

**202X No. [XX]**

**INFRASTRUCTURE PLANNING**

**The Cambourne to Cambridge Order 202[X]**

*Made* - - - - - \*\*\*

*Laid before Parliament* \*\*\*

*Coming into force* \*\*\*

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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 2006(a) for an order under sections 1, 3 and 5 of the Transport and Works Act 1992(b) (“the 1992 Act”).

The Secretary of State caused an inquiry to be held for the purposes of the application under section 11 of the 1992 Act.

The Secretary of State, having considered the objections made and not withdrawn and the report of the person who held the inquiry, has determined to make an Order giving effect to the proposals comprised in the application with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

Notice of the Secretary of State’s determination was published in the London Gazette on [ ].

The Secretary of State, in exercise of the powers conferred by sections 1, 3 and 5 of, and paragraphs 1 to 13 and 15 to 17 of Schedule 1 to, the 1992 Act, makes the following Order:—

## PART 1

### PRELIMINARY

#### **Citation and commencement**

**1.** This Order may be cited as the Cambourne to Cambridge Order 202[X] and comes into force on [ ].

#### **Interpretation**

**2.—(1)** In this Order—

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

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

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

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

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(a) S.I. 2006/1466.

(b) 1992 c.42; section 1 and 3 were amended by the Planning Act 2008 (c.29), Schedule 2, paragraph 52 and 53 respectively.

(c) 1961 c. 33.

(d) 1965 c. 6.

(e) 1980 c. 66.

(f) 1984 c. 27.

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

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

“the 1992 Act” means the Transport and Works Act 1992**(c)**;

“the 2003 Act” means the Communications Act 2003**(d)**;

“the 2016 Regulations” means the Environmental Permitting (England and Wales) Regulations 2016**(e)**;

“the 2017 Act” means the Neighbourhood Planning Act 2017**(f)**;

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

“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;

“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;

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

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

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

“cycle track” has the same meaning as in the 1980 Act;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

and in this definition “electronic communications network” has the same meaning as in section 32(1)**(g)** (meaning of electronic communications networks and services) of the 2003 Act;

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

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

“guided transport premises” means any premises of the undertaker used for, or in connection with, the operation or maintenance of the guided transport system, including any depot, test route, building, park and ride site and any guided transport vehicle;

“guided busway” means a way provided for the use of vehicles which are constructed or adapted to carry more than 8 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**(h)**;

“guided transport system” means the authorised guided busway and any apparatus or facilities used for its operation and other associated authorised works;

“guided transport vehicle” means any vehicle lawfully using the guided transport system;

“limits of deviation” means the limits of deviation for the scheduled works shown on the works and land plans;

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

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace and

“maintenance” is to be construed accordingly;

“means of access” means an access to the highway network from neighbouring land;

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(a) 1990 c. 8.  
(b) 1991 c. 22.  
(c) 1992 c. 42.  
(d) 2003 c. 21.  
(e) S.I. 2016/475.  
(f) 2017 c. 20.  
(g) Section 32(1) was amended by S.I. 2011/1210.  
(h) S.I. 1992/3231

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

“Order plans” means the plans certified by the Secretary of State as the Order plans for the purposes of this Order, being the section drawings, engineering drawings, the rights of way plans and the works and land plans;

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

“parking place” has the same meaning as in section 32 of the 1984 Act;

“the rights of way plans” means the rights of way plans included in the Order plans;

“the scheduled works” means the works specified in Schedule 1 (scheduled works), or any part of them;

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

“statutory undertaker” means—

- (a) any person who is a statutory undertaker for any of the purposes of the 1990 Act; and
- (b) any public communications provider within the meaning of section 151(1) (interpretation of Chapter 1) of the 2003 Act;

“street” includes part of a street and any means of access;

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

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“the undertaker” means Cambridgeshire County Council;

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

“the works and land plans” means the works and land plans included in the Order plans.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the air space over its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights overland which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order.

(3) References in this Order to numbered plots are references to plot numbers on the works and land plan.

(4) Any reference in this Order to a work identified by the number of the work is to 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, or by numbers, are to be construed as references to the points so marked on the Order plans.

(6) All distances, directions, lengths, points and areas stated in the description of the scheduled works or in any description of powers or lands are approximate and distances between points on a scheduled work are taken to be measured along the scheduled work.

### **Disapplication of legislative provisions**

**3.—**(1) The provisions of Chapter 1 of Part 2 of the 2017 Act do not apply as regards the temporary possession or use of land under article 28 (temporary use of land for construction of works), article 29 (temporary use of land for maintenance of works) and article 30 (Temporary use of land for access) of this Order or to anything else done under this Order.

(2) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised works—

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(a) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

- (a) regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016<sup>(a)</sup> in relation to the carrying on of a flood risk activity or a water discharge activity;
- (b) section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991<sup>(b)</sup>;
- (c) section 32 (variation of awards) of the Land Drainage Act 1991; and
- (d) The provisions of any byelaws made under, or having effect as if made under, section 66 (powers to make byelaws) of the Land Drainage Act 1991, which require consent or approval for the carrying out of the works.

(3) In paragraph (2)(a) “flood risk activity”<sup>(c)</sup> and “water discharge activity”<sup>(d)</sup> have the meaning given in the Environmental Permitting (England and Wales) Regulations 2016.

### **Application of the 1991 Act**

**4.**—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 of the 1991 Act (street works in England and Wales) as major transport works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works); or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 of the 1980 Act (dual carriageways and roundabouts) or section 184 of that Act (vehicle crossings).

(2) In Part 3 of the 1991 Act references, in relation to major highway works, to the highway authority concerned are, in relation to works which are major transport works by virtue of paragraph (1), to be construed as references to the undertaker.

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—

- (a) section 56 (directions as to timing);
- (b) section 56A (power to give directions as to placing of apparatus);
- (c) section 58 (restrictions following substantial road works);
- (d) section 58A (restriction on works following substantial street works);
- (e) section 73A (power to require undertaker to re-surface street);
- (f) section 73B (power to specify timing etc. of re-surfacing);
- (g) section 73C (materials, workmanship and standard of re-surfacing);
- (h) section 78A (contributions to costs of re-surfacing by undertaker); and
- (i) Schedule 3A (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (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 apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 12 (temporary stopping up of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

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

- (a) section 54 (advance notice of certain works), subject to paragraph (6);

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(a) S.I. 2016/1154.

(b) 1991 c. 59.

(c) This term is defined in paragraph 3 of Part 1 of Schedule 25 to the Regulations.

(d) This term is defined in paragraph 3 of Schedule 21 to the Regulations.

- (b) section 55 (notice of starting date of works), subject to paragraph (6);
- (c) section 57 (notice of emergency works);
- (d) section 59 (general duty of street authority to co-ordinate works);
- (e) section 60 (general duty of undertakers to co-operate);
- (f) section 68 (facilities to be afforded to street authority);
- (g) section 69 (works likely to affect other apparatus in the street);
- (h) section 75 (inspection fees);
- (i) section 76 (liability for cost of temporary traffic regulation); and
- (j) 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.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 14 (construction and maintenance of new, altered or diverted streets)—

- (a) affects the operation of section 87 of the 1991 Act (prospectively maintainable highways), and the undertaker is not by reason of any duty under that article to maintain a street to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) has effect in relation to street works as respects which the provisions of Part 3 of the 1991 Act apply.

(8) To such extent as is reasonably necessary for protecting the guided transport system on any street and their operation and use the undertaker has the same powers as respects reinstatement as a street authority has under section 72 of the 1991 Act.

(9) The guided transport system is to be treated as a tramway for the purposes of Part 3 of the 1991 Act and accordingly the provisions of that Part (relating to tramway undertakings and tramways) as modified by this article apply to the guided transport system.

(10) In its application to the guided transport system section 93(3) of the 1991 Act (works affecting level crossings or tramways) also permits the undertaker to make reasonable requirements—

- (a) for allowing it facilities to monitor the execution of the works; and
- (b) for the protection of the guided transport system.

## PART 2

### WORKS PROVISIONS

#### PRINCIPAL POWERS

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

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

(2) Subject to article 6 (power to deviate), the scheduled works may only be constructed in the lines or situations shown on the works and land plans and in accordance with the levels shown on the section drawings.

(3) Subject to paragraph (6), the undertaker may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the scheduled works, namely—

- (a) stops, platforms, junctions and stopping places;
- (b) parking and park and ride facilities:

- (c) buildings and other works required for, or in connection with, the control, management or maintenance of the guided transport system or the control or management of any vehicular and pedestrian traffic on or in the guided transport system;
- (d) works required for the strengthening, improvement, maintenance or reconstruction of any street;
- (e) connections to streets, including ramps, paths, steps and tracks;
- (f) works for the strengthening, alteration or demolition of any building or structure;
- (g) works to alter the position of any street furniture or apparatus, including mains, sewers, drains, attenuation tanks, pipes, cables and lights;
- (h) works to alter the course of, or otherwise interfere with, watercourses;
- (i) landscaping, attenuation ponds, bunds, noise barriers, ecological and other works to mitigate any adverse effects of the construction, maintenance or operation of the other authorised works;
- (j) works for the provision of replacement open space land; and
- (k) facilities and works for the benefit or protection of land or premises affected by the other authorised works.

(4) Subject to paragraph (6), the undertaker may carry out and maintain such other works (of whatever nature) as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the scheduled works.

(5) The undertaker may remove any works constructed by it under this Order which have been constructed as temporary works or which it no longer requires.

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

- (a) within the Order limits;
- (b) on land specified in columns (1) and (2) of Schedule 2 to this Order for the purpose specified in relation to that land in column (3) of that Schedule;
- (c) within the boundaries of any street within Order limits along which the guided transport system will operate, or which has a junction with such a street.

### **Power to deviate**

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

- (a) deviate laterally from the lines or situations shown on the works and land plans within the limits of deviation; and
- (b) deviate vertically from the levels shown on the section drawings—
  - (i) to any extent not exceeding 1 metre upwards; and
  - (ii) to any extent not exceeding 1 metre downwards.

(2) The undertaker may construct and maintain any emergency and maintenance 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 traffic control measures as may be necessary or expedient.

(4) Without limitation on the scope of paragraph (1) in constructing and maintaining the scheduled works the undertaker may, for those works shown on the works and land plans by way of a centreline, deviate from the points of commencement and termination by up to 3 metres beyond the points of commencement and termination.

## PART 3 STREETS

### Power to alter layout, etc., of streets

7.—(1) The undertaker may alter the layout of, and carry out other ancillary works in, any street specified in column (1) of Part 1 or Part 2 of Schedule 3 (streets subject to alteration of layout) in the manner specified in relation to that street in column (3) of Part 1 or Part 2 of that Schedule.

(2) Without limitation on the scope of the specific powers conferred by article 5 (power to construct and maintain works) or paragraph (1) but subject to paragraph (3), the undertaker may, for the purpose of constructing, maintaining or using the guided transport system, alter the layout of a street within the Order limits and the layout of any street having a junction with such a street; and, without limitation on the scope of that power, the undertaker may—

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

(3) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority, but such consent must not be unreasonably withheld.

(4) If within 28 days of receiving an application for consent under paragraph (2) a street authority fails to notify the undertaker of its decision that street authority is deemed to have granted consent.

(5) The undertaker must restore to the reasonable satisfaction of the street authority any street which has been temporarily altered under this article.

### Apparatus in streets

8.—(1) The undertaker may, for the purposes of or in connection with the construction, maintenance and use of the guided transport system, place and maintain in any street in which the guided transport system is constructed or which has a junction with such a street any work, equipment or apparatus including, without limitation on the scope of that power, foundations, platforms, road islands, substations, electric lines and any electrical or other apparatus.

(2) The powers conferred by this article must not be exercised within the boundaries of a street outside of the Order limits which has a junction with a street in which the construction of the guided transport system is shown on the works and land plans without the consent of the street authority, but such consent must not be unreasonably withheld.

(3) In this article—

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

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(a) S.I. 1999/1026.

“electric line” has the meaning given by section 64(1) of the Electricity Act 1989(a); and

- (a) the reference to any work, equipment or apparatus in a street includes a reference to any work, equipment or apparatus under, over, along or upon the street.

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

**9.**—(1) The undertaker may, for the purpose of exercising the powers conferred by article 8 (apparatus in streets) or any other provision of this Order, enter upon any street in which the guided transport system are constructed or which has a junction with such a street and may execute any works required for or incidental to the exercise of those powers including, without limitation on the scope of that power, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street.

(2) This article is subject to paragraph 3 of Schedule 12 (provisions relating to statutory undertakers, etc.).

(3) The powers conferred by this article must not be exercised within the boundaries of a street outside of the Order limits which has a junction with a street in which the construction of the guided transport system is shown on the works and land plans without the consent of the street authority, but such consent must not be unreasonably withheld.

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

**10.** Public rights of way over the bridleways specified in column (2) of Part 1 of Schedule 4 shall be subject to any conflicting use for the purposes of the guided transport system of the emergency and maintenance access tracks whose routes that the relevant bridleway follows.

### **Construction of new and stopping up of existing streets, etc.**

**11.**—(1) The undertaker may in connection with the authorised works construct the new streets specified in column (2) of Part 1 of Schedule 4 (streets to be stopped up and the provision of substitutes) by reference to the letters and numbers shown on the rights of way plans.

