



# Crossrail Act 2008

## 2008 CHAPTER 18

### *Miscellaneous*

#### **40 Disapplication and modification of miscellaneous controls**

Schedule 14 (which makes provision for the disapplication and modification of miscellaneous statutory and other controls in relation to things done under this Act and otherwise for the purposes of this Act) has effect.

#### **41 Burial grounds**

- (1) Nothing in any enactment relating to burial grounds and no obligation or restriction imposed under ecclesiastical law or otherwise shall have effect to prohibit, restrict or impose any condition on the use of any land comprised in a burial ground for the purpose of constructing any of the works authorised by this Act.
- (2) Subsection (1) shall not apply in relation to land in which human remains are interred unless—
  - (a) the remains have been removed and reinterred or cremated in accordance with the provisions of Schedule 15, and
  - (b) any monument to the deceased has been dealt with in accordance with those provisions.
- (3) Subsection (2) shall not apply where the use of the land for the purpose mentioned in subsection (1) does not involve disturbing the human remains which are interred in it.
- (4) In this section (and Schedule 15)—
  - (a) “enactment” includes an enactment in any local or private Act of Parliament, and an order, rule, regulation, byelaw or scheme made under an Act of Parliament;
  - (b) “monument” includes a tombstone or other memorial;
  - (c) references to a monument to any person are to a monument commemorating that person, whether or not also commemorating any other person.

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

- (1) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall apply, in relation to the rights and obligations of the parties to a lease granted by the Secretary of State in pursuance of a development agreement—
  - (a) so as to 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) so as to confer or impose on either 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) so as to restrict the enforcement (whether by action for damages or otherwise) by either party to the lease of any obligation of the other party under the lease.
- (2) In subsection (1), references to a lease granted by the Secretary of State in pursuance of a development agreement include any provisions of a development agreement providing for the grant of a lease of any land by the Secretary of State.
- (3) In this section, “development agreement” means an agreement to which the Secretary of State is a party and under which another party has responsibilities in relation to the design, construction, financing or maintenance of Crossrail.

## **43 Disposal of Crown land**

- (1) The Secretary of State may grant—
  - (a) a lease of land to which subsection (2) applies, or
  - (b) an easement or other right over such land,for such period, for such consideration (if any) and otherwise on such terms as the Secretary of State thinks fit.
- (2) This subsection applies to land within the limits of deviation for the scheduled works or within the limits of land to be acquired or used which—
  - (a) is subject to management under section 22 of the Crown Lands Act 1851 (c. 42) (which relates to the management of royal parks etc.), and
  - (b) appears to the Secretary of State to be required for or in connection with the works authorised by this Act or otherwise for or in connection with Crossrail.
- (3) Section 3(1) and (2) of the Crown Estate Act 1961 (c. 55) (limitations on Crown Estate Commissioners' powers of disposal in relation to land under their management) shall not apply in relation to land within the limits of deviation for the scheduled works or within the limits of land to be acquired or used which appears to the Crown Estate Commissioners to be required for or in connection with the works authorised by this Act or otherwise for or in connection with Crossrail.

## **44 Prohibitions or restrictions on land use imposed for Crossrail purposes**

- (1) This section applies where—
  - (a) a prohibition of or restriction on the use of land is imposed by a covenant or agreement between a person interested in the land (“the promisor”) and the Secretary of State, and
  - (b) the covenant or agreement is made for purposes connected with Crossrail.

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- (2) The Secretary of State may enforce the prohibition or restriction against persons deriving title from or under the promisor in respect of land to which it relates as if—
  - (a) the Secretary of State were possessed of adjacent land, and
  - (b) the covenant or agreement had been expressed to be made for the benefit of such land.
- (3) Section 2(c) of the Local Land Charges Act 1975 (c. 76) (under which a prohibition or restriction enforceable by a Minister of the Crown under a covenant or agreement is not a local land charge if binding on successive owners because made for the benefit of land of the Minister) shall not apply to the prohibition or restriction.

