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STATUTORY INSTRUMENTS

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**2005 No. 3523**

**TRANSPORT AND WORKS, ENGLAND**  
**TRANSPORT, ENGLAND**

**The Cambridgeshire Guided Busway Order 2005**

*Made* - - - - - *21st December 2005*

*Coming into force* - - - - - *11th January 2006*

Whereas an application has been made to the Secretary of State, in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000<sup>(1)</sup> made under sections 6, 6A, 7 and 10 of the Transport and Works Act 1992<sup>(2)</sup> (“the 1992 Act”), for an Order under sections 1 and 5 of the 1992 Act;

And whereas the Secretary of State caused an inquiry to be held for the purposes of the application pursuant to section 11 of the 1992 Act;

And whereas the Secretary of State having considered the objections made and not withdrawn and the report of the person who held the inquiry, has determined to make an Order giving effect to the proposals comprised in the application with modifications which in his opinion do not make any substantial change in the proposals;

And whereas the Secretary of State is satisfied that the provision of an alternative right of way for the path mentioned in Part 3 of Schedule 4 to this Order is not required;

And whereas notice of the Secretary of State’s determination was published in the London Gazette on 13th December 2005;

Now, therefore, the Secretary of State, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 1 to 4, 6 to 13 and 15 to 17 of Schedule 1 to, the 1992 Act, hereby makes the following Order:—

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(1) S.I.2000/2190.

(2) 1992 c. 42, as amended by S.I. 1995/1541 and 1998/2226.

## PART 1

### PRELIMINARY

#### Citation and commencement

1. This Order may be cited as the Cambridgeshire Guided Busway Order 2005 and shall come into force on 11th January 2006.

#### Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961<sup>(3)</sup>;

“the 1965 Act” means the Compulsory Purchase Act 1965<sup>(4)</sup>;

“the 1984 Act” means the Road Traffic Regulation Act 1984<sup>(5)</sup>;

“the 1990 Act” means the Town and Country Planning Act 1990<sup>(6)</sup>;

“the 1991 Act” means the New Roads and Street Works Act 1991<sup>(7)</sup>;

“the 1992 Act” means the Transport and Works Act 1992;

“authorised guided busway” means any guided busway authorised by this Order;

“authorised works” means the scheduled works and any other works authorised by this Order;

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

“the busway system” has the meaning given to it in article 34(1) and includes the authorised guided busway and other authorised works;

“carriageway” has the same meaning as in the Highways Act 1980<sup>(8)</sup>;

“cycletrack” means a way over which the public have a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the Road Traffic Act 1988<sup>(9)</sup>) with a right of way on foot;

“guided busway” means a way provided for the use of vehicles which are constructed or adapted to carry more than eight passengers for hire or reward and use a mode prescribed in article 2(e), (f), (g) or (h) of the Transport and Works (Guided Transport Modes) Order 1992<sup>(10)</sup>;

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

“the limits of additional land to be acquired or used” means the limits of additional land to be acquired or used shown on the plans;

“the limits of deviation” means the limits of lateral deviation for the scheduled works mentioned in article 5(1)(a) and (2);

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace and “maintenance” shall be construed accordingly;

“Network Rail” means Network Rail Infrastructure Limited;

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<sup>(3)</sup> 1961 c. 33.

<sup>(4)</sup> 1965 c. 56.

<sup>(5)</sup> 1984 c. 27.

<sup>(6)</sup> 1990 c. 8.

<sup>(7)</sup> 1991 c. 22.

<sup>(8)</sup> 1980 c. 66.

<sup>(9)</sup> 1988 c. 52.

<sup>(10)</sup> S.I. 1992/3231 as amended by S.I. 1997/1951.

“Order limits” means the limits of deviation and the limits of additional land to be acquired or used;

“owner”, in relation to land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of land (whether in possession or reversion) and includes a person holding, or entitled to the rents and profits of, the land under a lease or tenancy having an unexpired term exceeding 3 years;

“the plans” means the plans prepared in pursuance of rule 12(1) and (5) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000 and certified by the Secretary of State as the plans for the purposes of this Order and references to land shown on those plans are references to land so shown in pursuance of rule 12(5);

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003<sup>(11)</sup>;

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

“the scheduled works” means the works specified in Schedule 1 to this Order or any part of them;

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

“street” includes part of a street;

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

“the tribunal” means the Lands Tribunal;

“the undertaker” means Cambridgeshire County Council.

(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 airspace over its surface and references to the subsoil of any land include references to any cellar, basement, vault, arch or other construction forming part of any such land.

(3) In the case of any street in relation to which an order made under section 249(2) of the 1990 Act (a pedestrian planning order) is in force, the kerb-line of the street, where there is no kerb, shall be taken to be the edge of the part of the street on which the passage of vehicles is permitted.

(4) Any reference in this Order to a work identified by the number of the work shall be construed as a reference to the work of that number authorised by this Order.

(5) References in this Order to points identified by letters, with or without numbers, shall be construed as references to the points so marked on the plans.

(6) All distances, directions, areas, lengths and points stated in the description of the scheduled works or in any description of powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance, direction, area, length and point, and distances between points on the authorised guided busway shall be taken to be measured along the centre line of the busway.

### **Application of the New Roads and Street Works Act 1991**

3.—(1) The authorised guided busway shall be regarded as a tramway undertaking for the purposes of the application of Part III of the 1991 Act (street works) to it, and accordingly, the provisions of that Part relating to tramway undertakings and tramways shall apply to the authorised guided busway.

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(11) 2003 c. 21.

(2) Section 56 (directions as to timing) and section 58 (restrictions following substantial road works) of the 1991 Act shall not apply in relation to any works executed under the power of this Order.

(3) The provisions of the 1991 Act mentioned in paragraph (4) which together with other provisions of that Act apply in relation to the execution of street works and any regulations made or code of practice issued or approved under those provisions, shall apply (with the necessary modifications) in relation to the stopping-up, alteration or diversion of a street by the undertaker under the powers conferred by this Order whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(4) The provisions of the 1991 Act referred to in paragraph (3) are—

- section 54 (advance notice of certain works);
- section 55 (notice of starting date of works);
- section 57 (notice of emergency works);
- section 59 (general duty of street authority to co-ordinate works);
- section 60 (general duty of undertakers to co-operate);
- section 68 (facilities to be afforded to street authority);
- section 69 (works likely to affect other apparatus in the street);
- section 75 (inspection fees);
- section 76 (liability for cost of temporary traffic regulation);
- section 77 (liability for cost of use of alternative route); and
- all such other provisions as apply for the purposes of the provisions mentioned above.

(5) Nothing in article 11 of this Order shall—

- (a) prejudice the operation of section 87 of the 1991 Act (prospectively maintainable highways); and the undertaker shall not by reason of any duty under that article to maintain a street be taken to be the street authority in relation to that street for the purposes of Part III of that Act;
- (b) have effect in relation to street works as respects which the provisions of Part III of the 1991 Act apply.

## PART 2

### WORKS PROVISIONS

#### *Principal powers*

#### **Power to construct and maintain works**

4.—(1) The undertaker may construct and maintain the scheduled works.

(2) Subject to article 5, the scheduled works may only be constructed in the lines or situations shown on the plans and in accordance with the levels shown on the sections.

(3) Subject to paragraph (5), the undertaker may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, in connection with or in consequence of the construction of, the scheduled works, namely—

- (a) stops, platforms and stopping places;
- (b) works required for the alteration, strengthening, improvement, repair or reconstruction of any street;

- (c) buildings and other works required for, or in connection with, the control, management or maintenance of the authorised guided busway or the control or management of any vehicular and pedestrian traffic on or in the vicinity of the authorised guided busway;
- (d) parking and park and ride facilities;
- (e) works for the strengthening, alteration or demolition of any building or structure;
- (f) works to alter the position of any street furniture or apparatus, including mains, sewers, drains and cables;
- (g) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (h) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised works; and
- (i) replacement facilities and works for the benefit or protection of premises affected by the other authorised works.

(4) Subject to paragraph (5), the undertaker may carry out such other works (of whatever nature) as may be necessary or expedient for the purposes of, in connection with, or in consequence of, the construction of the scheduled works.

(5) Paragraphs (3) and (4) only authorise the carrying out or maintenance of works—

- (a) within the limits of deviation for the scheduled works shown on the plans; and
- (b) on land specified in column (1) of Schedule 2 to this Order for the purpose specified in relation to that land in column (2) of that Schedule.

### **Power to deviate**

5.—(1) In constructing or maintaining any of the scheduled works, the undertaker may—

- (a) deviate laterally from the lines or situations shown on the plans within the limits of deviation for that work shown on those plans; and
- (b) deviate vertically from the levels shown on the sections—
  - (i) to any extent not exceeding 3 metres upwards; and
  - (ii) to any extent downwards as may be found to be necessary or convenient.

(2) The undertaker may construct and maintain any emergency and maintenance access track comprised in a scheduled work at a different level to the guided busway which it adjoins.

(3) The undertaker may in constructing and maintaining any part of the authorised guided busway provide within the limits of deviation such gaps in the mode of guidance adopted and such number of ways, cross-overs, lay-bys, bus parking areas and sidings as may be necessary or expedient.

### *Streets*

### **Power to alter layout of streets**

6.—(1) The undertaker may alter the layout of any street specified in column (1) of Schedule 3 to this Order in the manner specified in relation to that street in column (2) of that Schedule.

(2) Without prejudice to the specific powers conferred by paragraph (1) but subject to paragraph (3), the undertaker may for the purpose of constructing, maintaining or using any authorised works alter the layout of any street within the limits of deviation or the limits of additional land to be acquired or used; and, without prejudice to the generality of the foregoing, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycletrack or verge within the street;

- (b) alter the level or increase the width of any such kerb, footpath, footway, cycletrack or verge;
- (c) reduce the width of the carriageway of the street by forming a reserved area in the street as a stopping place for vehicles or by carrying out other works for that purpose;
- (d) replace or alter the surface or surface treatment of the street;
- (e) carry out works for the provision or alteration of parking places;
- (f) carry out traffic calming works which are of a description prescribed in the Highways (Traffic Calming) Regulations 1999<sup>(12)</sup> and which are carried out in compliance with those Regulations;
- (g) carry out works to the street for the purpose of deterring or preventing vehicles other than authorised vehicles from passing along the authorised guided busway; and
- (h) make and maintain crossovers, sidings or passing places.

(3) The powers in paragraph (2) shall not be exercised in relation to a street without the consent of the street authority, but such consent shall not be unreasonably withheld.

#### **Power to keep apparatus in streets**

7.—(1) The undertaker may, for the purposes of or in connection with the construction, maintenance and use of the authorised guided busway, place and maintain in any street having a junction with or being in the vicinity of the authorised guided busway any work, equipment or apparatus including, without prejudice to the generality of the foregoing, foundations, guidance equipment or structures, platforms, road islands, substations, electric lines and any electrical or other apparatus.

(2) In this article—

- (a) “apparatus” has the same meaning as in Part III of the 1991 Act;
- (b) “electric line” has the meaning given by section 64(1) of the Electricity Act 1989<sup>(13)</sup>; and
- (c) the reference to any work, equipment, apparatus or other thing in a street includes a reference to any work, equipment, apparatus or other thing under, over, along or upon the street.

#### **Power to execute street works**

8. The undertaker may, for the purpose of exercising the powers conferred by article 7 and the other provisions of this Order, enter upon any street and may execute any works required for or incidental to the exercise of those powers including, without prejudice to the generality of the foregoing, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street.