(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 streets specified in column (1) of Part 2 and Part 3 of Schedule 4 to the extent specified, by reference to the letters and numbers shown on the rights of way plans, in column (2) of Part 2 and Part 3 of that Schedule.

(3) No street specified in column (1) of Part 2 or Part 3 of Schedule 4 (being a street to be stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

- (a) the new street to be substituted for it, which is specified in 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; or
- (b) a temporary alternative route for the passage of such traffic as previously used the street to be stopped up is first provided and then maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points of the street to be stopped up, until the completion and opening of the new street in accordance with sub-paragraph (a).

(4) No street specified in column (1) of Part 4 of Schedule 4 (being a street to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless one of the conditions specified in paragraph (5) is satisfied in relation to all the land which abuts on either side of the street to be stopped up.

(5) The conditions referred to in paragraph (4) are that—

- (a) the undertaker is in possession of the land;

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(a) 1989 c. 29 as amended by the Energy Act 2004 c.29 Section 180(1), there are other amendments to this section but none are relevant.

- (b) there is no right of access to the land from the street concerned;
  - (c) there is reasonably convenient access to the land otherwise than from the street concerned;  
or
  - (d) the owners and occupiers of the land have agreed to the stopping up.
- (6) No means of access specified in column (1) of Part 5 of Schedule 4 (being a means of access to be closed for which a substitute is to be provided) is to be closed under this article unless—
- (a) the new means of access to be substituted for it, 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 highway authority and is open for use; or
  - (b) a temporary alternative route for the means of access to be closed is first provided and then maintained by the undertaker, until the completion and opening of the new means of access in accordance with sub-paragraph (a).
- (7) Where a street has been stopped up under this article—
- (a) all rights of way over or along it are extinguished; and
  - (b) the undertaker may appropriate and use for the purposes of its guided transport system so much of the site of the street as is bounded on both sides by land owned or appropriated by the undertaker.
- (8) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article is entitled to be paid compensation by the undertaker to be determined, in case of dispute, under Part 1 of the 1961 Act.
- (9) This article is subject to paragraph 2 of Schedule 12 (provisions relating to statutory undertakers, etc.).

### **Temporary stopping up of 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 street and may for any reasonable time—

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

(2) Without limitation on the scope of paragraph (1), the undertaker may use any street stopped up under the powers conferred by this article as a temporary working site.

(3) The undertaker must 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 limitation on the scope of paragraph (1), the undertaker may exercise the powers conferred by this article in relation to the streets specified in—

- (a) column (1) of Parts 2 and 3 of Schedule 4 (streets to be stopped up and the provision of substitutes); and
- (b) column (1) of Schedule 5 (streets to be temporarily stopped up)—

to the extent specified in relation to each street, by reference to the letters and numbers shown on the works and land plans, as set out in column (2) of Parts 2 and 3 of Schedule 4, and Schedule 5.

(5) The undertaker must not exercise the powers conferred by this article—

- (a) in relation to any street specified as mentioned in paragraph (4), without first consulting the street authority; and
- (b) in relation to any other street, without the consent of the street authority which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld.

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

(7) If within 28 days of receiving an application for consent under paragraph (4) a street authority fails to notify the undertaker of its decision, that street authority is deemed to have granted consent.

## **Access to works**

13. The undertaker may, for the purposes of the construction, operation or maintenance of the authorised works, form and lay out such means of access, or improve such existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised works, as may be approved by the highway authority, but such approval must not be unreasonably withheld.

## **Construction and maintenance of new, altered or diverted streets**

14.—(1) Subject to paragraph (6) any street to be constructed under this Order must be completed to the reasonable satisfaction of the highway authority and, unless otherwise agreed between the undertaker and the highway authority, must be maintained by and at the expense of the undertaker for a period of 12 months from its completion and from the expiry of that period by and at the expense of the highway authority.

(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street must, 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 after 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 the structure of any bridge or tunnel carrying a street over the guided transport system or carrying the guided transport system over a street and except as provided in those paragraphs the undertaker is not liable to maintain the surface of any street in, on, under or over which the scheduled works are constructed, or the immediate approaches to any such street, unless otherwise agreed with the street authority.

(4) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(5) For the purposes of a defence under paragraph (4), the court must in particular have regard to the following matters—

- (a) the character of the street, including its use for the guided transport system, and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street;
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

(6) Paragraph (1) does not apply to any authorised guided busway.

## **Agreements with street authorities**

15.—(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 guided transport system) under the powers conferred by this Order;

- (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
  - (c) the maintenance of any street along or across which the guided transport system are operating, or of the structure of any bridge or tunnel carrying a street over or under the guided transport system;
  - (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
  - (e) the execution in the street of any of the works referred to in article 9 (power to execute street works).
- (2) Such an agreement may, without limitation on the scope 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.

### **Guided busway highway etc. crossings**

**16.**—(1) The undertaker may construct the authorised guided busway so as to enable vehicles upon it to cross on the level any highway, street or road crossing the line of the authorised guided transport system including those 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 under the powers conferred by article 41 (traffic signs) on or near a highway or other road to which the public has access is to be treated for the purposes of section 64(4) of the 1984 Act as having been placed as provided by that Act.

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

(5) Without prejudice to the generality of article 6 (power to deviate) 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.

(6) In this article—

“barrier” includes gate;

“new guided busway crossing” means the place at which the authorised guided busway crosses a highway or other road 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.

### **Use of private roads for construction and operation**

**17.**—(1) The undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with the construction and operation of the authorised works.

(2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

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

## PART 4

### SUPPLEMENTAL POWERS

#### **Discharge of water**

**18.**—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction, operation 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 Order limits, make openings into, and connections with, the watercourse, sewer or drain.

(2) Any dispute arising from the exercise of the power under paragraph (1) to connect to or use a public sewer or drain is to be determined as if it were a dispute under section 106 of the Water Industry Act 1991(a).

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

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

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

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

(5) The undertaker must not, in 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.

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension. Nothing in this article overrides the requirement for an environmental permit under regulation.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) requirement for environmental permit of the 2016 Regulations(b).

(8) If a person who receives an application for consent or approval fails to notify the undertaker a decision within 28 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be/

(9) 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; and

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

#### **Power to survey and investigate land, etc.**

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

(a) survey or investigate any land within the Order limits;

(b) without limitation on the scope 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 limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land;

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(a) 1991 c. 56.

(b) S.I. 2016/1154, to which there are amendments not relevant to these regulations.

(c) 1991 c. 57.

- (d) place on, leave on and remove from the land apparatus for use in connection with the exercise of any of the powers conferred by sub-paragraphs (a) to (c); 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 14 days' notice has been served on every owner and occupier of the land.

(3) Notice given in accordance with paragraph (2) must include—

- (a) a statement of the recipient's rights under paragraph (15); and
- (b) a copy of any warrant issued under paragraph (8).

(4) If the undertaker proposes to do any of the following, the notice must include details of what is proposed—

- (a) searching, boring or excavating;
- (b) leaving apparatus on the land;
- (c) taking samples;
- (d) an aerial survey;
- (e) carrying out any other activities that may be required to facilitate compliance with the instruments mentioned in paragraph (5).

(5) The instruments referred to in paragraph (4)(e) are—

- (a) Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment<sup>(a)</sup>; or
- (b) Council Directive 92/42/EEC of 21 May 1992 of the on the conservation of natural habitats and of wild fauna and flora<sup>(b)</sup>.

(6) If the undertaker obtains a warrant after giving notice in accordance with paragraph (2) it must give a copy of the warrant to all those to whom it gave that notice.

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

- (a) must, if so required, before or after entering the land produce written evidence of that person's authority to do so, including any warrant issued under paragraph (8); and
- (b) may not use force unless a justice of the peace has issued a warrant under paragraph (8) authorising the person to do so;
- (c) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial hole;
- (d) may only enter and survey at a reasonable time; and
- (e) must, if the land is unoccupied or the occupier is absent from the land when the person enters it, leave it as secure against trespassers as when the person entered.

(8) A justice of the peace may issue a warrant authorising a person to use force in the exercise of the power conferred by this article if satisfied—

- (a) that another person has prevented or is likely to prevent the exercise of that power; and
- (b) that it is reasonable to use force in the exercise of that power.

(9) The force that may be authorised by a warrant is limited to that which is reasonably necessary.

(10) A warrant authorising the person to use force must specify the number of occasions on which the undertaker can rely on the warrant when entering and surveying or valuing land.

(11) The number specified must be the number which the justice of the peace considers appropriate to achieve the purpose for which the entry and survey or valuation are required.

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(a) OJ No. L 26, 28.1.2012, P. 1.

(b) OJ No. L 206, 22.7.1992, P. 7.

(12) Any evidence in proceedings for a warrant under this article must be given on oath.

(13) No trial holes are to be made under this article—

- (a) in a carriageway or footway without the consent of the highway authority; or
- (b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld.

(14) If either a highway authority or a street authority which receives an application for consent fails to notify the undertaker its decision within 28 days of receiving the application for consent—

- (a) under paragraph (13)(a) in the case of a highway authority; or
- (b) under paragraph (13)(b) in the case of a street authority,

that authority is deemed to have granted consent.

(15) The undertaker must pay 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 1 of the 1961 Act.

### **Planning permission and supplementary powers**

**20.**—(1) Planning permission which is deemed by a direction under section 90(2A)(1) (development with government authorisation) of the 1990 Act to be granted in relation to the authorised works is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land) of that Act.

(2) 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(2) (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(3), or 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 authorised works is to be treated as deeming the permission to have been granted on application made under Part 3 of that Act for the purposes of that Part.

(3) 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(4) 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 authorised works is not to be treated as an outline planning permission.

(4) In relation to the application of article 3(1) of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Tree Preservation) (England) Regulations 2012(5), as incorporated in any tree preservation order or as having effect by virtue of regulation 7 of those Regulations or Section 193 of the Planning Act 2008(6) any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to the authorised works is to be treated as deeming permission to have been granted on application under regulation 17(1)(a) of those Regulations.

### **Restriction on apparatus**

**21.** 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 authorised works**

**22.** Any person who, without reasonable excuse—

- (a) obstructs another person acting under the authority of the undertaker in setting out the lines of the scheduled works, or in constructing any of the authorised works; or

- (b) interferes with, moves or removes any apparatus belonging to any person acting under the authority of the undertaker,

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

## PART 5

### ACQUISITION AND POSSESSION OF LAND

#### POWERS OF ACQUISITION

#### **Compulsory acquisition of land**

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

- (a) so much of the land shown on the works and land plans as lying within the Order limits as may be required for the authorised works as land to be acquired compulsorily 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 columns (1) and (2) of Schedule 2 (ancillary acquisition of land) (being land shown on the works and land plans and described in the book of reference) as may be required for the purpose specified in relation to that land in column (3) of that Schedule.

and may use any land so acquired for those purposes or for any other purposes that are ancillary to the construction, maintenance, use and operation of the guided transport system.

(2) The undertaker may only acquire compulsorily the land comprising plot 14-150 shown on the works and land plan at a height that is [ ] metres above the surface of the M11 motorway, but the undertaker may acquire rights over that land below that level for the purposes of installing maintaining, repairing removing and replacing a bridge within that land.

(3) Nothing in paragraph (1) authorises the undertaker to acquire compulsorily any of the lands mentioned in Schedule 6 (land not to be acquired compulsorily), or any rights over those lands, but the undertaker may acquire by agreement any part of those lands, or any rights over them, and use them, for the purposes referred to in that paragraph.

(4) This article is subject to article 27 (power to acquire new rights and imposition of restrictive covenants), article 29 (temporary use of land for construction of works) and article 34 (power to acquire subsoil or airspace only).

#### **Application of Part 1 of the 1965 Act**

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

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(1) applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part 1 of the 1965 Act, as applied by paragraph (1), has effect subject to the following modifications.

(3) Omit section 4 (which provides a time limit for compulsory purchase of land).

(4) In section 4A(1)(2) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase order), the three year period mentioned in section 4”, substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 35 (time limit for exercise of powers of acquisition) of the Cambourne to Cambridge Order 202[\*].

(5) In section 11(1B)(a) (powers of entry) in a case where the notice to treat relates only to the acquisition of an easement or other right over land, for “3 months” substitute “1 month”.

(6) In section 11A(b) (powers of entry: further notices of entry)—

(a) in subsection (1)(a), after “land” insert “under that provision”;

(b) in subsection (2), after “land” insert “under that provision”.

(7) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 35 (time limit for exercise of powers of acquisition) of the Cambourne to Cambridge Order 202[\*]”.

(8) In Schedule 2A(c) (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) but see article 34 (power to acquire subsoil or airspace only) of The Cambourne to Cambridge Order 202[\*], which excludes the acquisition of subsoil or airspace only from this Schedule”; and

(b) after paragraph 29 insert—

## “PART 4

### INTERPRETATION

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under articles 28 (temporary use of land for construction of works) and 29 (temporary use of land for maintenance of works) of The Cambourne to Cambridge Order202[\*].”

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

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

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

(3) In section 5 (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.

(4) Omit section 5A (time limit for general vesting declaration)(d).

(5) In section 5B (extension of time limit during challenge)(e) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 35 (time limit for exercise of powers of acquisition) of The Cambourne to Cambridge Order 202[\*]”.

