
STATUTORY INSTRUMENTS

2001 No. 3682

The London Underground (East London
Line Extension) (No. 2) Order 2001

PART I

PRELIMINARY

Citation and commencement

1. This Order may be cited as the London Underground (East London Line Extension) (No. 2) Order 2001 and shall come into force on 9th November 2001.

Commencement Information

II Art. 1 in force at 9.11.2001, see [art. 1](#)

Interpretation

2.—(1) In this Order, unless the context otherwise requires—

“the 1845 Act” means the Railways Clauses Consolidation Act 1845(1);

“the 1961 Act” means the Land Compensation Act 1961(2);

“the 1965 Act” means the Compulsory Purchase Act 1965(3);

“the 1973 Act” means the Land Compensation Act 1973(4);

“the 1981 Act” means the Acquisition of Land Act 1981(5);

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

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

“the 1992 Act” means the Transport and Works Act 1992(8);

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

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

“the Company” means London Underground Limited;

(1) 1845 c. 20.
(2) 1961 c. 33.
(3) 1965 c. 56.
(4) 1973 c. 26.
(5) 1981 c. 67.
(6) 1990 c. 8.
(7) 1991 c. 22.
(8) 1992 c. 42.

“the deposited plans” means the plans certified by the Secretary of State as “the plans” for the purposes of this Order and references to land shown on those plans are references to land so shown in pursuance of rule 7(3) of the Transport and Works (Applications and Objections Procedure) Rules 1992;

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

“enactment” includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“footpath”, “highway” and “highway authority” have the same meaning as in the Highways Act 1980⁽⁹⁾;

“the limits” means the limits of deviation, the lines marked “Limit of Land to be Acquired or Used” and the lines marked “Limit of Land to be Temporarily Used” shown on the deposited plans;

“the limits of deviation” in relation to a work, means the lines marked “Limit of Deviation” shown on the deposited plans;

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

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

“Railtrack” means Railtrack PLC;

“the scheduled works” means the works specified in Schedule 1 to this Order;

“street” includes part of a street;

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

“the tribunal” means the Lands Tribunal; and

“vehicle” has the same meaning as in section 99(5) of the Road Traffic Regulation Act 1984⁽¹⁰⁾.

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

(3) All directions, distances and lengths stated in any description of works, powers or lands shall be construed as if the words “or thereabouts” were inserted after each such direction, distance and length and distances between points on a railway shall be taken to be measured along the railway.

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

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

Commencement Information

I2 Art. 2 in force at 9.11.2001, see [art. 1](#)

(9) 1980 c. 66.

(10) 1984 c. 27.

Incorporation of Railways Clauses Acts

- 3.—(1) The following provisions of the 1845 Act shall be incorporated in this Order—
- section 46 (crossing of roads—level crossings—bridges), except for the words from “Provided always” to the end;
 - section 58 (company to repair roads used by them), except for the words from “and if any question” to the end;
 - section 68 (accommodation works by company);
 - section 71 (additional accommodation works by owners), except for the words “or directed by such justices to be made by the company” and “or, in case of difference, as shall be authorised by two justices”;
 - sections 72 and 73 (supplementary provisions relating to accommodation works);
 - section 77 (presumption that minerals excepted from acquisition of land);
 - sections 78 to 85E and Schedules 1 to 3 (minerals under railways), as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923(11);
 - sections 103 and 104 (refusal to quit carriage at destination);
 - section 105 (carriage of dangerous goods on railway);
 - section 145 (recovery of penalties); and
 - section 154 (transient offenders).

(2) The following provision of the Railways Clauses Act 1863(12) shall be incorporated in this Order—

section 12 (signals, watchmen etc.).

(3) In those provisions, as incorporated in this Order—

“the company” means the Company;

“goods” includes any thing conveyed on the railways authorised to be constructed by this Order;

“lease” includes an agreement for a lease;

“prescribed”, in relation to any such provision, means prescribed by this Order for the purposes of that provision;

“the railway” means any railway authorised to be constructed by this Order and, except where the context otherwise requires, any other authorised works;

“the special Act” means this Order; and

“toll” includes any rate or charge or other payment payable under this Order or any other enactment for any passenger or goods conveyed on any railway authorised to be constructed by this Order.

Commencement Information

I3 Art. 3 in force at 9.11.2001, see [art. 1](#)

(11) 1923 c. 20.

(12) 1863 c. 92.

