport known as East Midlands Airport;

“airport operator” means East Midlands International Airport Limited or any successor operator of the airport;

“apparatus” for the purposes of article 10 (highway works) and article 32 (apparatus and rights of statutory undertakers in stopped up streets) has the same meaning as in Part 3 of the 1991 Act;

“authorised activity” means for the purpose of article 26 (power to override easements and other rights)—

- (a) the erection, construction, carrying out or maintenance of any building or works on land;
- (b) the erection, construction or maintenance or anything in, on, over or under land; or
- (c) the use of any land;

“authorised building” means any building erected as part of the authorised development;

“authorised development” means the development described in Schedule 1 (authorised development) and any other development authorised by this Order, which is development within the meaning of section 32 (meaning of development) of the 2008 Act and any works carried out under the requirements;

“the book of reference” means the document certified by the Secretary of State as the book of reference for the purposes of this Order;

“bridleway” has the same meaning as in the 1980 Act;

“building” includes any structure or erection or any part of a building, structure or erection;

“bus” has the same meaning as in regulation 22 of the Traffic Signs Regulations and General Directions 2002⁽¹⁰⁾;

“carriageway” has the same meaning as in the 1980 Act;

“construction management framework plan” means the document certified by the Secretary of State as the construction management framework plan for the purposes of this Order;

“construction management strategy for safeguarding the Derwent Valley Aqueduct” means the document certified by the Secretary of State as the construction management strategy for safeguarding the Derwent Valley Aqueduct for the purposes of this Order;

“cycle track” has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act⁽¹¹⁾;

“the design and access statement” means the document certified by the Secretary of State as the design and access statement for the purposes of this Order;

⁽⁹⁾ S.I. 2003/1998.

⁽¹⁰⁾ S.I. 2002/3113.

⁽¹¹⁾ The definition of ‘cycle track’ was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

“development consent obligation” means the development consent obligation entered into by agreement under section 106 (planning obligations) of the 1990 Act⁽¹²⁾ dated 19th June 2015 in respect of the authorised development and any subsequent amendment to the obligation;

“the environmental statement” means the document submitted under regulation 5(2)(a) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009⁽¹³⁾ and certified by the Secretary of State as the environmental statement for the purposes of this Order;

“footpath” and “footway” have the same meaning as in the 1980 Act;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“highway classifications plans” means the plans certified as the highway classifications plans by the Secretary of State for the purposes of this Order;

“Highways England” means Highways England Company Limited (company number 9346363), whose registered office is at Bridge House, Walnut Tree Close, Guildford, GU1 4ZZ, appointed as highway authority for the highways specified in article 2 of the Appointment of a Strategic Highways Company Order 2015⁽¹⁴⁾;

“highway works” means the works comprised in Works Nos. 7, 8, 10, 11, 12 and 13;

“the highway works components plans” means the document certified by the Secretary of State as the highway works components plans for the purposes of this Order;

“illustrative rail interchange drawings” means the document certified by the Secretary of State as the illustrative rail interchange drawings for the purposes of this Order ;

“the land plans” means the plans certified as the land plans by the Secretary of State for the purposes of this Order;

“lead local flood authority” means Leicestershire County Council;

“local highway authority” means Leicestershire County Council;

“local planning authority” means the North West Leicestershire District Council;

“maintain” includes inspect, repair, adjust, alter, remove, clear, refurbish, reconstruct, decommission, demolish, replace or improve unless that activity would result in a significant environmental effect not assessed in the environmental statement and any derivative of “maintain” must be construed accordingly;

“main site” means that part of the land within the Order limits comprising the areas of land described on the works plans as Works Nos. 2 to 5;

“management strategy for the safeguarding of the East Midlands Airport” means the document certified by the Secretary of State as the management strategy for the safeguarding of the airport for the purposes of this Order;

“NSIP 1” means the nationally significant infrastructure project comprising a rail freight interchange being part of the authorised development;

“NSIP 2” means the nationally significant infrastructure project comprising the construction of a highway being part of the authorised development;

“NSIP 3” means the nationally significant infrastructure project comprising works of alteration to a highway being part of the authorised development;

(12) Section 106 was substituted by section 12(1) of the Planning and Compensation Act 1991 (c. 34) and was subsequently amended by section 33 of the Greater London Authority Act 2007 (c. 24) section 174 of the Planning Act 2008 (c.29) and paragraphs 1 and 3 of Schedule 2 to the Growth and Infrastructure Act 2013 (c. 27).

(13) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522 and S.I. 2013/755.

(14) S.I. 2015/376.

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“occupation” means occupation of the authorised buildings other than for the purpose of constructing, fitting out, commissioning or site security;

“the Order limits” means the limits shown on the works plans represented by a red line within which the authorised development may be carried out;

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981⁽¹⁵⁾;

“the parameters plans” means the plans certified as the parameters plans by the Secretary of State for the purposes of this Order;

“phase” means a defined section or part of the authorised development, the extent of which is shown in a scheme submitted to and approved by the local planning authority under requirement 2 (phases of development);

“public sewer or drain” means a sewer or drain which belongs to the Environment Agency, an internal drainage board or a lead local flood authority or a sewerage undertaker;

“rail served warehousing” means warehousing to which goods can be delivered by rail either directly or by means of another form of transport;

“railway” has the same meaning as in the 2008 Act;

“regulation 6(2) plans” means the plans and drawings certified as the regulation 6(2) plans by the Secretary of State for the purposes of this Order;

“relevant body” means in respect of each of the highway works the body referred to in respect of each of those works in column (4) of the table in requirement 5 (design and planning of highway works);

“relevant highway authority” means in any provision of this Order the highway authority for any area of land to which that provision relates;

“relevant street authority” means in any provision of this Order the street authority for any area of land to which that provision relates;

“relevant traffic authority” has the meaning as in section 121A (traffic authorities) of the 1984 Act;

“relocation works” means work executed, or apparatus provided, under paragraph (2) of article 32 (apparatus and rights of statutory undertakers in stopped up streets);

“requirements” means the requirements set out in Schedule 2 (requirements);

“schedule of archaeological works” means the document certified by the Secretary of State as the schedule of archaeological works for the purposes of this Order;

“site waste management framework plan” means the document certified by the Secretary of State as the site waste management framework plan for the purposes of this Order;

“site wide travel plan” means the document certified by the Secretary of State as the site wide travel plan for the purposes of this Order;

“statutory aerodrome safeguarding authority” means the aerodrome licence holder for the airport;

“statutory undertaker” means statutory undertaker for the purposes of section 127(8) (statutory undertakers’ land) of the 2008 Act;

“statutory utility” means a statutory undertaker for the purposes of the 1990 Act or a public communications provider as defined in section 151(1) (interpretation of Chapter 1) of the Communications Act 2003⁽¹⁶⁾;

⁽¹⁵⁾ 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1981 Act which are not relevant to this Order.