(6) In section 6 (notices after execution of declaration)(f), in subsection (1)(b), for “section 15 of, or paragraph 6 of Schedule 1 to the Acquisition of Land Act 1981” substitute “section 14A of the Transport and Works Act 1992”.

(7) In section 7 (constructive notice to treat)(g), in subsection (1)(a), omit the words “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(8) In Schedule A1(5) (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute—

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(a) 1965 c. 56 as amended by S186(2)(b) of the Housing and Planning Act 2016 (c. 22).

(b) 1965 c. 56 as amended by S186(3) of the Housing and Planning Act 2016 (c. 22).

(c) 1965 c. 56 as amended by Schedule 17, Paragraph 3 of the Housing and Planning Act 2016 (c. 22).

(d) 1981 c. 66. Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016 (c. 22).

(e) 1981 c. 66. Section 5B was inserted by section 202(2) of the Housing and Planning Act 2016 (c. 22).

(f) 1981 c. 66; Section 6 was amended by the Housing and Planning Act 2016 (c. 22), Schedule 15, paragraph 7 and the Planning (Consequential Provisions) Act 1990 (c. 11) Schedule 2, paragraph 52(2).

(g) 1981 c. 66; Section 7 was amended by the Housing and Planning Act 2016 (c. 22), Schedule 18, paragraph 3.

“(2) but see article 34 (power to acquire subsoil or airspace only) of The Cambourne to Cambridge Order 202[\*] which excludes the acquisition of subsoil or airspace only from this Schedule.”

(9) References to the 1965 Act are construed as references to that Act as applied to the acquisition of land under article 23 (Compulsory acquisition of land) by article 24 (application of Part 1 of the 1965 Act).

### **Power to acquire new rights and imposition of restrictive covenants**

**26.**—(1) Subject to paragraph (3), the undertaker may acquire compulsorily such easements, rights or impose restrictive covenants over any land which it is authorised to acquire under article 23 (compulsory acquisition of land) 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, other rights or covenants already in existence.

(2) In the case of the land specified in columns (1) and (2) of Schedule 8 (land in which only new rights, etc. may be acquired) the undertaker’s powers of compulsory acquisition are limited to the compulsory acquisition of such new rights and the imposition of restrictive or other covenants over land as may be required for the purpose specified in relation to that land in column (3) of that Schedule.

(3) Subject to Schedule 2A (counter-notice requiring purchase of land) to the 1965 Act (as substituted by paragraph 5(8) of Schedule 9 (modification of compensation and compulsory purchase enactments for creation of new rights, or imposition of restrictive covenants) where the undertaker acquires a right over land or the benefit of a restrictive or other covenant under paragraph (1) or paragraph (2), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 9 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right or over land by the creation of a new right or the imposition of restrictive or other covenant under these articles.

(5) In any case where the acquisition of new rights or the benefit of a restrictive or other covenant under paragraph (1) or (2) is required for the purpose of diverting, accessing, replacing or protecting apparatus of a statutory undertaker the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

(7) In paragraphs (5) and (6) “statutory undertaker” means—

- (a) any person who is a statutory undertaker for the purposes of the 1990 Act; and
- (b) any public communications provider within the meaning of section 15(1) of the 2003 Act.

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

**27.**—(1) The undertaker may enter upon and appropriate so much of the surface, subsoil of, or air space over, any street shown on the works and land 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 air space for those purposes or any other purpose ancillary to the guided transport system.

(2) Subject to paragraph (4), 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.

(3) Subject to paragraph (5) 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, is entitled to compensation, the amount of such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

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

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

(5) Compensation is not payable under paragraph (3) to any person who is an undertaker, to whom section 85 of the 1991 Act applies, in respect of measures of which the allowable costs are to be borne in accordance with that section.

## PART 6

### 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—
  - (i) the land specified in columns (1) and (2) of Schedule 9 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the authorised works (or any of them) specified in column (4) of that Schedule; and
  - (ii) subject to paragraph (11) any other land within the Order limits in respect of which no notice of entry has been served under section 11 (powers of entry)(a) of the 1965 Act (other than in connection with the acquisition of rights only) or no declaration has been made under section 4 (execution of declaration)(b) of the Compulsory Purchase (Vesting Declarations) Act 1981;
- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on the land; and
- (d) Construct any permanent works specified in relation to that land in column (3) of Schedule 10 or any mitigation works on that land.

(2) Not less than 14 days before exercising the powers of paragraph (1) the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land of which temporary possession has been taken under this article—

- (a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the work specified in relation to that land in column (4) of Schedule 10; or
- (b) in the case of land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 in relation to that land.

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

- (a) replace a building removed under this article;
- (b) restore any land on which any works have been constructed under paragraph (1)(d);

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(a) 1965 c. 56, to which there are amendments to Section 11, but none are relevant to this Order.

(b) 1981 c. 66, to which there are amendments to Section 4, but none are relevant to this Order.

- (c) remove any works which have been carried out to facilitate access to neighbouring land works;
- (d) remove any apparatus installed for the benefit of statutory undertakers or works for the protection of such apparatus; or
- (e) remove any ground strengthening works which have been placed in that land to facilitate construction of the authorised works.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the 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, is to be determined under Part 1 of the 1961 Act.

(7) Without affecting article 58 (no double recovery), nothing in this article affects 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, the undertaker is not required to acquire the land or any interest in it.

(9) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not to be precluded from—

- (a) acquiring new rights and imposing restrictions over any part of that land that is also listed in schedule 8 (land in which new rights etc. may be acquired); or
- (b) acquiring any part of the subsoil of or airspace over (or rights in the subsoil of or airspace over) that land under article 34 (power to acquire subsoil or airspace only).

(10) Section 13 of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 24(1) (application of Part 1 of the 1965 Act).

(11) Paragraph (1)(a)(ii) does not authorise the undertaker to take temporary possession of any land which it is not authorised to acquire under article 23 (compulsory acquisition of land) or article 26 (Power to acquire new rights and imposition of restrictive covenants).

### **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, the undertaker may—

- (a) enter upon and take temporary possession of any land within the Order limits reasonably required for the purpose of maintaining the work or any ancillary works connected with it or securing the safe operation of any such work; and
- (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) does 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 must serve notice of the intended entry on the owners and occupiers of the land and that notice must state the purpose for which the undertaker intends to take possession of the land including the particulars of the part of the authorised works for which possession is to be taken.

(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 must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the 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, is to be determined under Part 1 of the 1961 Act.

(8) Without affecting article 58 (no double recovery), nothing in this article affects 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, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 24(1) (application of Part 1 of the 1965 Act).

(11) In this article, "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 public use.

### **Temporary use of land for access**

**30.**—(1) The undertaker may use any land specified in Schedule 10 (land of which temporary possession may be taken) for the passage of persons or vehicles (with or without materials, plant and machinery) for the purpose of or in connection with the construction of the authorised works.

(2) The power under paragraph (1) is exercisable on giving at least 7 days' notice (or, where access is urgently required, such notice as is reasonably practicable) to the owners and occupiers of the land.

(3) But paragraph (2) does not require notice to be given in relation to land where notice under that paragraph has already been given in relation to that land.

(4) The undertaker must pay compensation to the owners and occupiers of the land to which paragraph (1) applies for any loss or damage arising from the exercise of the power conferred by that paragraph.

(5) Any dispute as to a person's entitlement to compensation under paragraph (4), or as to the amount of such compensation, shall be determined under Part 1 of the 1961 Act.

(6) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of article 4 (application of Part 1 of the 1965 Act).

## **PART 7**

### **COMPENSATION**

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

**31.**—(1) In assessing the compensation payable to any person on the acquisition from that person of any land or right over any land under this Order, the tribunal must 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 carried out or improvement or alteration made on the relevant land, if the tribunal is satisfied that the creation of the interest, the erection of the building, the carrying out of the works or the making of the improvement or alteration as part of the authorised works 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 that person is, or was at the time when the building was erected, the works constructed or the improvement or alteration made as part of the authorised works, directly or indirectly concerned.

### **Set off for enhancement in value of retained land**

**32.**—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the construction of the authorised works.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) under article 27 (power to acquire new rights and imposition of restrictive covenants), the tribunal must set off against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are required; and
- (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity, which will accrue to that person by reason of the construction of the authorised works.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2) as if this Order were a local enactment for the purposes of that Act.

## **PART 8**

### **SUPPLEMENTARY**

#### **Extinguishment or suspension of private rights**

**33.**—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under this Order are extinguished—

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

whichever is sooner.

(2) Subject to the provisions of this article, all private rights over land owned by the undertaker which is within the Order limits and is required for the purposes of this Order, are extinguished on the appropriation of the land for any of those purposes by the undertaker.

(3) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right or the burden of the restrictive covenant—

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

whichever is the sooner.

(4) Subject to the provisions of this article, all private rights over land of which the undertaker takes temporary possession under this Order are suspended in so far as their continuance would be inconsistent with the exercise of the right or the burden of the covenant and unenforceable for as long as the undertaker remains in lawful possession of the land.

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

(6) This article does not apply in relation to any right to which section 271 or 272 of the 1990 Act (extinguishment of rights of statutory undertakers, etc.) or paragraph 2 of Schedule 12 (provisions relating to statutory undertakers, etc.) applies.

(7) Paragraphs (1), (2), (3) and (4) have effect subject to—

- (a) any notice given by the undertaker before the completion of the acquisition of the land, the undertaker's appropriation of it, the undertaker's entry onto it or the undertaker's taking temporary possession of it, as the case may be, that any or all of those paragraphs do not apply to any right of way specified in the notice; and
- (b) any agreement made (whether before or after any of the events mentioned in sub-paragraph (a) and before or after the coming into force of this Order) between the undertaker and the person in or to whom the right in question is vested or belongs.

(8) If any such agreement as is referred to in paragraph (7)(b) which is made with a person in or to whom the right of way is vested or belongs is expressed to have effect also for the benefit of those deriving title from or under that person, it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

#### **Power to acquire subsoil or airspace only**

**34.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to in paragraph 23(1)(a) or 23(1)(b) of article 23 (compulsory acquisition of land) 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, or rights in, the subsoil of or the airspace over land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent Schedule 2A to the 1965 Act (as modified by article 24 (application of Part 1 of the 1965 Act)) or Schedule A1 to the 1981 Act (as modified by article 25 (Application of the Compulsory Purchase (Vesting Declarations) Act 1981)) from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

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

**35.**—(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 is to be served under Part 1 of the 1965 Act, as applied to the acquisition of land by article 24 (application of Part 1 of the 1965 Act); and
- (b) no declaration is to be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981, as applied to this Order by article 25 (application of Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The powers conferred by article 29 (temporary use of land for construction of works) will cease at the end of the period mentioned in paragraph (1), but nothing in this paragraph prevents the undertaker from remaining in possession of land after the end of that period, if the land was entered and possession of it was taken before the end of that period.

#### **Open Space Land**

**36.**—(1) On the exercise by the undertaker of the relevant Order powers, the open space land is not to vest in the undertaker, until the undertaker has acquired the replacement land and the Secretary of State (in consultation with the relevant planning authority) has certified that a scheme for the

provision of the replacement land as open space and a timetable for the implementation of the scheme has been received from the undertaker.

(2) On the requirements of paragraph (1) being satisfied, the open space land is to vest in the undertaker and be discharged from all rights, trusts and incidents to which it was previously subject.

(3) On the date on which the replacement land is laid out and provided in accordance with the scheme requirements at paragraph (1), the replacement land is to vest in the person(s) in whom the open space land was vested immediately before it was vested in the undertaker and is to be subject to the same rights, trusts and incidents as attached to the open space land.

(4) In this article—

“the open space land” means the plots shown on the works and land plans as plot numbers [14-153, 14-154, 14-155 and 14-157];

“the relevant Order powers” means the powers exercisable over the open space land by the undertaker under article 23 (Compulsory acquisition of land) or article 26 (compulsory acquisition of rights and imposition of restrictive covenants); and

“the replacement land” means [PLOT NOS].

## PART 9

### OPERATION OF THE GUIDED TRANSPORT SYSTEM

#### **Power to operate and use guided transport system**

**37.**—(1) The undertaker may operate and use the guided transport system as a system, or part of a system, of transport for the carriage of passengers and goods.

(2) Subject to paragraph (4) and article 46 (powers of disposal, agreements for operation, etc.), the undertaker has, for the purpose of operating the guided transport system, the exclusive right to use the authorised guided busway and any apparatus or facilities used for operation of the guided transport system and to permit others to do so on such terms as it considers appropriate.

(3) Any person who, without the consent of the undertaker or other reasonable excuse, uses the apparatus mentioned in paragraph (3) is guilty of an offence and liable on summary conviction to a fine not exceeding the level on the standard scale.

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

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

**38.**—(1) The undertaker may demand, take and recover or waive such charges for carrying passengers or goods on the guided transport system, or for any other services or facilities provided in connection with the guided transport system, as it thinks fit.

(2) The undertaker may enter into and carry into effect agreements with other persons providing public passenger transport services with regard to the issue of tickets and the making of through ticketing arrangements or for the purpose of generally coordinating the provision of those services with the operation of the guided transport system.

(3) In this article, “public passenger transport service” has the meaning given by section 63(10)(a) of the Transport Act 1985(a).

