
STATUTORY INSTRUMENTS

2006 No. 2905

TRANSPORT AND WORKS, ENGLAND
TRANSPORT, ENGLAND

The Docklands Light Railway (Stratford
International Extension) Order 2006

Made - - - - *1st November 2006*
22nd November
Coming into force - - *2006*

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

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The Secretary of State, having considered the objections made and not withdrawn and the report of the person who held the inquiry, has determined to make an Order giving effect to the proposals comprised in the application with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

The Secretary of State is satisfied that the provision of an alternative right of way for the street mentioned in Part 2 of Schedule 5 to this Order is not required;

Notice of the Secretary of State’s determination was published in the London Gazette on 30th October 2006;

Accordingly, the Secretary of State, in exercise of the powers conferred on him by sections 1 and 5 of, and paragraphs 1 to 4, 7, 8, 10, 11 and 15 to 17 of Schedule 1 to, the 1992 Act makes the following Order:—

(1) S.I. 2000/2190.
(2) 1992 c. 42.

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Docklands Light Railway (Stratford International Extension) Order 2006 and shall come into force on 22nd November 2006.

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961⁽³⁾;

“the 1965 Act” means the Compulsory Purchase Act 1965⁽⁴⁾;

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

“the 1984 Act” means the Road Traffic Regulation Act 1984⁽⁶⁾;

“the 1990 Act” means the Town and Country Planning Act 1990⁽⁷⁾;

“the 1991 Act” means the New Roads and Street Works Act 1991⁽⁸⁾;

“the 1992 Act” means the Transport and Works Act 1992⁽⁹⁾;

“the 1993 Act” means the Railways Act 1993⁽¹⁰⁾;

“the abandoned railway formation” means the railway formation forming part of the North London Line, and intended to be abandoned by Network Rail as a railway in consequence of the construction of the works authorised by this Order, comprising the land in the London Borough of Newham numbered 538 to 559 on the deposited plans and all related structures, buildings, plant, equipment and other apparatus;

“the Applications Rules” means the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000⁽¹¹⁾;

“the authorised railway” means the railways authorised by this Order or any part of them;

“the authorised works” means the scheduled works and any other works authorised by this Order or any part of them;

“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;

“carriageway” has the same meaning as in the Highways Act 1980⁽¹²⁾;

“the deposited plans” means the composite plans certified by the Secretary of State as the deposited plans for the purposes of this Order and references to land shown on those plans are references to land so shown in pursuance of rule 12(5) of the Application Rules;

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

(3) 1961 c. 33.

(4) 1965 c. 56.

(5) 1981 c. 67.

(6) 1984 c. 27.

(7) 1990 c. 8.

(8) 1991 c. 22 as amended by the Traffic Management Act 2004 c. 18.

(9) 1992 c. 42.

(10) 1993 c. 43.

(11) S.I. 2000/2190.

(12) 1980 c. 66.

“DLRL” means Docklands Light Railway Limited, a company limited by shares and registered in England and Wales under number 2052677;

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

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

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

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail by the Secretary of State in exercise of his powers under section 8 of the 1993 Act;

“Network Rail” means Network Rail Infrastructure Limited and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 736 of the Companies Act 1985⁽¹³⁾) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

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

“owner”, in relation to land, has the same meaning as in the 1981 Act;

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

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

“street” includes part of a street;

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

“the temporary land” means the land specified in Schedule 10; and

“the tribunal” means the Lands Tribunal.

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

(3) 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.

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

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

Application of 1991 Act

3.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway shall 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) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works); or

(13) 1985 c. 6.

(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 Highways Act 1980 (dual carriageways and roundabouts).

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

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

section 56 (directions as to timing);

section 56A (power to give directions as to placing of apparatus);

section 58 (restrictions following substantial road works);

section 58A (restriction on works following substantial street works);

section 73A (power to require undertaker to re-surface street);

section 73B (power to specify timing, etc., of re-surfacing);

section 73C (materials, workmanship and standard of re-surfacing);

section 78A (contributions to costs of re-surfacing by undertaker); and

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 shall apply (with the necessary modifications) in relation to the stopping up, alteration or diversion of a street by DLRL under the powers conferred by this Order whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

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

section 54 (advance notice of certain works);

section 55 (notice of starting date of works);

section 57 (notice of emergency works);

section 59 (general duty of street authority to co-ordinate works);

section 60 (general duty of undertakers to co-operate);

section 68 (facilities to be afforded to street authority);

section 69 (works likely to affect other apparatus in the street);

section 75 (inspection fees);

section 76 (liability for cost of temporary traffic regulation);

section 77 (liability for cost of use of alternative route); and

all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) shall 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 13 of this Order shall—

(a) prejudice the operation of section 87 of the 1991 Act (prospectively maintainable highways); and DLRL shall not by reason of any duty under that article to maintain a street be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or

- (b) have effect in relation to street works as respects which the provisions of Part 3 of the 1991 Act apply.

PART 2

WORKS PROVISIONS

Principal Powers

Power to construct and maintain works

- 4.—(1) DLRL may construct and maintain the scheduled works.
- (2) Subject to article 5, the scheduled works may only be constructed in the lines or situations shown on the deposited plans and in accordance with the levels shown on the deposited sections.
- (3) Subject to paragraph (6), DLRL may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, or purposes ancillary to, the construction of the scheduled works, namely—
- (a) works required for the strengthening, improvement, repair or reconstruction of any street;
 - (b) works for the strengthening, alteration or demolition of any building or structure;
 - (c) works to alter the position of any street furniture or apparatus, including mains, sewers, drains, cables and lights;
 - (d) works to alter the course of, or otherwise interfere with, a watercourse other than a navigable watercourse;
 - (e) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the other authorised works; and
 - (f) facilities and works for the benefit or protection of land or premises affected by the other authorised works.
- (4) Subject to paragraph (6), DLRL may carry out and maintain such other works (of whatever nature) as may be necessary or expedient for the purposes of, or purposes ancillary to, the construction of the scheduled works other than works that would interfere with a navigable watercourse.
- (5) DLRL may remove any works constructed by it pursuant to this Order which have been constructed as temporary works or which it no longer requires.
- (6) Paragraphs (3), (4) and (9) shall only authorise the carrying out or maintenance of works—
- (a) within the limits of deviation for the scheduled works shown on the deposited plans;
 - (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 (being land shown on the deposited plans as lying within the limits of additional land to be acquired or used); and
 - (c) on land specified in columns (1) and (2) of Schedule 10 to this Order for the purpose specified in relation to that land in column (3) of that Schedule (being land shown on the deposited plans as lying within the limits of land to be used temporarily).
- (7) In constructing and maintaining the scheduled works DLRL may lay and install such number of railway lines, switches and crossings as may be necessary or expedient.
- (8) The following enactments shall not apply to anything done under or in pursuance of this Order—

- (a) section 109 of the Water Resources Act 1991⁽¹⁴⁾, section 23 of the Land Drainage Act 1991⁽¹⁵⁾ and any byelaws made under those Acts; and
- (b) section 13 of the London Docklands Development Corporation Act 1994⁽¹⁶⁾.

(9) Subject to paragraph (6) but without prejudice to article 44, DLRL may also exercise the powers of paragraph (3) in relation to the abandoned railway formation and may carry out and maintain such other works of whatever nature as may be necessary or expedient for the purposes of, or purposes ancillary to maintenance, preservation or retention of the abandoned railway formation.

Power to deviate

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

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

(2) Without prejudice to the generality of paragraph (1), in constructing or maintaining the scheduled works DLRL may, to the extent it thinks fit—

- (a) deviate from their points of commencement and termination shown on the deposited plans; and
- (b) in relation to any intended bridge, viaduct, gantry or other structure above ground level, deviate from the design shown on the deposited sections as it thinks fit, including by varying the number of any supporting columns or other structures, the distances between them and the height or clearance above the level of the ground.

Stations

6. DLRL may—

- (a) alter any of the existing stations specified in Schedule 3 to this Order on the lands specified in that Schedule;
- (b) construct any of the new stations specified in that Schedule on the lands specified in that Schedule;
- (c) maintain and operate any stations so altered or constructed; and
- (d) construct, maintain and operate all necessary works and facilities connected with those stations.

Streets

Power to alter layout of streets

7.—(1) DLRL may alter the layout of any street specified in columns (1) and (2) of Schedule 4 to this Order in the manner specified in relation to that street in column (3) of that Schedule.

(2) Without prejudice to the specific powers conferred by paragraph (1) but subject to paragraph (3), DLRL may for the purpose of constructing, maintaining or using any scheduled work,

⁽¹⁴⁾ 1991 c. 57.

⁽¹⁵⁾ 1991 c. 59.

⁽¹⁶⁾ 1994 c. xiii.

alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without prejudice to the generality of the foregoing, DLRL 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) reduce the width of the carriageway of the street; and
- (d) carry out works for the provision or alteration of parking places and bus laybys.

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

Power to keep apparatus in streets

8.—(1) DLRL may, for the purposes of or in connection with the construction, maintenance and use of the authorised works, place and maintain in any street within the Order limits and in any street having a junction with such a street any work, equipment or apparatus including, without prejudice to the generality of the foregoing, foundations, road islands, substations, electric lines and any electrical or other apparatus.

(2) In this article—

- (a) “apparatus” has the same meaning as in Part 3 of the 1991 Act;
- (b) “electric line” has the meaning given by section 64(1) of the Electricity Act 1989⁽¹⁷⁾; and
- (c) the reference to any work, equipment, apparatus or other thing in a street includes a reference to any work, equipment, apparatus or other thing under, over, along or upon the street.

Power to execute street works

9. DLRL may, for the purpose of exercising the powers conferred by article 8 or any other provision of this Order, enter upon any street within the Order limits and any street having a junction with such a street and may execute any works required for or incidental to the exercise of those powers including, without prejudice to the generality of the foregoing, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street.

Stopping up of streets

10.—(1) Subject to the provisions of this article DLRL may, in connection with the construction of the authorised works, stop up each of the streets specified in columns (1) and (2) of Part 1 and Part 2 of Schedule 5 to this Order to the extent specified, by reference to the letters and numbers shown on the deposited plans, in column (3) of Parts 1 and 2 of that Schedule.

(2) No street specified in columns (1) and (2) of Part 1 of Schedule 5 to this Order (being a street to be stopped up for which a substitute is to be provided) 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 one of the scheduled works mentioned in column (4) 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 is first provided and thereafter maintained by DLRL to the reasonable satisfaction of the street authority between the commencement and termination

(17) 1989 c. 29.

points of the street to be stopped up until completion of the new street in accordance with sub-paragraph (a).

(3) No street specified in columns (1) and (2) of Part 2 of Schedule 5 (being a street to be stopped up for which no substitute is to be provided) shall be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the relevant land; and for this purpose “the relevant land” means any land which abuts on either side of the street to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) DLRL is in possession of the land; or
- (b) there is no right of access to the land from the street concerned; or
- (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.

(5) Where a street has been stopped up under this article—

- (a) all rights of way over or along it shall be extinguished; and
- (b) DLRL may appropriate and use for the purposes of its undertaking so much of the site of the street as is bounded on both sides by land owned by DLRL.

(6) Any person who suffers loss by the extinguishments 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 1 of the 1961 Act.