⁽¹⁶⁾ 2003 c. 21.

“speed limit plans” means the document certified by the Secretary of State as the speed limit plans for the purposes of this Order;

“street” means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority” in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“sustainable transport working group” means the group of that name constituted under the provisions of the development consent obligation;

“traffic officer” means a person designated under section 2 (designation of Traffic Officers) of the Traffic Management Act 2004(17);

“traffic regulation plans” means the document certified by the Secretary of State as the traffic regulation plans for the purposes of this Order;

“the undertaker” means—

- (a) Roxhill Developments Group Limited (company number 07436264), Roxhill Developments Limited (company number 07070462) and Roxhill (Kegworth) Limited (company number 07567544), all registered at Lumonics House, Valley Drive, Swift Valley, Rugby, Warwickshire CV21 1TQ; and
- (b) subject to article 7 (benefit of order) any other person who has the benefit of this Order in accordance with section 156 (benefit of order granting development consent) of the 2008 Act for such time as that section applies to that person;

“verge” means any part of the road which is not a carriageway;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or public drain;

“water authority” means Severn Trent Water Limited (company number 02366686) registered at Severn Trent Centre, 2 St John’s Street, Coventry, CV1 2LZ and any successor in function; and

“the works plans” means the plans certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) References in this Order to numbered works are references to the works as numbered in Schedule 1 (authorised development) and references to numbered requirements are to the requirements as numbered in Schedule 2 (requirements).

(5) All areas described in square metres in the book of reference are approximate.

Commencement Information

12 Art. 2 in force at 2.2.2016, see [art. 1](#)

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PART 2

PRINCIPAL POWERS

Development consent granted by the Order

3.—(1) The undertaker is granted development consent for the authorised development to be carried out subject to the provisions of the Order within the Order limits and subject to the requirements.

(2) Nothing in this Order prevents the carrying out of archaeological investigations (under requirement 13(1)), investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or erection of any temporary means of enclosure and the temporary display of site notices or advertisement immediately upon this Order coming into force.

Commencement Information

I3 Art. 3 in force at 2.2.2016, see [art. 1](#)

Parameters of authorised development

4. The authorised development is to be carried out within the parameters shown and described on the parameters plans and in carrying out the authorised development the undertaker may—

- (a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on those plans;
- (b) in respect of the highway works deviate vertically from the levels shown on the regulation 6(2) plans to any extent not exceeding 1.5 metres upwards or downwards;
- (c) in respect of the railway works comprised in Works Nos. 1 and 2 deviate vertically from the levels shown on the regulation 6(2) plans to any extent not exceeding 1.5 metres upwards or 2.5 metres downwards; and
- (d) in respect of any boundary between the areas of two numbered works deviate laterally by 20 metres either side of the boundary as shown on the works plans.

Commencement Information

I4 Art. 4 in force at 2.2.2016, see [art. 1](#)

Authorisation of use

5.—(1) Subject to the provisions of this Order including the requirements, the undertaker and any persons authorised by the undertaker may operate and use that part of the authorised development comprised in Works Nos. 1 to 6 inclusive for the purposes of a rail freight terminal and warehousing and any purposes ancillary to those purposes.

(2) It does not constitute a breach of the terms of this Order, if, following the coming into force of this Order, any development, or any part of a development, is carried out or used within the Order limits under planning permission granted under the 1990 Act.

Commencement Information

I5 Art. 5 in force at 2.2.2016, see [art. 1](#)

Maintenance of authorised development

6. The undertaker may at any time maintain the authorised development, except to the extent that this Order, or an agreement made under this Order provides otherwise.

Commencement Information

I6 Art. 6 in force at 2.2.2016, see [art. 1](#)

Benefit of Order

7.—(1) Roxhill Developments Group Limited, Roxhill Developments Limited and Roxhill (Kegworth) Limited have the sole benefit of the provisions of Part 5 (powers of acquisition) unless the Secretary of State consents to the transfer of the benefit of those provisions.

(2) Roxhill Developments Group Limited, Roxhill Developments Limited and Roxhill (Kegworth) Limited have the sole benefit of the powers conferred by this Order to carry out the highway works in accordance with the provisions of Schedule 19 (for the protection of Highways England) and Schedule 20 (for the protection of Leicestershire County Council as highway authority) unless the Secretary of State consents to the transfer of the benefit of those provisions.

Commencement Information

I7 Art. 7 in force at 2.2.2016, see [art. 1](#)

Application and modification of legislative provisions

8.—(1) Where an application is made to the local planning authority, relevant highway authority, Environment Agency, lead local flood authority or the approving body under Schedule 3 (sustainable drainage) to the Flood and Water Management Act 2010⁽¹⁸⁾ for any consent, agreement or approval required by a requirement, the following provisions apply, so far as they relate to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission, as if the requirement was a condition imposed on the grant of planning permission—

- (a) sections 78 (right of appeal in relation to planning decisions) and 79 (determination of appeals) of the 1990 Act⁽¹⁹⁾; and
- (b) any orders, rules or regulations which make provision in relation to a consent, agreement or approval of a local planning authority required by a condition imposed on the grant of planning permission.