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(a) 1985 c. 67.

### Maintenance of approved works, etc.

**39.**—(1) Where pursuant to regulations<sup>(a)</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 **Error! Reference source not found.** 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 guided transport vehicles by a vehicle waiting, loading, unloading or breaking down on any part of the guided transport system, the person in charge of the vehicle must immediately remove it; and if that person 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 guided transport vehicles using the guided transport system; or
- (b) any person who was the owner of the vehicle at that time unless that person shows that, at that time, the person was not concerned in or aware of the vehicle being so put or left.

(2) If any obstruction is caused to guided transport vehicles by a load falling on the guided transport system from a vehicle, the person in charge of the vehicle must remove the load immediately from the guided transport system; and if that person 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 that person shows that, at that time, the person 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 is 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 will be presumed (unless the contrary appears) that the owner was the person in whose name the vehicle was at that time registered under the Vehicles Excise and Registration Act 1994<sup>(b)</sup>.

(4) A person who, wilfully and without lawful excuse—

- (a) interferes with or removes the guided transport system or any part of the them or the works connected with them;
- (b) places or throws materials or objects of any kind on any part of the guided transport system; or
- (c) does anything which obstructs any guided transport vehicle using the guided transport systems, whether or not such obstruction endangers the lives of any person in that vehicle,

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

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<sup>(a)</sup> See S.I. 2006/599  
<sup>(b)</sup> 1994 c. 22.

## Traffic signs

**41.**—(1) The undertaker may, for the purposes of, or in connection with the construction or operation of the guided transport system, place or maintain traffic signs of a type prescribed by regulations made under section 64(1)(a) (general provisions as to traffic signs)(a) of the 1984 Act or of a character authorised by the Secretary of State on any street in which the guided transport system are to operate or which gives access to such a street, or on any street in connection with any instrument made under article 41 (traffic regulation) or any other street as reasonably required for conveying information to traffic.

(2) The undertaker—

- (a) must consult with the traffic authority as to the placing of signs; and
- (b) unless the traffic authority is unwilling to do so and subject to any directions given under section 65 (powers and duties of highway authorities as to placing of traffic signs) of the 1984 Act, must 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 includes a power to give directions to the undertaker as to traffic signs under this article; and, accordingly, the powers conferred by paragraph (1) are 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 any street in which the guided transport system are operating or which gives access to such a street must consult with the undertaker as to the placing of any traffic sign which would affect the operation of the guided transport system.

(5) Guided transport vehicles are taken to be public service vehicles for the purposes of section 122(2)(c) (exercise of functions by local authorities) of the 1984 Act.

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

## Traffic regulation

**42.**—(1) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the undertaker may, for the purposes of the guided transport system—

- (a) permit or prohibit or restrict the stopping, waiting, loading or unloading of vehicles in the manner specified in Part 1 of Schedule 11 (traffic regulation) 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) permit or prohibit vehicular access in the manner specified in Part 2 of Schedule 11 to those roads specified in column (2) at the points and as respects direction to the extent specified in column (3) of that Part of that Schedule;
- (c) permit or prohibit vehicle turning in the manner specified in Part 3 of Schedule 11 to those roads specified in column (2) and along the lengths, between the points and as respects direction to the extent specified in column (3) of that Part of that Schedule;
- (d) restrict the speed of vehicles along those roads specified in Part 4 of Schedule 11, between the points specified in column (3) of that Part of that Schedule;
- (e) revoke any traffic regulation order under the 1984 Act in so far as it is inconsistent with any prohibition, restriction or other provision made by the undertaker under this paragraph.

(2) Without limitation on the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the undertaker may, in so

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(a) 1984 c. 27, to which there are amendments to this act, but none are relevant to this part of the Order.

far as may be necessary or expedient for the purposes of, in connection with, or in consequence of the construction, maintenance or operation of the guided transport system—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) restrict the speed of vehicles along any road;
- (e) make provision as to the direction or priority of vehicular traffic on any road; and
- (f) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) Prior to seeking approval under paragraph (1), the undertaker must consult the traffic authority concerned as to any works to and changes in the management of the highway network which may be required to ensure the effective integration of the authorised guided transport system with other forms of highway traffic and, within 28 days of being requested in writing by the undertaker to do so, the traffic authority must provide the undertaker with its opinion on the subject.

(4) Prior to seeking approval under paragraph (1), the undertaker must consult the traffic authority concerned as to the design of any lighting for guided transport system stops, the design and positioning of any poles and brackets required for overhead line equipment and the design of any traffic signalling system for the guided transport system.

(5) Without affecting the application of sections 59(a) and 60(b) (duty of street authority to coordinate and undertakers to co-operate) of the 1991 Act before commencing any highway operations, the undertaker must submit to the traffic authority for its approval proper and sufficient plans and must not commence the highway operations until such plans have been approved or settled by arbitration.

(6) If, within 56 days after any plans have been submitted to a traffic authority under paragraph (5), it has not intimated its disapproval and the grounds of disapproval, it is to be deemed to have approved them.

(7) Wherever in this article provision is made with respect to the approval or consent of the traffic authority, that approval or consent must be in writing and may be given subject to such reasonable terms and conditions as the traffic authority may require in the interests of safety and in order to minimise inconvenience to persons using the highway, but must not be unreasonably withheld.

(8) The powers in paragraphs (1) and (2) may be exercised at any time prior to the expiry of 12 months from the opening of the guided transport system for public use but subject to paragraph (7) any prohibition, restriction or other provision made under paragraphs (1) or (2) may have effect both before and after the expiry of that period.

(9) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (5).

(10) The undertaker must not exercise the powers conferred by paragraph (1) or (2) unless it has—

- (a) given not less than—
  - (i) 12 weeks' notice in writing of its intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or
  - (ii) 4 weeks' notice in writing of its intention to do so in the case of a prohibition, restriction or other provision intended to have effect temporarily,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 specify in writing within 28 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(i), or within 7 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(ii).

(11) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (2)—

(a) has effect as if duly made by, as the case may be—

(i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or

(ii) the local authority in whose area the road is situated, as an order under section 32 of the 1984 Act,

and the instrument by which it is effected may specify savings and exemptions (in addition to those mentioned in Schedule 11) to which the prohibition, restriction or other provision is subject; and

(b) is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004 (road traffic contraventions subject to civil enforcement)(a).

(12) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers of paragraph (2) within a period of 24 months from the opening of the guided transport system for public use.

(13) Before exercising the powers of paragraph (2) the undertaker must consult such persons as it considers necessary and appropriate and must take into consideration any representations made to it by any such person.

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

(15) The powers conferred on the undertaker by this article with respect to any road have effect subject to any agreement entered into by the undertaker with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

### **Power to lop trees overhanging the guided transport system**

**43.**—(1) The undertaker may fell or lop any tree or shrub near any part of the guided transport system, 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 guided transport system or any apparatus used for the purposes of the guided transport system; or

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

(2) In exercising the powers conferred by paragraph (1), the undertaker must not cause unnecessary damage to any tree or shrub and must 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, is to be determined under Part 1 of the 1961 Act.

### **Trespass on the guided transport system**

**44.**—(1) Any person who—

(a) trespasses on any part of the guided transport system which are not situated in a street; or

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

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

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(a) 2004 c. 18, to which there are amendments not relevant to this part of the Order.

(2) No person is to be convicted of an offence under this article unless it is shown that a notice warning the public not to trespass upon the guided transport system was clearly exhibited and maintained at the stop on the guided transport system nearest the place where the offence is alleged to have been committed.

### **Power to make byelaws**

**45.**—(1) The undertaker may make byelaws regulating—

- (a) the use and operation of, and travel on, the guided transport system;
- (b) the maintenance of safety and order on the guided transport system, on any street along which the guided transport system are to operate and on guided transport system premises or other facilities provided in connection with the guided transport systems, where necessary to ensure the safe operation and use of the guided transport system; and
- (c) the conduct of all persons, including employees of the undertaker, while on guided transport premises, or which could affect the safe operation and use of the guided transport system.

(2) Without limitation on the scope of paragraph (1), byelaws made under this article may make provision—

- (a) with respect to tickets issued for travel on the guided transport system (in whatever form), 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 guided transport system or other facilities provided in connection with the guided transport system;
- (c) with respect to access to, and the carriage, use or consumption of anything on, guided transport premises;
- (d) with respect to the prevention of nuisances on guided transport 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 guided transport premises;
- (f) for the safe custody and re-delivery or disposal of any property accidentally left on guided transport 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 guided transport system or on guided transport premises.

(3) Byelaws made 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.

(4) Without affecting the taking of proceedings for an offence included in byelaws by virtue of paragraph (3), if the contravention of, or failure to comply with, any byelaw made under this article is attended with danger or annoyance to the public, or hindrance to the undertaker in the operation of the guided transport system, the undertaker may immediately take action to obviate or remove the danger, annoyance or hindrance.

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

(6) At least 28 days before applying for any byelaws to be confirmed under this article, the undertaker must 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 times 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.

(7) For at least 24 days before an application is made under this article for byelaws to be confirmed, a copy of the byelaws must—

- (a) be kept at the principal office of the undertaker and must be open to public inspection without payment at all reasonable hours, and

(b) be made available on the undertaker's website (if any).

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

(9) 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 are to come into operation; and if no date is so fixed the byelaws come into operation after the expiry of 28 days after the date on which they were confirmed.

(10) The Secretary of State may charge the undertaker such fees in respect of any byelaws submitted for confirmation under this article as the Secretary of State may consider appropriate for the purposes of defraying any administrative expenses incurred in connection with the confirmation of those byelaws.

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

(12) The production of a printed copy of any byelaws made 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,

is rebuttable evidence of the facts stated in the certificate.

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

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

“chief officer” means a chief officer of police within the meaning of the Police Act 1996(a) or the Chief Constable of the British Transport Police Force; and

“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(b).

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

**47.**—(1) The undertaker may, with the consent of the Secretary of State, enter into agreements—

- (a) to transfer, charge or otherwise dispose of to another person (“the transferee”) any interest of the undertaker in the authorised works or the undertaker's right to construct, maintain, use or operate the authorised works; or
- (b) to grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any interest of the undertaker in the authorised works or the undertaker's right to construct, maintain, use or operate the authorised works; and

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(a) 1996 c. 16.  
(b) 2003 c. 20.

- (c) that are connected with or consequential on any agreement entered into under subparagraph (a) or (b).

(2) Any agreement referred to in paragraph (1) may provide—

- (a) for any matters that are connected with the matters referred to in that paragraph or are consequential on them;
- (b) for the financing or defraying of, or the making of contributions by the undertaker or by any other person towards, the cost of constructing, maintaining, using or operating the authorised works; and
- (c) for the transferee, the lessee or any other person to exercise, enjoy or be responsible for any related functions of the undertaker, including its functions comprised in this Order, either exclusively or concurrently with the undertaker or any other person.

(3) Where an agreement has been made under paragraph (1), references in this Order to the undertaker include references to the transferee, the lessee or any other person who may exercise, enjoy or be responsible for any related functions of the undertaker under that agreement.

(4) The exercise of the powers conferred by any enactment by any person in pursuance of any agreement made under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those powers were exercised by the undertaker.

(5) The undertaker may provide to any person in any agreement made under paragraph (1), or in connection with or in consequence of any such agreement, or otherwise in connection with the design, construction, financing, maintenance, use or operation of the authorised works, such guarantees, indemnities or other forms of security as it considers to be necessary or appropriate.

(6) In this article—

- (a) “functions” means statutory and other powers, duties, rights, interests and obligations; and
- (b) references to the authorised works include references to any land held in connection with the authorised works.

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

**48.**—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the guided transport system or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the guided transport system, or any part of them,

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 affects the operation of any agreement to which this article applies.

(3) No such enactment or rule of law applies 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.

### **Registration of guided busway services and substitute road services**

**49.**—(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 guided transport system has been curtailed, discontinued or temporarily interrupted.

(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 does not apply to any substitute services.

(4) For the purposes of the application of Part 1 of the Transport Act 1985, but subject to paragraphs (1) to (3), the authorised guided busway is a road within the meaning of section 137(1) of that Act(a).

## **PART 10**

### **MISCELLANEOUS AND GENERAL**

#### **Disclosure of confidential information**

**50.** A person who—

- (a) enters a manufactory, workshop or workplace in pursuance of the provisions of article 19 (power to survey and investigate land, etc.); and
- (b) discloses to any person any information obtained under paragraph (a) and relating to any manufacturing process or trade secret,

is 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 that person’s performance of a duty in connection with the purposes for which the person was authorised to enter the land.

#### **Defence to proceedings in respect of statutory nuisance**

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

- (a) that the nuisance relates to premises used by the undertaker for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to works and that the nuisance is attributable to the carrying out of works which are being carried out in accordance with a notice served under section 60, or a consent given under section 61 or 65, of the Control of Pollution Act 1974(c); or
- (b) that the nuisance is a consequence of the operation or maintenance of the guided transport system and that it cannot reasonably be avoided.

(2) The following provisions of the Control of Pollution Act 1974—

- (a) section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990); and
- (b) section 65(8) (corresponding provision in relation to consent for registered noise level to be exceeded),

do not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to works.

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(a) 1985 c. 67, to which there are amendments to this provision, but none are relevant to this Order.

(b) 1990 c. 43.