(7) This article is subject to paragraph 2 of Schedule 11 and paragraph 3 of Schedule 15.

Temporary stopping up of streets

11.—(1) DLRL 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 prejudice to the generality of paragraph (1), DLRL may use any street stopped up under the powers of this article as a temporary working site.

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

(4) Without prejudice to the generality of paragraph (1), DLRL may exercise the powers of this article in relation to the streets specified in columns (1) and (2) of Parts 1 and 2 of Schedule 5 to the extent specified in column (3) of that Schedule, and in relation to the streets specified in Schedule 6 to this Order.

(5) DLRL shall not exercise the powers of 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, but such consent shall not be unreasonably withheld.

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

Access to works

- 12.** DLRL may, for the purposes of the construction or operation of the authorised works—
- (a) form and lay out means of access or improve existing means of access, at or about the points marked “A” on the deposited plans and specified in columns (1) and (2) of Schedule 7 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 Order limits or the temporary land as DLRL reasonably requires.

Construction and maintenance of new or altered streets

13.—(1) 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 DLRL 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) 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 DLRL for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(3) Paragraphs (1) and (2) do not apply in relation to the structure of any bridge or tunnel carrying a street over or under any authorised railway.

Agreements with street authorities

- 14.—**(1) A street authority and DLRL may enter into agreements with respect to—
- (a) the construction of any new street (including any structure carrying the street over or under the authorised railway) under the powers conferred by this Order;
 - (b) the strengthening or improvement of any street under the powers conferred by this Order;
 - (c) the maintenance of any street or of the structure of any bridge or tunnel carrying a street over or under the authorised railway;
 - (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.
- (2) Such an agreement may, without prejudice to the generality of paragraph (1)—
- (a) provide for the street authority to carry out any function under this Order which relates to the street in question; and
 - (b) contain such terms as to payment and otherwise as the parties consider appropriate.

Supplemental

Discharge of water

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

(5) DLRL 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 or any other poisonous, noxious or polluting matter.

(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⁽¹⁸⁾.

(7) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board, a local authority, or a harbour authority within the meaning of the Harbours Act 1964⁽¹⁹⁾;
- (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.

Safeguarding works to buildings

16.—(1) Subject to the following provisions of this article, DLRL may at its own expense and from time to time carry out such safeguarding works to any building lying within the Order limits as DLRL 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 public use.

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

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

- (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) to carry out safeguarding works to a building;

⁽¹⁸⁾ 1991 c. 57.

⁽¹⁹⁾ 1964 c. 40.

- (b) a right under paragraph (3) to enter a building or land belonging to it;
- (c) a right under paragraph (4)(a) to enter a building or land belonging to it; or
- (d) a right under paragraph (4)(b) to enter land;

DLRL 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), specifying the safeguarding works proposed to be carried out.

(6) Where notice is served under paragraph (5)(a), (c) or (d), 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 51.

(7) DLRL 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;

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

(9) Without prejudice to article 50, nothing in this article shall relieve DLRL from any liability to pay compensation under section 10(2) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) shall be determined, in case of dispute, under Part 1 of the 1961 Act.

(11) In this article—

- (a) “building” includes any structure or erection or any part of a building, structure or erection; and
- (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;
 - (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; and
 - (iii) any works the purpose of which is to secure the safe operation of the authorised works or to prevent or minimise the risk of such operation being disrupted.

Town and country planning

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⁽²⁰⁾ (including that paragraph as applied by regulation 3(ii) of the Town

⁽²⁰⁾ S.I. 1969/17.

and Country Planning (Tree Preservation Order) (Amendment) and (Trees in Conservation Areas) (Exempted Cases) Regulations 1975(21), 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 works authorised by this Order shall 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.

(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(22) as incorporated in any tree preservation order or as having effect by virtue of regulation 10(1)(a) of those Regulations, any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to the works authorised by this Order shall not be treated as an outline planning permission.

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

Power to survey and investigate land, etc.

18.—(1) DLRL may for the purposes of this Order—

- (a) survey or investigate any land within the Order limits and any land specified in columns (1) and (2) of Schedule 10 to this Order;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions as DLRL thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on any such land;
- (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 any of the powers conferred by sub-paragraphs (a) to (d).

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

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

- (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) DLRL 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 1 of the 1961 Act.

(6) Nothing in this article shall obviate the need to obtain scheduled monument consent under the Ancient Monuments and Archaeological Areas Act 1979(23).

(21) S.I. 1975/148.

(22) S.I. 1999/1892.

(23) 1979 c. 46.

Obstruction of construction of authorised works

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

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

20.—(1) DLRL may acquire compulsorily—

- (a) so much of the land shown on the deposited plans within the limits of deviation for the scheduled works shown on those plans and described in the book of reference as may be required for or in connection with the authorised works; and
- (b) so much of the land specified in columns (1) and (2) of Schedule 2 to this Order (being land shown on the deposited plans and described in the book of reference as lying within the limits of additional land to be acquired or used) 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 purposes ancillary to its undertaking.

(2) This article is subject to article 25 and 26(2).

Application of Part 1 of the Compulsory Purchase Act 1965

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

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(24) applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part 1 of the 1965 Act, as so applied, shall have effect as if 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.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

22.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(25) shall apply to DLRL as if this Order were a compulsory purchase order.

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

(3) In section 3 (preliminary notices) for 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—

(24) 1981 c. 67.

(25) 1981 c. 66.

- (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 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, subsections (5) and (6) shall be omitted and at the end there shall be substituted—

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

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

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

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

(8) References to the 1965 Act shall be construed as references to that Act as applied to the acquisition of land by article 21.

Power to acquire new rights, etc.

23.—(1) DLRL may compulsorily acquire such easements or other rights over any land referred to in paragraph (1)(a) or (b) of article 20, or impose restrictive covenants affecting the 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 or other rights already in existence.

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

(3) Schedule 8 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 or the imposition of a restrictive covenant.

Power to acquire subsoil only

24.—(1) DLRL may compulsorily acquire so much of the subsoil of the land referred to in paragraph (1)(a) or (b) of article 20 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 DLRL acquires any part of the subsoil of land under paragraph (1) DLRL shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) shall not prevent article 30 from applying where DLRL acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

New rights, etc., only to be acquired in certain lands

25.—(1) In the case of the land specified in Schedule 9, DLRL's powers of compulsory acquisition under article 20(1) shall be limited to—

- (a) the acquisition of such easements or other new rights in the land; or
- (b) the imposition of such restrictive covenants affecting the land,

as it may require for the purposes of constructing, maintaining, protecting, renewing and using the authorised works.

(2) Where DLRL acquires easements or other new rights in the land specified in Schedule 9, or imposes restrictive covenants affecting the land, article 23(2) shall apply as it applies to the acquisition of a new right under that article.

Rights under or over streets

26.—(1) DLRL may enter upon and appropriate so much of the surface, subsoil of, or airspace over, any street shown on the deposited 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 connected with or ancillary to its undertaking.

(2) Subject to paragraph (4) the power under paragraph (1) may be exercised in relation to a street without DLRL being required to acquire any part of the street or any easement or right in the street and except in relation to a street which is subject to stopping up pursuant to article 10, the powers of compulsory acquisition of land conferred by this Order shall not apply in relation to the street.

(3) 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 DLRL 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 1 of the 1961 Act.

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

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

(5) Compensation shall not be 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.

Temporary possession of land

Temporary use of land for construction of works

27.—(1) DLRL 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 10 to this Order and shown on the deposited plans as within the limits of land to be used temporarily, for the purpose specified in relation to that land in column (3) of that Schedule relating to the authorised works (or any of those works) so specified in column (4) of that Schedule; and
- (ii) any of the land within the Order limits in respect of which no notice of entry has been served under section 11 of the 1965 Act or no declaration has been made under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981;

- (b) remove any buildings and vegetation from that land; and
 - (c) construct temporary works (including the provision of means of access) and buildings on the land.
- (2) Not less than 14 days before exercising the powers of paragraph (1) DLRL shall serve notice of the intended entry on the owners and occupiers of the land.
- (3) DLRL 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 columns (1) and (2) of Schedule 10 to this Order, after the end of the period of 2 years beginning with the date of completion of the work or works specified in relation to that land in column (4) of that Schedule; or
 - (b) in the case of land within the Order limits, after the end of the period of 2 years beginning with the date of completion of the work or works for which temporary possession of the land was taken unless DLRL 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 paragraph (1), DLRL shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but DLRL shall not be required to replace a building removed under this article.
- (5) DLRL shall pay compensation to the owners and occupiers of land of which temporary possession is taken under paragraph (1), for any loss or damage arising from the exercise in relation to the land of the powers conferred by paragraphs (1) and (4).
- (6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, shall be determined under Part 1 of the 1961 Act.
- (7) Without prejudice to article 50, nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (5).
- (8) Where DLRL takes possession of or uses any land under this article, it shall not be required to acquire the land or any interest in it.
- (9) In this article and article 28, "building" includes structure or any other erection.
- (10) Section 13 of the 1965 Act shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 21(1).

Temporary use of land for maintenance of works

- 28.**—(1) Subject to paragraph (2), at any time during the maintenance period relating to any of the scheduled works, DLRL may—
- (a) enter upon and take temporary possession of any land within the limits of deviation and lying within 20 metres from that work, if such possession is reasonably required for the purpose of, or purposes ancillary to, 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 building on the land as may be reasonably necessary for that purpose.
- (2) Paragraph (1) shall not authorise DLRL 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 DLRL shall serve notice of the intended entry on the owners and occupiers of the land.

(4) DLRL 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, DLRL shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

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

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, shall be determined under Part 1 of the 1961 Act.

(8) Without prejudice to article 50, nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (6).

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

(10) Section 13 of the 1965 Act shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 21(1).

(11) In this article—

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

Compensation

Disregard of certain interests and improvements

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

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

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

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

Supplementary

Acquisition of part of certain properties

30.—(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 21) in any case where—

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

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on DLRL 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 DLRL 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 DLRL is authorised to acquire compulsorily under this Order.

(8) If DLRL 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 DLRL 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, DLRL may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, if it does so, shall pay to the owner compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

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

Extinction or suspension of private rights of way

31.—(1) Subject to the provisions of this article, 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 DLRL, whether compulsorily or by agreement; or

(b) on the entry on the land by DLRL under section 11(1) of the 1965 Act,

whichever is sooner.

(2) Subject to the provisions of this article, all private rights of way over land owned by DLRL which is within the limits of land which may be acquired shown on the deposited plans and is required for the purposes of this Order, shall be extinguished on the appropriation of the land for any of those purposes by DLRL.

(3) Subject to the provisions of this article, all private rights of way over land of which DLRL takes temporary possession under this Order shall be suspended and unenforceable for as long as DLRL remains in lawful possession of the land.

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

(5) This article does not apply in relation to any right of way to which section 271 or 272 of the 1990 Act (extinguishment of rights of statutory undertakers, etc.) or paragraph 2 of Schedule 11 to this Order applies.

(6) Paragraphs (1), (2) and (3) shall have effect subject to—

(a) any notice given by DLRL before the completion of the acquisition of the land, DLRL's appropriation of it, DLRL's entry onto it or DLRL's taking temporary possession of it, as the case may be, that any or all of those paragraphs shall 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 subparagraph (a) and before or after the coming into force of this Order) between DLRL and the person in or to whom the right of way in question is vested or belongs.