PART II

WORKS PROVISIONS

Principal powers

Power to construct works

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

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

(3) Subject to paragraph (6) below, the Company may from time to time carry out and maintain such of the following works as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the scheduled works, namely—

- (a) works to alter the position of apparatus, including mains, sewers, drains, pipes and cables;
- (b) works to erect and construct such houses, warehouses, offices, and other buildings, yards, stations, engines, machinery, apparatus, and other works, and conveniences as the Company thinks fit;
- (c) junctions and communications (including the provision of steps or ramps for the use of persons on foot) with any highway or access way interfered with by, or contiguous with, any of the works described in this paragraph, and works to widen or alter any highway or access way for the purposes of connecting it with any of those works or another highway, or of crossing under or over another highway or access way;
- (d) all such embankments, aprons, abutments, retaining walls, wing walls, culverts and such other works as the Company thinks fit;
- (e) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the scheduled works; and
- (f) works for the benefit or protection of premises affected by the scheduled works.

(4) Without prejudice to the generality of paragraphs (2) and (3) above, the Company may, in connection with the construction of the scheduled works—

- (a) provide the following streets in the London Borough of Lewisham—
 - (i) a footpath between points F2, F3, F4, F5, F19 and F20;
 - (ii) a footpath between points F21, F9 and F10; and
 - (iii) a footpath between points F18, F22 and F23;
- (b) provide a controlled pedestrian crossing between points F20 and F21 in Surrey Canal Road.

(5) Subject to paragraph (6) below, the Company may from time to time carry out and maintain such other works (of whatever nature) as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the scheduled works.

(6) Paragraphs (3), (4) and (5) above shall only authorise the carrying out or maintenance of works outside the limits of deviation for the scheduled works shown on the deposited plans if the works are carried out 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.

Commencement Information

I4 Art. 4 in force at 9.11.2001, see [art. 1](#)

Power to deviate

5. In constructing or maintaining any of the scheduled works, the Company may—
- (a) deviate laterally from the lines or situations shown on the deposited plans to the extent of the limits of deviation for that work shown on the deposited plans, and
 - (b) deviate vertically from the levels shown on the deposited sections—
 - (i) to any extent not exceeding 5 metres upwards, or
 - (ii) to any extent downwards as may be found necessary or convenient.

Commencement Information

I5 Art. 5 in force at 9.11.2001, see [art. 1](#)

Streets

Power to execute street works

6.—(1) The Company may, for the purposes of the authorised works, enter upon so much of any of the streets specified in Schedule 3 to this Order as is within the limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it, or tunnel or bore under the street;
- (b) place apparatus in the street;
- (c) maintain apparatus in the street or change its position; and
- (d) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b) and (c) above.

(2) This article is subject to paragraph 3 of Schedule 9 to this Order.

(3) In this article “apparatus” has the same meaning as in Part III of the 1991 Act and includes a sewer, drain or tunnel and any structure for the lodging within that structure of apparatus or any structure required for gaining access to apparatus.

Commencement Information

I6 Art. 6 in force at 9.11.2001, see [art. 1](#)

Stopping up of streets and extinguishment of rights

7.—(1) Subject to the provisions of this article, the Company may, in connection with the construction of the authorised works, stop up the streets specified in columns (1) and (2) of Schedule 4 to this Order to the extent specified, by reference to the letters and numbers shown on the deposited plans, in column (3) of that Schedule.

(2) No street specified in columns (1) and (2) of Schedule 4 to this Order shall be wholly or partly stopped up under this article unless either—

- (a) the new street to be substituted for it and which is specified in relation to it by reference to the letters and numbers shown on the deposited plans in column (4) 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 could have used the street to be stopped up is first provided and thereafter maintained by the Company to the reasonable satisfaction of the street authority between the commencement and termination points of the street to be stopped up until completion of the new street in accordance with subparagraph (a) above.

(3) Where a street has been stopped up under this article the Company may, without making any payment therefor but subject to sections 77 to 85E of, and Schedules 1 to 3 to, the 1845 Act (which relate to minerals under railways), appropriate and use for the purposes of its undertaking the street so stopped up.

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

(5) This article is subject to paragraph 2 of Schedule 9 to this Order.

Commencement Information

17 Art. 7 in force at 9.11.2001, see [art. 1](#)

Temporary stopping up of streets

8.—(1) The Company, during and for the purposes of the execution of the authorised works, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (2) below, prevent all persons from passing along the street.

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

(3) Without prejudice to the generality of paragraph (1) above, the Company may exercise the powers of this article in relation to the streets specified in columns (1) and (2) of Schedule 5 to this Order to the extent specified in column (3) to that Schedule.

(4) The Company shall not exercise the powers of this article—

- (a) in relation to any street specified as mentioned in paragraph (3) above without first consulting the street authority; and
- (b) in relation to any other street without the consent of the street authority, but such consent shall not be unreasonably withheld.

(5) The provisions of the 1991 Act mentioned in paragraph (6) below and any regulations made, or code of practice issued or approved under, those provisions shall apply (with the necessary modifications) in relation to the stopping up, alteration or diversion of a street by the Company under the powers conferred by this article where no street works are executed in that street as they would apply if the stopping up, alteration or diversion were occasioned by street works executed in that street by the Company.