#### **Rights of way over access tracks**

9. Public rights of way over the bridleways and cycletracks specified in column (2) of Part 1 of Schedule 4 shall be subject to any conflicting use for the purposes of the authorised guided busway of the emergency and maintenance access tracks whose routes those bridleways and cycletracks follow and in the case of the bridleway between the points marked NP1 and NP2 on the rights of way maps, subject to such rights as may be granted or reserved by the undertaker to facilitate continued access to neighbouring land.

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<sup>(12)</sup> S.I. 1999/1026.

<sup>(13)</sup> 1989 c. 29.

### **Construction of new and stopping up of existing paths or streets**

**10.**—(1) The undertaker may in connection with the authorised works construct the new paths or streets specified in column (2) of Part 1 and column (3) of Part 2 of Schedule 4 by reference to the letters and numbers shown on the rights of way maps.

(2) Subject to the provisions of this article, the undertaker may, in connection with the construction of the authorised works, stop up each of the existing or informal paths or streets specified in column (1) of Parts 2 and 3 of Schedule 4 to this Order to the extent specified, by reference to the letters and numbers shown on the rights of way maps, in column (2) of Parts 2 and 3 of that Schedule.

(3) No path or street specified in column (1) of Part 2 of Schedule 4 (being a path or street to be stopped up for which a substitute is to be provided) shall be wholly or partly stopped up under this article until the new path or street to be substituted for it, and which is specified in relation to it in column (3) of that Part of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use.

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

(5) Paragraph (2) of this article is subject to paragraph 2 of Schedule 10 to this Order.

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

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

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

(3) Paragraphs (1) and (2) do not apply in relation to—

- (a) the authorised guided busway or Works Nos. 1B and 13;
- (b) the bridleways and cycletracks referred to in Part 1 of Schedule 4 to this Order; or
- (c) the structure of any bridge or tunnel carrying a street over or under the authorised guided busway.

### **Temporary stopping-up of paths or streets**

**12.**—(1) The undertaker may, during and for the purposes of the execution of the authorised works, temporarily stop up, alter or divert any existing or alleged path or street and may for any reasonable time—

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

(2) Without prejudice to the generality of paragraph (1), the undertaker may use any path or street stopped up under the powers of this article as a temporary working site.

(3) The undertaker shall provide at all times reasonable access for pedestrians going to or from premises abutting a street affected by the exercise of the powers conferred by this article if there would otherwise be no such access.

(4) Without prejudice to the generality of paragraph (1), the undertaker may exercise the powers of this article in relation to the existing or alleged paths or streets specified in column (1) of Parts 2 and 3 of Schedule 4 and in column (1) of Schedule 5 to this Order to the extent specified, by reference in part to the letters and numbers shown on the rights of way maps and in part to the Order limits shown on the plans, in each case as specified in column (2) of those Parts of Schedule 4 and of Schedule 5.

(5) The undertaker shall not exercise the powers of this article—

- (a) in relation to any path or street specified as mentioned in paragraph (4) without first consulting the street authority and where a temporary diversion is specified in column (3) of Schedule 5, without that diversion being first completed to the reasonable satisfaction of the street authority and opened for use; and
- (b) in relation to any other path or street without the consent of the street authority, but such consent shall not be unreasonably withheld.

(6) The temporary stopping up, alteration or diversion of any path or street authorised by this Order shall not affect any right of a public communications provider in respect of any apparatus which, at the time of the stopping up or diversion, is in the path or street.

#### **Access to works**

**13.** The undertaker may, for the purposes of the authorised works, form and lay out means of access or improve existing means of access in such locations within the limits of deviation as may be approved by the highway authority but such approval shall not be unreasonably withheld.

#### **Agreements with street authorities**

**14.—(1)** A street authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street (including any structure carrying the street over or under the authorised guided busway) under the powers conferred by this Order;
- (b) the maintenance of any street or of the structure of any bridge or tunnel carrying a street over or under the authorised guided busway;
- (c) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
- (d) the execution in the street of any of the works referred to in article 8.

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

- (a) provide for the street authority to carry out any function under this Order which relates to the street in question; and
- (b) contain such terms as to payment and otherwise as the parties consider appropriate.

#### **Level crossings**

**15.—(1)** The undertaker may construct the authorised guided busway so as to enable vehicles upon it to cross on the level any highway crossing the line of the authorised guided busway including the highways specified in Schedule 6 to this Order.

(2) The undertaker may provide, maintain and operate at or near any level crossing such barriers or other protective equipment as the Secretary of State may in writing approve.

(3) Any traffic sign placed pursuant to this article on or near a highway or other road to which the public has access shall be treated for the purposes of section 64(4) of the 1984 Act as having been placed as provided by that Act.



(4) Without prejudice to the generality of article 8, the undertaker may in the exercise of the powers of this article alter the level of any highway specified in Schedule 6 to this Order.

(5) In this article—

“barrier” includes gate;

“level crossing” means the place at which the authorised guided busway crosses a highway on the level under the powers conferred by this article;

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

### *Supplemental*

#### **Temporary closure of part of Great Ouse**

**16.**—(1) In this article “the waterway” means so much of the river Great Ouse as lies within the limits of deviation.

(2) The undertaker, during and for the purposes of the construction of Work No. 1, may temporarily close the waterway and divert vessels from it.

(3) Any person who suffers loss by the suspension of any right under this article shall be entitled to be paid compensation by the undertaker, to be determined in the case of dispute by the tribunal.

#### **Discharge of water**

**17.**—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction or maintenance of the authorised works and for that purpose may lay down, take up and alter pipes and may, on any land within the limits of deviation shown on the plans or in any street along which the authorised guided busway is authorised to cross, make openings into, and connections with, the watercourse, sewer or drain.

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

(3) The undertaker shall not make any opening into any public sewer or drain except in accordance with plans approved by, and under the superintendence (if provided) of, the authority to which the sewer or drain belongs, but such approval shall not be unreasonably withheld.

(4) The undertaker shall not, in the exercise of the powers conferred by this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

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

(6) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by section 85(1), (2) or (3) of the Water Resources Act 1991(14).

(7) In this article—

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

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

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(14) 1991 c. 57.

- (c) other expressions used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

### **Supplementary powers**

**18.**—(1) In relation to the application of paragraph (3)(c) of the Second Schedule of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Tree Preservation Order) Regulations 1969<sup>(15)</sup> (including that paragraph as applied by regulation 3(ii) of the Town and Country Planning (Tree Preservation Order) (Amendment) and (Trees in Conservation Areas) (Exempted Cases) Regulations 1975<sup>(16)</sup> as incorporated in any tree preservation order, any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to the works authorised by this Order shall be treated as deeming the permission to have been granted on application made under Part III of that Act.

(2) In relation to the application of article 5(1)(d) of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Trees) Regulations 1999<sup>(17)</sup> as incorporated in any tree preservation order or as having effect by virtue of regulation 10(1)(a) of those Regulations, any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to the works authorised by this Order shall not be treated as an outline planning permission.

(3) Planning permission which is deemed by a direction under section 90(2A) of the 1990 Act to be granted in relation to works authorised by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of that Act.

(4) The undertaker shall be regarded as a road transport undertaking for the purposes of section 262(1) of the 1990 Act.

### **Power to survey and investigate land**

**19.**—(1) The undertaker may for the purposes of this Order—

- (a) survey or investigate any land within the limits of deviation and of land to be acquired or used shown on the plans;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions as the undertaker thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out archaeological investigations on any such land;
- (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; and
- (e) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (d).

(2) No land may be entered, or equipment placed or left on or removed from the land under paragraph (1), unless at least 7 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) shall, if so required, before or after entering the land produce written evidence of his authority to do so; and
- (b) may take with him such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

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<sup>(15)</sup> S.I. 1969/17.

<sup>(16)</sup> S.I. 1975/148.

<sup>(17)</sup> S.I. 1999/1892.

(4) No trial holes shall be made under this article in a carriageway or footway without the consent of the street authority, but such consent shall not be unreasonably withheld.

(5) The undertaker shall make compensation for any damage occasioned, by the exercise of the powers conferred by this article, to the owners and occupiers of the land, such compensation to be determined, in case of dispute, under Part I of the 1961 Act.

(6) Nothing in this article shall obviate the need to obtain scheduled monument consent under the Ancient Monuments and Archaeological Areas Act 1979<sup>(18)</sup>.

### **Restriction on apparatus**

**20.** For the purposes of section 61 of the 1991 Act (restrictions on apparatus in protected streets) any authorised guided busway including any emergency and maintenance access track or other facility provided in connection with it shall be deemed to have been designated by the street authority as a protected street.

### **Obstruction of construction of guided busway**

**21.** Any person who, without reasonable excuse, obstructs another person from constructing any of the authorised works under the powers conferred by this Order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **PART 3**

### **ACQUISITION AND POSSESSION OF LAND**

#### *Powers of acquisition*

### **Power to acquire land**

**22.—**(1) The undertaker may acquire compulsorily—

- (a) so much of the land shown on the plans within the limits of deviation and of land to be acquired or used and described in the book of reference as may be required for the purposes of the authorised works; and
- (b) so much of the land specified in column (1) of Schedule 2 to this Order (being land shown on the plans and described in the book of reference) as may be required for the purpose specified in relation to that land in column (2) of that Schedule,

and may use any land so acquired for those purposes or for any other purposes connected with or ancillary to the busway system.

(2) The undertaker shall not under the powers of the Order acquire compulsorily any interest in the land numbered 64 to 69, 265 to 268, 358 to 362 and 372 to 375 inclusive in the book of reference.

### **Application of Part I of Compulsory Purchase Act 1965**

**23.—**(1) Part I of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, shall apply to the acquisition of land under this Order—

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981<sup>(19)</sup> applies; and

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<sup>(18)</sup> 1979 c. 46.

<sup>(19)</sup> 1981 c. 67.

- (b) as if this Order were a compulsory purchase order under that Act.
- (2) Part I of the 1965 Act, as so applied, shall have effect as if—
  - (a) section 4 (which provides a time limit for compulsory purchase of land) and paragraph 3(3) of Schedule 3 (which makes provision as to the giving of bonds) were omitted; and
  - (b) in section 11(1) (which confers power to enter on and to take possession of land subject to a notice to treat on giving not less than 14 days' notice) for the reference to 14 days' notice there were substituted—
    - (i) in a case where the notice to treat relates only to the acquisition of subsoil or the acquisition of an easement or other right over the land, a reference to notice of one month, or
    - (ii) in any other case, a reference to notice of 3 months.

### **Application of Compulsory Purchase (Vesting Declarations) Act 1981**

24.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981<sup>(20)</sup> shall apply as if this Order were a compulsory purchase order.

(2) In its application by virtue of paragraph (1), the Compulsory Purchase (Vesting Declarations) Act 1981 shall have effect with the following modifications.

(3) In section 3 (preliminary notices) for sub-section (1) there shall be substituted—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in sub-section (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 the London Gazette and in a local newspaper circulating in the area in which the land is situated.”

(4) In that section, in sub-section (2), for “(1)(b)” there shall be substituted “(1)” and after “given” there shall be inserted “and published”.

(5) In that section, sub-sections (5) and (6) there shall be substituted—

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

- (a) he is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion; or
- (b) he 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 sub-section (1), after “publication” there shall be inserted “in the London Gazette or in a local newspaper circulating in the area in which the land is situated”; and
- (b) sub-section (2) shall be omitted.