(c) 1974 c. 40.

(3) The provisions of this article do not affect any rule of common law having similar effect.

#### **Statutory undertakers, etc.**

52. The provisions of Schedule 12 (provisions relating to statutory undertakers etc.) have effect.

#### **Protection of interests**

53. The provisions of Schedule 12 (protective provisions) have effect.

#### **Disapplication of Covenants made under section 8 of the National Trust Act 1937**

54.—(1) Subject to the provisions of this article, the National Trust covenants and the Coton Orchard National Trust covenants over the burdened land and the Coton Orchard burdened land subject to compulsory acquisition under this Order are suspended and will remain unenforceable from—

- (a) the date of acquisition of the burdened land by the undertaker whether compulsorily or by agreement; or
- (b) the date of entry on the burdened land by the undertaker under section 11(1) (power of entry) of the 1965 Act,

whichever is the earlier.

(2) Subject to the provisions of this article, the National Trust covenants over the burdened land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the burdened land.

(3) The National Trust covenants over the burdened land remain suspended and unenforceable pursuant to this article for as long as the burdened land is used or occupied for the purposes of this Order, including any period during which the burdened land is to be restored to its previous condition.

(4) Subject to the provisions of this article, the National Trust covenants over the burdened replacement land subject to compulsory acquisition under this Order are extinguished on—

- (a) the date of acquisition of the burdened replacement land by the undertaker whether compulsorily or by agreement; or
- (b) the date of entry on the burdened replacement land by the undertaker under section 11(1) (power of entry) of the 1965 Act

whichever is the earlier.

(5) Any person who suffers loss by the suspension or extinguishment of the National Trust covenants over the burdened land or the burdened replacement land under this article is entitled to compensation, to be determined, in case of dispute, as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act<sup>(a)</sup>.

(6) The Coton Orchard National Trust covenants over the Coton Orchard burdened land remain suspended and unenforceable pursuant to this article for as long as the Coton Orchard burdened land is used or occupied for the purposes of this Order, including any period during which the Coton Orchard burdened land is to be restored to its previous condition.

(7) Any person who suffers loss by the extinguishment or suspension of the Coton Orchard National Trust covenants over the Coton Orchard burdened land under this article is entitled to compensation, to be determined, in case of dispute, as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) In this article—

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(a) 1961 (c.33), Part 1 as amended by S.I. 1994/2716, 1998 (c 38), S.I. 1999/481, S.I. 2009/1307, S.I. 2010/490, S.I. 2017/1012 and 2016 (c.9).

- (a) “burdened land” means plot nos. 10-114, 11-121, 12-125, 12-126, 12-127, 13-128, 13-129, 13-137, 14-144, 14-145, 14-146, 14-147 and 14-148 described in the book of reference and shown on the works and land plans;
- (b) “burdened replacement land” means plot nos. [ ] described in the book of reference and shown on the works and land plans;
- (c) “Coton Orchard burdened land” means plot no. 13-142 described in the book of reference and shown on the works and land plans;
- (d) “the Coton Orchard National Trust covenants” mean the restrictions and stipulations contained in the schedules to the Deeds of Covenant dated 30 April 1958 made between The Cambridge Preservation Society and the National Trust for Places of Historic Interest or Natural Beauty relating to land situate in the Parish of Coton in the County of Cambridge; and
- (e) “the National Trust covenants” mean the restrictions and stipulations contained in the schedules to the Deeds of Covenant 16 December 1958 made between The Cambridge Preservation Society and the National Trust for Places of Historic Interest or Natural Beauty relating to land situate in the Parish of Coton in the County of Cambridge.

### **Minerals**

**55.** Nothing in this Order affects the right of any person entitled to any mine or minerals of any description whatsoever under a street along which the guided transport system are laid to work the mine or get the minerals; but this does not affect any liability (whether civil or criminal) of the person so entitled in respect of damage to the guided transport system resulting from the exercise of any such right.

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

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

### **Service of notices**

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

- (a) by post; or
- (b) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

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

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

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

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(a) 1978 c. 30, Section 7 was amended by the Road Traffic Regulation Act 1984 (c. 30), Section 144 and Schedule 10, paragraph 19, there are other amending instruments to this provision, but none are relevant to this Order.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of 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) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission, the requirement is taken to be fulfilled only where the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission.

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

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

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

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

#### **No double recovery**

**58.** Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law, or under two or more different provisions of this Order.

#### **Arbitration**

**59.** Except where otherwise expressly provided for in this Order and 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) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

Signed by authority of the Secretary of State for Transport

Date

*Name*  
Head of the Transport and Works Act Orders Unit  
Department for Transport

# SCHEDULES

## SCHEDULE 1

Articles 2(1) and 5

### SCHEDULED WORKS

#### **In the County of Cambridgeshire, District of South Cambridgeshire, and City of Cambridge**

##### **In the district of South Cambridgeshire—**

**Work No.1** – A two-way guided busway (414 metres in length), together with an adjoining emergency and maintenance access track, commencing at Sterling Way, Cambourne, running east through Cambourne, before terminating at the crossing of Broadway, Cambourne.

**Work No.2** – A two-way guided busway (2,007 metres in length), together with an adjoining emergency and maintenance access track, commencing at a junction with Work No.1 and the highway of Broadway, Cambourne, before running through the Bourn Airfield in a northern then easterly direction and terminating at a junction with Work No.3 and St Neots Road, Childerley.

**Work No.3** – A two-way guided busway (1,333 metres in length), together with an adjoining emergency and maintenance access track, commencing at a junction with Work No.2 and St Neots Road, Childerley and continuing in an easterly direction between the A428 and St Neots Road, before terminating at St Neots Road, Dry Drayton, approximately 90 metres west of the St Neots Road and Scotland Road junction.

**Work No.4** – Realignment of St Neots Road in Hardwick and Comberton to provide access to Work No.6. The realigned section is approximately 253 metres in length, commencing 510 metres west of its junction with Long Road, Comberton, terminating at Work No.6.

**Work No.5** - Realignment of St Neots Road in Hardwick and Madingley to provide access to Work No.6. The realigned section is approximately 430 metres in length, commencing at the junction with Work No.4 and 6 to the West of Long Road, Comberton, terminating approximately 264 metres west of the St Neots Road and Madingley Road junction.

**Work No.6** – A two-way guided busway (359 metres in length), together with an adjoining emergency and maintenance access track, commencing at the a junction with Work No.4 and Work No.5 running in a south easterly direction before terminating at a junction with work No. 7 and Long Road, Comberton.

**Work No.7** – A two-way guided busway (2,293 metres in length), together with an adjoining emergency and maintenance access track, commencing at a junction with Work No.6 and Long Road Comberton and running in an easterly direction before terminating at a junction with Work No. 8 and Cambridge Road, Coton.

**Work No.8** – A two-way guided busway (635 metres in length), together with an adjoining emergency and maintenance access track, commencing at a junction with Work No.7 and Cambridge Road Coton, and running in an easterly direction before terminating at a junction with Work No. 9 at the administrative boundary between South Cambridgeshire and Cambridge City Council, to the west of the M11.

##### **In the of City of Cambridge—**

**Work No.9** – A two-way guided busway (430 metres in length), together with an adjoining emergency and maintenance access track, commencing at the administrative boundary between South Cambridgeshire and Cambridge City Council at a junction with work No. 8 and running east across the M11 motorway before terminating at Ada Lovelace Road, West Cambridge Campus. This work includes a new bridge over the M11 motorway.

**Work No.10** – A two-way guided busway (1,601 metres in length), together with an adjoining emergency and maintenance access track, commencing at Charles Babbage Road, in the West Cambridge Campus, and running in a southerly direction through the West Cambridge Campus, then continuing south-east through agricultural land and across Bin Brook, before terminating at Grange Road, Newnham. This work includes a new bridge over Bin Brook.

## SCHEDULE 2

Articles 2(1), 5 and 23

### ANCILLARY ACQUISITION OF LAND

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Number of land shown on the works and land plans</i>	<i>(3)</i> <i>Purpose for which land may be acquired</i>
<b>In the District of South Cambridgeshire</b>		
Parish of Bourn, Bourn Airfield	1-020, sheet 1	Installation of drainage and attenuation pond, access to works and to landscaping and environmental mitigation
Parish of Bourn, Bourn Airfield	1-021, sheet 1	Drainage and attenuation pond, landscaping and environmental mitigation
Parish of Bourn, Bourn Airfield	1-025, 1-027, sheet 1	Installation of drainage and attenuation pond, access to works and to landscaping and environmental mitigation
Parishes of Cambourne and Bourn, Bourn Airfield	1-028, sheet 1	Installation of drainage and attenuation pond, access to works and to landscaping and environmental mitigation
Parish of Caldecote, Bourn Airfield	3-036, sheet 4	Replacement all purpose access to Bourn Quarter
Parish of Dry Drayton, St Neots Road, Hardwick	5-054, 5-055, 5-056, sheet 5	Drainage and attenuation pond, landscaping and environmental mitigation
Parish of Dry Drayton, St Neots Road, Hardwick	5-061, sheet 5	Drainage and outfall from attenuation pond, discharge of surface water drainage
Parish of Dry Drayton, St Neots Road, Hardwick	5-060, sheet 5	Works to improve existing highway of St Neots Road and to create a new bridleway
Parish of Dry Drayton, Scotland Farm	6-072, sheets 6 and 7 6-073, sheets 6 and 7 6-074, 6-079, 6-080 sheet 6, 7-081, sheet 7	Park and ride site, travel hub and interchange including drainage and attenuation pond, landscaping and environmental mitigation
Parishes of Hardwick and Comberton, St Neots Road	9-087, 9-088, sheet 9	works to public footpath 66/17 Drainage and outfall from attenuation pond, discharge of surface water drainage
Parish of Comberton, St Neots Road	9-090, sheet 9	Drainage and attenuation pond, landscaping and environmental mitigation
Parish of Comberton, Long Road	9-097, sheets 9 and 10	Drainage and attenuation pond, landscaping and environmental mitigation

Parish of Comberton, Long Road	10-100, 10-105, sheet 10	Drainage and outfall from attenuation pond, discharge of surface water drainage
Parishes of Comberton and Madingley	10-118, sheets 10 and 11	Drainage and attenuation pond, landscaping and environmental mitigation
Parish of Madingley, Long Road	10-119, sheets 10 and 11	Drainage and outfall from attenuation pond, discharge of surface water drainage
Parish of Coton	12-127, sheets 12 and 13	Landscaping and environmental mitigation
Parish of Coton	13-128, sheet 13	Landscaping and environmental mitigation
<b>In the City of Cambridge</b>		
Rectory Farm, west of M11 motorway	14-144, sheet 14	Drainage and attenuation pond, landscaping and environmental mitigation
Rectory Farm, west of M11 motorway	14-146, sheet 14	Landscaping and environmental mitigation
Rectory Farm, west of M11 motorway	14-147, sheet 14	Drainage and outfall from attenuation pond, discharge of surface water drainage
City of Cambridge, west of M11 motorway	14- [XXX], sheet 14	Replacement open space land
West Cambridge Campus	14-157, sheet 14	Diversion of footpath 39/31 Drainage from adjacent bridge and bridge approach, discharge of surface water drainage
West Cambridge Campus	14-159, sheet 14	
West Cambridge Campus	14-160, sheets 14 and 15	Operation of guided transport service
West Cambridge Campus	15-167, sheet 15	Operation of guided transport service
South of West Cambridge Campus	16-176, sheet 16	Drainage and attenuation pond, landscaping and environmental mitigation
South of West Cambridge Campus	16-177, sheet 16	Drainage and outfall from attenuation pond, discharge of surface water drainage
West of Grange Road, Cambridge	16-179, sheets 16 and 17	Flood compensation, landscaping and environmental mitigation

### SCHEDULE 3

Article 7

## STREETS SUBJECT TO ALTERATION OF LAYOUT

### PART 1

#### STREETS SUBJECT TO ALTERATION OF LAYOUT

(1) <i>Street subject to alteration of layout</i>	(2) <i>Work Nos.</i>	(3) <i>Description of alteration</i>
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Broadway, Cambourne	1, 2	Kerbline realignment and provision of street lighting and traffic signals for a new junction with Work No.1
St Neots Road, Childerley	2, 3	Kerbline realignment and provision of street lighting and traffic signals for a new junction with Work No.1
St Neots Road, Dry Drayton	3	Kerbline realignment and road widening for a new junction with Work No.1. Includes the provision of street lighting and traffic signals
St Neots Road, Dry Drayton	n/a	Widening of the footway between points WS05.01 and WS05.02 shown on the rights of way plan
Scotland Road, Dry Drayton	n/a	Kerbline realignment and provision of street lighting and traffic signals for a new junction to provide access to the travel hub and widening of the footway between points WS07.02 and WS07.01 on the rights of way plan
Scotland Road, Dry Drayton	n/a	XX between points NS07.02 and NS07.01 on the rights of way plan
St Neots Road, Hardwick	n/a	Kerbline realignment and widening of the footway to provide a shared use footway/cycleway between xx and yy. Provision of a bus stop and waiting area between xx and yy and associated signal-controlled crossing.
Long Road, Comberton	5	Kerbline realignment and changes to layout to provide a junction with Work No.5. Includes the provision of street lighting
Long Road, Comberton	6, 7	Kerbline realignment and provision of street lighting and traffic signals for a new junction with Work Nos.6 and 7
Cambridge Road, Coton	7, 8	Kerbline realignment and provision of street lighting and traffic signals for a new junction with Work Nos.7 and 8
Grange Road, Cambridge	10	Kerbline realignment and provision of street lighting and traffic signals for a new junction with Work No.10