(2) For the purposes of paragraph (1), a provision relates to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission in so far as it makes provision in relation to an application for such a consent, agreement or approval, or the grant or refusal of such an application, or a failure to give notice of a decision on such an application,

⁽¹⁸⁾ 2010 c. 29. Schedule 3 was amended by sections 21(3) and 88 of the Water Act 2014 (c. 21), S.I. 2012/1659 and S.I. 2013/755. Schedule 3 is to come into force on a date to be appointed.

⁽¹⁹⁾ Section 78 was amended by section 17(2) of the Planning and Compensation Act 1991 (c. 34); section 43(2) of the Planning and Compulsory Act 2004 (c. 5); paragraphs 1 and 3 of Schedule 10, and paragraphs 1 and 2 of Schedule 11, to the Planning Act 2008 (c. 29); section 123(1) and (3) of, and paragraphs 1 and 11 of Schedule 12 to, the Localism Act 2011 (c. 20); and paragraphs 1 and 8 of Schedule 1 to the Growth and Infrastructure Act 2013 (c. 27). Section 79 was amended by section 18 of, and paragraph 19 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34); and paragraphs 1 and 4 of Schedule 10 to the Planning Act 2008 (c. 29).

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and any references to “local planning authority” for the purposes of this provision is replaced by “the local planning authority or other authority from whom a consent, agreement or approval is required”.

(3) Regulation 4 (requirement for consent) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007(20) does not apply to any advertisement erected in the location and in accordance with the parameters shown on the parameters plans as S1 and S2.

(4) Paragraphs (1) to (3) only apply in so far as those provisions are not inconsistent with the 2009 EIA Regulations and any orders, rules or regulations made under the 2008 Act.

Commencement Information

I8 Art. 8 in force at 2.2.2016, see [art. 1](#)

PART 3 STREETS

Power to alter layout, etc., of streets

9.—(1) Subject to paragraph (2), the undertaker may, for the purposes of constructing and maintaining the authorised development, alter the layout of any street within the main site and the layout of any street having a junction with such a street; and, without limitation on the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of such kerb, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street; and
- (d) make and maintain crossovers, and passing places.

(2) The powers conferred by paragraph (1) must not be exercised without the consent of the local highway authority but such consent must not be unreasonably withheld.

Commencement Information

I9 Art. 9 in force at 2.2.2016, see [art. 1](#)

Highway works

10.—(1) The undertaker may for the purposes of the carrying out of the highway works, enter on so much of any of the streets specified in Schedule 3 (streets subject to highway works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus in the street;
- (d) maintain apparatus in the street or change its position;
- (e) construct bridges and tunnels;

(20) [S1 2007/783](#), amended by [S.I. 2007/1739](#), [S.I. 2011/2057](#), [S.I. 2011/3058](#), [S.I. 2012/2372](#) and [S.I. 2013/2114](#).

- (f) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (g) alter the level or increase the width of such kerb, footway, cycle track or verge;
- (h) reduce the width of the carriageway of the street;
- (i) make and maintain crossovers and passing places; and
- (j) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (i).

(2) The highway works must be carried out in accordance with the relevant provisions of Schedules 19 and 20 (protection of interests).

Commencement Information

I10 Art. 10 in force at 2.2.2016, see [art. 1](#)

Stopping up of streets

11.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up permanently each of the streets specified in columns (1) and (2) of Parts 1 and 2 of Schedule 4 (streets to be permanently stopped up) to the extent specified, by reference to the letters shown on the access and rights of way plan, in column (3) of those Parts of that Schedule.

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

- (a) the new street to be substituted for it, which is specified in column (4) of that Part of that Schedule, has been completed to the reasonable satisfaction of the relevant 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 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) No street specified in columns (1) and (2) of Part 2 of Schedule 4 (streets for which no substitute is to be provided) may 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 undertaker is in possession of the land;
- (b) there is no right of access to the land from the street concerned;
- (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 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.

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

(7) This article is subject to article 32 (apparatus and rights of statutory undertakers in stopped up streets).

(8) Any stopping up carried out under this article must be carried out in accordance with any relevant provisions of Schedules 19 and 20 (protection of interests).

Commencement Information

I11 Art. 11 in force at 2.2.2016, see [art. 1](#)

Public rights of way – creation, diversion and stopping up

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

- (a) stop up each of the public rights of way specified in columns (1) and (2) of Part 1 of Schedule 5 (public rights of way to be permanently stopped up for which a substitute is to be provided) to the extent specified, in column (3) of that Part of that Schedule;
- (b) provide the substitute public rights of way described in column (4) of Part 1 of Schedule 5 between the specified terminus points and on a detailed alignment to be agreed with the relevant highway authority;
- (c) temporarily stop up public rights of way to the extent agreed with the relevant highway authority and provide substitute temporary public rights of way between terminus points, on an alignment to be agreed with the relevant highway authority; and
- (d) stop up each of the public rights of way specified in columns (1) and (2) of Part 2 of Schedule 5 (public rights of way to be permanently stopped up for which no substitute is to be provided) to the extent specified in column (3) of that Part of that Schedule.

(2) No public right of way specified in columns (1) and (2) of Parts 1 or 2 of Schedule 5 may be wholly or partly stopped up under this article unless the permanent or temporary diversion routes agreed by the local highway authority have first been provided by the undertaker, to the reasonable satisfaction of the local highway authority.

(3) Any permanent diversion route provided under paragraph (2), or any temporary diversion route agreed by the local highway authority, must be maintained by the undertaker with appropriate clear signage of the permanently diverted or temporarily diverted route.

(4) Any temporary diversion route must be maintained by the undertaker until the completion and opening of the public rights of way within the Order limits specified in column (4) of Part 1 of Schedule 5.

(5) The undertaker must in connection with carrying out of the authorised development provide the new public rights of way specified in columns (1) and (2) of Part 3 of Schedule 5 (new public rights of way to be created) to the extent specified in column (3) of that Part of that Schedule.

Commencement Information

I12 Art. 12 in force at 2.2.2016, see [art. 1](#)

Temporary stopping up of streets

13.—(1) During and for the purposes of carrying out the authorised development, the undertaker may 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 (2), prevent all persons from passing along the street.