(7) If any such agreement as is referred to in paragraph (6)(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 him, it shall be effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

Open space at Sycamore Close

32.—(1) As from the date on which DLRL enters onto the special category land under section 11(1) of the 1965 Act, the special category land shall thereupon be discharged from all rights, trusts and incidents to which it was previously subject.

(2) In this article “the special category land” means the land shown numbered 334 and 338 on the deposited plans in the London Borough of Newham and forming part of an open space within the meaning of section 19(1) of the 1981 Act, which the Secretary of State has certified for the purposes of that section as not exceeding 250 square yards⁽²⁶⁾ in area and that the giving in exchange for the special category land of other land is unnecessary.

Time limit for exercise of powers of acquisition

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

- (a) no notice to treat shall be served under Part 1 of the 1965 Act, as applied to the acquisition of land by article 21; and
- (b) no declaration shall be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981, as applied by article 22.

(2) The power conferred by article 27 to enter upon and take temporary possession of land shall cease at the end of the period mentioned in paragraph (1); but this paragraph shall not prevent DLRL from remaining in possession of land in accordance with article 27 after the end of that period, if the land was entered and possession of it was taken before the end of that period.

PART 4

OPERATION OF AUTHORISED WORKS

Power to lop trees overhanging authorised works

34.—(1) DLRL may fell or lop any tree or shrub near any part of the authorised works, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised works or any apparatus used for the purposes of the authorised works; or
- (b) from constituting a danger to passengers or other persons using the authorised works.

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

(3) Nothing in this article shall be taken to affect the application of any tree preservation order made under section 198 of the 1990 Act.

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

Trespass on authorised railway

35.—(1) Any person who—

- (a) trespasses on the authorised railway; or

(26) The metric equivalent is 209 square metres.

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

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

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

PART 5

PROTECTIVE PROVISIONS

Statutory undertakers, etc.

36. The provisions of Schedule 11 shall have effect.

For protection of railway interests

37. The provisions of Schedule 12 shall have effect.

For protection of the London Borough of Newham

38. The provisions of Schedule 13 shall have effect.

For protection of the Environment Agency

39. The provisions of Schedule 14 shall have effect.

For protection of specified undertakers

40. The provisions of Schedule 15 shall have effect.

PART 6

MISCELLANEOUS AND GENERAL

Agreements with Network Rail and railway enactments

41.—(1) DLRL and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to DLRL of—

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

(2) Where—

- (a) agreement is made for the transfer to DLRL of any land, works and property under paragraph (1), or
- (b) agreement was made for the transfer from Network Rail to DLRL of any land, works and property before the date of the coming into force of this Order which, had it been made on or after that date, could have been made under paragraph (1),

DLRL may adapt for use, maintain, use and operate any railway on, in, over or under that land, works and property.

(3) Subject to paragraph (4), any enactment by which any railway within the Order limits or the temporary land was authorised, including the enactments specified in Part 1 of Schedule 16, and the enactments specified in Part 2 of Schedule 16 so far as not repealed by paragraph (5), shall have effect subject to the provisions of this Order.

(4) Nothing in paragraph (3) shall prejudice any express statutory provision for—

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

(5) Subject to paragraph (6), on the date of the transfer to DLRL of Network Rail’s freehold interest in the land within the limits of deviation for Work No.1, or so much of that interest as DLRL may require for the purposes of that work—

- (a) the enactments mentioned in Part 2 of Schedule 16 shall be repealed to the extent specified in the third column of that Part of that Schedule and to the extent that they apply to the abandoned railway formation; and
- (b) any enactment except this Order not so mentioned and specified shall be repealed or revoked to the extent that it applies to the abandoned railway formation.

(6) The repeal of the enactments mentioned in paragraph (5) shall not prejudice the continued operation and effect of any deed, or of any other agreement or instrument (whether or not executed under seal), relating to any land, works or property referred to or affected by any of those enactments and in existence before the repeal takes effect.

(7) In this article, “abandoned railway property” means any railway belonging to Network Rail and any station, land, works, apparatus and equipment belonging to Network Rail or connected therewith and includes any easement of other property interest held or used by Network Rail for the purposes of such railway or works, apparatus or equipment, which is intended to be, or has been, abandoned by Network Rail in consequence of the construction of the works authorised by this Order.

Temporary traffic regulation

42.—(1) Subject to the provisions of this article DLRL may, for the purposes and during the construction of the authorised works, and with the consent of the traffic authority in whose area the road is situated—

- (a) prohibit the waiting of vehicles at any time on the roads specified in column (1) and along the lengths and between the points specified in columns (2) and (3) of Schedule 17 to this Order; and
- (b) suspend any traffic regulation order in so far as it is inconsistent with any prohibition made by DLRL under this paragraph.

(2) DLRL shall consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (3).

(3) DLRL shall not exercise the powers of this article unless it has—

- (a) given not less than 6 weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may within 21 days of its receipt of notice of DLRL's intention specify in writing.

(4) Any prohibition or other provision made by DLRL under paragraph (1)(a) or (b) shall have effect as if duly made by the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act and the instrument by which it is effected may specify savings to which the prohibition is subject.

Saving for Railways Act 1993

43. Nothing in this Order, or in any enactment incorporated with or applied by this Order, shall prejudice or affect the operation of Part 1 of the 1993 Act.

Powers of disposal, agreements for operation, etc.

44.—(1) Subject to paragraph (5) DLRL may, with the consent of the Secretary of State sell, lease, charge or otherwise dispose of, on such terms and conditions as it thinks fit—

- (a) the whole or any part of the authorised works and any land held in connection therewith; and
- (b) the whole or any part of the abandoned railway formation.

(2) Without prejudice to the generality of paragraph (1) but subject to paragraph (5), DLRL may enter into and carry into effect agreements with respect to any or all of the following matters—

- (a) the construction, maintenance, use and operation of the authorised works, or any part of them, by any other person;
- (b) the exercise of the powers of article 4 in relation to the abandoned railway formation, or any part of it, by any other person;
- (c) other matters incidental or subsidiary thereto or consequential thereon; and
- (d) the defraying of, or the making of contributions towards, the cost of those matters by DLRL or any other person.

(3) Any agreement under subsection (2) may provide, among other things, for the exercise of the powers of DLRL in respect of the authorised works or the abandoned railway formation or any part thereof, and for the transfer to any person of the authorised works or the abandoned railway formation or any part thereof together with the rights and obligations of DLRL in relation thereto.

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

(5) DLRL shall not exercise the powers of this article in relation to Work No.2 without the consent of Network Rail, which shall not be unreasonably withheld or delayed.

(6) Sections 163 and 207(2) of the Greater London Authority Act 1999⁽²⁷⁾ shall not apply to the disposal of any freehold interest in land or the grant of a leasehold interest in land where consent for such disposal or grant is required under paragraph (1).

(27) 1999 c. 29.

Application of landlord and tenant law

45.—(1) This article applies to any agreement for leasing to any person the whole or any part of the authorised works or the right to operate the same, and any agreement entered into by DLRL with any person for the construction, maintenance, use or operation of the authorised works, 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 shall prejudice the operation of any agreement to which this article applies.

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

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

Defence to proceedings in respect of statutory nuisance

46.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(**28**) (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 DLRL 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(**29**); or
- (b) that the nuisance is a consequence of the operation of the works authorised by this Order 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);

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

(3) The provisions of this article are without prejudice to the application to the authorised works of section 122 of the 1993 Act (statutory authority as a defence to actions in nuisance, etc.) or any rule of common law having similar effect.

(28) 1990 c. 43.

(29) 1974 c. 40.

Disclosure of confidential information

47. A person who—

- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 16 or article 18; and
- (b) discloses to any person any information obtained by him relating to any manufacturing process or trade secret;

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

Certification of plans, etc.

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

Service of notices

49.—(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⁽³⁰⁾ as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) is, if he has given an address for service, that address, and otherwise—

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

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

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

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

No double recovery

50. 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, or under two or more different provisions of this Order.

(30) 1978 c. 30.

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Arbitration

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

Signed by authority of the Secretary of State

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

1st November 2006

SCHEDULES

SCHEDULE 1

Articles 2(1) and 4

SCHEDULED WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of Work</i>	<i>(3)</i> <i>Description of Work</i>
In the London Borough of Newham	Work No.1	A double track railway (5,703 metres in length), mainly located at grade and within the existing North London Line railway corridor, commencing at a point below grade 50 metres to the north-east of the proposed Channel Tunnel Rail Link Stratford International Station, then continuing west, past the location of the proposed Stratford International DLR station, incorporating pedestrian access, lifts, staircases, platforms and canopies, then rising to grade and turning south-west and passing over the Channel Tunnel Rail Link, then turning south and passing under Waterden Road Bridge, then continuing parallel to the High Meads Curve, then turning south-east and passing parallel to the Channelsea Junction, then turning east and slewing onto the existing Woolwich Line, then turning north-east and passing under a new road bridge structure, then turning south-east and passing under Work No. 2, then continuing under Network Rail and Central Line structures, then through the existing Stratford Regional Station, incorporating modified platforms and canopies, then continuing south-east under

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of Work</i>	<i>(3)</i> <i>Description of Work</i>
		<p>Stratford High Street, then slewing eastwards into Bridge Road at the junction with New Mount Street, at the location of the proposed site for Stratford High Street station, incorporating pedestrian access from an elevated concourse, footbridges, lifts, staircases, platforms and canopies, then returning to the railway corridor at the junction of Dawn Crescent and Bridge Road, then continuing south-eastwards at grade between the Jubilee Line and Bridge Road, then slewing east on realigned trackwork past the proposed site for Abbey Road station, incorporating pedestrian access from an elevated concourse, lifts, staircases, platforms and canopies, then continuing south-east under Abbey Road bridge, then turning south within the rail corridor and returning to the existing track alignment, then continuing under the Northern Outfall Sewer, then continuing south under Crows Road, then passing under the London, Tilbury and Southend (“LTS”), District and Hammersmith and City railway lines, then passing through the existing West Ham station, incorporating widening of the platforms, a new lift and canopy extensions, then continuing south parallel to Manor Road, then passing under Stephenson Street Bridge, then slewing east into Manor Road for 250 metres at a point opposite Cranberry Lane, then passing under Work No. 8, then passing the proposed site of Star Lane station, incorporating new lifts, stairs, platforms and canopies, then returning to the existing</p>

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of Work</i>	<i>(3)</i> <i>Description of Work</i>
		<p>railway corridor 100 metres to the south of Manor Road junction with Star Lane, then continuing south at grade in the existing corridor parallel to Manor Road, then turning south-east and passing under Newham Way (A13) and Barking Road, then continuing past the existing Canning Town station, incorporating a new lift and extended canopies, then passing under the Canning Town station emergency escape footbridge, continuing south-east in the existing railway corridor and then running parallel with Victoria Dock Road, then at a point adjacent to the Jubilee line portal forming a junction with Work Nos. 13 and 14, then continuing as a single track turning south-east and slewing into Victoria Dock Road between the junctions with Willan Wall and Peto Street North, then returning to the existing railway corridor, then turning east returning to a double track railway from the termination of Work No. 10, then passing under Silvertown Way, continuing east parallel to Victoria Dock Road, passing under a footbridge, then forming junctions with the existing DLR and continuing as a single track railway, then passing eastwards on the north side of Royal Victoria station, including a new platform forming an island platform with the existing platform 1, extensions to the existing platforms and canopies, and replacement stairs to the footbridge from platform 2, then continuing eastwards and terminating approximately 100 metres east of Royal Victoria</p>