(7) In section 7 (constructive notice to treat) in sub-section (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted.

(8) References to the 1965 Act shall be construed as references to that Act as applied to the acquisition of land under article 23.

### **Powers to acquire new rights**

**25.**—(1) The undertaker may compulsorily acquire such easements or other rights over any land referred to in sub-paragraph (a) or (b) of article 22 as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

(2) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 7 to this Order), where the undertaker acquires a right over land under paragraph (1) the undertaker shall not be required to acquire a greater interest in it.

(3) Schedule 7 to this Order shall have 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 of a right over land by the creation of a new right.

(4) In relation to land to which this paragraph applies, article 22, so far as relating to the acquisition or creation of easements or other rights by virtue of paragraph (1), shall be treated as also authorising acquisition by a statutory utility in any case where the Secretary of State gives his consent in writing.

(5) Paragraph (4) applies to land to which article 22 applies and which is or will be required for use in relocating any apparatus which it is expedient to divert or replace in consequence of the carrying out of the work authorised by the Order; and, in that paragraph, “statutory utility” means a licence holder within the meaning of Part I of the Electricity Act 1989<sup>(21)</sup>, a public gas transporter within the meaning of Part I of the Gas Act 1986<sup>(22)</sup>, a water undertaker within the meaning of the Water Industry Act 1991<sup>(23)</sup>, a sewerage undertaker within the meaning of Part I of that Act and any local authority which is a relevant authority for the purposes of section 97 of that Act.

### **Powers to acquire subsoil only**

**26.**—(1) The undertaker may compulsorily acquire so much of the subsoil of the land referred to in paragraph (a) or (b) of article 22 as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of the subsoil of land under paragraph (1) the undertaker shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) shall not prevent article 31 from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

### **Rights under or over streets**

**27.**—(1) The undertaker may enter upon and appropriate so much of the surface, subsoil of, or airspace over, any street shown on the plans and described in the book of reference as may be required for the purposes of the authorised works and may use the surface, subsoil and airspace for those purposes or any other purpose connected with or ancillary to its busway system.

(2) The power under paragraph (1) may be exercised in relation to a street without the undertaker being required to acquire any part of the street or any easement or right in the street and except in relation to a street which is subject to stopping-up pursuant to article 10, the powers of compulsory acquisition of land conferred by this Order shall not apply in relation to the street.

(3) Any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person’s interest in the land, and who suffers loss by the exercise of that power, shall be entitled to compensation to be determined, in case of dispute, under Part I of the 1961 Act.

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(21) 1989 c. 29.

(22) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45).

(23) 1991 c. 56.

- (4) Paragraph (2) shall not apply in relation to—
- (a) any subway or underground building; or
  - (b) any cellar, vault, arch or other construction in or on a street which forms part of a building fronting on to the street.

*Temporary possession of land*

**Temporary use of land for construction of works**

- 28.**—(1) The undertaker may, in connection with the carrying out of the authorised works—
- (a) enter upon and take temporary possession of the land specified in columns (1) and (2) of Schedule 8 to this Order for the purpose specified in relation to that land in column (3) of that Schedule relating to the authorised works specified in column (4) of that Schedule;
  - (b) remove any buildings and vegetation from that land; and
  - (c) construct temporary works (including the provision of means of access) and buildings on the land.

(2) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker shall 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 2 years beginning with the date of completion of the works specified in relation to that land in column (4) of Schedule 8 to this Order.

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

(5) The undertaker shall 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 powers conferred by this article.

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

(7) Without prejudice to article 57, nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (5).

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

- (9) In this article "building" includes structure or any other erection.

**Temporary use of land for maintenance of works**

**29.**—(1) Subject to paragraph (2), at any time during the maintenance period relating to any of the scheduled works and without prejudice to any other powers available to it, the undertaker may—

- (a) enter upon and take temporary possession of any land shown on the plans within the limits of deviation for work and of land to be acquired or used and lying within 20 metres from that work if such possession is reasonably required for the purpose of, or in connection with, maintaining the work or any ancillary works connected with it or securing the safe operation of any such work;
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) shall not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker shall serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance works for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker shall 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 powers conferred by this article.

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

(8) Without prejudice to article 57, nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (6).

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

(10) In this article—

- (a) “the maintenance period”, in relation to a scheduled work, means the period of 5 years beginning with the date on which the work is opened for use;
- (b) “building” includes structure or any other erection; and
- (c) any reference to land within a specified distance of a work includes, in the case of a work under the surface of the ground, a reference to land within the specified distance of the point on the surface below which the work is situated.

### *Compensation*

#### **Disregard of certain interests and improvements**

**30.**—(1) In assessing the compensation (if any) payable to any person on the acquisition from him of any land under this Order, the tribunal shall not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which he is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

### *Supplementary*

#### **Acquisition of part of certain properties**

**31.**—(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 23(1)) in any case where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or factory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat and stating that he is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner shall be required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner shall be required to sell only the land subject to the notice to treat shall, unless the undertaker agrees to take the land subject to the counter-notice, be referred to the tribunal.

(5) If on such a reference the tribunal determines that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner shall be required to sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determines that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat shall be deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determines that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the tribunal determines that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and



(b) the material detriment is not confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.

(9) In any case where by virtue of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and if it does so shall pay to the owner compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or factory or of land consisting of a house with a park or garden, the undertaker shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of the interest acquired.

### **Extinction or suspension of private rights of way**

**32.—**(1) All private rights of way over land subject to compulsory acquisition under this Order shall be extinguished—

(a) as from the acquisition of the land by the undertaker, whether compulsorily or by agreement; or

(b) on the entry on the land by the undertaker under section 11(1) of the 1965 Act, whichever is sooner.

(2) All private rights of way over land owned by the undertaker which, being within the limits of land which may be acquired shown on the land plans, is required for the purposes of this Order shall be extinguished on the appropriation of the land for any of those purposes by the undertaker.

(3) All private rights of way over land of which the undertaker takes temporary possession under this Order shall be suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

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

(5) This article does not apply in relation to any right of way to which section 271 or 272 of the 1990 Act (extinguishment of rights of statutory undertakers etc.) or paragraph 2 of Schedule 10 to this Order applies.

### **Time limit for exercise of powers of acquisition**

**33.—**(1) After the end of the period of 5 years beginning with the day on which this Order comes into force—

(a) no notice to treat shall be served under Part I of the 1965 Act, as applied to the acquisition of land under article 23; and

(b) no declaration shall be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981, as applied by article 24.

(2) The powers conferred by article 28 to enter upon and take temporary possession of land, shall cease at the end of the period of 5 years beginning on the day on which this Order comes into force, but this paragraph shall not prevent the undertaker remaining in possession of land in accordance with article 28 after the end of that period, if the land was entered and possession of it was taken before the end of that period.

## PART 4

### OPERATION OF BUSWAY SYSTEM

#### **Power to operate and use busway system**

**34.**—(1) The undertaker may operate and use the authorised guided busway and any apparatus or facilities used for the operation of the busway system and the other authorised works as a system, or part of a system, of transport for the carriage of passengers and goods (which in this Order is referred to as “the busway system”).

(2) Subject to article 47, the undertaker shall have the exclusive right to use the authorised guided busway and any apparatus or facilities used for the operation of the busway system and to permit others to do so on such terms as it sees fit.

(3) Any person who, without the consent of the undertaker or other reasonable excuse, uses the authorised guided busway and any apparatus or facilities used for the operation of the busway system shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(4) Nothing in this article shall restrict the exercise of any public right of way over any part of a street in which the authorised works are situated or cross over except to the extent that the exercise of the right is constrained by the existence of the authorised works.

#### **Power to charge fares**

**35.** The undertaker may demand, take and recover or waive such charges for carrying passengers or goods on the busway system or for any other services or facilities provided in connection with the operation of the busway system, as it thinks fit.

#### **Registration of busway services**

**36.** For the purposes of the application of Part I of the Transport Act 1985 but subject to article 37, the authorised guided busway shall be a road within the meaning of section 137(1) of that Act.

#### **Substitute road services**

**37.**—(1) The undertaker may provide or secure the provision by other persons of services for the carriage of passengers by road (“substitute services”) where the authorised guided busway has been temporarily interrupted, curtailed or discontinued.

(2) The route, frequency and stopping places of any substitute service need not correspond with the route of the interrupted, curtailed or discontinued service.

(3) Section 6 of the Transport Act 1985 shall not apply to any substitute services.

#### **As to quality partnership schemes**

**38.** Section 114(6)(b) of the Transport Act 2000 (quality partnership schemes not to include requirements as to frequency or timing of services) shall not apply to any quality partnership scheme made in relation to services operating on any authorised guided busway.

### **Maintenance of approved works, etc.**

**39.**—(1) Where pursuant to regulations<sup>(24)</sup> made under section 41 of the 1992 Act (approval of works, plant and equipment) approval has been obtained from the Health and Safety Executive with respect to any works, plant or equipment (including vehicles) forming part of the authorised guided busway, such works, plant and equipment shall not be used in a state or condition other than that in which they were at the time that the approval was given unless any change thereto does not materially impair the safe operation of the authorised guided busway.

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

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

### **Removal of obstructions**

**40.**—(1) If any obstruction is caused to vehicles using the authorised guided busway by a vehicle waiting, loading, unloading or breaking down on any part of the authorised guided busway, the person in charge of the vehicle shall forthwith remove it; and if he fails to do so the undertaker may take all reasonable steps to remove the obstruction and may recover the expenses reasonably incurred in doing so from—

- (a) any person by whom the vehicle was put or left so as to become an obstruction to vehicles using the authorised guided busway; or
- (b) any person who was the owner of the vehicle at that time unless he shows that he was not, at that time, concerned in or aware of the vehicle being so put or left.

(2) If any obstruction is caused to vehicles using the authorised guided busway by a load falling on the authorised guided busway from a vehicle, the person in charge of the vehicle shall forthwith remove the load from the authorised guided busway; and if he fails to do so, the undertaker may take all reasonable steps to remove the load and may recover the expenses reasonably incurred in doing so from—

- (a) any person who was in charge of the vehicle at the time when the load fell from it; or
- (b) any person who was the owner of the vehicle at that time unless he shows that he was not concerned in, or aware of, the vehicle being in the place at which the load fell from it.

(3) For the purposes of this article the owner of a vehicle shall be taken to be the person by whom the vehicle is kept; and in determining for those purposes who was the owner of the vehicle at any time, it shall be presumed (unless the contrary appears) that the owner was the person in whose name the vehicle was at that time registered under the Vehicle Excise and Registration Act 1994<sup>(25)</sup>.

### **Traffic signs**

**41.**—(1) The undertaker may, for the purposes of, or in connection with the operation of, the authorised guided busway, and notwithstanding anything in section 64(4) of the 1984 Act, place or maintain traffic signs of a type prescribed by regulations made under section 64(1)(a) of that Act or of a character authorised by the Secretary of State on any street which has a junction with or otherwise gives access to the authorised guided busway.

(2) Unless the undertaker is the traffic authority, the undertaker—

- (a) shall consult the traffic authority as to the placing of signs; and

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<sup>(24)</sup> See S.I. 1994/157.

<sup>(25)</sup> 1994 c. 22.

(b) unless the traffic authority is unwilling to do so and subject to any directions given under section 65 of the 1984 Act, shall enter into arrangements with the traffic authority for the signs to be placed and maintained by the traffic authority.