## PART 2

### PUBLIC RIGHTS OF WAY SUBJECT TO ALTERATION OF LAYOUT

<i>(1)</i> <i>Public right of way subject to alteration of layout</i>	<i>(2)</i> <i>Work</i>	<i>(3)</i> <i>Description of alteration</i>
Footpath 66/17	Provision of park and ride facility	Widening and improvement to the footpath between xx and yy as part of the connection between the travel hub and guided busway

## SCHEDULE 4

Article 11

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

#### PART 1

##### NEW PATHS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>New path</i>
<b>In the District of South Cambridgeshire</b>	
Bourn	New bridleway between xx and yy, shown between the points NP02.01 and NP04.01 on the rights of way plan
Childerley to Dry Drayton	New bridleway between St Neots Road, Childerley, and St Neots Road, Dry Drayton shown between the points NP04.02 and NP05.01 on the rights of way plan
Dry Drayton	New bridleway between the northern and southern alignments of St Neots Road, Dry Drayton, shown between the points NP05.02 and NP05.03 on the rights of way plan
Dry Drayton	New footpath along St Neots Road, Dry Drayton between the points NP06.01 and NP06.02 on the rights of way plan
Dry Drayton	New footpath along St Neots Road, Dry Drayton between the points NP06.03 and NP06.04 on the rights of way plan
Comberton	New bridleway between St Neots Road and Long Road Comberton, shown between the points NP09.01 and NP10.01 on the rights of way plan
Comberton to Coton	New bridleway between Long Road Comberton and Cambridge Road, Coton, shown between the points NP10.02 and NP13.01 on the rights of way plan
Hardwick	New footpath along St Neots Road, Dry Drayton between Hall Drive and Cambridge Road between the points NP08.01 and NP08.02 on the rights of way plan
<b>In the District of South Cambridgeshire and City of Cambridge</b>	

Coton to West Cambridge Campus	New bridleway between Cambridge Road, Coton and Ada Lovelace Road, West Cambridge Campus shown between the points NP13.02 and NP14.01 on the rights of way plan
West Cambridge Campus to Grange Road, Cambridge	Permissive cycle track between footpath 39/31, south of the West Cambridge Campus and Grange Road, Cambridge, shown between the points NP16.01 and NP17.01 on the rights of way plan

## PART 2

### HIGHWAYS TO BE STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Street affected</i>	<i>(2)</i> <i>Extent of closure</i>	<i>(3)</i> <i>New means of access to be substituted</i>
<b>In the District of South Cambridgeshire</b>		
St Neots Road	Between points HS09.01 and HS09.02 to points HS09.03 to HS09.04 on the rights of way plans	Between points HI09.01 and HI09.02 to points HI09.03 and HI09.04 and to points HI10.01 to HI10.02 on the rights of way plans

## PART 3

### PATHS OR STREETS TO BE STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Path or street affected</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New path or street to be substituted</i>
District of South Cambridgeshire	St Neots Road, Comberton	Between xx and yy	Work No 2A and 2B
District of South Cambridgeshire	Footpath 55/2	Between xx and yy	New footpath provided between points RW12.01 and RW12.02 and RW12.03 on the rights of way plan
City of Cambridge	Bridleway 39/30	Between xx and yy	New bridleway provided between points RW14.01 and RW14.02 and RW14.03 and RW14.04 on the rights of way plan, including provision of a signal-controlled crossing of Work No.9
City of Cambridge	Footpath 39/31	Between xx and yy	New footpath provided between

points RW16.04 and RW16.01 and RW16.02 and RW16.03 on the rights of way plan, including provision of a footbridge across the Cambridge Canal and a signal-controlled crossing of Work No.10

#### PART 4

##### STREETS TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

(1) <i>Path to be stopped up</i>	(2) <i>Extent of stopping up</i>
Permissive footpath PPA/0066, Long Road	Between points PS10.02 and PS10.01 and BB on the rights of way plan

#### PART 5

##### MEANS OF ACCESS TO BE CLOSED FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

(1) <i>Means of access affected</i>	(2) <i>Extent of closure</i>	(3) <i>New means of access to be substituted</i>
[XX access from XX Avenue to XX]	Between points AS03.01 and AS03.02 on the rights of way plans	Between points AN03.01 and AN03.02 on the rights of way plans
]Wellington Way, Bourn Airfield	Between points AS04.01 and AS04.02 on the rights of way plans	AN04.01 and AN04.02 on the rights of way plans

#### SCHEDULE 5

Article 12

##### STREETS TO BE TEMPORARILY STOPPED UP

###### Temporary stopping up of Street

(1) <i>Street affected</i>	(2) <i>Extent of stopping up</i>
Sterling Way, Cambourne	Between Halifax Road, Cambourne and Lysander Close, Cambourne shown XX and YY on the rights of way plan
Broadway, Cambourne	Between St Neots Road, Cambourne and Caxton Road, Bourn, between points TS01.01 and TS01.02 shown on the rights of way plan
St Neots Road, Childerley	Between Highfields Road and Broadway, Cambourne, shown XX and YY on the rights of way plan

St Neots Road, Dry Drayton	Between Highfields Road, Caldecote and Scotland Road, Dry Drayton between points TS04.02 and TS 04.01 shown on the rights of way plan
Scotland Road, Dry Drayton	Between St Neots Road, Dry Drayton and New Road, Dry Drayton between points TS06.01 and TS05.01 and TS05.03 and TS07.04 shown on the rights of way plan
St Neots Road, Comberton & Hardwick	Between the A1303 Madingley Road and Scotland Road, Dry Drayton between points TS07.03 and TS07.05 and TS07.01 shown on the rights of way plan
Long Road, Comberton	Between St Neots Road, Comberton and Branch Road, Comberton between points TS10.01 and TS10.02 shown on the rights of way plan
Permissive footpath PPA/0066	Parallel to Long Road, Comberton, shown XX and YY on the rights of way plan
Cambridge Road, Coton	Between the Coton Orchard and High Street, Coton, between points TS13.01 and TS13.02 shown on the rights of way plan
M11	Between junctions 12 and 14 between points TS14.01 and TS14.02 [shown on the rights of way plan]
Grange Road, Cambridge	Between West Road, Newnham and Herschel Road, Newnham between points TS17.01 and TS17.02 shown on the rights of way plan

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## SCHEDULE 6

Article 16

### HIGHWAYS TO BE CROSSED ON THE LEVEL

Broadway, Cambourne  
St Neots Road, Childerley  
Long Road, Comberton  
Cambridge Road, Coton

## SCHEDULE 7

Article 23

### LAND NOT TO BE ACQUIRED COMPULSORILY

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Number of land shown on works and land plans</i>
In the district of South Cambridgeshire, between Sterling Way and Broadway, Cambourne	1-001, 1-002, 1-003, 1-007, 1-008

## SCHEDULE 8

Article 26

### LAND IN WHICH ONLY NEW RIGHTS, MAY BE ACQUIRED

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
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<i>Area</i>	<i>Number of lands shown on the works and land plan</i>	<i>Purpose for which rights may be acquired</i>
<b>In the District of South Cambridgeshire</b>		
Parish of Bourn, Bourn Airfield	1-020	<p>To access (with or without vehicles plant and machinery) and to install, inspect, maintain, use, repair, cleanse, retain, renew, replace and remove drainage pipes, apparatus and infrastructure.</p> <p>Rights to pass and repass, with or without vehicles, plant or machinery for the purposes of access to inspect, maintain and repair pipes, apparatus and infrastructure.</p> <p>To include restrictive covenants for protecting installed pipes apparatus and infrastructure from excavation, damage or injury; to not materially reduce the depth of soil above any installed pipe, apparatus and infrastructure; and to prevent access to installed pipes, apparatus and infrastructure, being made materially more difficult.</p>
Parish of Bourn, Bourn Airfield	1-025, 1-027, 1-028	<p>To access (with or without vehicles plant and machinery) and to install, inspect, maintain, use, repair, cleanse, retain, renew, replace and remove drainage pipes, apparatus and infrastructure.</p> <p>Rights to pass and repass, with or without vehicles, plant or machinery for the purposes of access to inspect, maintain and repair pipes, apparatus and infrastructure.</p> <p>To include restrictive covenants for protecting installed pipes apparatus and infrastructure from excavation, damage or injury; to not materially reduce the depth of soil above any installed pipe, apparatus and infrastructure; and to prevent access to installed pipes,</p>

Parish of Hardwick, St Neots Road	5-061	<p>apparatus and infrastructure, being made materially more difficult.</p> <p>To access (with or without vehicles plant and machinery) and to install, inspect, maintain, use, repair, cleanse, retain, renew, replace and remove drainage pipes, apparatus and infrastructure.</p> <p>Rights to pass and repass, with or without vehicles, plant or machinery for the purposes of access to inspect, maintain and repair pipes, apparatus and infrastructure.</p> <p>To include restrictive covenants for protecting installed pipes apparatus and infrastructure from excavation, damage or injury; to not materially reduce the depth of soil above any installed pipe, apparatus and infrastructure; and to prevent access to installed pipes, apparatus and infrastructure, being made materially more difficult.</p>
Parish of Dry Drayton, Scotland Road	7-076, 7,077, 7-078	<p>To access (with or without vehicles plant and machinery) and to install, inspect, maintain, use, repair, cleanse, retain, renew, replace and remove overhead electricity cables and poles.</p> <p>Rights to pass and repass, with or without vehicles, plant or machinery for the purposes of access to inspect, maintain and repair cables, poles and associated apparatus.</p>
Parish of Dry Drayton, Scotland Road	7-081	<p>Rights to form, use and to pass and repass, for the purposes of forming and maintaining a connection to the existing public right of way.</p>
Parishes of Hardwick and Comberton, St Neots Road	9-087, 9-088	<p>To access (with or without vehicles plant and machinery) and to install, inspect,</p>

maintain, use, repair, cleanse, retain, renew, replace and remove drainage pipes, apparatus and infrastructure.

Rights to pass and repass, with or without vehicles, plant or machinery for the purposes of access to inspect, maintain and repair pipes, apparatus and infrastructure.

To include restrictive covenants for protecting installed pipes apparatus and infrastructure from excavation, damage or injury; to not materially reduce the depth of soil above any installed pipe, apparatus and infrastructure; and to prevent access to installed pipes, apparatus and infrastructure, being made materially more difficult.

Parish of Comberton, Long Road 10-100

To access (with or without vehicles plant and machinery) and to install, inspect, maintain, use, repair, cleanse, retain, renew, replace and remove drainage pipes, apparatus and infrastructure. Rights to pass and repass, with or without vehicles, plant or machinery for the purposes of access to inspect, maintain and repair pipes, apparatus and infrastructure.

To include restrictive covenants for protecting installed pipes apparatus and infrastructure from excavation, damage or injury; to not materially reduce the depth of soil above any installed pipe, apparatus and infrastructure; and to prevent access to installed pipes, apparatus and infrastructure, being made materially more difficult.

Parish of Comberton, Long Road 10-105

To access (with or without vehicles plant and machinery) and to install, inspect, maintain, use, repair, cleanse, retain, renew, replace and

			remove drainage pipes, apparatus and infrastructure.
			Rights to pass and repass, with or without vehicles, plant or machinery for the purposes of access to inspect, maintain and repair pipes, apparatus and infrastructure.
Parish of Madingley, Long Road	10-119		To access (with or without vehicles plant and machinery) and to install, inspect, maintain, use, repair, cleanse, retain, renew, replace and remove drainage pipes, apparatus and infrastructure.
			Rights to pass and repass, with or without vehicles, plant or machinery for the purposes of access to inspect, maintain and repair pipes, apparatus and infrastructure.
			To include restrictive covenants for protecting installed pipes apparatus and infrastructure from excavation, damage or injury; to not materially reduce the depth of soil above any installed pipe, apparatus and infrastructure; and to prevent access to installed pipes, apparatus and infrastructure, being made materially more difficult.
<b>In the City of Cambridge</b>			
Parish of Coton, west of M11 Motorway	14-147		To access (with or without vehicles plant and machinery) and to install, inspect, maintain, use, repair, cleanse, retain, renew, replace and remove drainage pipes, apparatus and infrastructure.
			Rights to pass and repass, with or without vehicles, plant or machinery for the purposes of access to inspect, maintain and repair pipes, apparatus and infrastructure.
			To include restrictive covenants for protecting installed pipes apparatus and infrastructure from

Ada Lovelace Road, West Cambridge Campus	14-159	<p>excavation, damage or injury; to not materially reduce the depth of soil above any installed pipe, apparatus and infrastructure; and to prevent access to installed pipes, apparatus and infrastructure, being made materially more difficult.</p> <p>To access (with or without vehicles plant and machinery) and to install, inspect, maintain, use, repair, cleanse, retain, renew, replace and remove drainage pipes, apparatus and infrastructure.</p>
Charles Babbage Road, West Cambridge Campus	14-160	<p>Rights to pass and repass, with or without vehicles, plant or machinery for the purposes of access to inspect, maintain and repair pipes, apparatus and infrastructure.</p> <p>To access, use and to pass and repass with or without vehicles for the purpose of undertaking a public passenger transport service.</p> <p>To halt vehicles at designated stopping points for the purpose of undertaking a public passenger transport service.</p> <p>To permit access to and from the highway of Madingley Road and to the guided busway by public passenger transport service vehicles.</p>
Charles Babbage Road, West Cambridge Campus	15-167	<p>To permit access to and from the highway of Madingley Road by customers of the public passenger transport service.</p> <p>To access, use and to pass and repass with or without vehicles for the purpose of undertaking a public passenger transport service.</p> <p>To halt vehicles at designated stopping points for the purpose of undertaking a public passenger transport service.</p>

Charles Babbage Road, West 16-177  
Cambridge Campus

To access (with or without vehicles plant and machinery) and to install, inspect, maintain, use, repair, cleanse, retain, renew, replace and remove drainage pipes, apparatus and infrastructure.