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of Work</i>	<i>(3)</i> <i>Description of Work</i>
	Work No. 2	<p>station at a junction with the existing DLR Beckton line.</p> <p>A double track railway (774 metres in length), commencing at a point on the existing Stratford to North Woolwich railway line south-east of Channelsea South junction, running at-grade south-eastwards parallel to and on the north side of the Channelsea Curve, then turning northwards, passing over the Channelsea River, the existing Stratford to North Woolwich Railway (Work No. 1) and Engineer’s Subway, and then terminating at a point 12 metres west of Stratford Station platform 12 and 85 metres north of the south end of platform 12, including construction of a new platform, associated facilities and modifications and extensions to the existing culvert carrying the Channelsea River, and the Stratford station Western, Central and Eastern subways.</p>
	Work No. 3	<p>A double track railway (319 metres in length), being a realignment of the existing High Meads Loop railway line, commencing at a point on the existing High Meads Loop railway line immediately north-east of High Meads junction, passing north-eastwards across the Channel Tunnel Rail Link and terminating on the existing High Meads railway line at a point 319 metres north-east of High Meads Junction.</p>
	Work No. 4	<p>An access road (157 metres in length), being a realignment of the existing Channel Tunnel Rail Link access road, commencing at a point</p>

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of Work</i>	<i>(3)</i> <i>Description of Work</i>
		12 metres west of the north end of High Meads junction passing north- eastwards across the Channel Tunnel Rail Link and terminating on the existing Channel Tunnel Rail Link access road at a point 157 metres north-east of its commencement point, including modifications to a road junction and turning bay.
	Work No. 5	A road (129 metres in length), being a replacement of Bridge Road, between the junctions with New Mount Street and Dawn Crescent, to provide a combined emergency vehicle route and footpath/cycleway.
	Work No. 6	A footpath (127 metres in length), being a realignment of the existing footpath from Bridge Road to Abbey Road, commencing at a point 65 metres north-west of Bakers Row running south parallel to Work No. 1, rising up on new stairs onto the proposed Abbey Road station concourse then terminating at a junction with the existing Abbey Road footpath.
	Work No. 7	A road (251 metres in length), being a realignment of Manor Road, commencing at a point on Manor Road 20 metres to the north of the junction with Cranberry Lane, passing south past the junction with Cranberry Lane, then under Work No. 8 and past Star Lane, including a new signal controlled junction with Star Lane, then continuing south and terminating at a point 160 metres south of the junction with Star Lane, including modifications to the kerb lines of Cranberry Lane and Star

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of Work</i>	<i>(3)</i> <i>Description of Work</i>
		Lane at their junctions with Manor Road.
	Work No. 8	A footbridge (60 metres in length) at Star Lane, being the closure and removal of the existing footbridge and the construction of a new footbridge, commencing on the northern corner of Star Lane and Manor Road passing west over Work No. 7 then over Work No. 1, providing a means of access to the proposed station, incorporating lifts and staircases and then crossing over the Jubilee Line and terminating at a point opposite the end of Cody Road.
	Work No. 9	A single track railway (529 metres in length), mainly located at ground level, commencing 150 metres south of the centre of Canning Town station at a new junction with the existing DLR Beckton to Poplar line, passing southwards through the existing Lower Lea substation compound, then under Work No. 12, then passing adjacent to National Grid's Tower ZR89, then continuing southwards, parallel to the DLR London City Airport Extension, then passing under a London Underground footbridge, then passing under the Lower Lea Crossing, rising and terminating at a junction with the DLR London City Airport Extension 150 metres south of the Lower Lea Crossing.
	Work No. 10	A double track railway (452 metres in length), mainly located on elevated structure, commencing at a junction with the existing DLR Poplar to Beckton Line 180 metres

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of Work</i>	<i>(3)</i> <i>Description of Work</i>
		south of the centre of Canning Town station, then continuing southwards between Work No. 9 and the existing DLR, then rising and turning east, then continuing on structure over Work No. 11, then Work No. 13, then Work No. 14, then turning south-east and falling, then continuing parallel and to the south of Work No. 1, then terminating at a junction with the existing eastbound DLR Poplar to Beckton Line immediately to the west of Silvertown Way.
	Work No. 11	A road (150 metres in length), commencing to the west of the Jubilee Line portal building, passing south at grade, then passing under Work No. 10 and across Work No. 13, then terminating at a junction with the existing LUL access compound 20 metres to the south of the Jubilee Line tunnels access shaft.
	Work No. 12	An access gantry (39 metres in length), raised above the railway to be demolished, commencing on the west side of the Jubilee Line tunnels portal building and crossing west over the existing DLR Poplar to Beckton lines.
	Work No. 13	A double track railway (127 metres in length) located at grade, commencing at a junction with Work No. 14 and adjacent to Work No. 1 east of the Jubilee Line tunnels portal building, then turning south, passing at grade under Work No. 10, then passing across Work No. 11 then under Work No. 16, then passing under an LUL footbridge and terminating at a junction with the DLR London City

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of Work</i>	<i>(3)</i> <i>Description of Work</i>
		Airport Extension 10 metres to the north of the Lower Lea Crossing.
	Work No. 14	A single track railway (116 metres in length) located at ground level, commencing at a junction with Work No. 13 and adjacent to Work No. 1 east of the Jubilee Line tunnels portal building, passing south-eastwards under Work No. 10 then turning eastwards and terminating at a junction with the existing DLR Poplar to Beckton railway to the east of the Jubilee Line tunnels access shaft, 150 metres north-west of Silvertown Way.
	Work No. 15	A road (171 metres in length), being a realignment of Victoria Dock Road, commencing 20 metres west of the junction with Willan Wall, passing south-eastwards and terminating at the junction with Peto Street North.
	Work No. 16	A footbridge (53 metres in length), commencing 50 metres to the north-west of the Jubilee Line access shaft, running south parallel to Work No. 11, rising up and passing over Work No. 13 then falling and terminating to the west of the Jubilee Line tunnels access shaft.

SCHEDULE 2

Articles 4 and 20

ADDITIONAL LAND WHICH MAY BE ACQUIRED OR USED

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>	<i>(3)</i> <i>Purpose for which land may be acquired or used, and for which works may be carried out</i>
Stratford Regional station	94, 110, 112, 113, 116, 117, 118, 132, 134, 135	To effect comprehensive title transfer from Network Rail.
Rokeby School	172	Utility diversions and associated works.
Stratford High Street to Abbey Road	167, 189	To effect comprehensive title transfer from Network Rail and for the construction of an undertrack crossing.
	174, 175, 176, 191, 201	To effect comprehensive title transfer from Network Rail.
	183	To effect comprehensive title transfer.
	190, 192, 193, 194, 195, 201	To effect comprehensive title transfer from Network Rail and for access to carry out ancillary works.
Abbey Road to Northern Outfall Sewer	220	To effect comprehensive title transfer from Network Rail.
Northern Outfall Sewer West Ham Station Bridge	222, 223, 224, 225, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252	To effect comprehensive title transfer from Network Rail.
	242	To effect comprehensive title transfer from Network Rail and for access to carry out ancillary works.
West Ham Station Bridge to Stephenson Street Bridge	256, 257, 258, 283, 286, 287, 288	To effect comprehensive title transfer from Network Rail.
Stephenson Street Bridge to Star Lane	296	To effect comprehensive title transfer from Network Rail and for the construction of an undertrack crossing.
	297, 299, 301, 302	To effect comprehensive title transfer from Network Rail and to carry out ancillary works.
Star Lane to Newham Way	306, 307, 308, 309, 310, 312, 313, 315, 316, 318	To effect comprehensive title transfer from Network Rail,

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<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>	<i>(3)</i> <i>Purpose for which land may be acquired or used, and for which works may be carried out</i>
		to carry out works and for formation of a worksite.
	311, 337	To effect comprehensive title transfer from Network Rail.
Newham Way to Jubilee Tunnel Portal	350, 351, 352, 365, 366, 367, 378, 379, 381, 382, 383, 384, 385, 399, 406, 408	To effect comprehensive title transfer from Network Rail.
East of Royal Victoria station to North Woolwich station	538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559	To effect comprehensive title transfer from Network Rail and to maintain, preserve and retain the abandoned railway formation.

SCHEDULE 3

Article 6

STATIONS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Location of existing or new station</i>	<i>(3)</i> <i>Number of land shown on the deposited plans</i>
London Borough of Newham	Stratford International (new)	1 (part), 2, 6, 7, 8 (part), 9 (part), 17 (part)
	Stratford Regional (existing)	114, 115, 119 (part), 120, 122, 123, 125, 126
	Stratford High Street (new)	162, 164, 166, 168 (part), 169 (part)
	Abbey Road (new)	168 (part), 169 (part), 186, 188, 196, 197, 198, 200 (part), 203
	West Ham (existing)	259, 260, 276, 277, 280 (part), 281 (part)
	Star Lane (new)	293 (part), 304, 305, 319, 320, 321 (part), 322, 323, 325, 326, 327, 328, 329, 331, 335 (part), 336 (part)
	Canning Town (existing)	353 (part), 369, 370
	Royal Victoria (existing)	511 (part), 512, 524 (part), 526 (part), 527, 530, 533, 534, 536 (part), 537 (part)

Key to Schedules 4 and 5
 KM Kerb line modification
 SS Stopping up of street

SCHEDULE 4

Article 7

STREETS SUBJECT TO PERMANENT ALTERATION OF LAYOUT

<i>(1)</i> Area	<i>(2)</i> Street subject to permanent alteration of layout	<i>(3)</i> Description of alteration
In the London Borough of Newham	Station access road at DLR Stratford International station	Alteration of kerb lines to accommodate new highway layout (including footways) between KM1 and KM2
	Bridge Road	Alteration of kerb lines to accommodate new highway layout (including footways) between KM3 and KM4
	New Mount Street	Alteration of kerb lines to accommodate new highway layout (including footways) between KM4 and KM5
	Dawn Crescent	Alteration of kerb lines to accommodate new highway layout (including footways) between KM6 and KM7
	Bakers Row	Alteration of kerb lines to accommodate new highway layout (including footways) between KM8 and KM9
	Access road off north side of Lower Lea Crossing	Alteration of kerb lines to accommodate new highway layout (including footways) between KM10 and KM11

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SCHEDULE 5

Article 10

STREETS TO BE STOPPED UP

PART 1

STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street affected</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
London Borough of Newham	Bridge Road/Abbey Road staircase	Staircase	Existing staircase to be dismantled and replaced by part of Work No. 1
	Star Lane stairs and footbridge	Stairs and footbridge	Existing stairs and footbridge to be dismantled and replaced by part of Work No. 8
	Stairs to Royal Victoria station (entrance from Seagull Lane)	Staircase between SS1 and SS2	Existing staircase to be dismantled and replaced by part of Work No. 1

PART 2

STREET FOR WHICH NO SUBSTITUTE WILL BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street affected</i>	<i>(3)</i> <i>Extent of stopping up</i>
London Borough of Newham	Bridge Road	The entire length between the commencement and termination points of Work No. 5, except for retaining access for emergency vehicles and for a footpath and cycleway

SCHEDULE 6

Article 11

STREETS TO BE TEMPORARILY STOPPED UP

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>
London Borough of Newham	Station Street Footpath and stairs from Abbey Road to Bridge Road Manor Road Star Lane Stephenson Street Victoria Dock Road Willan Wall Nelson Street

SCHEDULE 7

Article 12

ACCESS TO WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Description of access</i>
London Borough of Newham	Carpenter's Road Station access road south of CTRL International Station Station Street Bridge Road Manor Road Crow's Road/Manor Road Cranberry Lane Stephenson Street Stephenson Street (opposite Bidder Street) Sycamore Close Nelson Street Victoria Dock Road opposite Monk Passage Victoria Dock Road east of Royal Victoria station

SCHEDULE 8

Article 23

MODIFICATION OF COMPENSATION AND COMPULSORY
PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS, ETC.*Compensation enactments*

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

2.—(1) Without prejudice to the generality of paragraph 1, the Land Compensation Act 1973(31) shall have effect subject to the modifications set out in sub-paragraphs (2) and (3).