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

(3) Unless approved under the provisions of Schedules 19 or 20 (protection of interests) the undertaker may not temporarily stop up, alter or divert any street without the consent of the relevant street authority which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld.

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

(5) Any temporary stopping up of streets under this article must be carried out in accordance with the relevant provisions of Schedules 19 and 20.

Commencement Information

I13 Art. 13 in force at 2.2.2016, see [art. 1](#)

Accesses

14.—(1) The undertaker may, for the purposes of the authorised development and subject to paragraph (2), with the agreement of the relevant highway authority or street authority as appropriate (such agreement not to be unreasonably withheld), form and lay out such means of access (permanent or temporary) or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires.

(2) The agreement of the relevant highway authority or street authority as appropriate is not required for the formulation, layout or improvement of a new or existing means of access described in Schedule 1 (authorised development) and carried out in accordance with the relevant provisions of Schedules 19 and 20 (protection of interests).

(3) The private means of access as set out in column (2) of Part 1 of Schedule 6 (private means of access to be replaced) may be removed by the undertaker and if removed must be replaced by the means of access as set out in column (3) of Part 1 of Schedule 6.

(4) The private means of access as set out in column (2) of Part 2 of Schedule 6 (private means of access to be closed for which no substitute is to be provided) may be closed by the undertaker without a substitute being provided.

(5) The undertaker must provide the private means of access as set out in column (2) of Part 3 of Schedule 6 (new private means of access created).

Commencement Information

I14 Art. 14 in force at 2.2.2016, see [art. 1](#)

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Maintenance of highway works

15. Subject to article 16 (classification of roads), the streets authorised to be constructed, altered or diverted under this Order comprised in Works Nos. 7, 8, 10, 11 and 13 are to be public highways and following the completion of those works are to be maintained by and at the expense of the relevant highway authority referred to in column (5) of Part 1 of Schedule 7 (new and diverted roads) and in accordance with the provisions of Schedules 19 and 20 (protection of interests).

Commencement Information

I15 Art. 15 in force at 2.2.2016, see [art. 1](#)

Classification of roads

16.—(1) The new roads described in Part 1 of Schedule 7 (new and diverted roads) are to be—

- (a) classified as set out in column (3) of Part 1 of Schedule 7 for the purpose of any enactment or instrument which refers to highways classified as such; and
- (b) provided for the use of the classes of traffic defined in Schedule 4 (classes of traffic for purposes of special roads) to the 1980 Act as set out in column (4) of Part 1 of Schedule 7.

(2) From the date on which the undertaker notifies the Secretary of State that the new roads described in Part 1 of Schedule 7 have been completed and are open for through traffic—

- (a) the body set out in column (5) of Part 1 of Schedule 7 is the highway authority for those roads; and
- (b) the new roads identified as special roads in column (3) of Part 1 of Schedule 7 are classified as trunk roads for the purpose of any enactment or instrument which refers to highways classified as trunk roads.

(3) The existing roads described in Part 2 of Schedule 7 (existing roads) are to cease to have the classification and be the responsibility of the relevant highway authority set out in column (3) of Part 2 of Schedule 7 and from the occurrence of the event set out in column (4) are to be—

- (a) classified as set out in column (5) of Part 2 of Schedule 7 for the purpose of any enactment or instrument which refers to highways classified as such;
- (b) provided for the use of the classes of traffic defined in Schedule 4 to the 1980 Act as set out in column (6) of Part 2 of Schedule 7; and
- (c) the responsibility of the relevant highway authority set out in column (7) of Part 2 of Schedule 7,

as if such classification had been made under sections 10(2) and 12(3) of the 1980 Act.

Commencement Information

I16 Art. 16 in force at 2.2.2016, see [art. 1](#)

Speed limits

17.—(1) Upon the opening of the length of highway specified in columns (1) and (2) of Part 2 of Schedule 8 (roads subject to 30mph speed limit) no person is to drive any motor vehicle at a speed exceeding 30 miles per hour in the lengths of road identified in column (2) of Part 2 of Schedule 8 (roads subject to 30mph speed limit).

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(2) Upon the opening of the length of highway specified in columns (1) and (2) of Part 3 of Schedule 8 (roads subject to 50mph speed limit) no person is to drive any motor vehicle at a speed exceeding 50 miles per hour in the lengths of road identified in column (2) of Part 3 of Schedule 8 (roads subject to 50mph speed limit).

(3) The orders referred to in columns (1) and (2) of Part 1 of Schedule 8 (existing orders) are revoked or varied as set out in column (3) of Part 1 of Schedule 8 upon the event listed in column (4) occurring.

(4) The speed limits imposed by this Order are deemed to have been imposed by an order under the 1984 Act and—

- (a) have the same effect; and
- (b) may be varied by the relevant traffic authority in the same manner,

as any other speed limit imposed by an order under that Act.

(5) No speed limit imposed by this Order applies to vehicles falling within regulation 3(4) (regulations in relation to orders and notices under the 1984 Act) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011⁽²¹⁾ when used in accordance with regulation 3(5) of those Regulations.

Commencement Information

I17 Art. 17 in force at 2.2.2016, see [art. 1](#)

Amendments to traffic regulation orders

18. The orders referred to in columns (1) and (2) of Schedule 9 (amendments to existing orders) are revoked or amended as set out in column (3) of Schedule 9 upon the event listed in column (4) of Schedule 9 occurring.

Commencement Information

I18 Art. 18 in force at 2.2.2016, see [art. 1](#)

Clearways and no waiting

19.—(1) Subject to paragraphs (4) and (5), following the event specified in column (4) of Part 1 of Schedule 10 (clearways), no person, except upon the direction or with the permission of a police officer or traffic officer in uniform, is to cause or permit any vehicle to wait on any part of a carriageway specified in columns (1) and (2) of Part 1 of Schedule 10, other than a lay-by.