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

- section 54 (advance notice of certain works);
- section 55 (notice of starting date of works);

section 59 (general duty of street authority to co-ordinate works);
section 60 (general duty of undertakers to co-operate);
section 69 (works likely to affect other apparatus in the street);
section 76 (liability for cost of temporary traffic regulation);
section 77 (liability for cost of use of alternative route); and
all such other provisions as apply for the purposes of the provisions mentioned above.

Commencement Information

18 Art. 8 in force at 9.11.2001, see [art. 1](#)

Access to works

9. The Company may, for the purposes of the authorised works—
- (a) form and lay out means of access or improve existing means of access in the locations specified in columns (1) and (2) of Schedule 6 to this Order; and
 - (b) with the approval of the highway authority (such approval not to be unreasonably withheld) form and lay out such other means of access or improve existing means of access at such locations within the limits as the Company reasonably requires for the purposes of the authorised works.

Commencement Information

19 Art. 9 in force at 9.11.2001, see [art. 1](#)

Construction and maintenance of new or altered streets

10.—(1) Subject to paragraph (5) below, any street to be constructed under this Order shall be completed to the reasonable satisfaction of the highway authority and shall, unless otherwise agreed, be maintained by and at the expense of the Company for a period of 12 months from its completion and at the expiry of that period by and at the expense of the highway authority.

(2) Subject to paragraph (5) below, where a street is altered or diverted under this Order, the altered or diverted part of the street shall when completed to the reasonable satisfaction of the street authority, unless otherwise agreed, be maintained by and at the expense of the Company for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority and the obligation to maintain includes the controlled pedestrian crossing authorised to be constructed under article 4(4) above.

(3) Nothing in this article shall prejudice the operation of section 87 of the 1991 Act (prospectively maintainable highways); and the Company shall not by reason of any duty under this article to maintain a street be taken to be the street authority in relation to that street for the purposes of Part III of that Act.

(4) Nothing in this article shall have effect in relation to street works as respects which the provisions of Part III of the 1991 Act apply.

- (5) Paragraphs (1) and (2) above shall not apply in relation to—
- (a) the structure of any bridge or tunnel carrying a street over or under any railway of the Company;
 - (b) the construction and maintenance of Work No. 14; and

- (c) the footpaths constructed, diverted or altered—
 - (i) between points F2, F3, F4, F5, F19 and F20; and
 - (ii) between points F21, F9 and F10.

Commencement Information

I10 Art. 10 in force at 9.11.2001, see [art. 1](#)

Construction and maintenance of bridges

11. Notwithstanding any other provision of this Order or any enactment or rule of law the Company may in constructing and maintaining bridges authorised to be constructed under this Order—

- (a) carry Work No. 5 over Surrey Canal Road by means of a bridge which shall not reduce the headway under that bridge to less than 5.30 metres measured between the surface of the road and the underside of that bridge; and
- (b) carry Works Nos. 9, 10, 11 and 14 over Cold Blow Lane by means of bridges which shall not reduce the headway under those bridges to less than 3.65 metres measured between the surface of the lane and the underside of those bridges; and
- (c) carry Work No. 5 over Hornshay Street by means of a bridge which shall not reduce the headway to less than 3.25 metres between the surface of that street and the underside of that bridge.

Commencement Information

I11 Art. 11 in force at 9.11.2001, see [art. 1](#)

Agreements with street authorities

12.—(1) A street authority and the Company may enter into agreements with respect to—

- (a) the construction of any new street (including any structure carrying the street over or under a railway) under the powers conferred by this Order;
- (b) the maintenance of the structure of any bridge or tunnel carrying a street over or under a railway;
- (c) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
- (d) the execution in the street of any of the works referred to in article 6(1) above.

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

- (a) make provision for the street authority to exercise 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.

Commencement Information

I12 Art. 12 in force at 9.11.2001, see [art. 1](#)

Use of existing works at Surrey Canal Road

13.—(1) If the Company proceeds with the construction of the new bridge it may do either or both of the following—

- (a) hold, use and appropriate such parts of the original bridge as it may require for the purposes of the new bridge or for any purpose connected with or ancillary to its undertaking;
- (b) take down and remove such parts of the original bridge as it does not require for those purposes.

(2) Notwithstanding article 35 below all the powers and obligations conferred or imposed upon the Company by the 1865 Act in relation to the original bridge including any obligation to maintain it shall cease to have effect.

(3) In this article—

“the new bridge” means the bridge to be constructed across Surrey Canal Road as part of Work No. 5;

“the original bridge” means the former railway bridge and such other works and premises authorised by the 1865 Act as are within the limits of deviation for Work No. 5; and

“the 1865 Act” means the East London Railway Act 1865(13).

Commencement Information

113 Art. 13 in force at 9.11.2001, see [art. 1](#)

Supplemental powers

Discharge of water

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

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

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

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

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

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

(7) In this article—

(13) 1865 c. li.