Rights to pass and repass, with or without vehicles, plant or machinery for the purposes of access to inspect, maintain and repair pipes, apparatus and infrastructure.

## SCHEDULE 9

Article 26

### 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 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 or imposition of a restrictive covenant as they apply in respect of compensation on the compulsory purchase of land and interests in land.

**2.—(1)** Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A (5A) (relevant valuation date) of the 1961 Act substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act<sup>(a)</sup> (as modified by paragraph 5(5) of Schedule 9 to the Cambourne to Cambridge Order 202[\*] (“the 202\* Order”));
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act<sup>(b)</sup> (as substituted by paragraph 5(7) of Schedule 6 to the 202\* Order) to acquire an interest in the land; and
- (c) the acquiring authority enter on and take possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.”

**3.—(1)** Without limitation on the scope of paragraph 1, the Land Compensation Act 1973<sup>(c)</sup> has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(2)—

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(a) 1965 c. 11, Section 11(1) was amended by the Housing and Planning Act 2016, S186(2)(a)(i), S186(2)(a)(ii) and Schedule 4, paragraph 14(3)(a) and 14(3)(b) of the Acquisition of Land Act 1981 (c. 67).  
(b) 1965 c. 22, Schedule 2A, paragraph 12 was inserted by the Housing and Planning Act 2016, Schedule 17(1), paragraph 3.  
(c) 1973 c. 26.

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

### **Application of Part 1 of the 1965 Act**

4. Part 1 of the 1965 Act, as applied by article 24 (application of Part 1 of the 1965 Act) to the acquisition of land under article 23 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 27(1) (Power to acquire new rights and imposition of restrictive covenants)—

- (a) with the modifications specified in paragraph 5; and
- (b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be 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 the restrictive covenant imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(3) For Section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the restrictive covenant 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 the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the Special Act.”

(4) 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),

are modified so 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 or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(5) Section 11(a) (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 24), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant; and sections 11A(b) (powers of entry: further notices of entry). 11B(c) (counter-notice

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(a) 1965 c. 56, Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 186(2)(a)(i) to (ii) of, and section 186(2)(b), as well as sections 187 to 188 of the Housing and Planning Act 2016, section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and S.I. 2009/1307.

(b) 1965 c. 56, Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).

(c) 1965 c. 56, Section 11B was inserted by section 187(3) of the Housing and Planning Act 2016 (c. 22).

requiring possession to be taken on specified date, 12(a) (unauthorised entry) and 13(b) (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20(c) (tenants at will, etc.) of the 1965 Act applies 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 or the enforcement of the restrictive covenant in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 24(4) is also modified so 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.

(8) For Schedule 2A of the 1965 Act substitute—

## “SCHEDULE 2A COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN NOTICE TO TREAT

### **Introduction**

**1.**—(1) This Schedule applies where an undertaker serves a notice to treat in respect of a right over, or a restrictive covenant affecting, the whole or part of a house, building or factory and has not executed a general vesting declaration under section 4 of the 1981 Act as applied by article 26 (Application of the Compulsory Purchase (Vesting Declarations) Act 1981) of The Cambourne to Cambridge Order 202[ ] in respect of the land to which the notice to treat relates.

(2) But see article 33(2) (acquisition of subsoil or airspace only) of The Cambourne to Cambridge Order 202[ ] which excludes the acquisition of subsoil or airspace only from this Schedule.

**2.** In this Schedule, “house” includes any park or garden belonging to a house.

### **Counter-notice requiring purchase of land**

**3.** A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the house, building or factory.

**4.** A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

### **Response to counter-notice**

**5.** On receiving a counter-notice, the undertaker must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the tribunal.

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(a) 1965 c. 56, Section 12 was amended by section 56(2) of, and part 1 of Schedule 9 to, the Courts Act 1971 (c. 23) and amended by Schedule 16, paragraph 4 of the Housing and Planning Act 2016.

(b) 1965 c. 56, Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(c) 1965 c. 56, Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

6. The undertaker must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the undertaker decides to refer the counter-notice to the tribunal it must do so within the decision period.

8. If the undertaker does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the undertaker serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they are included the owner’s interest in the house, building or factory.

### **Determination by the tribunal**

10. On a referral under paragraph 7, the tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making the determination, the tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

13. If the tribunal determines that the undertaker ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in that land.

14.—(1) If the tribunal determines that the undertaker ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of 6 weeks beginning with the day on which the tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the undertaker withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawing of the notice.

15. Any dispute as to the compensation is to be determined by the Upper Tribunal.”

## **SCHEDULE 10**

Article 28

### **LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN**

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<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Number of lands shown on the works and land plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Work</i>
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**In the District of South Cambridgeshire**

Parishes of Cambourne and Bourn, Broadway	Plot 1-004, sheet 1	Street works, access to works	Work Nos. 1 and 2
Parish of Cambourne, Broadway	Plot 1-005,1-006, 1-009, sheet 1	Street works, access to works	Work Nos. 1 and 2
Parish of Cambourne, Broadway	Plot 1-013,1-014, 1-017, sheet 1	Street works, access to works	Work Nos. 1 and 2
Parish of Bourn, Bourn Airfield	Plot 1-019, sheet 1	Construction of attenuation pond and drainage infrastructure, construction compound, access to works	All works
Parish of Bourn, Bourn Airfield	Plot 1-022, sheet 1	Construction of attenuation pond and drainage infrastructure, construction compound, access to works	All works
Parish of Cambourne, Bourn Airfield	Plot 1-023, sheet 1	Construction of attenuation pond and drainage infrastructure, access to works	Work No. 2
Parish of Bourn, Bourn Airfield	Plot 1-024, sheet 1	Construction of attenuation pond and drainage infrastructure, construction compound, access to works and to compound	All works
Parish of Bourn, Bourn Airfield	Plot 1-026, sheet 1	Construction of attenuation pond and drainage, access to works	Work No. 2
Parish of Cambourne, Bourn Airfield	Plot 1-029, sheet 1	Construction of drainage infrastructure, access to works	Work No. 2
Parishes of Cambourne and Bourn, Bourn Airfield	Plot 1-030, sheet 1	Construction of drainage infrastructure, access to works	Work No. 2
Parish of Bourn, Bourn Airfield	Plot 3-032, sheet 3	Construction compound, access to works	All works
Parish of Bourn, Bourn Airfield	Plot 3-033, sheet 3	Construction compound, working space access to works	Work No. 2
Parishes of Bourn, and Caldecote, Bourn Airfield	Plot 3-034, sheet 3	Working space, access to works	Work No. 2, Construction of

Parish of Childerley, St Neots Road	Plot 3-037, sheet 3	Working space, street works, access to works	replacement Wellington Way Work Nos. 2 and 3
Parish of Caldecote, Bourn Airfield	Plot 4-039, sheet 4	Working space, access to works	Work No. 2, Construction of replacement Wellington Way
Parish of Childerley, St Neots Road	Plot 4-040, 4-041, 4-042, 4-045, 4-046, sheet 4	Working space, street works, access to works	Work Nos. 2 and 3
Parish of Childerley, St Neots Road	Plot 4-049, sheet 4	Construction compound, working space and access to works	All works
Parish of Dry Drayton, St Neots Road	Plot 4-050, sheet 4	Construction compound, working space and access to works	All works
Parish of Dry Drayton, St Neots Road	Plot 4-053, sheets 4 and 5	Working space and access to works	Work No. 3
Parish of Dry Drayton, St Neots Road	Plot 5-057, sheet 5	Construction compound, working space and access to works	All works
Parish of Dry Drayton, St Neots Road	Plot 4-053, sheets 4 5, 6 and 7	Working space and access to works	Work No. 3, Works to St Neots Road and Scotland Road junction with A428
Parishes of Dry Drayton, Hardwick and Madingley, St Neots Road	Plot 5-058, sheet 5, 6, 8 and 9	Working space, street works and access to works	Work Nos. 3 and 4
Parish of Dry Drayton, St Neots Road	Plot 5-059, sheet 5	Working space, street works and access to works,	Work No. 3, new bridleway connection at St Neots Road
Parish of Dry Drayton, St Neots Road	Plot 5-064 sheet 5	Working space, street works and access to works	Work No. 3, new bridleway connection at St Neots Road
Parish of Dry Drayton, St Neots Road	Plot 5-066 sheet 5	Working space, street works and access to works	Work No. 3
Parish of Dry Drayton, St Neots Road	Plot 5-067, sheets 5 and 6	Working space, street works and access to works	Works to St Neots Road and Scotland Road junction with A428
Parish of Dry Drayton, A428 Junction	Plots 6-068, 6-069 and 6-070, sheet 6	Working space, street works and access to works	Works to St Neots Road and Scotland Road junction with A428
Parish of Dry Drayton, A428 Junction	Plot 6-071, sheet 6	Working space, street works and access to works	Works to St Neots Road and Scotland Road junction with A428

Parish of Dry Drayton, Scotland Road	Plot 7-075, sheet 7	Working space, street works and access to works	Works to Scotland Road and to access to park and ride facility
Parish of Dry Drayton, St Neots Road	Plot 8-082, sheet 8	Working space, street works and access to works	Works to St Neots Road
Parish of Hardwick, St Neots Road	Plot 8-083, sheet 8	Working space, street works and access to works	Works to junction of St Neots Road and Cambridge Road
Parish of Hardwick, St Neots Road	Plot 8-084, sheet 8	Working space, construction compound, street works and access to works	All works
Parishes of Hardwick and Comberton, St Neots Road	Plot 9-086, sheet 9	Working space, street works and access to works	Works Nos. 4, 5 and 6, works for new drainage pond
Parish of Comberton, St Neots Road	Plot 9-091, sheet 9	Working space, street works and access to works	Works Nos. 4, 5 and 6, works for new drainage pond
Parish of Madingley, St Neots Road	Plots 9-092, 9-095, sheet 9	Working space and access to works	Works Nos. 4, 5 and 6
Parish of Comberton, St Neots Road	Plot 9-094, sheets 9 and 10	Working space, construction compound, street works and access to works	All works
Parish of Comberton, Long Road	Plot 9-098, sheets 9 and 10	Working space and access to works	Work No. 6, works for new drainage pond
Parish of Comberton, Long Road	Plot 10-101, sheet 10	Working space and access to works	Work No. 6, works for new drainage, accommodation works
Parish of Comberton, Long Road	Plot 10-102, sheet 10	Working space and access to works	Work No. 6, accommodation works
Parish of Comberton, Long Road	Plot 10-103, sheet 10	Working space and access to works	Work No. 6, works for new drainage, accommodation works and works to create temporary access to Long Road
Parish of Comberton, Long Road	Plot 10-104, sheet 10	Working space, street works and access to works	Work Nos. 6 and 7, works for new drainage, accommodation works
Parish of Comberton, Long Road	Plot 10-107, sheet 10	Working space, street works and access to works	Work Nos. 6 and 7, accommodation works
Parish of Comberton, Long Road	Plot 10-108, sheet 10	Working space, street works and access to works	Work No. 5

Parish of Comberton, Long Road	Plots 10-111, 10-113, sheet 10	Working space, street works and access to works	Work No. 7
Parish of Comberton, Long Road	Plot 10-116, sheet 10	Working space, construction compound, and access to works	All works
Parish of Coton, north of Coton village	Plot 12-123, Sheet 12	Working space, construction compound, and access to works	Work No. 7
Parish of Coton, Cambridge Road	Plot 13-129, Sheet 13	Working space, construction compound, and access to works	All works
Parish of Coton, Cambridge Road	Plots 13-129, Sheet 13-131, 13-137, 13-140, 13-143	Working space, street works, and access to works	Work Nos. 7 and 8
<b>In the City of Cambridge</b>			
West of M11 Motorway, Rectory Farm	Plot 14-148, Sheet 14	Working space, construction access, lay down area, and access to works	Work No.9
M11 Motorway	Plot 14-149, Sheet 14	Working space and access to works	Work No.9
M11 Motorway	Plot 14-151, Sheet 14	Working space and access to works	Work No.9
Ada Lovelace Road, West Cambridge Campus	Plot 14-156, Sheet 14	Working space, construction compound, and access to works	All works
Ada Lovelace Road, West Cambridge Campus	Plot 14-158, Sheet 14	Working space and access to works	Work No.9
Charles Babbage Road, West Cambridge Campus	Plot 15-161, Sheets 15 and 16	Working space, works to effect diversion of public footpath, construction access, lay down area, and access to works	All works
Ada Lovelace Road, West Cambridge Campus	Plot 14-156, Sheet 14	Working space, construction compound, and access to works	All works
Charles Babbage Road, West Cambridge Campus	Plot 16-162, Sheet 16	Working space, construction compound, and access to works	All works
Charles Babbage Road, West Cambridge Campus	Plots, 16-165, 16-166,16-169,16-170, Sheet 16	Working space, works to effect diversion of public footpath, construction access, and access to works	Work No. 10
Charles Babbage Road, West Cambridge Campus	Plot 16-168, Sheet 16	Working space, and access to works	Work No. 10

