



# Transport and Works Act 1992

CHAPTER 42

LONDON: HMSO

**Extract**



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## 1992 CHAPTER 42

An Act to provide for the making of orders relating to, or to matters ancillary to, the construction or operation of railways, tramways, trolley vehicle systems, other guided transport systems and inland waterways, and orders relating to, or to matters ancillary to, works interfering with rights of navigation; to make further provision in relation to railways, tramways, trolley vehicle systems and other guided transport systems; to amend certain enactments relating to harbours; and for connected purposes. [16th March 1992]

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### ORDERS AUTHORISING WORKS ETC

##### *Power to make orders*

1.—(1) The Secretary of State may make an order relating to, or to matters ancillary to, the construction or operation of a transport system of any of the following kinds, so far as it is in England and Wales—

Orders as to  
railways,  
tramways etc.

- (a) a railway;
- (b) a tramway;
- (c) a trolley vehicle system;
- (d) a system using a mode of guided transport prescribed by order made under section 2 below.

(2) The power to make orders under this section shall be exercisable by statutory instrument.

2.—(1) The Secretary of State may by order prescribe modes of guided transport for the purposes of section 1(1)(d) above.

Extension of  
section 1 to other  
guided transport  
systems.

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(2) The power to make orders under this section shall be exercisable by statutory instrument; but no order shall be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

Orders as to  
inland waterways  
etc.

3.—(1) The Secretary of State may make an order relating to, or to matters ancillary to—

(a) the construction or operation of an inland waterway in England and Wales;

(b) the carrying out of works which—

(i) interfere with rights of navigation in waters within or adjacent to England and Wales, up to the seaward limits of the territorial sea, and

(ii) are of a description prescribed by order made under section 4 below.

1964 c. 40.

(2) The Secretary of State shall not make an order under this section if in his opinion the primary object of the order could be achieved by means of an order under the Harbours Act 1964.

(3) The power to make orders under this section shall be exercisable by statutory instrument.

Description of  
works for  
purposes of  
section 3.

4.—(1) The Secretary of State may by order prescribe descriptions of works for the purposes of section 3(1)(b) above.

(2) The power to make orders under this section shall be exercisable by statutory instrument; but no order shall be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

Subject-matter of  
orders under  
sections 1 and 3.

5.—(1) Without prejudice to the generality of sections 1 and 3 above, the matters as to which provision may be made by an order under either of those sections include those set out in Schedule 1 to this Act.

(2) An order under section 1 or 3 above may make provision in relation to more than one scheme, system or mode of transport.

(3) An order under section 1 or 3 above may—

(a) apply, modify or exclude any statutory provision which relates to any matter as to which an order could be made under section 1 or, as the case may be, 3, and

(b) make such amendments, repeals and revocations of statutory provisions of local application as appear to the Secretary of State to be necessary or expedient in consequence of any provision of the order or otherwise in connection with the order;

and for the purposes of this subsection “statutory provision” means provision of an Act of Parliament or of an instrument made under an Act of Parliament.

(4) The provisions that may be made by an order under section 1 or 3 above include—

(a) any provision that appears to the Secretary of State to be necessary or expedient for giving full effect to—

(i) any other provision of the order,

PART I

(ii) any provision of an earlier order under the section concerned, or

(iii) any provision which is contained in an Act of Parliament passed before the time when this Part of this Act is first wholly in force, or in an instrument made under an Act of Parliament before that time, and which is of a kind which could be included in an order under section 1 or 3 above;

(b) such supplemental and transitional provisions as appear to him to be necessary or expedient in connection with the order.

(5) A provision of an order under section 1 or 3 above relating to offences shall not authorise the imposition on persons convicted of an offence of a term of imprisonment or of a fine exceeding level 3 on the standard scale.

(6) An order under section 1 or 3 above shall not extinguish any public right of way over land unless the Secretary of State is satisfied—

(a) that an alternative right of way has been or will be provided, or

(b) that the provision of an alternative right of way is not required.

(7) Where an order under sections 104(3), 105(3) or 112 of the Transport Act 1968 (classification and maintenance of the British Waterways Board's waterways, and maintenance and use of other waterways) is required so as to give effect to any proposal, no provision shall be included in an order under section 1 or 3 above which would—

1968 c. 73.

(a) remove that requirement, or

(b) alter the requirements of sections 104, 105 or 112 of, or Schedule 13 to, that Act relating to orders under those sections.

*Procedure for making orders*

6.—(1) Subject to section 7 below, the Secretary of State shall not make an order under section 1 or 3 above except on an application made to him in accordance with rules made under this section.

Applications for orders under sections 1 and 3.

(2) The Secretary of State may make rules as to—

(a) the form of an application under this section;

(b) the documents and information that must be submitted with it;

(c) the giving and publication of notices of an application;

(d) any other steps that must be taken before an application is made or in connection with the making of an application.

(3) Any provision made by rules as to the consultation that must be carried out before an application is made may include provision requiring compliance with general or special directions given by the Secretary of State.

(4) Rules under this section may make different provision for different cases, and may include provision authorising the Secretary of State—

(a) to dispense with compliance with rules that would otherwise apply, or

(b) to require compliance with rules that would not otherwise apply, in any case where he considers it appropriate to do so.