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

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

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

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

Adaptation of the 1965 Act

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

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

(31) 1973 c. 26.

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

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

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

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

(a) a question of disputed compensation in respect of the purchase of the right or the imposition of the covenant would apart from this section fall to be determined by the Lands Tribunal (“the tribunal”); and

(b) before the tribunal has determined that question the person satisfies the tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—

(i) where that land consists of a house, building or manufactory, that the right cannot be purchased or the restrictive covenant imposed without material detriment to that land; or

(ii) where that land consists of such a park or garden, that the right cannot be purchased or the restrictive covenant imposed without seriously affecting the amenity or convenience of the house to which that land belongs;

the Docklands Light Railway (Stratford International Extension) Order 2006⁽³²⁾ (“the Order”) shall, in relation to that person cease to authorise the purchase of the right or the imposition of the covenant and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the tribunal directs.

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

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

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

(32) S.I. 2006/2905.

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

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

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

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

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

SCHEDULE 9

Article 25

LAND IN WHICH ONLY NEW RIGHTS, ETC., MAY BE ACQUIRED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>
London Borough of Newham	18, 21, 41, 46, 47, 48, 72, 73, 125, 127, 129, 137, 138, 139, 140, 141, 171, 172, 179, 184, 185, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 247, 248, 249, 250, 251, 252, 340, 394, 395, 396, 400, 534

SCHEDULE 10

Articles 4, 18 and 27

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Authorised Work</i>
Stratford Rail Lands	13	Work site, High Meads Loop earthworks	Work No. 3
	16	Work site, Stratford International DLR station earthworks	Work No. 1
	19, 20	Work site, for Stratford International DLR Station construction	Work No. 1
	22	Access for construction	Work Nos. 1, 3 and 4
	39, 40	Work site	Work Nos. 1, 3 and 4
	54	Work site for re-profiling earthworks	Work No. 1
	61, 64, 65, 82, 83	Work site for earthworks and construction	Work Nos. 1 and 2
	71	Temporary access during construction	
	74, 77, 78, 79	Work site for earthworks and construction	Work Nos. 1 and 2
Stratford Regional station to Stratford High Street	121, 124	Work site for new platform construction	Work No. 1
Stratford High Street to Abbey Road	143, 145	Traffic management during construction works	Work No. 1
	170	Traffic management during construction	Work Nos. 1 and 5
	173, 177, 178, 181	Work site for station construction	Work Nos. 1 and 5
	182	Traffic management	Work No. 1
	187	Traffic management and worksite	Work Nos. 1 and 6
	199	Work site for station construction	Work Nos. 1 and 6

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Authorised Work</i>
Abbey Road to Stephenson Street Bridge	202	Traffic management during construction	Work Nos. 1 and 6
	228, 229, 231, 232, 233, 235, 236, 239, 261, 264, 265, 266, 267, 272, 275, 278, 279, 282, 284, 285	Traffic management during construction and boundary improvements	Work No. 1
Stephenson Street Bridge to Newham Way	292	Traffic management during construction	Work No. 1
	294	Work site for road realignment and station construction	Work Nos. 1, 7 and 8
	295	Traffic management and access to worksite	Work Nos. 1 and 7
	298, 303, 314, 317	Traffic management during construction	Work Nos. 1 and 8
	324	Traffic management during construction	Work Nos. 1, 7 and 8
	330, 333	Access for construction of boundary wall	Work No. 7
Newham Way to Limmo	358, 359, 360, 361, 362, 363, 368, 372, 375, 376	Access and worksite for station construction	Work No. 1
387, 388, 389, 390 Limmo	Work site 401, 402, 415, 416, 417, 418, 419, 420, 448, 449, 451, 489, 490, 491, 492, 493, 500, 502	Work No. 1 Access and work site for grade separated junction works	Work Nos. 1, 9, 10, 11, 12, 13, 14, 15 and 16
Thames Wharf	425, 435, 436	Access and work site for construction	Work No. 9
	428, 429, 430, 431, 432	Access and work site	Work Nos. 1, 9, 10, 11, 12, 13, 14, 15 and 16
Victoria Dock Road	465	Traffic management during construction	Work Nos. 1 and 15
Near Nelson Street	470, 471, 472, 474, 475, 476, 477, 482, 484, 485, 486	Access and work site	Work Nos. 1, 10 and 15

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(1) Area	(2) Number of land shown on the deposited plans	(3) Purpose for which temporary possession may be taken	(4) Authorised Work
Royal Victoria station	525, 535	Traffic management during construction	Work No. 1
	528, 529, 531, 532	Access and work site for station works	Work No. 1

SCHEDULE 11

Articles 10, 31 and 36

PROVISIONS RELATING TO STATUTORY UNDERTAKERS, ETC.

Apparatus of statutory undertakers, etc., on land acquired

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

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

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

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

shall be entitled to recover from DLRL compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of making his drain or sewer communicate with any other public sewer or with a private sewage disposal plant. (5) The provisions of the 1990 Act mentioned in sub-paragraph (1), as applied by that sub-paragraph, shall not have effect in relation to apparatus as respects which paragraph 2 of this Schedule 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 Communications Act 2003⁽³³⁾; and “public utility undertakers” has the same meaning as in the Highways Act 1980⁽³⁴⁾.

⁽³³⁾ 2003 c. 21.

⁽³⁴⁾ 1980 c. 66.

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

2.—(1) Where a street is stopped up under article 10 any statutory utility whose apparatus is under, in, upon, over, along or across the street shall have the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Order had not been made.

(2) DLRL shall give not less than 28 days' notice in writing of its intention to stop up any street under article 10 of this Order to any statutory utility whose apparatus is under, in, upon, over, along or across that street.

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

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the statutory utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as aforesaid.

(4) Subject to the following provisions of this paragraph, DLRL shall pay to any statutory utility an amount equal to the cost reasonably incurred by the statutory utility in or in connection with:—

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

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

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions except where this has been solely due to using the nearest available type, capacity or dimension; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by DLRL, or, in default of agreement, is not determined by arbitration to be necessary in consequence of the construction of the authorised works in order to ensure the continued efficient operation of the undertaking of the statutory utility, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the statutory utility by virtue of sub-paragraph (4) shall be reduced by the amount of that excess.

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

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

(7) An amount which apart from this sub-paragraph would be payable to a statutory utility in respect of works by virtue of sub-paragraph (4) (and having regard, where relevant, to sub-

paragraph (5)) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the statutory utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit as calculated in accordance with the Code of Practice entitled “Measures Necessary where Apparatus is Affected by Major Works (Diversionary Works)” and dated June 1992 and approved by the Secretary of State on 30 June, 1992, as revised and re-issued from time to time.

(8) Sub-paragraphs (4) to (7) shall not apply where the authorised works constitute major transport works for the purposes of Part 3 of the 1991 Act, but instead—

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

(9) The temporary stopping up, alteration or diversion of any highway under article 10 of this Order shall not affect any right of a public communications provider in respect of any apparatus which at the time of the stopping up or diversion is in the highway.

(10) In this paragraph—

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

“public communications provider” has the same meaning as in paragraph 1(6);

“relocation works” means works executed, or apparatus provided, under sub-paragraph (3); and

“statutory utility” means a statutory undertaker for the purposes of the Highways Act 1980 or a public communications provider.

SCHEDULE 12

Article 37

FOR PROTECTION OF RAILWAY INTERESTS

1. The following provisions of this Schedule shall have effect unless otherwise agreed in writing between DLRL and Network Rail and, in the case of paragraph 15, any other person on whom rights or obligations are conferred by that paragraph.

2. In this Schedule—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” shall be construed accordingly;

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

“the London, Tilbury and Southend railway” means the railway operating between London Fenchurch Street, Tilbury and Southend stations together with any related stations, lands, works, apparatus, equipment, easements and other property rights;

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

“railway operational procedures” means procedures specified under any access agreement (as defined in the 1993 Act) or station lease;

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“railway property” means any railway belonging to Network Rail and any station, land, works, apparatus or equipment belonging to Network Rail or connected therewith and includes any easement or other property interest held or used by Network Rail for the purposes of such railway or works, apparatus or equipment but does not include any part of the railway known as the North London Line lying between the southern boundary of Stratford Regional station and North Woolwich station and any related stations, land, works, apparatus, equipment, easement and other property interest (except any railway property at West Ham or elsewhere on the North London Line relating to the London, Tilbury and Southend railway and any other railway property which at the time of construction of any specified work is known to exist and is required to be retained by Network Rail);

“the specified train operators” means the following bodies, and includes in each case any subsidiaries and successors from time to time as train operators over railway property—

- (a) c2c Rail Limited, company registration number 02938993;
- (b) Direct Rail Services Limited, company registration number 03020822;
- (c) English Welsh and Scottish Railway Limited, company registration number 02938988;
- (d) Freightliner Group Limited, company registration number 05313119;
- (e) London Eastern Railway Limited, trading as One Railway, company registration number 04955356; and
- (f) Silverlink Train Services Limited, company registration number 03007935; and

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

and references (howsoever phrased) to the opinion of the engineer shall be construed as references to the reasonable opinion of the engineer in all cases where the opinion does not relate to the safe operation of the railways of Network Rail or of the services of operators using the same.

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

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

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

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

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

(3) DLRL shall not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictions on the use of any railway property except with the consent of Network Rail.

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(4) DLRL shall not exercise the powers conferred by sections 271 or 272 of the 1990 Act, as applied by Schedule 11 to this Order, in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(5) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent shall not be unreasonably withheld but may be given subject to reasonable conditions.

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

(2) The approval of the engineer under sub-paragraph (1) shall not be unreasonably withheld or delayed, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated his disapproval of those plans and the grounds of his disapproval, DLRL may serve upon the engineer written notice requiring the engineer to intimate his approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from DLRL. If by the expiry of the further period of 28 days the engineer has not intimated his approval or disapproval, he shall be deemed to have approved the plans as submitted.