(3) Any power conferred by section 65 of the 1984 Act to give directions to a traffic authority or local traffic authority as to traffic signs shall include a power to give directions to the undertaker as to traffic signs under this article; and, accordingly, the powers conferred by paragraph (1) shall be exercisable subject to and in conformity with any directions given under that section.

(4) A traffic authority or other authority having power under or by virtue of the 1984 Act to place and maintain, or cause to be placed and maintained, traffic signs on or near any street along which the authorised guided busway runs or to which it gives access shall consult the undertaker as to the placing of any traffic sign which would affect the operation of the authorised guided busway.

(5) Expressions used in this article and in the 1984 Act shall have the same meaning in this article as in that Act.

### **Traffic regulation**

**42.**—(1) Subject to the provisions of this article the undertaker may, for the purposes of the authorised guided busway, at any time prior to the expiry of 12 months from the opening of the system for use and with the consent of the traffic authority in whose area the road is situated—

- (a) prohibit or restrict the waiting or the loading or unloading of vehicles in the manner specified in Part 1 of Schedule 9 to this Order on those roads specified in column (2) and along the lengths and between the points specified in column (3) of that Part of that Schedule;
- (b) prohibit driving by the establishment of bus and cycle lanes on the roads specified in column (2) and along the lengths and between the points specified in column (3) of Part 2 of Schedule 9 to this Order;
- (c) prohibit vehicle turning in the manner specified in Part 3 of Schedule 9 to this Order on the roads specified in column (2) and at the points and as respects direction to the extent specified in column (3) of that Part of that Schedule;
- (d) prohibit driving in the manner specified in Part 4 of Schedule 9 to this Order on those roads specified in column (2) and at the points and as respects direction to the extent specified in column (3) of that Part of that Schedule;
- (e) make provision for parking as specified in Part 5 of Schedule 9 to this Order in the locations specified in column (2) and in the manner specified in column (3) of that Part of that Schedule; and
- (f) revoke any traffic regulation order in so far as it is inconsistent with any prohibition, restriction or other provision made by the undertaker under this paragraph.

(2) The undertaker shall not exercise the powers of this article unless it has—

- (a) given not less than 12 weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may within 28 days of its receipt of notice of the undertaker's intention specify in writing.

(3) Any prohibition, restriction or other provision made by the undertaker under subparagraph (1)(a), (b), (c) or (d) or (f) shall have effect as if duly made by the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act and the instrument by which it is effected may—

- (a) define categories of vehicle to be included in any class for the purpose of any prohibition, restriction or other provision mentioned in Schedule 9; and

(b) specify savings (in addition to those mentioned in Schedule 9) to which the prohibition, restriction or other provision is subject.

(4) Any authorisation of a parking place made by the undertaker under sub-paragraph (1)(e) shall have effect as if duly made by the local authority as an order under section 32 of the 1984 Act.

### **Power to lop or fell trees overhanging busway system**

**43.**—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised guided busway, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

(a) from obstructing or interfering with the construction, maintenance or operation of the authorised guided busway or any apparatus used for the purposes of the authorised guided busway; or

(b) from constituting a danger to passengers or other persons using the authorised guided busway.

(2) In exercising the powers in paragraph (1), the undertaker shall do no unnecessary damage to any tree or shrub and shall pay compensation to any person for any loss or damage arising from the exercise of those powers.

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

(4) The following, namely—

(a) an order under section 198(1) of the 1990 Act (tree preservation order); and

(b) section 211(1) of the 1990 Act (which prohibits the doing in conservation areas of any act which might be prohibited by a tree preservation order),

shall not apply to any exercise of the powers in paragraph (1).

### **Trespass on busway system**

**44.**—(1) Any person who—

(a) trespasses on the authorised guided busway; or

(b) trespasses upon any land of the undertaker in dangerous proximity to the authorised guided busway or to any electrical or other apparatus used for or in connection with the operation of the authorised guided busway,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) For the purposes of this article, trespassing on the authorised guided busway includes causing or permitting a vehicle to be upon any part of the authorised guided busway which is not a public carriageway without permission.

(3) No person shall be convicted of an offence under this article unless it is shown that a notice warning the public not to trespass upon the authorised guided busway was clearly exhibited and maintained at the station or other stopping place or level crossing on the authorised guided busway nearest the place where the offence is alleged to have been committed.

### **Power to make byelaws**

**45.**—(1) The undertaker may make byelaws regulating the use and operation of, and travel on the authorised guided busway, the maintenance of order on the authorised guided busway and on authorised guided busway premises or other facilities provided in connection with the busway system

and the conduct of all persons including employees of the undertaker while on the authorised guided busway or on authorised guided busway premises.

(2) Without prejudice to the generality of paragraph (1), byelaws under this article may make provision—

- (a) with respect to tickets issued for travel on the authorised guided busway, the payment of fares and charges and the evasion of payment of fares and charges;
- (b) with respect to interference with, or obstruction of, the operation of the authorised guided busway or other facilities provided in connection with the authorised guided busway;
- (c) with respect to access to and the carriage, use or consumption of anything on the authorised guided busway or on authorised guided busway premises;
- (d) with respect to the prevention of nuisance or trespass on the authorised guided busway or on authorised guided busway premises;
- (e) for regulating the passage of bicycles and other vehicles on ways and other places intended for the use of persons on foot within authorised guided busway premises;
- (f) for the safe custody and re-delivery or disposal of any property accidentally left on the authorised guided busway or on authorised guided busway premises and for fixing the charges made in respect of any such property; and
- (g) for prohibiting or restricting the placing or leaving of any vehicle without its driver on any part of the busway system or on authorised guided busway premises.

(3) In paragraphs (1) and (2) references to “authorised guided busway premises” are references to premises of the undertaker used for or in connection with the operation of the authorised guided busway including any authorised busway vehicle.

(4) Byelaws under this article may provide for it to be an offence for a person to contravene, or to fail to comply with, a provision of the byelaws and for such a person to be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Byelaws under the article may provide that any person so authorised by the undertaker may lawfully apprehend and detain any person who is reasonably believed to be committing or attempting to commit an offence under the byelaws, or to have done so, until that person can be properly charged with that offence or discharged by due process of law.

(6) Without prejudice to the taking of proceedings for an offence included in byelaws by virtue of paragraph (4), if the contravention of, or failure to comply with, any byelaw under this article is attended with danger or annoyance to the public, or hindrance to the undertaker in the operation of the authorised guided busway, the undertaker may summarily take action to obviate or remove the danger, annoyance or hindrance.

(7) Byelaws under this article shall not come into operation until they have been confirmed by the Secretary of State.

(8) At least 28 days before applying for any byelaws to be confirmed under this article, the undertaker shall publish in such manner as may be approved by the Secretary of State a notice of its intention to apply for the byelaws to be confirmed and of the place at which and the time during which a copy of the byelaws will be open to public inspection; and any person affected by any of the byelaws may make representations on them to the Secretary of State within a period specified in the notice, being a period of not less than 28 days.

(9) For at least 24 days before an application is made under this article for byelaws to be confirmed, a copy of the byelaws shall be kept at the principal office of the undertaker and shall at all reasonable hours be open to public inspection without payment.

(10) The undertaker shall, at the request of any person, supply him with a copy of any such byelaws on payment of such reasonable sum as the undertaker may determine.

(11) The Secretary of State may confirm with or without modification, or may refuse to confirm, any of the byelaws submitted under this article for confirmation and, as regards any byelaws so confirmed, may fix a date on which the byelaws shall come into operation; and if no date is so fixed the byelaws shall come into operation after the expiry of 28 days after the date on which they were confirmed.

(12) The Secretary of State may charge the undertaker such fees in respect of any byelaws submitted for confirmation under this article as he may consider appropriate for the purpose of defraying any administrative expenses incurred by him in connection therewith.

(13) A copy of the byelaws when confirmed shall be printed and deposited at the principal office of the undertaker and shall at all reasonable hours be open to public inspection without payment, and the undertaker shall, at the request of any person, supply him with a copy of any such byelaws on payment of such reasonable sum as the undertaker shall determine.

(14) The production of a printed copy of byelaws confirmed under this article on which is endorsed a certificate purporting to be signed by a person duly authorised by the undertaker stating—

- (a) that the byelaws were made by the undertaker;
- (b) that the copy is a true copy of the byelaws;
- (c) that on a specified date the byelaws were confirmed by the Secretary of State; and
- (d) the date when the byelaws came into operation,

shall be prima facie evidence of the facts stated in the certificate.

#### **Power to contract for police services**

**46.**—(1) The undertaker may enter into any agreements with a police authority and its chief officer of police for the police force maintained by that authority to provide policing services for or in connection with the authorised guided busway, including at any busway premises.

(2) Any such agreement may provide for—

- (a) the undertaker to make such payment or other consideration for those policing services as the parties may agree; and
- (b) such incidental and ancillary matters as the parties consider appropriate.

(3) In this article—

- (a) “chief officer of police” means a chief officer of police within the meaning of the Police Act 1996<sup>(26)</sup> or the Chief Constable of the British Transport Police Force; and
- (b) “police authority” means a police authority within the meaning of that Act or the British Transport Police Authority within the meaning of the Railways and Transport Safety Act 2003<sup>(27)</sup>.

#### **Power of disposal, agreements for operation, etc.**

**47.**—(1) The undertaker may, with the consent of the Secretary of State, sell, lease, charge or otherwise dispose of, on such terms and conditions as it thinks fit, the whole or any part of the authorised works and any land held in connection therewith or the right to operate the works under this Order.

(2) Without prejudice to the generality of paragraph (1), the undertaker may enter into and carry into effect agreements with respect to any of the following matters, namely, the construction, maintenance, use and operation of the authorised works, or any part or parts of them, by any other

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<sup>(26)</sup> 1996 c. 16.

<sup>(27)</sup> 2003 c. 20.

person, and other matters incidental or subsidiary thereto or consequential thereon, and the defraying of, or the making of contributions towards, the cost of the matters aforesaid by the undertaker or any other person.

(3) Any agreement under paragraph (2) may provide, amongst other things, for the exercise of the powers of the undertaker in respect of the authorised works or any part or parts thereof, and for the transfer to any person of the authorised works or any part or parts thereof together with the rights and obligations of the undertaker in relation thereto.

(4) The exercise of the powers of any enactment by any person in pursuance of any sale, lease, charge or disposal under paragraph (1), or any agreement under paragraph (2), shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those powers were exercised by the undertaker.

(5) Nothing in section 15(2) of the Transport Act 1968 (restriction or alteration of charges) shall apply in relation to the operation of the busway system by any person other than the undertaker, but this paragraph is without prejudice to any provision with respect to charges that may be made in an agreement under paragraph (1) or (2).

#### **Application of landlord and tenant law**

**48.**—(1) This article applies to any agreement for leasing to any person the whole or any part of the authorised guided busway or the right to operate the same, and any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised guided busway, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of any agreement to which this article applies.

(3) Accordingly no such enactment or rule of law shall apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

#### **Town and country planning: statutory undertakers**

**49.**—(1) The busway system shall be regarded as a road transport undertaking for the purposes of section 262(1) of the 1990 Act (meaning of “statutory undertakers”).

(2) Planning permission which is deemed by a direction under section 90(2A) of the 1990 Act to be granted in relation to works authorised by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of that Act (cases in which land is to be treated as operational land for the purposes of that Act).