(14) 1991 c. 57.

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board, a local authority or a joint planning board;
- (b) “watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and
- (c) other expressions used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

Commencement Information

I14 Art. 14 in force at 9.11.2001, see [art. 1](#)

Safeguarding works to buildings

15.—(1) Subject to the following provisions of this article, the Company may at its own expense and from time to time carry out such safeguarding works to any building lying within—

- (a) the limits of deviation, or
- (b) the land specified in columns (1) and (2) of Part I of Schedule 8 to this Order for the purposes specified in relation to that land in column (3) of that Part of the Schedule relating to the authorised works so specified in column (4) of that Part of the Schedule,

as the Company considers to be necessary or expedient.

(2) Safeguarding works may be carried out—

- (a) at any time before or during the construction in the vicinity of the building of any part of the authorised works; or
- (b) after the completion of the construction of that part of the authorised works, at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised works is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the Company may enter and survey any building falling within paragraph (1) above and any land belonging to it.

(4) For the purpose of carrying out safeguarding works under this article to a building the Company may (subject to paragraphs (5) and (6) below)—

- (a) enter the building and any land belonging to it; and
- (b) where the works cannot be carried out reasonably conveniently without entering land adjacent to the building, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) above to carry out safeguarding works to a building;
- (b) a right under paragraph (3) above to enter a building;
- (c) a right under paragraph (4)(a) above to enter a building or land; or
- (d) a right under paragraph (4)(b) above to enter land,

the Company shall, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c) above, specifying the safeguarding works proposed to be carried out.

(6) Where notice is served under paragraph (5)(a), (c) or (d) above, the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient

to carry out the safeguarding works or to enter the building or land to be referred to arbitration under article 44 below.

(7) The Company shall compensate the owners and occupiers of any building or land in relation to which the powers of this article have been exercised for any loss or damage arising to them by reason of the exercise of those powers.

(8) Where—

- (a) safeguarding works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised works constructed within the vicinity of the building is first opened for use it appears that the safeguarding works are inadequate to protect the building against damage caused by the construction or operation of that part of the works;

the Company shall compensate the owners and occupiers of the building for any damage sustained by them.

(9) Subject to article 43 below, nothing in this article shall relieve the Company from any liability to pay compensation under section 10(2) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) above shall be determined, in case of dispute, under Part I of the 1961 Act.

(11) In this article—

- (a) “building” includes any structure or erection or any part of a building, structure or erection;
- (b) “safeguarding works”, in relation to a building, means—
 - (i) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, maintenance or operation of the authorised works, and
 - (ii) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, maintenance or operation of the authorised works.

Commencement Information

I15 Art. 15 in force at 9.11.2001, see [art. 1](#)

Power to survey and investigate land

16.—(1) The Company may for the purposes of this Order—

- (a) survey or investigate any land shown within the limits or which may be affected by the authorised works;
- (b) without prejudice to the generality of sub-paragraph (a) above, make trial holes in such positions as the Company thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes; and
- (d) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (c) above.

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

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

(a) shall, if so required, before or after entering the land produce written evidence of his authority to do so; and

(b) may take with him such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

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

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

Commencement Information

I16 Art. 16 in force at 9.11.2001, see [art. 1](#)

Planning permission: supplementary matters

17.—(1) In relation to the application of paragraph (3)(c) of the Second Schedule of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Tree Preservation Order) Regulations 1969(**15**) as incorporated in any tree preservation order, any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to the works authorised by this Order shall be treated as deeming the permission to have been granted on application made under Part III of the 1990 Act.

(2) In relation to the application of article 5(1)(d) of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Trees) Regulations 1999(**16**) as incorporated in any tree preservation order or as having effect by virtue of regulation 10(1)(a) of those Regulations, any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to the works authorised by this Order shall not be treated as an outline planning permission.

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

Commencement Information

I17 Art. 17 in force at 9.11.2001, see [art. 1](#)

PART III

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

18.—(1) Subject to paragraph (3) below, the Company may acquire compulsorily—

(15) S.I.1969/17.

(16) S.I. 1999/1892.

(a) so much of the land shown on the deposited plans within the limits of deviation for the scheduled works 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 to this Order 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 connected with or ancillary to its railway undertaking.

(2) Without prejudice to the generality of paragraph (1) above, the land which may be acquired compulsorily under that paragraph shall include land which is or will be required—

- (a) for use in mitigating the effect on the environment of any of the works authorised by this Order;
- (b) for use in relocating any apparatus which it is expedient to divert or replace in consequence of the carrying out of any of the works authorised by this Order; or
- (c) for the purpose of being given in exchange for land forming part of a common, open space or fuel or field garden allotment which is acquired under paragraph (1) above.

(3) The Company shall not under the powers of this Order acquire compulsorily any interest in the lands delineated on the deposited plans and thereon numbered 63 in the London borough of Lewisham.