(3) If by the expiry of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to DLRL that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if DLRL desires such part of the specified work to be constructed, Network Rail shall at the expense of DLRL construct it.

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

6.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 5(4) shall, when commenced be constructed—

- (a) with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled under paragraph 5;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer; and
- (c) in such manner as to cause as little damage as is possible to railway property and as little interference as may be reasonably practicable and consistent with the safe and efficient construction and operation of the specified work, with the conduct of traffic on the railways of Network Rail.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, DLRL shall, notwithstanding any such approval, make good such damage and shall pay to Network Rail all

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reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

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

(4) Nothing in this Schedule shall impose any liability on DLRL with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents.

7.—(1) DLRL shall—

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

(2) DLRL and Network Rail shall enter into an agreement to regulate the design, construction and maintenance of the specified works.

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

9.—(1) If any alterations or additions, either permanent or temporary, to railway property are reasonably necessary during the construction of a specified work or any protective works under paragraph 5(4), or during a period of 12 months after the commencement of regular revenue-earning train operations using the railways comprised in any specified work, in consequence of the construction of a specified work, such alterations and additions may be carried out by Network Rail and if Network Rail gives to DLRL reasonable notice of its intention to carry out such alterations and additions, DLRL shall pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in operating, maintaining and when necessary, renewing any such alterations or additions.

(2) If in the case of an emergency arising during the construction of a specified work by DLRL, Network Rail gives notice to DLRL that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if DLRL desires that part of the specified work to be constructed, Network Rail shall assume construction of that part of the specified work and DLRL shall, notwithstanding any such approval of a specified work under paragraph 5(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) If the cost of operating, maintaining or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such savings shall be set off against any sum payable by DLRL to Network Rail under this paragraph.

10. DLRL shall repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of DLRL as provided by paragraph 5(3) or in constructing any protective works under the provisions of paragraph 5(4)

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

11.—(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail’s apparatus generated by the operation of the authorised works where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised works) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph shall apply to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 5 for the relevant part of the authorised works giving rise to EMI (unless DLRL has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), DLRL shall in the design and construction of the authorised works take all measures necessary to prevent EMI and shall establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate DLRL’s compliance with sub-paragraph (3)—

- (a) DLRL shall consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter shall continue to consult with Network Rail (both before and after formal submission of plans under paragraph 5(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail shall make available to DLRL all information in Network Rail’s possession reasonably requested by DLRL in respect of Network Rail’s apparatus identified pursuant to paragraph (a); and
- (c) Network Rail shall allow DLRL reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail shall not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their

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execution shall be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 5(1) shall have effect subject to this sub-paragraph.

(6) If at any time prior to the commencement of regular revenue-earning train operations on the new railways comprised in the authorised works and notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing or commissioning of the authorised works causes EMI then DLRL shall immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) DLRL's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) DLRL shall afford reasonable facilities to Network Rail for access to DLRL's apparatus in the investigation of such EMI;
- (b) Network Rail shall afford reasonable facilities to DLRL for access to Network Rail's apparatus in the investigation of such EMI; and
- (c) Network Rail shall make available to DLRL any additional material information in its possession reasonably requested by DLRL in respect of Network Rail's apparatus or such EMI.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraph (5) or (6)—

- (a) Network Rail shall allow DLRL reasonable facilities for the inspection of the relevant part of Network Rail's apparatus; and
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs shall be carried out and completed by DLRL in accordance with paragraph 6.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 15(1) shall apply to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 10(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 51 to the Institution of Civil Engineers shall be read as a reference to the Institution of Electrical Engineers.

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

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

14. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of

the existence of a specified work shall, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to DLRL, be repaid by DLRL to Network Rail.

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

- (a) by reason of the construction or maintenance of a specified work or the failure thereof; or
- (b) by reason of any act or omission of DLRL or of any person in its employ or of its contractors or others whilst engaged upon a specified work,

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

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

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

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

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

(6) In this paragraph—

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

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

16. Network Rail shall, on receipt of a request from DLRL, from time to time provide to DLRL written estimates of the costs, charges, expenses and other liabilities for which DLRL is or will become liable under this Schedule (including the amount of the relevant costs mentioned in paragraph 15) and with such information as may reasonably enable DLRL to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Schedule (including any claim relating to those relevant costs).

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

SCHEDULE 13

Article 38

FOR PROTECTION OF THE LONDON BOROUGH OF NEWHAM

1.—(1) The following provisions of this Schedule shall, unless otherwise agreed in writing between DLRL and the Council, have effect.

(2) In this Schedule—

“the Council” means the Council of the London Borough of Newham;

“highway” means a street vested in or maintainable by the Council; and

“highway operations” means the construction of any part of the authorised works which will involve interference with a highway or the traffic in a highway and any temporary stopping up, alteration or diversion of a highway.

2. Before commencing to construct any scheduled work DLRL shall consult the Council about—

(a) the programme for the construction of that work so as to secure, so far as may be reasonably practicable, that the duration of any disturbance occasioned by, or in connection with, such construction shall be reduced to a minimum; and

(b) the land within the Order limits and the temporary land to be occupied and used by DLRL as temporary working sites for the purpose of such construction, the period for which and the manner in which each site shall be used and the steps to be taken by DLRL in order to mitigate any injury to amenity.

3. DLRL shall consult the Council as to—

(a) the routes in the Council’s area proposed to be used by vehicles, machinery and plant, passing to or from any works under construction; and

(b) the proposed manner and method of disposing of any soil or waste material resulting from the carrying out of any operation in connection with the authorised works,

and such soil or waste material shall not be disposed of by DLRL in the Council’s area in any manner as shall be objected to in writing by the Council.

4. Before commencing to construct any authorised work which will involve highway operations, DLRL shall consult the Council as to the time when that work will be commenced, as to the extent of the surface of the highway which it may be reasonably necessary for DLRL to occupy in the construction of that work, and as to the conditions under which that work shall be constructed so as not to cause so far as possible inconvenience to the public and to ensure the safety of the public.

5. Any such highway shall be reinstated by DLRL in a manner reasonably approved by the Council and to its reasonable satisfaction.

6. DLRL shall not, except with the consent of the Council, deposit any soil, subsoil or materials or stand any vehicle or plant on any highway (except on so much thereof as is for the time being temporarily stopped up or occupied under the powers of this Order) so as to obstruct the use of such highway by any person or, except with the like consent, deposit any soil, subsoil or materials on any highway except within a hoarding.

7. Except in an emergency or where reasonably necessary to secure the safety of the public no direction or instruction shall be given by the Council to the contractors, servants or agents of DLRL regarding any highway operations without the prior consent in writing of DLRL; but the Council shall not be liable for any additional costs which may be incurred as a result of the giving of instructions or directions pursuant to this paragraph.

8. DLRL shall, if reasonably so required by the Council, provide and maintain during such time as DLRL may occupy any part of a highway for the purpose of the construction of any part of

the authorised works, temporary ramps for vehicular traffic or pedestrian traffic, or both, and any other traffic measures required to protect the safety of road users in accordance with the standard recommended in Chapter 8 of the Traffic Signs Manual issued for the purposes of the Traffic Signs Regulations and General Directions 1994⁽³⁵⁾ in such position as may be necessary to prevent undue interference with the flow of traffic in any highway.

9. DLRL shall indemnify the Council against any claim which may arise as a result of any subsidence of, or damage to, any highway or any retained sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith or any other property or work belonging to, or under the jurisdiction or control of, the Council on or under any highway, or maintainable by them, which may be caused by, or in consequence of, any act or default of DLRL, its contractors, servants or agents but the Council shall give to DLRL reasonable notice of any such claim and no settlement or compromise of it shall be made without DLRL's prior consent.

10. Wherever in this Schedule provision is made with respect to the approval or consent of the Council, that approval or consent shall be in writing and may be given subject to such reasonable terms and conditions as the Council may require in the interests of safety and in order to minimise inconvenience to persons using the highway, but shall not be unreasonably withheld.

11. Unless otherwise agreed between the parties any difference arising between DLRL and the Council under this Schedule (other than a difference as to its meaning or construction) shall be determined by arbitration in accordance with article 51.

SCHEDULE 14

Article 39

FOR PROTECTION OF THE ENVIRONMENT AGENCY

1. For the protection of the Environment Agency (in this Schedule referred to as “the Agency”) the provisions of this Schedule shall, unless otherwise agreed in writing between DLRL and the Agency, have effect.

2. Before carrying out under the powers of this Order—

- (a) any part of the authorised works on or within 8 metres of the banks of any watercourse or within 16 metres in the case of a watercourse which is tidal;
- (b) the erection or raising of any obstruction to the flow of any watercourse which is not part of a main river within the meaning of section 113 of the Water Resources Act 1991⁽³⁶⁾; or
- (c) the construction, alteration or replacement of any culvert or any structure designed to contain or divert the flow of any such watercourse in or through any land within the Order limits, DLRL shall supply to the Environment Agency for its approval proper and sufficient plans of its proposals (including, where appropriate, plans for mitigating any adverse effects) and shall not carry out any such operation or work otherwise than in accordance with such plans as are approved.

3. The approval of plans supplied under paragraph 2 shall not be unreasonably withheld and if, within 2 months of such plans being supplied to the Environment Agency, the Environment Agency does not indicate in writing its disapproval and the grounds of its disapproval, it shall be deemed to have approved the plans as supplied.

⁽³⁵⁾ S.I. 1994/1519.

⁽³⁶⁾ 1991 c. 57.

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4. For the purposes of paragraph 2, “banks” has the meaning given by section 72 of the Land Drainage Act 1991(37) and “plans” includes sections, drawings, specifications, calculations and descriptions.

5. If any operation or work is carried out in contravention of this Schedule DLRL shall upon receiving notice from the Environment Agency take such action as may be necessary to remedy the effect of the contravention to the Environment Agency’s reasonable satisfaction and in default the Environment Agency may itself take such action as may be necessary and recover the expenses reasonably incurred by it in doing so from the DLRL as a debt due from it to the Environment Agency.

SCHEDULE 15

Article 40

FOR PROTECTION OF SPECIFIED UNDERTAKERS

Interpretation

1. In this Schedule—“apparatus” means—

- (a) in the case of a specified undertaker which is an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(38) belonging to, or maintained by, that undertaker;
- (b) in the case of a specified undertaker which is a gas undertaker, mains, pipes or other apparatus belonging to, or maintained by, a gas transporter within the meaning of Part 1 of the Gas Act 1986(39), for the purposes of the transportation or storage of gas;
- (c) in the case of a specified undertaker which is a water undertaker—
 - (i) mains, pipes or other apparatus belonging to, or maintained by, the undertaker for the purposes of water supply; and
 - (ii) any water main or service pipe (or a part of it) that is the subject of an agreement to adopt made under section 51A of the Water Industry Act 1991(40);
- (d) in the case of a specified undertaker which is a sewerage undertaker—
 - (i) any drain or works vested in the undertaker under the Water Industry Act 1991; and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104;
 and includes a sludge main, disposal main (within the meaning of section 219 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 for the lodging therein of apparatus or for giving access to such apparatus;

“construction” includes execution, placing, altering, replacing, relaying and removal and, in its application to works which include or comprise any operation, means the carrying out of that operation;

“emergency works” has the same meaning as in section 52 of the 1991 Act;

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

(37) 1991 c. 59.