#### **45 Compensation for injurious affection**

Section 10(1) of the Compulsory Purchase Act 1965 (c. 56) (compensation for injurious affection) shall have effect, in relation to land injuriously affected by the execution of works under this Act, with the substitution for “acquiring authority have” of “nominated undertaker has”.

#### **46 Compensation for water abstraction**

- (1) Section 48A(1) of the Water Resources Act 1991 (c. 57) (duty not to cause loss or damage to another by the abstraction of water) shall not apply in relation to the abstraction of water in connection with the exercise of the powers conferred by this Act.
- (2) Where—
  - (a) the nominated undertaker causes loss or damage to another person by the abstraction of water in connection with the exercise of the powers conferred by this Act, and
  - (b) the circumstances are such that causing the loss or damage would have constituted breach of the duty under section 48A(1) of the Water Resources Act 1991, but for subsection (1),it shall compensate the other person for the loss or damage.
- (3) Compensation under subsection (2) shall be assessed on the same basis as damages for breach of the duty under section 48A(1) of the Water Resources Act 1991.
- (4) Section 48A(5) of the Water Resources Act 1991 (prohibition of claims in respect of loss or damage caused by abstraction of water which are not claims under that section) has no application to claims under this section or Part 3 of Schedule 17.
- (5) In this section, “abstraction” has the same meaning as in the Water Resources Act 1991.

#### **47 Temporary possession agreements**

- (1) This section applies where the Secretary of State and an owner of land subject to the power under section 6(1) enter into an agreement which provides for the owner's interest in the land to be subject to paragraph 1 of Schedule 5.
- (2) This Act shall have effect as if the table in paragraph 1(1) of Schedule 5 contained an entry in which—

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- (a) column (1) specified such works as the agreement may provide or, in the absence of such provision, any of the works authorised by this Act,
  - (b) columns (2) and (3) specified the land to which the agreement relates, and
  - (c) column (4) specified such purpose as the agreement may provide or, in the absence of such provision, any purpose connected with the works authorised by this Act or otherwise connected with Crossrail.
- (3) In their application by virtue of subsection (2), paragraphs 1(1)(b) and (3) to (7) and 2 of Schedule 5, so far as relating to the owner's interest in the land, shall have effect with such modifications as the agreement may provide.
- (4) In its application by virtue of subsection (2), paragraph 1 of Schedule 5 shall have effect as if for sub-paragraph (2) there were substituted—
- “(2) Not less than 3 months before entering upon and taking possession of land under this paragraph, the nominated undertaker shall give notice to the owners and occupiers of the land—
- (a) of its intention to do so, and
  - (b) stating that section 47 applies and explaining its effect.”
- (5) Subsection (4) shall not apply where the land which it is proposed to enter upon and take possession of is occupied by virtue of the interest which is the subject of the agreement.
- (6) Where the power under paragraph 1(1)(a) of Schedule 5 is exercised in relation to land to which the agreement relates, this Act shall have effect in relation to interests in the land which are not the subject of an agreement by virtue of which this section applies as if—
- (a) section 6(5) and (6)(a), paragraphs 1(4) and (5), 2 and 5(3) and (4) of Schedule 5 and paragraph 3(3) of Schedule 6 had not been enacted,
  - (b) notice to treat had been given under section 5 of the Compulsory Purchase Act 1965 (c. 56), and notice of entry had been given under section 11(1) of that Act, in respect of the land on the day on which notice was given of intention to exercise the power under paragraph 1(1)(a) of Schedule 5 in relation to it, and
  - (c) possession of the land had been taken under section 11(1) of the Compulsory Purchase Act 1965 on the day on which the power under paragraph 1(1)(a) of Schedule 5 was exercised in relation to it.
- (7) The agreement may be amended or revoked by an agreement between the Secretary of State and the owner of the interest to which the agreement relates.
- (8) Where the agreement is amended under subsection (7), subsections (2), (3) and (5) to (7) shall have effect as if references to the agreement were references to the agreement as amended.
- (9) Where the agreement is revoked under subsection (7), this section shall cease to apply by virtue of the agreement.
- (10) The agreement, and any variation of it under subsection (7), shall be a local land charge.
- (11) An agreement which—
- (a) has been entered into before the day on which this Act is passed, and
  - (b) is in force immediately before that day,

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shall be treated for the purposes of this section as having been entered into on that day.