(4) In this article—

“apparatus” has the same meaning as in article 6(3) above and includes apparatus belonging to a statutory utility;

“common” includes any land subject to be enclosed under the Inclosure Acts 1845 to 1882⁽¹⁷⁾ and any town or village green;

“fuel or field garden allotment” means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act;

“open space” means any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground; and

“statutory utility” means a licence holder within the meaning of Part I of the Electricity Act 1989⁽¹⁸⁾, a public gas transporter within the meaning of Part I of the Gas Act 1986⁽¹⁹⁾, a water undertaker within the meaning of the Water Industry Act 1991⁽²⁰⁾, a sewerage undertaker within Part I of that Act and any local authority which is a relevant authority for the purposes of section 97 of that Act.

Commencement Information

I18 Art. 18 in force at 9.11.2001, see [art. 1](#)

Application of Part I of the Compulsory Purchase Act 1965

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

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

⁽¹⁷⁾ 1845 c. 118. 1846 c. 70. 1847 c. 111. 1848 c. 99. 1849 c. 83. 1851 c. 10. 1852 c. 79. 1857 c. 31. 1859 c. 43. 1868 c. 89. 1876 c. 56. 1878 c. 56. 1879 c. 37. 1882 c. 15.

⁽¹⁸⁾ 1989 c. 29.

⁽¹⁹⁾ 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 c. 45.

⁽²⁰⁾ 1991 c. 56.

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

Commencement Information

I19 Art. 19 in force at 9.11.2001, see [art. 1](#)

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

20.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981⁽²¹⁾ shall apply as if this Order were a compulsory purchase order.

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

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

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

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

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

(5) In that section, for subsections (5) and (6) there shall be substituted—

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

- (a) he is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion, or
- (b) he holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(6) In section 5 (earliest date for execution of declaration)—

- (i) in subsection (1), after “publication” there shall be inserted “in the London Gazette and in a local newspaper circulating in the area in which the land is situated”; and
- (ii) subsection (2) shall be omitted.

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

(21) 1981 c. 66.

(8) References to the 1965 Act shall be construed as references to that Act as applied to the acquisition of land under article 18 above.

Commencement Information

I20 Art. 20 in force at 9.11.2001, see [art. 1](#)

Powers to acquire new rights

21.—(1) Subject to article 18(3) above, the Company may acquire compulsorily such easements or other rights over any land referred to in paragraph (1) (a) or (b) of article 18 above as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

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

(3) Schedule 7 to this Order shall have effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right.

(4) Without prejudice to the generality of paragraph (1) above, the rights which may be acquired under that paragraph include the acquisition of—

- (a) rights for the use of John Williams Close in the London borough of Lewisham to provide train passengers, visitors to the station proposed to be constructed as part of Work No. 5 and visitors to Bridge House Meadows, a means of pedestrian access between that station, Surrey Canal Road and Hornshay Street in the London borough of Lewisham; and
- (b) rights for the use of Juno Way in the London borough of Lewisham to provide occupiers of, and visitors to premises, an alternative means of vehicular access in consequence of the construction by the Company of Works Nos. 9, 10, 11 and 14.

Commencement Information

I21 Art. 21 in force at 9.11.2001, see [art. 1](#)

Rights under streets

22.—(1) The Company may enter upon and appropriate so much of the subsoil of any street shown within the limits as may be required for the purposes of the authorised works and may use the subsoil for those purposes or any other purpose connected with or ancillary to its railway undertaking.

(2) The power under paragraph (1) above may be exercised in relation to a street without the Company being required to acquire any part of the street or any easement or right in the street.

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

(4) Paragraph (2) above shall not apply in relation to—

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

Commencement Information

I22 Art. 22 in force at 9.11.2001, see [art. 1](#)

Temporary possession of land

Temporary use of land for construction of works

23.—(1) The Company may, in connection with the carrying out of the authorised works—

- (a) enter upon and take temporary possession of the land specified in columns (1) and (2) of Part II of Schedule 8 to this Order for the purposes specified in relation to that land in column (3) of that Part of the Schedule relating to the authorised work so specified in column (4) of that Part of the Schedule;
- (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;
- (d) use part of the land delineated on the deposited plans and numbered 12 in the London borough of Lewisham, as a temporary alternative route between the points F2 and A1 for the purpose of article 7(2)(b) above until completion of the new footpath to be constructed between points F2 and F3; and
- (e) use the land for the purposes of a working site with access to the working site for construction purposes in connection with the authorised works.

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

(3) The Company may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of completion of the authorised works.

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

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

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

(7) Without prejudice to article 43 below, nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (5) above.

(8) The powers of compulsory acquisition of land conferred by this Order shall not apply in relation to the land referred to in paragraph (1) above.

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

(10) In this article “building” includes structure or any other erection.