## PART 5

### PROTECTIVE PROVISIONS

#### Statutory undertakers, etc.

50. The provisions of Schedule 10 to this Order shall have effect.

#### Protective provisions

51. The provisions of Schedule 11 to this Order shall have effect.

#### Minerals

52. Nothing in this Order shall affect the right of any person entitled to any mine or minerals of any description whatsoever under a street along which any authorised guided busway is laid to work the mine or get the minerals; but this shall not affect any liability (whether civil or criminal) of the person so entitled in respect of damage to the authorised guided busway resulting from the exercise of any such right.

## PART 6

### MISCELLANEOUS AND GENERAL

#### As to local railway enactments

53.—(1) Any local enactment which makes provision in relation to any railway or former railway within the limits of deviation shall have effect subject to the provisions of this Order.

(2) The following enactments shall cease to have effect on the transfer to the undertaker of Network Rail's interest in the land within the limits of deviation for Works Nos. 1 to 12 or so much of that interest as the undertaker may require for the purposes of those works—

- (a) The Cambridge and Huntingdon Railway Act 1845<sup>(28)</sup>; and
- (b) Section 7(E) and (G) and sections 8, 9, 11 and 28 of the Great Eastern Railway Act 1875<sup>(29)</sup>.

(3) The Bedford and Cambridge Railway Act 1860<sup>(30)</sup> shall cease to have effect in its application to any part of the lands within the limits of deviation for Works Nos. 14 to 16 upon the transfer to the undertaker under or for the purposes of the Order of Network Rail's interest in such land.

#### Disclosure of confidential information

54. A person who—

- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 19; and
- (b) discloses to any person any information obtained by him relating to any manufacturing process or trade secret,

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<sup>(28)</sup> 1845 c. cci.

<sup>(29)</sup> 1875 c. cxxxiv.

<sup>(30)</sup> 1860 c. clxxxiii.

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale unless the disclosure is made in the course of performing his duty in connection with the purposes for which he was authorised to enter the land.

### **Certification of plans, etc.**

**55.** The undertaker shall, as soon as practicable after the making of this Order, submit copies of the book of reference, and the plans and sections to the Secretary of State for certification that they are true copies of, respectively, the book of reference, plans and sections referred to in this Order; and a document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

### **Service of notices**

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

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978<sup>(31)</sup> as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) is, if he has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, his last known address 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 his name or address cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to him by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

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

### **No double recovery**

**57.** Compensation shall not be payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law.

### **Arbitration**

**58.** Unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

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(31) 1978 c. 30.

Signed by authority of the Secretary of State for Transport

21st December 2005

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

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## SCHEDULES

### SCHEDULE 1

Article 4

#### SCHEDULED WORKS

<i>(1)</i> <i>Number of Work</i>	<i>(2)</i> <i>Description of Work</i>
<b>In the District of Huntingdonshire</b>	
Work No. 1	A guided busway (1,573 metres in length), together with an adjoining emergency and maintenance access track, commencing by a junction with Work No. 1B and running in an easterly direction along the former Huntingdon to Cambridge railway and incorporating the construction of an accommodation bridge over Second Drove and reconfiguration and replacement of the deck of the existing viaduct over the River Great Ouse and terminating at the Huntingdon District and South Cambridgeshire District boundary at Fen Drayton.
Work No. 1A	Modification of the existing A1096 (310 metres in length) to accommodate a traffic signalled junction and pedestrian crossing between Station Road and the park and ride site (Work No. 1C).
Work No. 1B	Construction of a carriageway (349 metres in length) commencing by a junction with Work No. 1A and running in a easterly direction along the former Huntingdon to Cambridge railway and linking with the guided busway (Work No. 1).
Work No. 1C	A park and ride site comprising parking and interchange facilities, together with busway depot (including control and maintenance buildings and facilities and vehicle stabling and cleaning facilities), to the east of the Harrison Way/Meadow Lane roundabout, with access to the guided busway (Work No. 1).
Work No. 1D	Modification of Meadow Lane (332 metres in length) including provision for a footway from the junction of Harrison Way roundabout (A1096) running in an easterly direction and

<i>(1)</i> <i>Number of Work</i>	<i>(2)</i> <i>Description of Work</i>
Work No. 1E	<p>terminating at the park and ride site (Work No. 1C).</p> <p>Modification to Second Drove including vertical realignment and adjustment of kerbs, commencing at a point 73 metres to the north of the centreline of Work No. 1 as shown on the plans and terminating at a point 68 metres south of that point.</p>
<b>In the District of South Cambridgeshire</b>	
Work No. 2	<p>A guided busway (1,038 metres in length), together with an adjoining emergency and maintenance access track, commencing by a junction with Work No. 1 and running in an easterly direction along the former Huntington to Cambridge railway and terminating at the crossing of Holywell Ferry Road.</p>
Work No. 3	<p>A guided busway (2,150 metres in length), together with an adjoining emergency and maintenance access track, commencing by a junction with Work No. 2, and running in an easterly direction along the former Huntington to Cambridge railway and terminating at the crossing of Over Road.</p>
Work No. 4	<p>A guided busway (3,715 metres in length), together with an adjoining emergency and maintenance access track, commencing by a junction with Work No. 3 and running in an easterly direction, partially in cutting, along the former Huntington to Cambridge railway passing under Windmill Road Bridge and terminating at the crossing of the B1050 (Station Road, Longstanton).</p>
Work No. 4A	<p>Interchange (kiss and ride) facilities and modifications to existing carriageway at Over Road, Swavesey.</p>
Work No. 4B	<p>Modification to Longstanton Road including replacement of the existing three span arch bridge by a single span bridge including alterations to the vertical alignment of the highway commencing at a point 79 metres to the north of the centreline of Work No. 4 as shown on the plans and terminating at a point 129 metres south of that point.</p>
Work No. 4C	<p>A park and ride site comprising parking and interchange facilities to the north-east of</p>

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<i>(1)</i> <i>Number of Work</i>	<i>(2)</i> <i>Description of Work</i>
Work No. 5	Longstanton village and modifications to the B1050 (Station Road, Longstanton).
Work No. 6	A guided busway (1,627 metres in length), together with an adjoining emergency and maintenance access track, commencing by a junction with Work No. 4 and running in an easterly direction along the former Huntington to Cambridge railway before terminating at the crossing of the existing byway at Brook Field (Rampton Road).
Work No. 7	A guided busway (2,381 metres in length), together with an adjoining emergency and maintenance access track, commencing by a junction with Work No. 5 and running in a southerly direction along the former Huntington to Cambridge railway before terminating at the crossing of Station Road (also known as Oakington Road), Oakington.
Work No. 8	A guided busway (1,578 metres in length), together with an adjoining emergency and maintenance access track, commencing by a junction with Work No. 6 and running in a south easterly direction along the former Huntington to Cambridge railway before terminating at the crossing of Park Lane.
Work No. 8A	A guided busway (1,943 metres in length), together with an adjoining emergency and maintenance access track, commencing by a junction with Work No. 7 and running in a south easterly direction along the former Huntington to Cambridge railway before terminating at the crossing with Station Road, Histon.
Work No. 9	Modification to Station Road, Histon and the provision of car parking and interchange facilities to the north east of Station Road, including the demolition of the former station building.
Work No. 9	A guided busway (1,472 metres in length), together with an adjoining emergency and maintenance access track, commencing by a junction with Work No. 8 and running in a south easterly direction along the former Huntington to Cambridge railway passing under Bridge Road and the A14 before terminating where the guided busway forms a junction with the guided busway which passes along the north side of King's Hedges Road

<i>(1)</i> <i>Number of Work</i>	<i>(2)</i> <i>Description of Work</i>
	into the Arbury Park Development (Work No. 11).
<b>In the District of South Cambridgeshire and the City of Cambridge</b>	
Work No. 10	A guided busway (1,463 metres in length), together with an adjoining emergency and maintenance access track, commencing by a junction of with Work No. 9 and Work No. 11 running in a south easterly direction along the former Huntingdon to Cambridge railway before terminating where the guided busway connects to the A1309 (Milton Road) and Work No. 12.
Work No. 10A	Modification to the junction between King's Hedges Lane and King's Hedges Road (84 metres in length).
<b>In the City of Cambridge</b>	
Work No. 10B	Modification of King's Hedges Road at the junction with King's Hedges Lane (225 metres in length).
Work No. 10C	Modification to the junction between the guided busway and Milton Road (315 metres in length), including stopping up of the underpass under Milton Road and incorporation of a bus lane on the west side of Milton Road at the junction with the guided busway.
<b>In the District of South Cambridgeshire and the City of Cambridge</b>	
Work No. 11	A guided busway (1,326 metres in length), together with an adjoining emergency and maintenance access track, commencing 30 metres east of the junction between King's Hedges Road and Cambridge Road and terminating at the junction of Work No. 9 and Work No. 10.
<b>In the City of Cambridge</b>	
Work No. 12	A guided busway (561 metres in length), together with an adjoining emergency and maintenance access track, commencing by the junction of Work No. 10 running in a south easterly direction before terminating within the former Chesterton Sidings.
Work No. 13	A carriageway (250 metres in length), commencing at Cambridge main line railway station and running in a southerly direction before terminating where it connects to Work

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<i>(1)</i> <i>Number of Work</i>	<i>(2)</i> <i>Description of Work</i>
	No. 14(1) 150 metres north of Hills Road Bridge.
Work No. 14(1)	A carriageway (267 metres in length) commencing by a junction with Work No. 13 and running in a southerly direction passing under Hills Road by means of a new underpass before terminating at a junction with Work No. 14(2).
Work No. 14(2)	A guided busway (1,886 metres in length), commencing at a junction with Work No. 14(1) together with an adjoining emergency and maintenance access track, passing under the existing bridge carrying Long Road over the former Bedford to Cambridge railway before terminating where the guided busway forms a junction with the guided busway which connects to Addenbrooke's Hospital (Work No. 15).
Work No. 15	A guided busway (796 metres in length), together with an adjoining emergency and maintenance access track, forming a spur to the main guided busway commencing at the junction of Work No. 14(2) running in an easterly direction and crossing the existing Cambridge to London live railway line by means of a new overbridge before terminating at Robinson Way.
Work No. 16	A guided busway (1,324 metres in length), together with an adjoining emergency and maintenance access track, commencing by a junction with Work No. 14(2) and Work No. 15 running in a south westerly direction, partially in cutting, along the former Bedford to Cambridge railway under the existing bridge carrying Shelford Road over the former railway and then unguided (125 metres in length) beneath Hauxton Road Bridge before terminating in the existing Trumpington park and ride site.