- (12) In this section “owner”, in relation to any land, includes a person holding or entitled to the rents and profits of the land under a lease or agreement the unexpired term of which does not exceed 3 years.

#### **48 Application of Act to extensions**

- (1) Subsection (2) applies to an order under section 1 of the Transport and Works Act 1992 (c. 42) (orders as to railways etc.) which relates to—
- (a) an extension of Crossrail, or
  - (b) the provision, otherwise than as part of an extension of Crossrail, of a railway facility for use for the purposes of or in connection with Crossrail.
- (2) An order to which this subsection applies may apply any provision of this Act, with any modifications, in relation to anything authorised by the order, so far as relating to a matter mentioned in subsection (1)(a) or (b).
- (3) An order under section 1 of the Transport and Works Act 1992 which relates to an extension of Crossrail may also provide for any provision of this Act to have effect as if Crossrail included the extension.
- (4) The following provisions are excepted from the power conferred by subsection (2)—
- section 6(7) and (8),
  - paragraphs 18 and 19 of Schedule 6,
  - Schedule 9, and
  - Schedule 10.
- (5) In subsection (1)(b), “railway facility” has the same meaning as in Part 1 of the Railways Act 1993 (c. 43).

#### **49 Reinstatement of discontinued facilities**

Schedule 16 (which authorises the reinstatement of discontinued facilities and makes provision with respect to planning conditions) has effect.

#### **50 Protection of interests**

Schedule 17 has effect for protecting the interests of the bodies and persons specified in that Schedule (being bodies and persons who may be affected by other provisions of this Act).

#### **51 Power to devolve functions of Secretary of State**

- (1) The Secretary of State may by order provide for a reference in a qualifying provision of this Act to the Secretary of State to have effect as a reference—
- (a) to the Greater London Authority,
  - (b) to Transport for London, or
  - (c) to the Greater London Authority and Transport for London.
- (2) The Secretary of State may fetter the exercise of his discretion under subsection (1) by agreement with the Mayor of London or Transport for London.

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- (3) An order under subsection (1) may—
- (a) make provision applying for all purposes or for one or more particular purposes;
  - (b) contain such supplementary, incidental, consequential or transitional provision as the Secretary of State considers necessary or expedient in connection with the order.
- (4) The provision which may be made by virtue of subsection (3)(b) includes provision modifying any provision of this Act.
- (5) The power to make an order under subsection (1) shall be exercisable by statutory instrument.
- (6) A statutory instrument containing an order under subsection (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) The following provisions of this Act are qualifying provisions for the purposes of subsection (1)—
- sections 6(1), 7(1) and (2), 8(1), (3) and (4), 9(1), 33(1) to (4), 39(1) to (4) and (7), 42, 44, 47(1) and (7) and 52(1) and (4);
  - paragraphs 1(2)(d) and 3(1), (4) and (5) of Schedule 3;
  - paragraphs 13(1), 14(2), (4) and (5), 16 and 18(2) to (4) of Schedule 6;
  - paragraphs 4(1), 7(3), 8(1), 12(2) and 17(2) of Schedule 14;
  - paragraphs 1(1), 3(2) to (4), 4(1), 6(1) and 7(1) and (3) of Part 2 of Schedule 17;
  - paragraphs 1(1) and 2 of Part 5 of Schedule 17.

## **52 Correction of deposited plans**

- (1) If the deposited plans or the book of reference to those plans are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Secretary of State, after giving not less than 10 days' notice to the owners and occupiers of the land in question, may apply to two justices having jurisdiction in the place where the land is situated for the correction of the plans or book of reference.
- (2) If on such application it appears to the justices that the misstatement or wrong description arose from mistake or inadvertence, the justices shall certify accordingly and shall in their certificate state in what respect a matter is misstated or wrongly described.
- (3) A certificate under subsection (2) shall be deposited in the office of the Clerk of the Parliaments and a copy of it shall be deposited—
- (a) in the Private Bill Office of the House of Commons, and
  - (b) with the proper officer of each local authority in whose area the land to which the certificate relates is situated.
- (4) Upon deposit of a certificate in accordance with subsection (3), the deposited plans or the book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Secretary of State, in accordance with the certificate, to proceed under this Act as if the deposited plans or book of reference had always been in the corrected form.