Commencement Information

I23 Art. 23 in force at 9.11.2001, see [art. 1](#)

Compensation

Disregard of certain interests and improvements

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

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

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

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

Commencement Information

I24 Art. 24 in force at 9.11.2001, see [art. 1](#)

Supplementary

Acquisition of part of certain properties

25.—(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 19 above) in any case where—

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

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

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

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

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

- (a) without material detriment to the remainder of the land subject to the counter-notice; or

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

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

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

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

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

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

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

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

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

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
 (b) the material detriment is not confined to a part of the land subject to the counter-notice;

the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the Company is authorised to acquire compulsorily under this Order.

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

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

Commencement Information

I25 Art. 25 in force at 9.11.2001, see [art. 1](#)

Extinction or suspension of private rights of way

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

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

(b) on the entry on the land by the Company under section 11(1) of the 1965 Act;

whichever is sooner.

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

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

(4) This article does not apply in relation to any right of way to which section 271 or 272 of the 1990 Act (extinguishment of rights of statutory undertakers etc.) or paragraph 2 of Schedule 9 to this Order applies.

Commencement Information

I26 Art. 26 in force at 9.11.2001, see [art. 1](#)

Time limit for exercise of powers of acquisition

27.—(1) The powers conferred by this Order to acquire land or rights over land compulsorily, and the power conferred by article 23 above to enter upon and take temporary possession of land, shall cease at the end of the period of 5 years beginning on the day on which this Order comes into force.

(2) Paragraph (1) above shall not prevent the Company remaining in possession of land in accordance with article 23 after the end of that period, if the land was entered and possession of it was taken before the end of that period.

Commencement Information

I27 Art. 27 in force at 9.11.2001, see [art. 1](#)

PART IV

MISCELLANEOUS AND GENERAL

Power to transfer undertaking

28.—(1) Notwithstanding any restriction imposed by a relevant enactment on the power of disposal of land by a relevant authority required for the purposes of its undertaking the Company may with the consent of the Secretary of State enter into and carry into effect an agreement to sell, lease, charge or otherwise dispose of, on such terms and conditions as it thinks fit, the whole or any part of the undertaking comprised within the authorised works and any land held by the Company for the purpose of, or in connection with, the authorised works.

(2) Without prejudice to the generality of paragraph (1) above a transfer agreement under paragraph (1) above may provide for—

(a) the construction, maintenance, use and operation of the authorised works or any part thereof by another person and as to any other matter incidental or subsidiary thereto or consequential thereon; and

(b) the vesting in another person of all or any of the functions of the Company under this Order.

(3) A transfer agreement may be entered into so as to transfer and vest such property and functions in any other person for such period as may be specified in that agreement or for so long as the agreement remains in force and where such an agreement is entered into references in this Order to the Company shall, to the extent that the agreement so provides, have effect as references to the transferee.

(4) Without prejudice to the powers of the Company to terminate or vary a transfer agreement, a transfer agreement may specify circumstances in which that agreement shall cease to have effect before the expiry of any period specified in any such agreement.

(5) A transfer agreement may include such supplementary, incidental, transitional and consequential provisions as the Company may consider to be necessary or expedient.

(6) Without prejudice to the generality of paragraph (1) above a transfer agreement may provide for the exercise by a transferee, or the Company and a transferee jointly, of all or any of the powers of the Company (whether under this Order or under any other enactment) in respect of the authorised works or any part thereof and for the transfer to and vesting in a transferee, or the Company and a transferee jointly, of those works or any part thereof together with the rights and obligations of the Company in relation thereto.

(7) Subject to paragraph (1) above, the exercise by a transferee or the Company and a transferee jointly, of any of the powers of this Order shall be subject to all statutory and contractual provisions in relation thereto as would apply if those powers were exercised by the Company alone and accordingly those provisions with any necessary modifications shall apply to the exercise of such powers by another person, or by the Company and a transferee jointly.

(8) Upon expiry of any period specified in a transfer agreement in accordance with paragraph (3) above, or upon a transfer agreement being terminated or otherwise ceasing to have effect, the functions and property of the Company which were transferred by that agreement shall, by virtue of this paragraph but subject to the effect of any further transfer agreement entered into by the Company, be re-vested in the Company, but such re-vesting shall not make the Company subject to any of the liabilities of the transferee other than any continuing duties imposed by this Order.

(9) Notwithstanding anything in any transfer agreement, any duty arising under this Order to complete the construction of, or to maintain or operate any works in respect of which the Company's functions are transferred by a transfer agreement, together with such rights and property as are required for the discharge of that duty, shall revert to the Company in the event of the abandonment of those works or in the event that the works are not completed within 10 years of the commencement of construction of those works.

