

THE TRANSPORT AND WORKS ACT 1992

THE TYNE TUNNELS ACT 1998

**THE TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS
PROCEDURE)(ENGLAND AND WALES) RULES 2000**

THE RIVER TYNE (TUNNELS) ORDER

**EXPLANATORY MEMORANDUM
RULE 10(2)(b)**

The Order would authorise the Tyne and Wear Passenger Transport Authority (the “Authority”) to construct a new tunnel beneath the River Tyne and Howdon Basin of part “cut and cover” and part immersed tube construction between Jarrow in the Metropolitan Borough of South Tyneside and East Howdon in the Metropolitan Borough of North Tyneside, and for that purpose compulsorily or by agreement to acquire land or rights in land. The Order also provides for the existing vehicular Tyne Tunnel and the pedestrian and cycle tunnels already in existence and, when constructed, the new tunnel (together, “the tunnel crossing”) to be operated as a single undertaking.

PART I

PRELIMINARY

Part I of the Order contains preliminary provisions.

Article 1 provides for the commencement and citation of the Order and *Article 2* for its interpretation.

PART II

WORKS PROVISIONS

Part II of the Order contains provisions for and relating to the carrying out of works.

Article 3 authorises the construction and maintenance of the principal works proposed (the “scheduled works”), which are described in Schedule 1 to the draft Order and shown on the plans and sections that are deposited in connection with the application. It also provides for the construction and maintenance of ancillary works. *Schedule 1* describes the scheduled works.

Article 4 provides for limits within which the Authority can deviate in the construction of the proposed works.

Article 5 confers upon the Authority a power to dredge the River Tyne and Howdon Basin and carry out other works within the limits of land to be acquired or used, which are shown

on the plans deposited in connection with the application. The Authority is also empowered to dispose of anything removed in the exercise of this power.

Article 6 confers a general power on the Authority to carry out works to streets and to interfere with them.

Article 7 permits the Authority to alter the layout of streets with the consent of the street authority (which shall not be unreasonably withheld) or, in the case of the alterations respecting certain streets listed in *Schedule 2* to the draft Order, without further reference to the street authority.

Article 8 provides for the stopping up of certain streets for which more specific details are given in *Schedule 3* to the Order.

Article 9 provides for the temporary stopping up of streets subject to the consent of the street authority concerned (which may not be unreasonably withheld) or, in the case of temporary stoppages to those streets specified in *Schedule 4* to the draft Order, after consulting the street authority. The article also provides for the application of the New Roads and Street Works Act 1991.

Article 10 confers powers for the provision or improvement of accesses.

Article 11 makes provision for new streets and street alterations or diversions, which are not within the tunnel crossing, to be completed to the reasonable satisfaction of the highway authority (or the street authority in the case of alterations or diversions) and for their maintenance, after a 12 month period, by and at the expense of that authority.

Article 12 authorises the conclusion of agreements between street authorities and the Authority relating to works in or affecting streets.

Article 13 permits the Authority to discharge water into any public watercourse, sewer or drain in connection with the activities authorised by the Order.

Article 14 enables the Authority from time to time at its own expense to carry out such safeguarding works to buildings lying within 50 metres of the limits of land to be acquired or used.

In *Article 14A* provision is made in relation to the Town and Country Planning Act 1990 to ensure that land held by and obtained by the Authority will be treated as land of a statutory undertaker.

Article 15 confers upon the Authority a power to survey and/or investigate land. The power includes an ability to make trial holes, to use and leave apparatus on the land in question and to enter on land. The article also makes provision in relation to the payment of compensation.

Article 16 confers additional powers upon the Authority in relation to the carrying out and maintenance of the works authorised by the Order in the River Tyne and Howdon Basin.

Article 17 obliges the Port of Tyne Authority to impose restrictions or prohibitions in respect of the River Tyne and provides for the creation of criminal offences if such restrictions or prohibitions are breached.

Article 18 creates offences in relation to the works authorised by the Order, should a person interfere with them, use them, remove them or moor vessels in the vicinity of them without the consent of the Authority.

PART III

ACQUISITION AND POSSESSION OF LAND

Part III of the draft Order contains provisions for the compulsory acquisition of land and rights in land and for the temporary possession of land for the purposes of or in connection with the intended works and the Authority's undertaking.

Article 19 authorises the compulsory acquisition of the land shown on the plans and described in the book of reference deposited in connection with the application so far as required for the purposes of the intended works.

Article 20 provides for the application of Part I of the Compulsory Purchase Act 1965.