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- (5) A copy certificate deposited under subsection (3) shall be kept with the documents to which it relates.
- (6) A justice of the peace may act under this section in relation to land which is partly in one area and partly in another if he may act in respect of land in either area.
- (7) In this section—
  - “book of reference” means the book deposited in connection with the Crossrail Bill in the office of the Clerk of the Parliaments and the Private Bill Office of the House of Commons in February 2005, together with the books so deposited on 18th January, 9th May, 7th November 2006 and 16th May 2007;
  - “local authority” means—
    - (a) in relation to land situated in the area of a unitary authority, that authority, and
    - (b) in relation to land not situated in the area of a unitary authority, the county council for the area.

### **53 Service of documents**

- (1) Any document required or authorised to be served on any person under this Act may be served—
  - (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address,
  - (b) if the person is a body corporate, by serving it in accordance with paragraph (a) on the secretary of that body, or
  - (c) if the person is a partnership, by serving it in accordance with paragraph (a) on a partner or a person having control or management of the partnership business.
- (2) For the purposes of this section and section 7 of the Interpretation Act 1978 (c. 30) (which relates to the service of documents by post) in its application to this section, the proper address of any person on whom a document is to be served shall be his last known address, except that—
  - (a) in the case of service on a body corporate or its secretary, it shall be the address of the registered or principal office of the body;
  - (b) in the case of service on a partnership or a partner or a person having control or management of a partnership business, it shall be the address of the principal office of the partnership.
- (3) For the purposes of subsection (2), the principal office of a company registered outside the United Kingdom, or of a partnership carrying on business outside the United Kingdom, is its principal office within the United Kingdom.
- (4) If a person to be served under this Act with any document by another has specified to that other an address within the United Kingdom other than his proper address (as determined under subsection (2)) as the one at which he, or someone on his behalf, will accept documents of the same description as that document, that address shall also be treated as his proper address for the purposes of this section and for the purposes of section 7 of the Interpretation Act 1978 in its application to this section.
- (5) Where a document is required or authorised to be served under this Act on a person in his capacity as the owner of an interest in, or occupier of, any land and his name or

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address cannot be ascertained after reasonable enquiry, the document may be served by addressing it to him by name or by the description of “owner” or “occupier”, as the case may be, of the land and—

- (a) leaving it with a person who is, or appears to be, resident or employed on the land, or
  - (b) leaving it conspicuously affixed to some building or object on or near the land.
- (6) In this section, “secretary”, in relation to a local authority within the meaning of the Local Government Act 1972 (c. 70), means the proper officer within the meaning of that Act.

## **54 Arbitration**

- (1) Where under this Act any difference is to be referred to arbitration, the difference shall be referred to, and settled by, a single arbitrator to be agreed between the parties or, in default of 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.
- (2) Subsection (3) applies where—
  - (a) a party has under subsection (1) applied for the arbitrator to be appointed by the President of the Institution of Civil Engineers, and
  - (b) the President notifies either of the parties that he is not going to appoint an arbitrator under subsection (1).
- (3) In default of agreement between the parties as to who in the circumstances should be the arbitrator, the arbitrator is to be appointed on the application of either party, after notice in writing to the other, by the Office of Rail Regulation.
- (4) The Office of Rail Regulation may under subsection (3) appoint as the arbitrator a member or employee of that Office.
- (5) The Secretary of State for Communities and Local Government and the Secretary of State for Transport acting jointly may by rules made by statutory instrument make provision about procedure in relation to arbitration under this Act.
- (6) A statutory instrument containing rules under subsection (5) shall be subject to annulment in pursuance of a resolution of either House of Parliament.



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