(10) Unless the transfer agreement otherwise provides, if a duty to complete the construction of, to maintain or to operate any works reverts to the Company under paragraph (9) above, the transfer agreement shall terminate and all the functions and property of the Company which were transferred by that agreement shall be re-vested in the Company in accordance with paragraph (8) above.

(11) Within 21 days of the re-vesting in the Company of any property or functions pursuant to paragraph (8) or (10) above or the reversion to the Company of any duty, rights or property pursuant to paragraph (9) above, the Company shall serve notice on the Secretary of State, providing him with particulars of the re-vesting or reversion concerned.

(12) In this article, unless the context otherwise requires—

F1
...

“the 1999 Act” means the Greater London Authority Act 1999(22);

“functions” includes powers, duties and obligations;

“relevant enactment” means ^{F2}... the 1999 Act;

“relevant authority” means ^{F3}... Transport for London, and if the context so requires the Mayor of London and the Greater London Authority;

“transferee” means a person to whom all or any of the property or functions of the Company have been transferred by virtue of a transfer agreement; and

“transfer agreement” means an agreement entered into under paragraph (1) above.

Textual Amendments

F1 Words in art. 28(12) omitted (15.7.2003) by virtue of [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), art. 1(1), [Sch. 1 para. 57\(a\)](#)

F2 Words in art. 28(12) omitted (15.7.2003) by virtue of [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), art. 1(1), [Sch. 1 para. 57\(b\)](#)

F3 Words in art. 28(12) omitted (15.7.2003) by virtue of [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), art. 1(1), [Sch. 1 para. 57\(c\)](#)

Commencement Information

I28 Art. 28 in force at 9.11.2001, see [art. 1](#)

Agreements with Railtrack

29.—(1) Without prejudice to article 28 above, the Company and Railtrack may with the consent of the Secretary of State enter into and carry into effect agreements with respect to the construction, maintenance, use and operation of—

- (a) any of the authorised works, or any part of those works; and
- (b) any works required for the purposes of or in connection with the authorised works;

by Railtrack or by the Company, or by the Company and Railtrack jointly.

(2) Any agreement made pursuant to the powers conferred by this article may contain such incidental, consequential or supplementary provisions as may be so agreed, including (but without prejudice to the generality of the foregoing) provisions—

- (a) with respect to the defraying of, or the making of contributions towards, the cost of such works or alteration or adaptation or the costs of such construction, maintenance, use and operation as are referred to in paragraph (1) above by the Company or by Railtrack or by the Company and Railtrack jointly; and
- (b) for the exercise by Railtrack, or by the Company, or by Railtrack and the Company jointly, of all or any of the powers and rights of Railtrack and the Company (as the case may be) in respect of any of the authorised works and any works required for the purposes thereof or in connection therewith.

(3) The exercise by the Company or Railtrack or by the Company and Railtrack jointly, of any powers and rights under any enactment or contract pursuant to any such agreement as is authorised by paragraph (2) above shall be subject to all statutory and contractual provisions relating thereto as would apply if such powers and rights were exercised by the Company or Railtrack (as the case may be) alone, and accordingly such provisions shall with any necessary modifications, apply to the exercise of such powers and rights by the Company or Railtrack, or by the Company and Railtrack jointly, as the case may be.

(4) The Company and Railtrack may enter into, and carry into effect, agreements for the transfer to and vesting in Railtrack or the Company, or the Company and Railtrack jointly, of—

- (a) any of the authorised works or any part of any of those works; or

- (b) any works, lands or other property required for the purposes of the authorised works or in connection with such works;

together with any rights and obligations (whether or not statutory) of Railtrack or the Company relating thereto.

(5) In this article “the Company” means the Company or a transferee other than Railtrack under a transfer agreement, within the meaning of article 28 above.

Commencement Information

I29 Art. 29 in force at 9.11.2001, see [art. 1](#)

Obstruction to construction

30. Any person who, without reasonable excuse, obstructs any person acting under the authority of the Company in setting out the lines of the scheduled works, or in constructing any authorised work or who interferes with, moves or removes any apparatus belonging to any such person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I30 Art. 30 in force at 9.11.2001, see [art. 1](#)

Proceedings in respect of statutory nuisance

31.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990⁽²³⁾ (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 shall 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 Company for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to the construction or maintenance of the authorised works; and
- (b) 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⁽²⁴⁾; or
- (c) that the nuisance is a consequence of the construction, maintenance or use of the authorised works and that it cannot reasonably be avoided.

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

- (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);

⁽²³⁾ 1990 c. 43.

⁽²⁴⁾ 1974 c. 40.

shall not apply where the consent relates to the use of premises by the Company for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to construction or maintenance of the authorised works.

Commencement Information

I31 Art. 31 in force at 9.11.2001, see [art. 1](#)

Control of construction sites: appeals

32. Sections 60 (control of noise on construction sites) and 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974 shall have effect, in relation to works carried out in exercise of the powers conferred by this Order, as if in subsection (7) of each section (appeal against failure to give consent or the giving of qualified consent) for the words “a magistrates’ court” there were substituted the words “the Secretary of State”.