(2) Subject to paragraphs (4) and (6) following the event specified in column (4) of Part 1 of Schedule 10 no person, except upon the direction or with the permission of a police officer or traffic officer in uniform, is to cause or permit any vehicle to wait on any verge adjacent to any part of a carriageway specified in columns (1) and (2) of Part 1 of Schedule 10 where such prohibition is indicated as applying in column (3) of Part 1 of Schedule 10.

(3) Subject to paragraph (4) following the event specified in column (3) of Part 2 of Schedule 10 (no waiting at any time) no person, except upon the direction or with the permission of a police officer or traffic officer in uniform, is to cause or permit any vehicle to wait at any time on any day, on the sides of the carriageway specified in columns (1) and (2) of Part 2 of Schedule 10 or its adjacent verge at any time.

(21) [S.I. 2011/935](#).

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- (4) Nothing in paragraphs (1), (2) or (3) applies—
- (a) to render it unlawful to cause or permit a vehicle to wait on any part of the carriageway or verge, for so long as may be necessary to enable that vehicle to be used in connection with—
 - (i) the removal of any obstruction to traffic;
 - (ii) the maintenance, improvement, reconstruction or operation of the carriageway or verge;
 - (iii) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the carriageway or verge of any sewer, main pipe, conduit, wire, cable or other apparatus for the supply of gas, water, electricity or any telecommunications apparatus as defined in Schedule 2 to the Telecommunications Act 1984⁽²²⁾; or
 - (iv) any building operation or demolition;
 - (b) in relation to a vehicle being used—
 - (i) for police, ambulance, fire and rescue authority or traffic officer purposes;
 - (ii) in the service of a local authority, Highways England, a safety camera partnership or the Driver and Vehicle Standards Agency in pursuance of statutory powers or duties;
 - (iii) in the service of a water or sewerage undertaker within the meaning of the Water Industry Act 1991⁽²³⁾; or
 - (iv) by a universal service provider for the purposes of providing a universal postal service as defined by the Postal Services Act 2000⁽²⁴⁾; or
 - (c) in relation to a vehicle waiting when the person in control of it is—
 - (i) required by law to stop;
 - (ii) obliged to stop in order to avoid an accident; or
 - (iii) prevented from proceeding by circumstances outside the person's control.
- (5) Nothing in paragraph (1) applies to any vehicle selling or dispensing goods to the extent that the goods are immediately delivered at, or taken into, premises adjacent to the land on which the vehicle stood when the goods were sold or dispersed.
- (6) Nothing in paragraph (2) applies—
- (a) so as to prevent a vehicle waiting on any verge specified in paragraph (2) for so long as may be necessary —
 - (i) to enable a person to board or alight from the vehicle;
 - (ii) to enable goods to be loaded on to or unloaded from the vehicle; or
 - (iii) to enable goods to be sold from the vehicle provided such goods are immediately delivered at, or taken into, premises adjacent to the vehicle from which sale is effected;
 - (b) so as to prevent a vehicle waiting on any verge specified in paragraph (2) for so long as may be necessary to enable that vehicle, if it cannot conveniently be used for such purpose without waiting on such verge, to be used in connection with any building operation or demolition, the removal of any obstruction or potential obstruction to traffic, the maintenance, improvement or reconstruction of such verge or of a carriageway immediately adjacent to such verge or the erection, laying, placing, maintenance, testing,

⁽²²⁾ 1984 c. 12.

⁽²³⁾ 1991 c. 56.

⁽²⁴⁾ 2000 c. 26.

alteration, repair or removal of any structure, works or apparatus in, on, under or over that verge or carriageway; or

- (c) to a vehicle waiting on any verge specified in paragraph (2) while any gate or other barrier at the entrance to premises to which the vehicle requires access or from which it has emerged is opened or closed.

(7) Paragraphs (1) to (6) have effect as if made by a traffic regulation order under the 1984 Act and their application may be varied or revoked by such an order or by any other enactment which provides for the variation or revocation of such orders.

Commencement Information

I19 Art. 19 in force at 2.2.2016, see [art. 1](#)

Motor vehicle restrictions

20.—(1) No person, except upon the direction or with the permission of a police officer or traffic officer in uniform, is to cause or permit any vehicle to proceed along any part of a road specified in Part 1 of Schedule 11 (motor vehicle access only restrictions) except for the purpose of access.

(2) No person, except upon the direction or with the permission of a police officer or traffic officer in uniform, is to cause or permit any vehicle to proceed along the parts of road specified in columns (1) and (2) of Part 2 of Schedule 11 (one way streets) in a direction other than that specified in relation to that road in column (3) of Part 2 of Schedule 11 (one way streets).

(3) Subject to paragraph (4) no person is to cause or permit any vehicle to enter the lay-by situated in the location described in column (1) of Part 3 of Schedule 11 (prohibition of entry to abnormal loads lay-by) at the point of entry described in column (2) of Part 3 of Schedule 11.

(4) Nothing in paragraph (3) above applies—

- (a) to an abnormal load vehicle;
- (b) in relation to a vehicle being used;
 - (i) to escort an abnormal load;
 - (ii) for the maintenance, improvement or reconstruction of the layby;
 - (iii) for the laying, erection, alteration or repair in or near the layby of any sewer or of any main pipe or apparatus for the supply of gas, water or electricity or of any telecommunications apparatus as defined in Schedule 2 of the Telecommunications Act 1984 on or near the layby referred to in column (2) of Part 3 of Schedule 11;
 - (iv) for police, ambulance or fire brigade purposes; or
 - (v) in the service of a local authority or of a water authority in pursuance of statutory powers or duties.

(5) Subject to paragraph (6) no person, except upon the direction or with the permission of a police officer or traffic officer in uniform, is to cause or permit the length of road identified in Part 4 of Schedule 11 (buses and cyclists only) to be used by any vehicles other than a bus or cycle except for the purpose of access.