(38) 1989 c. 29.

(39) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995, c. 45, and was further amended by section 76 of the Utilities Act 2000, c. 27.

(40) 1991 c. 56.

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“necessary alternative apparatus” means alternative apparatus adequate to enable a specified undertaker to fulfil its statutory or licensed functions in a manner no less efficient than previously;

“plans” includes sections, specifications and method statements;

“specified work” means any of the authorised works which—

- (a) will or may be situated over, or within 15 metres measured in any direction of, or may in any way adversely affect, any apparatus; or
- (b) wherever situated, imposes any load upon any sewer;

the removal of which has not been required under paragraph 8; and

“specified undertaker” means—

- (a) National Grid Gas plc, whose registered office is 1-3 Strand, London WC2N 5EH; and
- (b) Thames Water Utilities Limited, whose registered office is Clearwater Court, Vastern Road, Reading, Berkshire RG1 8DB,

or any person succeeding any such company as a licence holder within the meaning of Part 1 of the Electricity Act 1989, a gas transporter within the meaning of Part 1 of the Gas Act 1986, a water undertaker within the meaning of the Water Industry Act 1991 or as a sewerage undertaker within the meaning of Part 1 of that Act, and “the specified undertaker” in relation to any apparatus means the specified undertaker to whom the apparatus belongs or by whom it is maintained.

Application of Schedule 11

2. Paragraphs 1(1) and 2 of Schedule 11 to this Order shall not apply in relation to a specified undertaker and paragraphs 1(3) and 1(4) of that Schedule shall have effect as if they referred to apparatus removed under this Schedule.

Apparatus in stopped up streets

3. Where any street is stopped up under article 10 of this Order, any specified undertaker whose apparatus is in the street shall have the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up, and DLRL will grant the specified undertaker legal easements reasonably satisfactory to the specified undertaker in relation to such apparatus and access thereto, but nothing in this paragraph shall affect any right of DLRL or of the specified undertaker to require the removal of that apparatus under paragraph 8 or the power of DLRL to carry out works under paragraphs 20 to 29.

4. DLRL shall give not less than 28 days' notice in writing of its intention to stop up any street under article 10 to any specified undertaker whose apparatus is in that street.

On-street apparatus

5. This Schedule shall not apply to anything done or proposed to be done in relation to or affecting any apparatus in so far as the relations between DLRL and the specified undertaker are regulated by the provisions of Part 3 of the 1991 Act.

Acquisition of land

6. DLRL shall not acquire any apparatus from a specified undertaker pursuant to this Order otherwise than by agreement.

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7. DLRL may in exercise of the powers of this Order acquire or appropriate any land in which any apparatus is placed and, following the removal of such apparatus in accordance with the provisions of this Schedule, any rights in that land relating to that apparatus shall be extinguished but no apparatus shall be removed nor shall any right of the specified undertaker to use, maintain or renew any apparatus be extinguished until any necessary alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the specified undertaker.

Removal of apparatus

8. Paragraphs 9 to 12 apply where—

- (a) DLRL requires the removal of any apparatus for the purpose of constructing any of the authorised works and gives to the specified undertaker not less than 56 days' written notice of that requirement together with a plan of the proposed work and of the proposed position of the alternative apparatus to be provided or constructed; or
- (b) in consequence of the exercise or proposed exercise of any of the powers of this Order, the specified undertaker reasonably requires to remove any apparatus.

9. DLRL shall, if it is practicable to do so, afford to the specified undertaker the necessary rights and facilities for the construction of any necessary alternative apparatus in other land which is available for the purpose and which is held or used, or intended for use, by DLRL for the purpose of its undertaking or in which it has sufficient rights or interests and thereafter for the use, maintenance and renewal of such apparatus and, if DLRL is unable to obtain those rights and facilities, the specified undertaker shall, on receipt of a written notice to that effect from DLRL, use its best endeavours to obtain the necessary rights and facilities.

10. The obligation imposed upon the specified undertaker by paragraph 9 shall not extend to the exercise by the specified undertaker of any power to acquire any land or rights in land by compulsory purchase order.

11. Any alternative apparatus to be constructed by the specified undertaker pursuant to paragraph 9 shall be constructed in such manner, and in such line or situation, as may be agreed between the specified undertaker and DLRL or, in default of agreement, determined by arbitration.

12. The specified undertaker shall, after the manner of construction and the line or situation of any necessary alternative apparatus have been agreed or determined and after the grant to or obtaining by the specified undertaker of any such facilities and rights as are referred to in paragraph 9, proceed with all reasonable despatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by DLRL to be removed in accordance with paragraph 8.

Removal of apparatus and construction of alternative apparatus by DLRL

13. Paragraphs 14 to 16 apply to so much of the work necessary in connection with the construction of alternative apparatus, or the removal of apparatus required to be removed, as will take place in any land held or used, or intended for use, by DLRL for the purpose of its undertaking.

14. If DLRL gives notice in writing to the specified undertaker that it desires to carry out any part of any work to which this paragraph applies, such work, instead of being carried out by the specified undertaker, may be carried out by DLRL with the prior written consent of the specified undertaker (which shall not be unreasonably withheld and shall be subject to any such conditions as are reasonable and proper to protect the apparatus) in accordance with plans and in a position agreed between the specified undertaker and DLRL or, in default of agreement, determined by arbitration, with all reasonable despatch under the superintendence (if given) and to the reasonable satisfaction of the specified undertaker.

15. In carrying out any work under paragraph 14 DLRL shall comply with all statutory obligations which would have been applicable had the works been carried out by the specified undertaker.

16. Nothing in paragraph 14 shall authorise DLRL to carry out the actual placing, erection, installation, bedding, packing, removal, connection or disconnection of any apparatus or, where the apparatus is laid in a trench, execute any filling around the apparatus within 600 millimetres (measured in any direction) of the apparatus.

Facilities and rights for alternative apparatus

17. Where, in accordance with the provisions of this Schedule, DLRL affords to the specified undertaker facilities and rights for the construction, use, maintenance and renewal in land of DLRL of alternative apparatus in substitution for apparatus to be removed as aforesaid, those facilities and rights shall be granted upon such terms and conditions as may be agreed between DLRL and the specified undertaker or, in default of agreement, determined by arbitration.

18. In determining the terms and conditions mentioned in paragraph 17 in respect of alternative apparatus to be constructed across or along the authorised works the arbitrator shall—

- (a) give effect to all reasonable requirements of DLRL for ensuring the safety of the authorised works and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any such works; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the case, give effect to any terms and conditions applicable to the apparatus (if any) constructed across or along the authorised works for which the alternative apparatus is to be substituted and to any other reasonable requirements of the specified undertaker.

19. If the facilities and rights to be afforded by DLRL in respect of any alternative apparatus under paragraph 17 and the terms and conditions subject to which the same are to be granted are, in the opinion of the arbitrator, more or less favourable on the whole to the specified undertaker than the facilities, rights, terms and conditions applying to the apparatus to be removed, the arbitrator shall make such provision for the payment of compensation to or by DLRL by or to the specified undertaker in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the case.

Retained apparatus: protection and plan approval

20. Not less than 56 days before commencing to construct or renew any specified work, DLRL shall submit to the specified undertaker plans of the works.

21. In relation to a work which is a specified work because of its proximity to or effect on a sewer, the plans to be submitted to the specified undertaker under paragraph 20 shall be detailed plans describing—

- (a) the exact position of the specified work;
- (b) the level at which it is proposed to be constructed or renewed;
- (c) the manner of its construction or renewal;
- (d) the position of all sewers within 15 metres of the specified work or upon which the specified work will impose a load; and
- (e) by way of detailed drawings, every alteration proposed to be made to any such sewer.

22. DLRL shall not commence the construction or renewal of any specified work to which paragraph 21 applies until the specified undertaker has given written approval of the plans so submitted.

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23. Any approval of the specified undertaker required under paragraph 22—

- (a) may be given subject to reasonable conditions for any purpose mentioned in paragraph 24;
- (b) shall not be unreasonably withheld; and
- (c) shall be deemed to have been given if it is neither given nor refused within 56 days of the submission of plans for approval.

24. In relation to a work to which paragraph 21 applies, the specified undertaker may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its sewerage system against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any sewer.

25. A specified work shall be constructed (and in the case of any temporary work removed) only in accordance with—

- (a) the plans submitted as aforesaid (and, in the case of plans relating to sewers approved, deemed to have been approved or settled by arbitration, as amended from time to time by agreement between DLRL and the specified undertaker); and
- (b) all reasonable requirements made by the specified undertaker for the alteration, or otherwise for the protection, of the apparatus, or for securing access thereto,

and the specified undertaker shall be entitled by its officer to watch and inspect the carrying out of the work.

26. If within 42 days after the submission to it of any plans under paragraph 20, in consequence of the works proposed by DLRL the specified undertaker reasonably requires the removal of any apparatus and gives written notice to DLRL of that requirement, the foregoing provisions of this Schedule shall have effect as if the removal of such apparatus had been required by the specified undertaker under paragraph 8.

27. Nothing in paragraphs 20 or 26 shall preclude DLRL from submitting at any time, or from time to time, but in no case less than 28 days before commencing the construction of any specified work, a new plan thereof in lieu of the plan previously submitted, and thereupon the provisions of those paragraphs shall apply to, and in respect of, such new plan save that the reference in paragraph 26 to 42 days shall be treated as a reference to 21 days.

28. DLRL shall not be required to comply with paragraph 20 in a case where it is necessary to carry out emergency works but, in such a case, it shall give to the specified undertaker notice so soon as reasonably practicable, and a plan of the works so soon as reasonably practicable thereafter, and shall comply with paragraph 25 so far as reasonably practicable in the circumstances.

29. Nothing in paragraph 28 shall entitle DLRL to carry out works to any apparatus but, upon receipt of notice from DLRL, the specified undertaker shall proceed to carry out such works as may be required with all reasonable despatch.

Co-operation

30. Where in consequence of the proposed construction of any of the authorised works, DLRL or a specified undertaker requires the removal of apparatus under paragraph 8 or a specified undertaker makes requirements for the protection or alteration of apparatus under paragraph 25, DLRL shall 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 each specified undertaker shall use its best endeavours to co-operate with DLRL for that purpose.

Access

31. If in consequence of the exercise of the powers of this Order the access to any apparatus is materially obstructed DLRL shall provide such alternative means of access to such apparatus as will enable the specified undertaker to maintain or use the apparatus no less effectively than was possible before such obstruction.

Expenses

32. Subject to the provisions of the following paragraphs of this Schedule, DLRL shall repay to the specified undertaker the reasonable expenses incurred by the specified undertaker in, or in connection with—

- (a) the inspection, removal and relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus under any provision of this Schedule (including any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or exercise of statutory powers for such apparatus);
- (b) the cutting off of any apparatus from any other apparatus, or the making safe of any redundant apparatus in consequence of the exercise by DLRL of any power under this Order;
- (c) the survey of any land, apparatus or works, the inspection, superintendence and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the exercise by DLRL of any power under this Order; and
- (d) any other work or thing rendered reasonably necessary in consequence of the exercise by DLRL of any such power,

within a reasonable time of being notified by the specified undertaker that it has incurred such expenses.