Commencement Information

I32 Art. 32 in force at 9.11.2001, see [art. 1](#)

Statutory undertakers etc.

33. The provisions of Schedule 9 to this Order shall have effect.

Commencement Information

I33 Art. 33 in force at 9.11.2001, see [art. 1](#)

Protective provisions

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

Commencement Information

I34 Art. 34 in force at 9.11.2001, see [art. 1](#)

As to application of certain railway enactments

35.—(1) Any enactment by which any railway or former railway of Railtrack comprised within the designated lands was authorised shall have effect subject to the provisions of this Order.

(2) Nothing in paragraph (1) above shall prejudice any express statutory provision for—

- (a) the protection of the owner, lessee or occupier of any property which is specifically designated property in such statutory provision; or
- (b) the protection or benefit of any public trustees or commissioners, corporation or other person, specifically named in such provision.

(3) In this article “designated lands” means any land described in the book of reference which is owned by Railtrack.

.....

Commencement Information

I35 Art. 35 in force at 9.11.2001, see [art. 1](#)

For the protection of Railtrack

36. If the powers of the Company under this Order to construct the authorised works or any part of those works are exercised by the Company or are transferred to another person other than Railtrack by virtue of a transfer agreement under article 28 above, the provisions of Schedule 11 to this Order shall apply for the protection of Railtrack.

.....

Commencement Information

I36 Art. 36 in force at 9.11.2001, see [art. 1](#)

For the protection of the Company in the event of transfer

37. If the powers of the Company under this Order to construct the authorised works or any part of those works are transferred to another person by virtue of a transfer agreement under article 28 above, the provisions of Schedule 12 to this Order shall apply for the protection of the Company.

.....

Commencement Information

I37 Art. 37 in force at 9.11.2001, see [art. 1](#)

Maintenance of approved works etc.

38.—(1) Where pursuant to regulations⁽²⁵⁾ 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 railways authorised by this Order, 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 railways so authorised.

(2) If without reasonable cause the provisions of paragraph (1) above are contravened, the Company 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.

.....

Commencement Information

I38 Art. 38 in force at 9.11.2001, see [art. 1](#)

Public open space

39.—(1) As from the later of—

(25) S.I. 1994/157.

- (a) the date on which this Order comes into force; or
- (b) the date on which the special category land is vested in the Company; or
- (c) the date on which the exchange land is vested in the Company;

the exchange land shall vest in the London borough of Lewisham.

- (2) The vesting of the exchange land in the London borough of Lewisham shall—
 - (a) be subject to the like rights, trusts and incidents as attached to the special category land; and
 - (b) the special category land shall thereupon be discharged from all rights trusts and incidents to which it was previously subject.
- (3) In this article—
 - “the special category land” means the land delineated on the deposited plans and thereon numbered 66 in the London borough of Lewisham; and
 - “the exchange land” means the land delineated on the deposited plans and thereon numbered 66a, 67, 68, 70, 74a and 75 in the London borough of Lewisham.

Commencement Information

I39 Art. 39 in force at 9.11.2001, see [art. 1](#)

Disapplication of land designated as a strategic freight site

40.—(1) As from the date on which the relevant land is acquired or appropriated for the purposes of this Order the designation of that land as a strategic freight site shall cease to have effect.

- (2) In this article—
 - “designation as a strategic freight site” means designation as such a site for the purpose of the lists of strategic freight sites which Railtrack is required to keep pursuant to any scheme and any agreement entered into pursuant to section 85 and section 91(1)(c) of the Railways Act 1993(26);
 - “the relevant land” means the land delineated on the deposited plans and numbered 101, 105, 106 and 108 in the London borough of Lewisham.

Commencement Information

I40 Art. 40 in force at 9.11.2001, see [art. 1](#)

Certification of plans etc.

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

Commencement Information

I41 Art. 41 in force at 9.11.2001, see [art. 1](#)

Service of notices

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

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

(3) For the purposes of section 7 of the Interpretation Act 1978(**27**) as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) above is, if he has given an address for service, that address, and otherwise—

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

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

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

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

Commencement Information

I42 Art. 42 in force at 9.11.2001, see [art. 1](#)

No double recovery

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

Commencement Information

I43 Art. 43 in force at 9.11.2001, see [art. 1](#)

Arbitration

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

Commencement Information

I44 Art. 44 in force at 9.11.2001, see [art. 1](#)

Signed by authority of the Secretary of State for Transport, Local Government and the Regions

Ellis Harvey
Head of the Transport and Works Act Processing
Unit,
Department for Transport, Local Government
and the Regions

Changes to legislation:

There are currently no known outstanding effects for the The London Underground (East London Line Extension) (No. 2) Order 2001.