Charles Babbage Road, West Cambridge Campus	Plot 16-171, 16-174, Sheet 16	Working space, and access to works	Work No. 10
West of Grange Road, Cambridge	Plot 17-180, Sheet 17	Working space, construction compound, and access to works	All works
West of Grange Road, Cambridge	Plot 17-181, Sheet 17	Working space, construction compound, and access to works	All works
Grange Road, Cambridge	Plot 17-183, Sheet 17	Street works, access to works	Work No. 10

**SCHEDULE 11**  
**TRAFFIC REGULATION**

Article 42

**PART 1**

**STOPPING, WAITING, LOADING AND UNLOADING**

**No waiting at any time**

<i>(1)</i> <i>Nos. on Order plans</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Extent</i>	<i>(4)</i> <i>Notes</i>
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**No loading at any time**

<i>(1)</i> <i>Nos. on Order plans</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Extent</i>	<i>(4)</i> <i>Notes</i>
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**PART 2**

**PROHIBITION OF DRIVING**

<i>(1)</i> <i>Nos. on Order plans</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Extent</i>	<i>(4)</i> <i>Notes</i>
Xx and yy	St Neots Road	Between xx and yy	Work No.2 to be restricted to buses and emergency vehicles only

## PART 3

### PROHIBITION ON TURNING

<i>(1)</i> <i>Nos. on Order plans</i>	<i>(2)</i> <i>Road</i>	<i>(3)</i> <i>Extent</i>	<i>(4)</i> <i>Notes</i>
TR01.01	Broadway	No right turn into [Bourne Airfield] at TR01.01	
TR01.02	Broadway	No left turn into [Bourne Airfield] at TR01.01	

## PART 4

### SPEED LIMITS

Note: where speed limits are indicated on the plans relating to this Part (the traffic regulation plans) but are not referenced in this schedule they indicate that national speed limits apply in accordance with either:

- (a) the national speed limit set out in Section 86 and Schedule 6 of the Road Traffic Regulation Act 1984 and the 70 miles per hour, 60 miles per hour and 50 miles per hour (Temporary Speed Limit) Order 1977 as varied by the 70 miles per hour, 60 miles per hour and 50 miles per hour (Temporary Speed Limit) (Variation) Order 1978 and continued indefinitely by Regulation 2 of the 70 Miles Per Hour, 60 Miles Per Hour and 50 Miles Per Hour (Temporary Speed Limit) (Continuation) Order 1978 (SI 1978/1548)(a); or
- (b) the provisions of the Road Traffic Regulation Act 1984 (which defines speed limits on “restricted roads” by reference to street lighting),

and are not subject to this order. For details of the scheme lighting design, refer to the general arrangement plans.

<i>(1)</i> <i>Parish</i>	<i>(2)</i> <i>Road name, number and length</i>	<i>(3)</i> <i>Speed Limited</i>
Caldecote, Dry Drayton, Childerley	St Neots Road from point TR04.03 on the rights of way plan to and including the roundabout with Highfields Road and Wellington Way and extending to TR04.04 and TR04.05 and coloured pink on the rights of way plan a total distance of [●] metres.	40 miles per hour
Caldecote, Dry Drayton, Childerley	Highfields Road from point TR04.05 on the rights of way plan to and including the roundabout with St Neots Road and Wellington Way	40 miles per hour

- (a) SI 1978/1548. The Road Traffic Regulation Act 1984 and the 70 miles per hour, 60 miles per hour and 50 miles per hour (Temporary Speed Limit) Order 1977 and the 70 miles per hour, 60 miles per hour and 50 miles per hour (Temporary Speed Limit) (Variation) Order 1978 were not statutory instruments.

	extending to TR04.06 and TR04.07 and coloured pink on the rights of way plan a total distance of [●] metres	
Dry Drayton	St Neots Road from point TR05.02 on the rights of way plan to and including point TR05.01 and coloured pink on the rights of way plan a total distance of [●] metres.	40 miles per hour
Dry Drayton	St Neots Road from point TR05.01 on the rights of way plan to and including the roundabout with St Neots Road and Scotland Road and extending to points TR05.03, TR06.02 and TR06.05 and coloured pink on the rights of way plan a total distance of [●] metres.	40 miles per hour
Dry Drayton	Scotland Road from point TR05.03 on the rights of way plan to and including the roundabout and extending to points TR06.03, TR07.01 and TR06.04 and coloured pink on the rights of way plan a total distance of [●] metres.	40 miles per hour
Dry Drayton	Scotland Road from point TR07.01 on the rights of way plan to and extending to point TR07.02 and coloured green on the rights of way plan a total distance of [●] metres.	30 miles per hour
Comberton, Madingley	St Neots Road from point TR10.01 on the rights of way plan to and including the junction with Long Road extending to points TR10.02, TR10.03 and TR06.04 and coloured pink on the rights of way plan a total distance of [●] metres.	40 miles per hour

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## PROVISIONS RELATING TO STATUTORY UNDERTAKERS, ETC

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

1.—(1) Sections 271 to 274(a) (power to extinguish rights of statutory undertakers etc, and power of statutory undertakers etc. to remove or re-site apparatus) of the 1990 Act 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(b) and 282(c), which provide for the payment of compensation) 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 is entitled to recover from Undertaker compensation in respect of expenditure reasonably incurred by that person, 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) does 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 sub-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,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(5) The provisions of the 1990 Act mentioned in sub-paragraph (1), as applied by that sub-paragraph, do not have effect in relation to apparatus as respects which paragraph 2, or Part 3 of the 1991 Act, applies.

(6) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) of the 2003 Act; and

“public utility undertakers” has the same meaning as in the 1980 Act(d).

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

2.—(1) Where a street is stopped up under article 11 (construction of new, and stopping up of existing, streets) any statutory utility whose apparatus is under, in, upon, along or across the street has 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.

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(a) 1990 c. 8, was amended by Section 5 of, and Schedule 3, paragraphs 13 and 14 of the Planning (Consequential Provisions) Act 1990 (c. 11), Section 72(2) and S91(4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Schedule 17, paragraph 103(2)(a) to 103(2)(e) of the Communications Act 2003 (c. 21).

(b) 1990 c. 8, section 280 was amended by Schedule 17, paragraph 104(a) to 104(b) of the Communications Act 2003 and S.I. 2009/1307.

(c) 1990 c. 8, section 282 was amended by S.I. 2009/1307.

(d) This term is defined in Schedule 11, paragraph 13 of the Highways Act 1980 (c. 66).

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

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the 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 that other position.

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

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

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

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

and the placing of 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 paragraph would be payable to the statutory utility by virtue of sub-paragraph (3) is to be reduced by the amount of that excess.

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

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

(6) An amount which apart from this sub-paragraph would be payable to a statutory utility in respect of works by virtue of sub-paragraph (3) (and having regard, where relevant, to sub-paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the 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.

(7) Sub-paragraphs (3) to (6) do not apply where the authorised works constitute major transport works for the purposes of Part 3 (street works in England and Wales) of the 1991 Act, but instead—

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

(8) In this paragraph—

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“relocation works” means work executed, or apparatus provided, under sub-paragraph (2); and

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in paragraph 1(6).

## PROTECTIVE PROVISIONS

## PART 1

## FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

1. For the protection of the utility undertakers referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertaker concerned.

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(a), belonging to or maintained by that utility undertaker;
- (b) in that case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter within the meaning of Part 1 of the Gas Act 1986(b) for the purposes of gas supply;
- (c) in the case of water undertaker, mains, pipes or other apparatus belonging to or maintained by that utility undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
  - (i) any drain or works vested in the utility undertaker under the Water Industry Act 1991(c); and
  - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreement to adopt sewers, drains or sewage disposal works at future date) of that Act(d),

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed; and

“utility undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;

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(a) 1989 c. 29. The definition of “electrical plant” (in section 64) was amended by paragraphs 24 and 38(1) and (3) of Schedule 6 to the Utilities Act 2000 (c. 27).

(b) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by sections 3(2) and 76 of, and paragraphs 1 and 4 of Schedule 6, and Schedule 8 to the Utilities Act 2000 (c. 27), sections 1459(1) and (5) and 197(9) of, and part 1 of Schedule 23 to, the Energy Act 2004 (c. 20) and S.I. 2011/2704.

(c) 1991 c. 56.

(d) 1991 c. 56, Section 102(4) was amended by section 96(1)(c), and parts added by Schedule 7, paragraph 90 of the Water Act 2003 (c. 37). Section 104 was amended by sections 96(4) and 101(23) of, part 3 of Schedule 9 to, the Water Act 2003, section 11(2)(a) of the Water Act 2014 and section 42(3) of the Flood and Water Management Act 2010 (c. 29).

- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986;
- (c) a water undertaker within the meaning of the Water Industry Act 1991; and
- (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

for the area of the authorised works, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

### **On street apparatus**

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

### **Apparatus in stopped up streets**

4.—(1) Where any street is stopped up under article 11 (construction of new, and stopping up of use of existing streets), any utility undertaker whose apparatus is in the street has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to the utility undertaker legal easements reasonably satisfactory to the utility undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of the utility undertaker to require the removal of that apparatus under paragraph 6 or the power of the undertaker to carry out works under paragraph 8.

(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 12 (temporary stopping up of streets), a utility undertaker is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

### **Acquisition of land**

5. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

### **Removal of apparatus**

6.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice

to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 59 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 59 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

### **Facilities and rights for alternative apparatus**

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 59 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus**

8.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 6(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under subparagraph (1) and in accordance with such reasonable requirements as may be made in accordance with subparagraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under subparagraph (2) are to be made within a period of 21 days beginning with the date on which a plan under subparagraph (1) is submitted to it.

(4) If a utility undertaker, in accordance with subparagraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written

notice to the undertaker of that requirement, paragraphs 1 to 3 and 5 to 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

(7) In relation to works which will or may be situated on, over, under or within 10 metres measured in any direction of any electricity apparatus, or involve embankment works within 10 metres of any electricity apparatus, the plan to be submitted to the utility undertaker under subparagraph (1) must be detailed, include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which they are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal;
- (d) the position of all electricity apparatus; and
- (e) by way of detailed drawings, every alteration proposed to be made to such apparatus.

### **Expenses and costs**

**9.**—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker all expenses reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 6(2).

(2) The value of any apparatus removed under the provisions of this Part of this Schedule must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (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; 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 situated,

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 in accordance with article 59 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule 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 utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus must 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 pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus

provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

**10.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 6 or 6(2) any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker,

by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by a utility undertaker on behalf of the undertaker or in accordance with a plan approved by a utility undertaker or in accordance with any requirement of a utility undertaker or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(4) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker and, if such consent is withheld, has the sole conduct of any settlement or compromise of any proceedings necessary to resist the claim or demand.

### **Cooperation**

**11.** Where in consequence of the proposed construction of any part of the authorised works, the undertaker or a utility undertaker requires the removal of apparatus under paragraph 6(2) or a utility undertaker makes requirements for the protection or alteration of apparatus under paragraph 8, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of the utility undertaker's undertaking and each utility undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

**12.** Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

## **PART 2**

### **FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS**

**13.** For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

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

“the 2003 Act” means the Communications Act 2003(a);

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(a) 2003 c. 21.

“system of infrastructure” has the same meaning as in the electronic communications code and references to providing a infrastructure system are to be construed in accordance with paragraph 7(a) (interpretation of code) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 (electronic communications, networks and services) of Part 2 of the 2003 Act(b);

“electronic communications code network” means—

(a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 (application of the electronic communications code) of the 2003 Act; and

(b) an electronic communications network which the undertaker is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

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

**15.—**(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised works or its construction, or of any subsidence resulting from the authorised works—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator, the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 59 (arbitration).

(5) This Part of this Schedule does not apply to—

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or

(b) any damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised works.

(6) Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

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(a) 2003 c. 21, Schedule 3A, paragraph 7 was inserted by Schedule 1, paragraph 1 of the Digital Economy Act 2017 (c. 21).

(b) See section 106 of the Communications Act 2003 (c. 21).

## **EXPLANATORY NOTE**

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

This Order authorises Cambridgeshire County Council to construct and operate a new guided transport system between Sterling Way in Cambourne to Grange Road in Cambridge, and carry out all associated works.

The Order permits Cambridgeshire County Council to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

The Order also makes provision in connection with the maintenance of the works.

A copy of the plans, engineering drawings and sections, book of reference and environmental statement mentioned in this Order and certified in accordance with article 56 (certification of plans, etc.) may be inspected free of charge during working hours at Cambridgeshire County Council, Shire Hall, Cambridge CB3 0AP.