## SCHEDULE 2

Articles 4 and 22

## ACQUISITION OF CERTAIN LAND

<i>(1)</i> <i>Number of land shown on land plan</i>	<i>(2)</i> <i>Purpose for which land may be acquired</i>
<b>In the District of Huntingdonshire</b>	
1, 2	Modification of Harrison Way and Meadow Lane roundabout for improved access
10	Construction and maintenance of drainage works
19	Construction and maintenance of drainage works
28	Construction and maintenance of drainage works
59, 60	Construction and maintenance of drainage works
64, 65, 66, 67, 68, 69	Access for agricultural use
<b>In the District of Huntingdonshire and South Cambridgeshire</b>	
70, 72, 77, 83, 86, 93, 98, 105, 106, 109	Access for agricultural and leisure use
<b>In the District of Huntingdonshire</b>	
74, 75	Construction and maintenance of drainage works
<b>In the District of South Cambridgeshire</b>	
90, 91	Construction and maintenance of drainage works
95, 96	Construction and maintenance of drainage works
108	Construction and maintenance of drainage works
116, 117, 118, 119, 120, 121, 122, 123	Construction and maintenance of drainage works
127, 128	Construction and maintenance of drainage works
131, 132	Construction and maintenance of drainage works
146, 153	Permanent right of access to Mow Fen Drove
156, 157, 158	Construction and maintenance of drainage works
170, 174, 176, 177, 180, 181, 182, 183, 184, 185, 186, 191, 192, 197, 198, 199, 201, 202	Permanent right of access to Middle Fen Drove
203, 212, 214, 216, 217, 226, 227, 228	Permanent right of access to Lairstall Drove

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<i>(1)</i> <i>Number of land shown on land plan</i>	<i>(2)</i> <i>Purpose for which land may be acquired</i>
256, 257	Attenuation pond and drainage; construction and landscape/ecological mitigation
262, 264	Landscape/ecological mitigation
265, 266, 267, 269	Landscape/ecological mitigation
271, 272	Landscape/ecological mitigation
304, 305, 306, 313, 315, 322	Attenuation pond and drainage
326, 327, 328	Attenuation pond and drainage
333	Attenuation pond and drainage
343, 344, 345	Construction and maintenance of drainage works
357	Landscape/ecological mitigation
387, 389, 390, 392, 393	Access to stables and agricultural land
399	Landscaping/ecological mitigation
432	Attenuation pond and drainage
434	Construction and maintenance of drainage works
437	Landscaping/ecological mitigation
469, 470	Access to Science Park
<b>City of Cambridge</b>	
521, 525	Construction and permanent right of access to maintenance track
528, 529	Attenuation pond and drainage
531, 540	Permanent right of access for maintenance
543	Attenuation pond and drainage
578	Attenuation pond and drainage
582, 583	Access for pedestrians

Key to Schedules 3, 4 and 5

IPPS	Permanent stopping up of informal or alleged path
NP	Creation of new way
P	Parking place
PS	Permanent stopping up of street
T	Traffic regulation
TD	Temporary diversion of street

TS	Temporary stopping up of street
WE	Kerb line modification
WS	Widening of street by setting back of kerb line

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SCHEDULE 3

Article 6

STREETS SUBJECT TO ALTERATION OF LAYOUT

<i>(1)</i> <i>Street subject to alteration of layout</i>	<i>(2)</i> <i>Description of alteration</i>
<b>District of Huntingdonshire</b>	
Harrison Way (A1096)	Kerb-line to be setback between WS1 and WS2 on both sides of the road
Meadow Lane, St. Ives	Kerb-line to be setback between WS3 and WS4 on both sides of the road
<b>District of South Cambridgeshire</b>	
Holywell Ferry Road, Fen Drayton	Kerb-line to be altered between WE1 and WE2
Over Road and Station Road, Swavesey	Kerb-line to be altered between WE3 and WE4 on both sides of the road
Over Road, Swavesey	Kerb-line to be altered between WE5 and WE6
Station Road, Longstanton (B1050)	Kerb-line to be altered between WE7 and WE8
Oakington Road and Station Road, Oakington	Kerb-line to be altered between WE9 and WE10 on both sides of the road
Park Lane, Girton	Kerb-line to be altered between WE11 and WE12 on both sides of the road
Station Road, Histon	Kerb-line to be altered between WE13 and WE14 on both sides of the road
New Road, Histon	Kerb-line to be altered between WE15 and WE16 on both sides of the road
King's Hedges Road	Kerb-line to be altered between WE17 and WE18 on both sides of the road

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## SCHEDULE 4

Articles 9, 10, 11 and 12

## PATHS AND STREETS TO BE STOPPED UP AND PROVISION OF SUBSTITUTES

## PART 1

## NEW PATHS OR STREETS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>New path or street</i>
Districts of Huntingdonshire, South Cambridgeshire and City of Cambridge	Bridleway along the route of the emergency and maintenance access track comprised in Works Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 12, between NP1 and NP2.
District of South Cambridgeshire	Footpath between NP5 and NP6.
District of South Cambridgeshire and City of Cambridge	Cycletrack along the route of the emergency and maintenance access track comprised in Work No. 11, between NP13 and NP14.
City of Cambridge	Footpath/cycletrack between NP11 and NP12.
	Cycletrack along the route of the emergency and maintenance access track comprised in Works Nos. 14 and 16 and ancillary works, between NP15 and NP16.
	Cycletrack along the route of the emergency and maintenance access track comprised in Work No.15, between NP17 and NP18.

## PART 2

## PATHS OR STREETS FOR WHICH SUBSTITUTES ARE TO BE PROVIDED

<i>(1)</i> <i>Path or street to be stopped up</i>	<i>(2)</i> <i>Extent of stopping up</i>	<i>(3)</i> <i>New path or street to be substituted</i>
<b>District of Huntingdonshire</b>		
Prospective footpath [Second Drove]	Between PS1 and PS2	Footpath between NP3 and NP4.
<b>District of South Cambridgeshire</b>		
Bridleway B7, Fen Drayton	Between PS3 and PS4	Bridleway between NP7 and NP8.
Byway (B.O.A.T. 4), Rampton	Between PS5 and PS6	Bridleway between NP9 and NP10.

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<i>(1)</i> <i>Path or street to be stopped up</i>	<i>(2)</i> <i>Extent of stopping up</i>	<i>(3)</i> <i>New path or street to be substituted</i>
Byway (B.O.A.T. 7), Longstanton	Between PS6 and PS7	Bridleway between NP9 and NP10.
<b>City of Cambridge</b>		
Footpath 47	Between PS8 and PS9	TD8 to TD9—temporary diversion.  Footpath/cycletrack between NP17 and NP18.
Footpath 47	Between PS10 and PS11	TD10 to TD11—temporary diversion.  Footpath/cycletrack between NP17 and NP18.

### PART 3

#### PATHS OR STREETS FOR WHICH NO SUBSTITUTES WILL BE PROVIDED

<i>(1)</i> <i>Path or street affected</i>	<i>(2)</i> <i>Extent of stopping up</i>
<b>Districts of Huntingdonshire, South Cambridgeshire and City of Cambridge</b>	
Informal path	Between IPPS1 and IPPS2.

#### SCHEDULE 5

Article 12

#### PATHS AND STREETS TO BE TEMPORARILY STOPPED UP

<i>(1)</i> <i>Path or street affected</i>	<i>(2)</i> <i>Extent of stopping up</i>	<i>(3)</i> <i>Specified temporary diversion</i>
<b>District of Huntingdonshire</b>		
Harrison Way (north of roundabout with Meadow Lane)	Within the Order limits	—
Harrison Way (south of roundabout with Meadow Lane)	Within the Order limits	—
Meadow Lane	Within the Order limits	—
Footpath 5, St. Ives	Between TS1 and TS2	Between TD1 and TD2
Prospective footpath	Between TS3 and TS4	—

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<i>(1)</i> <i>Path or street affected</i>	<i>(2)</i> <i>Extent of stopping up</i>	<i>(3)</i> <i>Specified temporary diversion</i>
[Second Drove]		
Prospective footpath	Between TS5 and TS6	Between TD3 and TD4
Second Drove]		
Prospective footpath	Between TS5 and TS7	Between TD3 and TD5
[Second Drove]		
Footpath 13, Fenstanton	Between TS8 and TS9	Between TD6 and TD7
Footpath 12, Fenstanton	Between TS10 and TS11	—
Footpath 15, Fenstanton	Between TS12 and TS13	—
Footpath 15, Fenstanton	Between TS14 and TS15	—
<b>District of South Cambridgeshire</b>		
Bridleway B7, Fen Drayton	Between TS16 and TS18	—
Bridleway B7, Fen Drayton	Between TS17 and TS18	—
Byway (B.O.A.T. 5), Fen Drayton	Between TS19 and TS20	—
Bridleway B16, Fen Drayton	Between TS18 and TS20	—
Holywell Ferry Road	Within the Order limits	—
Footpath F6, Swavesey	Between TS21 and TS22	—
Bridleway B5, Swavesey	Between TS23 and TS24	—
Footpath F3, Swavesey	Between TS25 and TS26	—
Over Road	Within the Order limits	—
Footpath F9, Swavesey	Between TS27 and TS28	—
Longstanton Road	Within the Order limits	—
B1050	Within the Order limits	—
Byway (B.O.A.T. 4), Rampton	Between TS29 and TS30	—
Byway (B.O.A.T. 7), Longstanton	Between TS30 and TS31	—
Station Road, Oakington	Within the Order limits	—
Footpath F1, Histon	Between TS32 and TS33	—
Park Lane	Within the Order limits	—
Footpath F4, Histon	Between TS34 and TS36	—
Station Road, Histon	Within the Order limits	—
<b>District of South Cambridgeshire and City of Cambridge</b>		
Byway (B.O.A.T. 3), Milton	Between TS37 and TS38	—
<b>City of Cambridge</b>		

<i>(1)</i> <i>Path or street affected</i>	<i>(2)</i> <i>Extent of stopping up</i>	<i>(3)</i> <i>Specified temporary diversion</i>
Milton Road	Within the Order limits	—
Hills Road	Within the Order limits	—
Footpath 46, Cambridge	Between TS39 and TS40	—
Footpath 118 Cambridge	Between TS41 and TS42	—

SCHEDULE 6

Article 15

HIGHWAYS TO BE CROSSED ON THE LEVEL

Holywell Ferry Road

Over Road

B1050

Station Road (also known as Oakington Road), Oakington

Park Lane

Station Road, Histon

King’s Hedges Lane

SCHEDULE 7

Article 25

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation Enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without prejudice to the generality of paragraph 1, the Land Compensation Act 1973<sup>(32)</sup> shall have effect subject to the modifications set out in sub-paragraphs (2) and (3).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4—

(a) for the words “land is acquired or taken” there shall be substituted the words “a right over land is purchased”; and

(b) for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable”.

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5—

<sup>(32)</sup> 1973 c. 26.

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- (a) for the word “part” in paragraphs (a) and (b) there shall be substituted the words “a right over land consisting”;
- (b) for the word “severance” there shall be substituted the words “right over the whole of the house, building or manufactory or of the house and the park or garden”;
- (c) for the words “part proposed” there shall be substituted the words “right proposed”; and
- (d) for the words “part is” there shall be substituted the words “right is”.

#### Adaptation of the 1965 Act

**3.—(1)** The 1965 Act shall have effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

(2) Without prejudice to the generality of sub-paragraph (1), Part I of the 1965 Act shall apply in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

**4.** For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—

“**7.** In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

**5.** For section 8 of the 1965 Act (provisions as to divided land) there shall be substituted the following—

“**8.—(1)** Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the person satisfies the tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—
  - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land, or
  - (ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

the Cambridgeshire Guided Busway Order 2005 (“the Order”) shall, in relation to that person cease to authorise the purchase of the right and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs,



and the notice shall be deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section shall be determined by the tribunal.

(3) Where, in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section, the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”.

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land);

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

7. Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act shall be modified correspondingly.