(6) Nothing in paragraph (5) applies to a vehicle being used—

- (a) to allow people to board or alight;
- (b) in connection with—
 - (i) building, industrial or demolition operations;
 - (ii) the removal of any obstruction to traffic;

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- (iii) the maintenance, improvement or reconstruction of the road including the verge; or
- (iv) the laying, erection, alteration or repair on, or in land adjacent to the road or verge of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any telegraphic line as defined in the Telecommunications Act 1984;
- (c) in the service of a local authority, Highways England, or a statutory undertaker in pursuance of statutory powers or duties;
- (d) for the purpose of delivering or collecting postal packets as defined in the Postal Services Act 2000 by any universal service provider; or
- (e) for fire brigade, ambulance or police purposes.

(7) Paragraphs (1) to (6) have effect as if made by a traffic regulation order under the 1984 Act, and their application may be varied or revoked by such an order or by any other enactment which provides for the variation or revocation of such orders.

Commencement Information

I20 Art. 20 in force at 2.2.2016, see [art. 1](#)

Agreements with highway authorities

21.—(1) A relevant highway authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new highway, including any structure carrying the highway over or under a railway authorised by this Order;
 - (b) the strengthening, improvement, repair or reconstruction of any highway under the powers conferred by this Order;
 - (c) the maintenance of the structure of any bridge carrying a highway over or under a railway;
 - (d) the maintenance of landscaping within a highway constructed as part of the highway works;
 - (e) any stopping up, alteration or diversion of a highway as part of or to facilitate the authorised development; or
 - (f) the carrying out in the highway of any of the works referred to in article 10 (highway works).
- (2) Such an agreement may, without limitation on the scope of paragraph (1)—
- (a) make provision for the relevant highway authority to carry out any function under this Order which relates to the highway in question;
 - (b) include an agreement between the undertaker and relevant highway 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.

Commencement Information

I21 Art. 21 in force at 2.2.2016, see [art. 1](#)

PART 4

SUPPLEMENTAL POWERS

Discharge of water

22.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) must be determined as if it were a dispute under section 106 of the Water Industry Act 1991⁽²⁵⁾ (right to communicate with public sewers).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not make any opening into any public sewer or drain except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works under the powers conferred by this article damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010⁽²⁶⁾.

(8) References to expressions in this article, excluding watercourse, which are used both in this article and in the Water Resources Act 1991⁽²⁷⁾ have the same meaning as in that Act.

Commencement Information

I22 Art. 22 in force at 2.2.2016, see [art. 1](#)

Authority to survey and investigate the land

23.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

(a) survey or investigate the land;

(b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;

⁽²⁵⁾ 1991 c.56. Section 106 was amended by section 35(1) and (8) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43) and, sections 36(2) and 99 of the Water Act 2003 (c. 37) (subject to the transitional provisions contained in article 6 of, and Schedule 3 to, S.I. 2004/641) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

⁽²⁶⁾ S.I. 2010/675.

⁽²⁷⁾ 1991 c. 57.

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- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
 - (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.
- (2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner, who is not the undertaker, and occupier of the land.
- (3) Any person entering land under the powers conferred by this article on behalf of the undertaker—
- (a) must, if so required, produce written evidence of their authority to do so; and
 - (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.
- (4) No trial holes may be made under this article—
- (a) in land located within the highway boundary without the consent of the relevant highway authority; or
 - (b) in a private street without the consent of the relevant street authority;
- but such consent must not be unreasonably withheld.
- (5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

Commencement Information

I23 Art. 23 in force at 2.2.2016, see [art. 1](#)

PART 5

POWERS OF ACQUISITION

Guarantees in respect of payment of compensation

- 24.**—(1) The undertaker must not begin to exercise the powers in articles 24 to 32 in relation to any land unless it has first put in place either—
- (a) a guarantee in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land approved by the local planning authority; or
 - (b) an alternative form of security for that purpose which has been approved by the local planning authority.
- (2) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under the Order is to be treated as enforceable against the guarantor by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.
- (3) The guarantee or alternative form of security is to be in place for a maximum of 20 years from the date on which the relevant power is exercised.

Commencement Information

I24 Art. 24 in force at 2.2.2016, see [art. 1](#)

Compulsory acquisition of land and rights

25.—(1) The undertaker may acquire compulsorily the land and existing rights and create and acquire compulsorily the new rights described in the book of reference and shown on the land plans.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights under the Order are extinguished in so far as their continuance would be inconsistent with the carrying out and use of the authorised development—

- (a) as from the date of the acquisition of the right by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (powers of entry) of the 1965 Act⁽²⁸⁾ in pursuance of the right,

whichever is the earlier.

(3) The power to extinguish rights in paragraph (2) does not extend to the plots on the land plans referred to in Schedule 13 (land to which powers to extinguish rights do not apply).

(4) Subject to section 8 (other provisions as to divided land) of the 1965 Act, as substituted by paragraph (5) of Schedule 14 (modifications of compensation and compulsory purchase enactments for creation of new rights), where the undertaker acquires an existing right over land under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(5) Schedule 14 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article.

(6) Subject to section 8 of the 1965 Act, as substituted by paragraph (5) of Schedule 14, where the undertaker creates a new right over land under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

Commencement Information

I25 Art. 25 in force at 2.2.2016, see [art. 1](#)

Power to override easements and other rights

26.—(1) Any authorised activity undertaken by the undertaker which takes place on land within the Order limits (whether the activity is undertaken by the undertaker or by any person deriving title under it) is authorised by this Order if it is done in accordance with the terms of this Order, regardless of whether it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to the use of the land arising by virtue of a contract.

(2) The interests and rights to which this article applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

⁽²⁸⁾ Section 11(1) was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67) and paragraph 12(1) of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1).

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(3) Nothing in this article authorises interference with any right of way or right of laying down, erecting, continuing or maintaining apparatus on, under or over land which is a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, or a right conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network.

(4) Where any interest or right to which this article applies is interfered with or any restriction breached by any authorised activity in accordance with the terms of this article the interest or right is extinguished, abrogated or discharged at the time that the interference or breach in respect of the authorised activity in question commences.