Article 21 allows the Authority to acquire easements and other rights over land rather than the whole interest in any land. To give effect to this, amendments to legislation relating to compulsory purchase are set out in *Schedule 6* to the draft Order.

Article 22 gives an ability to acquire rights in the subsoil only.

Article 23 provides for the application of the Compulsory Purchase (Vesting Declarations) Act 1981, which contains vesting procedures for land subject to compulsory purchase.

Article 24 provides that the Authority may take temporary possession for the construction of the proposed works of the land specified in *Schedule 7* to the Order.

Article 25 provides for the Authority to take temporary possession of certain land for the maintenance of the works authorised by the draft Order.

Article 26 provides for the disregarding of certain interests in and enhancements to the value of land for the purposes of assessing compensation where the creation of the interest or the making of the enhancement was undertaken with the intention of obtaining compensation or increased compensation.

Article 27 enables the Authority to acquire a part rather than the whole of properties subject to compulsory acquisition and contains a procedure enabling the relevant owner in certain circumstances to require the whole to be taken, with disputes being determined by the Lands Tribunal. This provision would be substituted for Section 8(1) of the Compulsory Purchase Act 1965

Article 28 provides for the extinction or suspension of private rights of way over land subject to compulsory acquisition or appropriation for the purposes of the Order. Provision for the payment of compensation is included.

Article 29 confers upon the Authority rights in the subsoil of streets without the necessity of acquisition. Provision for the payment of compensation is included.

Article 30 would impose a time limit of five years from the Order coming into force for the exercise of the proposed powers of acquisition and possession.

PART IV

FINANCIAL AND OPERATIONAL

Part IV of the draft Order relates to the way in which the Authority organises the operation of the tunnel crossing and makes provision for bylaws and criminal offences.

In *Article 31* the power to operate, use and maintain the tunnel to be constructed pursuant to the draft Order, the existing vehicular Tyne Tunnel and the existing pedestrian and cycle tunnels are conferred upon the Authority.

Article 32 allows the Authority to close the tunnel crossing or any part of it.

Article 32A provides that the consent of the authority is required if a person wishes to lay mains, pipes or wires in the new tunnel.

Article 33 makes it a criminal offence to obstruct the works authorised by the Order or to trespass on certain land.

Article 34 makes provision for the control of traffic using the tunnel crossing.

Article 35 allows for a contract with the chief constable of any police force to provide for the policing of the tunnel crossing.

Article 36 enables the Authority to make bylaws to govern the use and operation of the tunnel crossing and the conduct of those using it. The article provides for the contravention of bylaws to be a criminal offence.

PART V

CONCESSION AND FINANCING ARRANGEMENTS

Part V relates to the arrangements that the Authority may make in relation to funding the tunnel crossing the disposal of the Authority's undertaking and the charging of tolls.

Article 37 grants to the Authority a power to demand, take and recover or waive tolls or charges in respect of the vehicular tunnel crossing. The article makes provision for the commencement of the power to charge tolls, for exemptions from tolls and for tolls to be collected by the Authority's agent.

Article 38 Gives a power to dispose of the authority's undertaking or part of it in respect of the tunnel crossing and the exercise of the functions of the Authority by another person.

Article 38A. makes provision for the application of the law in relation to landlords and tenants if leases are granted in respect of the tunnel crossing.

PART VI

MISCELLANEOUS AND GENERAL

Part VI contains a number of miscellaneous and general provisions.

Article 39 makes provision for the protection of the Trinity House.

Article 40 introduces *Schedule 8* to the Order, which contains specific safeguards for certain persons.

Article 41 introduces *Schedule 9* to the Order, which contains specific safeguards for Statutory Undertakers.

Article 42 contains provisions in relation to the mining and working of minerals and protection for those entitled to rights in respect of them.

Articles 43 and 44 make amendments to or repeal the provisions of certain enactments listed in *Schedules 10 and 11* to the Order relating to the carrying out of works and activities authorised by the Order and to ensure that the existing Tyne Tunnels and the proposed works are and can be administered, operated and used together.

Article 45 requires the Authority to submit copies of the book of reference, plans and sections referred to in the Order to the Secretary of State for certification as true copies following the making of the Order.

Article 46 makes provision as to the manner in which notices or other documents required or authorised to be served for the purposes of the Order are to be served.

Article 47 makes provision to ensure that compensation is not payable more than once.

Article 48 makes provision for differences arising under any provision of the Order other than those referred to the Lands Tribunal and unless otherwise agreed between the parties to be settled by arbitration.

Article 48 exempts the new tunnel and works associated with it from payment of rates.