33. There shall be deducted from any sum payable under paragraph 32 the value of any apparatus removed under the provisions of this Schedule, that value being calculated after removal.

34. If in pursuance of the provisions of this Schedule—

- (a) alternative apparatus of better type, or greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions, except where this has been solely due to using the nearest currently available type; or
- (b) apparatus (whether existing apparatus or alternative 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 DLRL or, in default of agreement, is not determined by arbitration to be necessary having regard, among other things, to the nature of the authorised works, then, if such placing involves cost in the construction of the works under paragraphs 9 to 12 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 specified undertaker by virtue of paragraph 32 shall be reduced by the amount of that excess.

35. For the purposes of paragraph 34—

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus except in a case where the apparatus as so extended serves a purpose (either

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additional to or instead of that served by the existing apparatus) which was not served by 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 shall be treated as if it also had been agreed or had been so determined.

36. An amount which apart from this paragraph would be payable to the specified undertaker in respect of works by virtue of paragraphs 32 to 35 shall, 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 specified undertaker any financial benefit by deferment of the time for renewal of the apparatus or of the system of which it forms part in the ordinary course, be reduced by the amount which represents that benefit as calculated in accordance with the Code of Practice entitled “Measures Necessary where Apparatus is Affected by Major Works (Diversionary Works)” and dated June 1992 and approved by the Secretary of State on 30th June 1992, as revised and re-issued from time to time.

37. In any case where work is carried out by DLRL pursuant to paragraphs 14 to 16 and, if such work had been carried out by the specified undertaker, the repayment made to the specified undertaker under paragraph 32 would fall to be reduced pursuant to paragraphs 34 to 36, the specified undertaker shall pay to DLRL such sum as represents the amount of that reduction.

Indemnity

38. If, by reason or in consequence of the construction, maintenance or failure of any of the authorised works, including any works carried out by DLRL pursuant to paragraph 14 or protective works required by a condition imposed under paragraph 23(a) or required under paragraph 25(b), or any subsidence resulting from any of those works, any damage shall be caused to any 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 other property of the specified undertaker, or there is any interruption in any service provided by the specified undertaker, DLRL shall repay the cost reasonably incurred by the specified undertaker in making good such damage, or restoring the supply, and shall—

- (a) make reasonable compensation to the specified undertaker for any loss sustained by it; and
- (b) indemnify the specified undertaker against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from, or incurred by, the specified undertaker, by reason or in consequence of any such damage or interruption; and the fact that any act or thing may have been done by the specified undertaker on behalf of DLRL or in accordance with plans approved by the specified undertaker or in accordance with any requirement of the specified undertaker or under its supervision shall not, subject to paragraph 39, excuse DLRL from any liability under the provisions of this paragraph.

39. Nothing in paragraph 38 shall impose any liability on DLRL with respect to any damage or interruption to the extent that such damage or interruption is attributable to the neglect or default of the specified undertaker, its officers, servants, contractors or other agents.

40. The specified undertaker shall give to DLRL reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of DLRL which shall not be unreasonably withheld.

Exercise of safeguarding and survey powers

41. DLRL shall, so far as is reasonably practicable, so exercise the powers conferred by article 16 of this Order as not to obstruct or render less convenient the access to any apparatus.

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42. DLRL shall not, in the exercise of the powers of section 11(3) of the 1965 Act, as applied by this Order, or of article 18 of this Order, make any trial holes which interfere with any apparatus without the consent of the specified undertaker (which shall not be unreasonably withheld).

Arbitration

43. Any difference arising between DLRL and a specified undertaker under this Schedule (other than a difference as to its meaning or construction) shall be determined by arbitration in the manner provided by article 51 of this Order and in determining any difference under this Schedule the arbitrator may, if he thinks fit, require DLRL to execute any temporary or other works so as to avoid, so far as may be reasonably possible, interference with the use of any apparatus.

Transfer of powers

44. DLRL shall give notice to every specified undertaker if any of the powers of DLRL under this Order are transferred to another person in accordance with article 44 of this Order and any such notice shall be given within 14 days of any such transfer becoming effective and shall describe or give (as appropriate)—

- (a) the nature of the functions to be transferred;
- (b) the extent of that transfer;
- (c) the geographical area to which the transfer relates;
- (d) the name and address of the transferee; and
- (e) the effective date of the transfer.

45. The obligation to give notice under paragraph 44 to a successor in title to a specified undertaker named in paragraph 1 shall only apply to the extent that DLRL has been informed by notice in writing by that named undertaker, or by a successor in title to that named undertaker, as the case may be, of the name and address of that successor in title.

Notices

46. Any notice in writing to be given by DLRL to a specified undertaker under this Schedule shall be deemed effectively given if sent by recorded delivery or by registered letter addressed to the registered office of that specified undertaker.

SCHEDULE 16

Article 41

RELEVANT LOCAL RAILWAY ENACTMENTS

PART 1

ENACTMENTS TO HAVE EFFECT SUBJECT TO THE PROVISIONS OF THIS ORDER

<i>Chapter</i>	<i>Title or short title</i>
2 & 3 Vict. c. lxxviii.	Northern and Eastern Railway and Eastern Counties Railway Junction Act 1839

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<i>Chapter</i>	<i>Title or short title</i>
4 & 5 Vict. c. xxiv.	Northern and Eastern Railway Act 1841
9 & 10 Vict. c. cccxcvi.	East & West India Docks and Birmingham Junction Railway Act 1846
19 & 20 Vict. c. lxxvi.	London Tilbury and Southend Railway (Extension and Branches) Act 1856
37 & 38 Vict. c. cxxviii.	Great Eastern Railway Act 1874
38 & 39 Vict. c. cxxxiv.	Great Eastern Railway Act 1875
38 & 39 Vict. c. lvii.	London Tilbury and Southend Railway Act 1875
39 & 40 Vict. c. lxxviii.	Great Eastern Railway Act 1876
40 & 41 Vict. c. xlv.	London and North Western Railway (New Works and Additional Lands) Act 1877
41 & 42 Vict. c. clv.	Great Eastern Railway (General Powers) Act 1878
41 & 42 Vict. c. clxxxii.	London and North Western Railway (Additional Powers) Act 1878
42 & 43 Vict. c. cl.	Great Eastern Railway Act 1879
44 & 45 Vict. c. cxxxiv.	Great Eastern Railway Act 1881
45 & 46 Vict. c. clxvi.	Great Eastern Railway Act 1882
48 & 49 Vict. c. xciii.	Great Eastern Railway (General Powers) Act 1885
50 & 51 Vict. c. clxi.	Great Eastern Railway (General Powers) Act 1887
53 & 54 Vict. c. cviii.	Great Eastern Railway (General Powers) Act 1890
60 & 61 Vict. c. xc.	Great Eastern Railway (General Powers) Act 1897
61 & 62 Vict. c. lxvi.	Great Eastern Railway (General Powers) Act 1898
1901 c. xc .	Great Eastern Railway (General Powers) Act 1901
1904 c. cviii.	Great Eastern Railway (General Powers) Act 1904
1981 c. xxxv.	British Railways (No.2) Act 1981
1991 c. iii.	London Underground Act 1992
1996 c. 61.	Channel Tunnel Rail Link Act 1996
S.I. 2001/1451.	Channel Tunnel Rail Link (Stratford Station and Subsidiary Works) Order 2001

PART 2

ENACTMENTS TO HAVE EFFECT SUBJECT TO THE PROVISIONS
OF THIS ORDER BUT TO BE REPEALED TO THE EXTENT
APPLYING TO THE ABANDONED RAILWAY FORMATION

<i>Chapter</i>	<i>Title or short title</i>	<i>Extent of repeal</i>
21 & 22 Vict. c. xcix.	Eastern Counties Railway Act 1858	The whole Act
25 & 26 Vict. c. ccxxiii.	Great Eastern Railway Act 1862	Sections 124 to 126
29 & 30 Vict. c. ccxcix.	North Metropolitan Railway Act 1866	The whole Act
30 & 31 Vict. c. clxx.	Midland Railway (Additional Powers) Act 1867	Sections 6, 31 and 323
4 & 35 Vict. c. lxxv.	Gas Light & Coke Company's Act 1871	Sections 4 to 28
39 & 40 Vict. c. cxlv.	Midland Railway (New Works &c.) Act 1876	Section 20
40 & 41 Vict. c. lxxxiii.	Great Eastern Railway Act 1877	Section 24
56 & 57 Vict. c. lii.	Great Eastern Railway (General Powers) Act 1893	Sections 22(c) and 31
1915 c. xvi.	Great Eastern Railway Act 1915	Section 23
1930 c. lv.	London and North Eastern Railway (Works) Act 1930	Sections 14(3) and 23
1980 c. xxxii.	London Transport Act 1980	Sections 4 and 20
1989 c. ix.	London Docklands Railway (Beckton) Act 1989	The whole Act

SCHEDULE 17

Article 42

TEMPORARY TRAFFIC REGULATION: PROHIBITION OF WAITING

<i>(1)</i> <i>Road</i>	<i>(2)</i> <i>Side</i>	<i>(3)</i> <i>Description</i>	<i>(4)</i> <i>Notes</i>
In the London Borough of Newham			
Bakers Row	North	Entire length, including turning head	To facilitate vehicle access to the worksite on the gardens of Abbey House

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<i>(1)</i> <i>Road</i>	<i>(2)</i> <i>Side</i>	<i>(3)</i> <i>Description</i>	<i>(4)</i> <i>Notes</i>
Abbey Road	North	From its junction with Mitre Road for a distance of 25 metres	To facilitate turning movements at junction for larger vehicles
Manor Road	East and West	In both directions, for a distance of 30 metres from the central point of the proposed (temporary) vehicle access	To maintain access to the worksite located north of the Northern Outfall Sewer and ensure adequate sight lines are achieved to maintain safety
Cranberry Lane	East and West	In both directions, for a distance of 15 metres from the central point of the proposed (temporary) vehicle access	To maintain access to the worksite and ensure adequate sight lines are achieved to maintain safety
Stephenson Street	East and West	In both directions, for a distance of 15 metres from the central point of the two proposed vehicle accesses: one temporary, one permanent	To maintain access to the worksite and ensure adequate sight lines are achieved to maintain safety
Victoria Dock Road	North and South	In both directions, for a distance of 15 metres from the central point of the proposed (temporary) vehicle access	To maintain access to the worksite and ensure adequate sight lines are achieved to maintain safety

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises the construction of an extension to the Docklands Light Railway running from Royal Victoria station to the proposed Channel Tunnel Rail Link station at Stratford (currently under construction), and the construction of related railway works at the junction of the Beckton branch of the Docklands Light Railway with the London City Airport and North Woolwich branch of the Docklands Light Railway. It also makes provision in relation to the consequential abandonment of the North London Line between Royal Victoria station and North Woolwich station, the construction of altered and new stations, the compulsory purchase and temporary use of land, the stopping up or

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diversion of existing rights of way, temporary traffic regulation, street works and ancillary works and land powers. It contains a number of protective provisions for the benefit of affected undertakings.

A copy of the deposited plans, the deposited sections and the book of reference mentioned in this Order may be inspected free of charge during working hours at the offices of Docklands Light Railway Limited, P.O. Box 154, Castor Lane, Poplar, London E14 0DX.