(5) In respect of any interference, breach, extinguishment, abrogation or discharge under this article, compensation—

- (a) is payable under section 7 (measure of compensation in case of severance) or 10 (further provisions as to compensation for injurious affection) of the 1965 Act; and
- (b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections in respect of injurious affection where—
 - (i) the compensation is to be estimated in connection with a purchase under that Act; or
 - (ii) the injury arises from the execution of works on or use of land acquired under that Act.

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1) of this article.

(7) Nothing in this article is to be construed as restricting the entitlement of any person to compensation.

(8) Where a person deriving title under the undertaker by whom the land in question was acquired or appropriated—

- (a) is liable to pay compensation; and
- (b) fails to discharge that liability,

the liability is enforceable against the undertaker.

(9) In this article—

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the Communications Act 2003⁽²⁹⁾;

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the Communications Act 2003; and
- (b) an electronic communications network which the Secretary of State is providing or proposing to provide; and

“operator” means the operator of an electronic communications code network.

Commencement Information

I26 Art. 26 in force at 2.2.2016, see [art. 1](#)

(29) 2003 c. 21. See section 106.

Compulsory acquisition of land – incorporation of the mineral code

27. Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981⁽³⁰⁾ (minerals) are incorporated in this Order subject to the modification that for “the acquiring authority” substitute “the undertaker”.

Commencement Information

I27 Art. 27 in force at 2.2.2016, see [art. 1](#)

Time limit for exercise of authority to acquire land and rights compulsorily

28.—(1) After the end of the period of 5 years beginning on the day on which the Order is made—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the Compulsory Purchase (Vesting Declarations) Act 1981⁽³¹⁾ as applied by article 29 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 31 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of the land after the end of that period, if the land was entered and possession taken before the end of that period, subject always to the limitation in article 31(3) (temporary use of land for carrying out the authorised development).

Commencement Information

I28 Art. 28 in force at 2.2.2016, see [art. 1](#)

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

29.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981 applies as if this Order was a compulsory purchase order.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as applied by paragraph (1), has effect with the following modifications.

(3) In section 3 (preliminary notices) for subsection (1) substitute—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order the acquiring authority must include the particulars specified in subsection (3) in a notice which is –

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in a local newspaper circulating in the area in which the land is situated.”.

(4) In that section, in subsection (2), for “(1)(b)” substitute “(1)” and after “given” insert “and published”.

(5) In that section, for subsections (5) and (6) substitute—

“(5) For the purposes of this section, a person has a relevant interest in land if—

⁽³⁰⁾ 1981 c. 67.

⁽³¹⁾ 1981 c. 66.

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- (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
 - (b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”
- (6) In section 5 (earliest date for execution of declaration) —
- (a) in subsection (1), after “publication” insert “in a local newspaper circulating in the area in which the land is situated”; and
 - (b) omit subsection (2).
- (7) In section 7 (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (8) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 are to be construed as references to that Act as applied by section 125 (application of compulsory acquisition provision) of the 2008 Act to the compulsory acquisition of land and rights under this Order.

Commencement Information

I29 Art. 29 in force at 2.2.2016, see [art. 1](#)

Rights under or over streets

30.—(1) The undertaker may with the agreement of the relevant street authority enter on and appropriate so much of the subsoil of, or air-space over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person’s interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Commencement Information

I30 Art. 30 in force at 2.2.2016, see [art. 1](#)

Temporary use of land for carrying out the authorised development

31.—(1) The undertaker may, in connection with the carrying out of the authorised development—

- (a) enter into and take temporary possession of the land specified in columns (1) and (2) of Schedule 12 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule;
- (b) remove any buildings and vegetation from that land; and
- (c) construct and use temporary works (including the provision of means of access) and buildings on that land.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 12.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to replace a building removed under this article.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of any power conferred by this article.

(6) Any dispute to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) For the avoidance of doubt unless provided for in the book of reference and article 25 (compulsory acquisition of land and rights) the undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

Commencement Information

I31 Art. 31 in force at 2.2.2016, see [art. 1](#)

Apparatus and rights of statutory undertakers in stopped up streets

32.—(1) Where a street is stopped up under article 11 (stopping up of streets) any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

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(2) Where a street is stopped up under article 11 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must —

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the statutory utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the undertaker must pay to any statutory utility an amount equal to the cost reasonably incurred by the statutory utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of that new apparatus involves additional costs which would not have been incurred if the apparatus had been of the same type, capacity or laid at the same depth as the existing apparatus, then the amount payable to the statutory utility is to be reduced by a sum equivalent to those additional costs.

(5) For the purposes of paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the statutory utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

(7) Paragraphs (3) to (6) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works must be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and
- (b) the allowable costs must be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

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Commencement Information

I32 Art. 32 in force at 2.2.2016, see [art. 1](#)

PART 6

MISCELLANEOUS AND GENERAL

Operation and use of railways

33.—(1) The undertaker may operate and use the railway comprised in the authorised development and any other elements of the authorised development as a system, or part of a system, of transport for the carriage of goods.

(2) Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part 1 (the provision of railway services) of the Railways Act 1993(32).

Commencement Information

I33 Art. 33 in force at 2.2.2016, see [art. 1](#)

Operational land for the purposes of the 1990 Act

34. Development consent granted by this Order within that part of the Order limits upon which the highway works are to be carried out is to be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

Commencement Information

I34 Art. 34 in force at 2.2.2016, see [art. 1](#)

Charges

35. The undertaker may demand, take or recover or waive such charges for carrying goods on the railway comprised in the authorised development, or for any other services or facilities provided in connection with the operation of that railway, as it thinks fit.

Commencement Information

I35 Art. 35 in force at 2.2.2016, see [art. 1](#)

(32) 1993 c. 43. This Act has been amended by the Transport Act 2000 (c. 38), the Railways and Transport Safety Act 2003 (c. 20) and the Railways Act 2005 (c. 14). There are other amendments to this Act which are not relevant to this Order.

Defence to proceedings in respect of statutory nuisance

36.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990⁽³³⁾ (summary proceedings by persons aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order may be made, and no fine may be imposed, under section 82(2)⁽³⁴⁾ of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974⁽³⁵⁾; or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot be reasonably avoided.