8. Section 20 of the 1965 Act (protection for interests of tenants at will etc.) shall apply with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

9. Section 22 of the 1965 Act (protection of acquiring authority’s possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

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## SCHEDULE 8

Article 28

## LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Authorised work</i>
In the District of Huntingdonshire	21, 22, 23, 24, 25, 31, 32, 35	Access for construction purposes	Work Nos. 1 & 1E
	36, 38, 39, 44, 45, 51, 52, 56	Construction working area	Work No. 1
	58, 61	Access for construction purposes	Construction of outfall
	73, 76	Access for construction purposes	Construction of outfall
In the District of Huntingdonshire and South Cambridgeshire	81, 82, 85, 88	Construction working area	Work Nos. 1 & 2
In the District of South Cambridgeshire	89, 92	Access for construction purposes	Construction of outfall
	94, 97	Access for construction purposes	Construction of outfall
	102, 103, 104	Access for construction purposes	Work No. 2
	126, 129	Access for construction purposes	Construction of outfall
	130, 133	Access for construction purposes	Construction of outfall
	135, 136, 140, 141, 142, 144	Construction working area	Work No. 3
	150, 151	Access for construction purposes	Work No. 3
	152, 154, 155, 159, 160	Access for construction purposes	Construction of outfall
	163, 164, 165, 171, 172, 173	Access for construction purposes	Work No. 3
	189, 190, 196	Access for construction purposes	Construction of outfall
215, 222, 223	Access for construction purposes	Work No. 4	
234, 235, 236, 241, 242, 243	Access for construction purposes	Work No. 4	

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Authorised work</i>
	249, 250, 252	Construction working area	Work No. 4
	258	Construction working area	Work Nos. 4 & 4B
	268, 270	Access for construction purposes	Work No. 4
	269	Landscaping/ ecological mitigation	Work No. 4
	287, 288, 289, 290, 291, 292, 293, 294	Access for construction purposes	Work Nos. 4 & 5
	295, 296, 297, 298, 299, 300, 301, 302	Access for construction purposes	Work Nos. 5 & 6
	310, 311, 312	Construction working area	Work No. 5
	319, 320	Construction working area	Work No. 5
	335, 336, 337	Access for construction purposes	Work No. 6
	342, 346	Access for construction purposes	Work No. 6
	348	Access for commercial unit	Work Nos. 6 & 7
	363, 367, 368, 369	Construction working area	Work No. 7
	372, 373, 374, 375	Construction working area	Work No. 7
	379, 380, 381	Access to agricultural land	Work No. 7
	394	Landscaping/ ecological mitigation	Work No. 8
	400	Landscaping/ ecological mitigation	Work No. 8
	403, 404, 405	Construction working area	Work No. 8
	419	Landscaping/ ecological mitigation	Work No. 9
	422	Landscaping/ ecological mitigation	Work No. 9

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<i>(1) Area</i>	<i>(2) Number of land shown on plans</i>	<i>(3) Purpose for which temporary possession may be taken</i>	<i>(4) Authorised work</i>
	424, 428, 430	Landscaping/ ecological mitigation	Work No. 9
	425, 426, 427, 429	Construction working area	Work No. 9
	431	Landscaping/ ecological mitigation	Work No. 9
	433, 435	Access for construction purposes	Work No. 9
In the City of Cambridge	501, 502, 504, 506, 508, 511, 512	Construction working area	Work No. 14(1)
	507	Access for construction purposes	Work Nos. 14(1) & (2)
	524	Construction working area	Work Nos. 14(1) & (2)
	533, 536	Construction working area	Work No. 14(2)
	541	Construction working area	Work No. 14(2)
	544, 545, 546	Access for construction purposes	Work No. 14(2)
	557	Access for construction purposes	Work No. 15
	558, 560, 561, 571, 572, 576	Access for construction purposes	Work Nos. 14 & 16
	584, 585, 586, 587	Access for construction purposes and construction working area	Work No. 16

## SCHEDULE 9

Article 42

## TRAFFIC REGULATION ORDERS

## PART 1

## PROHIBITION AND RESTRICTIONS OF STOPPING AND WAITING

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street affected</i>	<i>(3)</i> <i>Description of regulation</i>
District of Huntingdonshire	Station Road, St. Ives	No Waiting/No Loading at any time from T1 to T2
District of South Cambridgeshire	Short stay interchange, access road, Swavesey	No Waiting/No Loading at any time from T3 to T4 or for more than 30 minutes in the marked bay from T5 to T6
	Cambridge Road, Station Road and New Road, Histon	No Waiting/No Loading at any time between T7, T8 and T9 (except in front of Station Stores)
	Access road, Histon car park	No Waiting/No Loading at any time between T10 and T11

## PART 2

## BUS AND CYCLE LANES

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street affected</i>	<i>(3)</i> <i>Description of regulation</i>
District of South Cambridgeshire	Longstanton park and ride access road (eastbound)	Prohibition of driving except buses, taxis and cyclists from T14 to T15
	Longstanton park and ride access road (westbound)	Prohibition of driving except buses, taxis and cyclists from T16 to T17
City of Cambridge	Milton Road (northbound)	Prohibition of driving except buses, taxis and cyclists from T12 to T13, including provision of advisory cycle lane

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### PART 3

#### PROHIBITION ON TURNING

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street affected</i>	<i>(3)</i> <i>Description of regulation</i>
District of Huntingdonshire	Harrison Way	No left or right turn into Station Road except authorised vehicles at T2
	Harrison Way	No left or right turn into St. Ives local bus loop at T18

### PART 4

#### PROHIBITION OF DRIVING

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street affected</i>	<i>(3)</i> <i>Description of regulation</i>
District of Huntingdonshire	Station Road	No entry except authorised vehicles from T19 to T20
	St. Ives park and ride access road	No entry except authorised vehicles from T18 to T21

### PART 5

#### PARKING PLACES

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street affected</i>	<i>(3)</i> <i>Description of regulation</i>
District of Huntingdonshire	Proposed St. Ives park and ride	Provision of parking places at P1
District of South Cambridgeshire	Proposed Longstanton park and ride	Provision of parking places at P2
	Proposed car park at Histon stop	Provision of parking places at P3 with prohibition of waiting for more than four hours

SCHEDULE 10

Articles 8, 10, 32 and 50

PROVISIONS RELATING TO STATUTORY UNDERTAKERS, ETC.

*Apparatus of statutory undertakers, etc., on land acquired*

1.—(1) Sections 271 to 274 of the 1990 Act (power to extinguish rights of statutory undertakers etc. and power of statutory undertakers etc. to remove or re-site apparatus) shall apply in relation to any land acquired or appropriated by the undertaker under this Order subject to the following provisions of this paragraph; and all such other provisions of that Act as apply for the purposes of those provisions (including sections 275 to 278, which contain provisions consequential on the extinguishment of any rights under sections 271 and 272, and sections 279(2) to (4), 280 and 282, which provide for the payment of compensation) shall have effect accordingly.

(2) In the provisions of the 1990 Act, as applied by sub-paragraph (1), references to the appropriate Minister are references to the Secretary of State.

(3) Where any apparatus of public utility undertakers or of a public communications provider is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the 1990 Act, as applied by sub-paragraph (1), any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(4) Sub-paragraph (3) shall not apply in the case of the removal of a public sewer but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that paragraph, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

shall be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of making his drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

(5) The provisions of the 1990 Act mentioned in sub-paragraph (1), as applied by that sub-paragraph, shall not have effect in relation to apparatus as respects which paragraph 2 or Part III of the 1991 Act applies.

(6) In this paragraph “public utility undertakers” has the same meaning as in the Highways Act 1980(33).

*Apparatus of statutory undertakers, etc., in stopped up streets*

2.—(2) Where a street is stopped up under article 11 of this Order any statutory utility whose apparatus is under, in, upon, over, along or across the street shall have the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Order had not been made.

(2) The undertaker shall give not less than 28 days' notice in writing of its intention to stop up any street under article 11 of this Order to any statutory utility whose apparatus is under, in, upon, over, along or across that street.

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(33) 1980 c. 66.

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(3) Where notice under sub-paragraph (2) has been given any statutory utility whose apparatus is under, in, upon, over, along or across the street may and, if reasonably requested so to do by the undertaker, shall—

- (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 aforesaid.

(4) Subject to the following provisions of this paragraph, the undertaker shall 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 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 relocation works.

(5) If in the course of the execution of relocation works under sub-paragraph (3)—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions except where this has been solely due to using the nearest available type, capacity or dimension; 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 apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the statutory utility by virtue of sub-paragraph (4) shall be reduced by the amount of that excess.

(6) For the purposes of sub-paragraph (5)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not 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 shall be treated as if it also had been agreed or had been so determined.

(7) An amount which apart from this sub-paragraph would be payable to a statutory utility in respect of works by virtue of sub-paragraph (4) (and having regard, where relevant, to sub-paragraph (5)) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7.5 years earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit as calculated in accordance with the Code of Practice entitled “Measures Necessary where Apparatus is Affected by Major Works (Diversionary Works)” and dated June 1992 and approved by the Secretary of State on 30th June, 1992, as revised and re-issued from time to time.

(8) Sub-paragraphs (4) to (7) shall not apply where the authorised works constitute major transport works for the purposes of Part III of the 1991 Act, but instead—



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- (a) the allowable costs of the relocation works shall be determined in accordance with section 85 of that Act (sharing of costs of necessary measures) and any regulations for the time being having effect under that section; and
  - (b) the allowable costs shall be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.
- (9) In this paragraph—
- “apparatus” has the same meaning as in Part III of the 1991 Act;
  - “relocation works” means works executed, or apparatus provided, under sub-paragraph (3); and
  - “statutory utility” means a statutory undertaker for the purposes of the Highways Act 1980 or a public communications provider.

## SCHEDULE 11

Article 51

### PROTECTIVE PROVISIONS

#### PART 1

##### FOR PROTECTION OF DRAINAGE AUTHORITIES

1.—(1) The following provisions of this Part of this Schedule shall apply for the protection of each drainage authority unless otherwise agreed between the undertaker and the drainage authority concerned.

(2) In this Part of this Schedule—

“construction” includes execution, placing, altering, replacing, relaying and removal and “construct” and “constructed” are to be construed accordingly;

“drainage authority” means the Environment Agency or, within the area of the Swavesey Internal Drainage Board or the Old West Internal Drainage Board, that board except in relation to a drainage work forming part of a main river as defined in the Water Resources Act 1991;

“drainage work” means any watercourse and includes any land which is expected to provide flood storage capacity for any watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence;

“fishery” means any waters containing fish and fish in, or migrating to or from such waters and the spawn, habitat or food of such fish;

“plans” includes sections, drawings, specifications and method statements;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 9 metres of a watercourse or is otherwise likely to affect any drainage work or the volumetric flow of water in or flowing to or from any drainage work; and

“watercourse” includes all rivers, streams, ditches, drains, culverts, dykes, sluices, sewers and passages through which water flows (whether or not the flow is intermittent) except a public sewer.

2.—(1) Before beginning to construct any specified work, the undertaker shall submit to the drainage authority plans of the work and such further particulars available to it as the drainage authority may within 28 days of the submission of plans reasonably require.

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(2) Any such specified work shall not be constructed except in accordance with such plans as may be approved in writing by the drainage authority, or determined under paragraph 11.

(3) Any approval of the drainage authority under this paragraph—

- (a) shall not be unreasonably withheld,
- (b) shall be deemed to have been given if it is neither given nor refused in writing within 56 days of the submission of plans for approval and in the case of a refusal, accompanied by a statement of the grounds of refusal, and
- (c) may be given subject to such reasonable requirements as the drainage authority may make for the protection of any drainage work or fishery and for the prevention of flooding.