(2) Section 61(9) of the Control of Pollution Act 1974, does not apply where the consent relates to the use of the premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Commencement Information

I36 Art. 36 in force at 2.2.2016, see [art. 1](#)

Felling or lopping of trees

37.—(1) Subject to sub-paragraph (4) the undertaker may fell or lop any tree, shrub or hedgerow near any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree, shrub or hedgerow—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not cause unnecessary damage to any tree, shrub or hedgerow and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

(4) The provisions of this article do not apply without the agreement of the local planning authority to any tree or hedgerow identified to be retained in the landscaping scheme approved under requirement 8 (provision of landscaping and ecological mitigation).

⁽³³⁾ 1990 c. 43. There are amendments to this Act which are not relevant to this Order.

⁽³⁴⁾ Subsection 82(2) was amended by section 5(1) and (2) of the Noise and Statutory Nuisance Act 1993 (c. 40); there are other amendments to this subsection but none are relevant to this Order.

⁽³⁵⁾ 1974 c. 40. Section 61(2) was amended by section 133(2) of, and Schedule 7 to, the Building Act 1984 (c. 55). Section 61(9) was amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990 (c. 43). There are other amendments to the 1974 Act which are not relevant to this Order.

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(5) The provisions of this article do not apply without the agreement of the relevant highway authority to any tree within a highway.

Commencement Information

I37 Art. 37 in force at 2.2.2016, see [art. 1](#)

Protection of interests

38. Schedules 15 to 21 to this Order have effect.

Commencement Information

I38 Art. 38 in force at 2.2.2016, see [art. 1](#)

Certification of plans etc.

39.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the access and rights of way plans (Document 2.3A-F);
- (b) the book of reference (Document 4.3C);
- (c) the construction management framework plan (Document 6.10);
- (d) the construction management strategy for safeguarding the Derwent Valley Aqueduct (Document 6.14);
- (e) the design and access statement (Document 6.9);
- (f) drawing of Quarry Exit at J24 (NTH/209/SK137 P2) (Document 6.26);
- (g) the environmental statement (Document 5.2);
- (h) the highway classifications plans (Document 2.5A and B);
- (i) the highways works components plans (Document 2.13a-c);
- (j) the illustrative rail interchange drawings (Document 2.12A-B);
- (k) the land plans (Document 2.1A-F);
- (l) the management strategy for the safeguarding of East Midlands Airport (Document 6.12);
- (m) the parameters plans (Document 2.10);
- (n) the regulation 6(2) plans (Document 2.4A-N);
- (o) the schedule of archaeological works (Document 6.24);
- (p) site waste management framework plan (Document 6.11);
- (q) the speed limit plans (Document 2.7A and B);
- (r) site wide travel plan (Document 6.25);
- (s) the traffic regulation plans (Document 2.6A-D); and
- (t) the works plans (Document 2.2A-F),

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Commencement Information

I39 Art. 39 in force at 2.2.2016, see [art. 1](#)

Service of notices

40.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document 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 (references to service by post) of the Interpretation Act 1978⁽³⁶⁾ as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person 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; and
- (b) in any other case, the last known address of that person at the time of service.

(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 the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of that 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.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

(36) 1978 c. 30.

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- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
 - (b) such revocation is final and takes effect on a date specified by the person in the notice but that date may not be less than 7 days after the date on which the notice is given.
- (9) This article does not exclude the employment of any method of service not expressly provided for by it.
- (10) In this article—
- “electronic transmission” means a communication transmitted—
 - (a) by means of electronic communications network; or
 - (b) by other means but while in electronic form; and
 - “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Commencement Information

I40 Art. 40 in force at 2.2.2016, see [art. 1](#)

Arbitration

41. Any difference under any provision of this Order, unless otherwise provided for, must 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 giving notice in writing to the other) to the Lands Chamber of the Upper Tribunal.

Commencement Information

I41 Art. 41 in force at 2.2.2016, see [art. 1](#)

Governance of requirements and protection of interests relating to highway works

42.—(1) When in any requirement or in Schedule 19 (for the protection of Highways England) or Schedule 20 (for the protection of Leicestershire County Council as highway authority) approval or agreement is required of, or with, any body in relation to the content, carrying out or use of the authorised works (including for the avoidance of doubt the approval of details or plans under the requirements) such approval or agreement must not be given if it would give rise to development outside the parameters of the authorised development referred to in article 4 (parameters of authorised development).

(2) When any details, plans or other matters have been agreed or approved by the local planning authority under a requirement or the relevant highway authority under a requirement or Schedule 19 or Schedule 20 then they may subsequently be amended by agreement with the local planning authority or relevant highway authority as the case may be provided that no amendments to those details, plans or other matters may be approved where such amendments would permit development outside the scope of the authorised development or development which would give rise to any significant adverse environmental effects that have not been assessed in the environmental statement (Document 5.2) or any updated environmental information supplied under the 2009 EIA Regulations.

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(3) Unless otherwise stated in a requirement the requirement is enforceable by the local planning authority.

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Commencement Information

I42 Art. 42 in force at 2.2.2016, see [art. 1](#)

Signed by the authority of the Secretary of State for Transport

Martin Woods
Head of the Transport and Works Act Orders
Unit
Department for Transport

12th January 2016

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Changes and effects yet to be applied to :

- art. 19(4)(a)(iii) words substituted by [S.I. 2017/1011 Sch. 3 para. 11\(2\)](#) (This amendment comes into force on the day on which section 4 of, and Schedule 1 to, the Digital Economy Act 2017 come fully into force. S.I. 2017/1286, reg. 2 brought those provisions fully into force on 28.12.2017)
- art. 20(4)(b)(iii) words substituted by [S.I. 2017/1011 Sch. 3 para. 11\(2\)](#) (This amendment comes into force on the day on which section 4 of, and Schedule 1 to, the Digital Economy Act 2017 come fully into force. S.I. 2017/1286, reg. 2 brought those provisions fully into force on 28.12.2017)
- art. 22(7) words substituted by [S.I. 2016/1154 Sch. 29 Pt. 2 para. 104](#)