3. Without prejudice to the generality of paragraph 2, the requirements which the drainage authority may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage, or
- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased by reason of the specified work.

4.—(1) Any specified work, and all protective works required by a drainage authority under paragraph 3, shall be constructed—

- (a) with all reasonable despatch in accordance with the plans approved or deemed to have been approved or settled under this Part of this Schedule,
- (b) to the reasonable satisfaction of the drainage authority.

(2) The undertaker shall give the drainage authority not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days' after the date on which it is brought into use.

(3) If any part of the works comprising a structure in, over or under a drainage work is constructed otherwise than in accordance with the requirements of this part of this schedule, the drainage board concerned may by notice in writing require the undertaker, at the undertaker's own expense, to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the drainage board concerned in writing consents (such consent not to be unreasonably withheld), to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the drainage authority concerned reasonably requires.

(4) Subject to paragraph (5), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (3) is served upon the undertaker, it has failed to begin to take steps to comply with the requirements of the notice and thereafter to make reasonably expeditious progress towards their implementation, the drainage authority concerned may execute the works specified in the notice and any expenditure incurred by it in so doing shall be recoverable from the undertaker.

(5) In the event of any dispute as to whether sub-paragraph (3) is properly applicable to any work in respect of which a notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the drainage authority concerned shall not except in an emergency exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined.

5.—(1) The undertaker shall from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated

within the limits of deviation and on land owned by the undertaker or which it otherwise has control of or on land held by the undertaker for the purposes of or in connection with the specified works, whether or not the drainage work is constructed under the powers of the Order or is already in existence.

(2) If any such work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the drainage authority concerned, that drainage authority may by notice in writing require the undertaker to repair and restore the work, or any part thereof, or (if the undertaker so elects and the drainage authority in writing consents (such consent not to be unreasonably withheld), to remove the work and restore the site to its former condition, to such extent and within such limits as the drainage authority concerned reasonably required.

(3) If, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin to take steps to comply with the reasonable requirements of the notice and has not thereafter made reasonably expeditious progress towards their implementation, the drainage authority concerned may do anything necessary for such compliance and may recover the expenditure reasonably incurred by it in doing so from that person.

(4) In the event of any dispute as to the reasonableness of a notice served under sub-paragraph (2), the drainage authority concerned shall not, except in a case of emergency, exercise the powers of sub-paragraph (3) until the dispute has been finally determined.

6. If by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes is impaired, or that work is otherwise damaged, such impairment or damage shall be made good by the undertaker to the reasonable satisfaction of the drainage authority concerned and if the undertaker fails to do so, that drainage authority may make good the same and recover from the undertaker the expense reasonably incurred in doing so.

7. The undertaker shall indemnify the drainage authority concerned in respect of all costs, charges and expenses which it may reasonably incur or have to pay or which it may sustain—

- (a) in the examination or approval of plans under this part of this schedule,
- (b) in the inspection of the construction of the specified works or any protective works required by the drainage authority under this Part of this Schedule.

8.—(1) Without prejudice to the other provisions of this Part of this Schedule, the undertaker shall indemnify each drainage authority from all claims, demands, proceedings, costs, damages or expenses or loss, which may be made or taken against, or recovered from or incurred by the drainage authority by reason of—

- (a) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence,
- (b) any raising or lowering of the water table in land adjoining the works authorised by the Order or any sewers, drains or watercourses,
- (c) any flooding or increased flooding of any such lands,

which is caused by, or results from, the construction of any of the works or any act or omission of the undertaker, its contractors, agents or employees whilst engaged upon the work.

(2) The drainage authority concerned shall give the undertaker reasonable notice of any such claim or demand and no settlement or compromise thereof shall be made without the agreement of the undertaker which agreement shall not be unreasonably withheld.

9. The fact that any work or thing has been constructed or done in accordance with a plan approved or deemed to be approved by a drainage authority, or to its satisfaction, or in accordance

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with any directions or award of an arbitrator shall not relieve the undertaker of any liability under the provisions of this part of this Schedule.

**10.** For the purposes of section 109 of the Water Resources Act 1991 (as to structures in, over or under a main river) as applying to the construction of any specified work, any consent or approval given or deemed to be given by the Environment Agency under this Part of this Schedule with respect to such construction shall be deemed also to constitute an approval under that section.

**11.** Any dispute arising under this Part of this Schedule between the undertaker and a drainage authority (other than a difference as to its meaning or construction) shall, if the parties agree, be determined by arbitration, but shall otherwise be determined by the Secretary of State for Environment, Food and Rural Affairs on a reference to him by the undertaker or the drainage authority concerned after notice in writing by one to the other.

## PART 2

### FOR FURTHER PROTECTION OF ENVIRONMENT AGENCY

**12.** The following provisions of this Part of this Schedule shall apply for the protection of the Environment Agency unless otherwise agreed between the undertaker and the Environment Agency.

**13.** Before beginning to construct any work or operation authorised by the Order involving the abstraction of water contained in underground strata, the undertaker will notify the Environment Agency of its proposals.

**14.** Any such work shall not be constructed except in accordance with such reasonable measures for conserving water (including monitoring and mitigation measures) as may be specified by the Agency by notice in writing to the undertaker within 56 days of the submission of the proposal.

**15.** The undertaker shall not be obliged to serve any notice which would otherwise be required by section 30 of the Water Resources Act 1991 (which relates to boreholes and similar works in respect of which a licence is not required).

**16.** Paragraph 11 of this Schedule shall apply to any dispute between the undertaker and the Environment Agency under this Part of this Schedule.

## PART 3

### FOR PROTECTION OF NETWORK RAIL INFRASTRUCTURE LIMITED

**17.** The following provisions of this Part of this Schedule shall have effect unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 30, any other person on whom rights or obligations are conferred by that paragraph.

**18.** In this Part of this Schedule—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“plans” includes sections, designs, drawings, specification, soil reports, calculations, descriptions (including description of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“Network Rail” means Network Rail Infrastructure Limited and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the

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purpose of this definition “associated company” means any company which is (within the meaning of section 736 of the Companies Act 1985<sup>(34)</sup>) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or other subsidiary of the holding company of Network Rail Infrastructure Limited;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993<sup>(35)</sup>) or station lease;

“railway property” means any railway belonging to Network Rail and any station, land, works, apparatus and equipment belonging to Network Rail or connected therewith and includes any easement or other property interest held or used by Network Rail for the purposes of such railway or works, apparatus or equipment;

“specified work” means so much of any of the authorised works as is situated upon, across, under, over or within 15 metres of, or may in any way affect, railway property.

**19.**—(1) Where under this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail shall—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised works pursuant to this Order.

**20.**—(1) The undertaker shall not exercise the powers conferred by section 11(3) of the 1965 Act in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker shall not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker shall not under the powers of this Order acquire or use or acquire new rights over any railway property except with the consent of Network Rail.

(4) The undertaker shall not exercise the powers conferred by sections 271 or 272 of the 1990 Act, as applied by Schedule 10 to this Order, in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(5) Where Network Rail is asked to give its consent pursuant to sub-paragraphs (1), (2), (3) or (4), such consent shall not be unreasonably withheld but may be given subject to reasonable conditions.

**21.**—(1) The undertaker shall before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work shall not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) shall not be unreasonably withheld or delayed, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated his disapproval of those plans and the

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<sup>(34)</sup> 1985 c. 6.

<sup>(35)</sup> 1993 c. 43.

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grounds of his disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate his approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further period of 28 days the engineer has not intimated his approval or disapproval, he shall be deemed to have approved the plans as submitted.

(3) If by the expiry of 28 days beginning with the date on which written notice was served upon the engineer under paragraph (2), Network Rail gives notices to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail shall construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying his approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in his opinion should be carried out before the commencement of construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation, decommissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works) and such protective works as may be reasonably necessary for those purposes shall be constructed by Network Rail or by the undertaker, if Network Rail so desires such protective works shall be carried out by the undertaker at its own expense with all reasonable dispatch and the undertaker shall not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to his reasonable satisfaction.

**22.—**(1) Any specified work and any protective works to be constructed by virtue of paragraph 21(4) shall, when commenced be constructed—

- (a) with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled under paragraph 21;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property and as little interference as may be with the conduct of traffic on the railways of Network Rail.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker shall, notwithstanding any such approval, make good such damage and shall pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Without prejudice to any other operational railway requirement, the undertaker shall give to the engineer not less than 180 days' notice of its intention to commence the construction of a specified work and also, except in emergency (when it shall give such notice as may be reasonably practicable), of its intention to carry out any works for the maintenance or repair of a specified work in so far as such work of repair or maintenance may affect railway property.

**23.** The undertaker shall—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as he may reasonably require with regard to a specified work or the method of constructing it.

**24.** Network Rail shall at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Schedule during their construction and shall supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

**25.—**(1) If any alterations or additions, either permanent or temporary, to railway property are reasonably necessary during the construction of a specified work or any protective works under paragraph 21(4), or during a period of 12 months after the commencement of regular revenue-earning bus operations using the guided busways comprised in any specified work, in consequence of the construction of a specified work, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker reasonable notice of its intention to carry out such alterations and additions, the undertaker shall pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires that part of the specified work to be constructed, Network Rail shall assume the construction of that specified work and the undertaker shall, notwithstanding any such approval of specified work under paragraph 21(3), shall pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

**26.** The undertaker shall repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 21(3) or in constructing any protective works under the provisions of paragraph 21(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by him of the construction of a specified work and otherwise in connection with the implementation of the provisions of this Part of this Schedule;
- (c) in respect of the employment or procurement of the services of any inspectors, signalmen, watchmen and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may, in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

**27.** If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work not vested in Network Rail appears to be such as adversely affects the operation of railway property, the undertaker shall, on receipt of such notice, take such steps as may

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be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

**28.** The undertaker shall not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it shall have first consulted Network Rail and it shall comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

**29.** Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work shall, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

**30.—(1)** The undertaker shall pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Schedule which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction or maintenance of a specified work or the failure thereof; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work; and the undertaker shall indemnify Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission; and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this Schedule.

(2) Network Rail shall give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of such a claim or demand shall be made without the prior consent of the undertaker.

(3) The sums payable by the undertaker under sub-paragraph (1) shall include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail shall promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) incurred by each train operator as a consequence of any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work, or any such act or omission as mentioned in sub-paragraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

**31.** Network Rail shall, on receipt of a request from the undertaker, from time to time provide to the undertaker at the cost of the undertaker, written estimates of the costs, charges, expenses and



other liabilities for which the undertaker is or will become liable under this Schedule (including the amount of the relevant costs mentioned in paragraph 30) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

**32.** In the assessment of any sums payable to Network Rail under this Part of this Schedule there shall not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Schedule or increasing the sums so payable.

**33.** The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the deposited plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order authorises Cambridgeshire County Council to construct works and to acquire lands and rights in land for the purpose of a guided busway between Trumpington and Cambridge City Centre (with provision for a connection to Addenbrooke's Hospital) and between St Ives and Cambridge City Centre with a spur to Arbury Park. It also makes provision for the operation and regulation of the guided busway and for traffic regulation and improvements on connecting roads.

Copies of the plans, sections and book of reference referred to in the Order are available for inspection free of charge during working hours at the County Council's offices at Castle Court, Castle Hill, Cambridge CB3 7BR.