
STATUTORY INSTRUMENTS

1997 No. 264

**The London Underground (East
London Line Extension) Order 1997**

PART I

PRELIMINARY

Citation and commencement

1. This Order may be cited as the London Underground (East London Line Extension) Order 1997 and shall come into force on 10th February 1997.

Interpretation

- 2.**—(1) In this Order, unless the context otherwise requires—
- “the 1845 Act” means the Railways Clauses Consolidation Act 1845(1);
 - “the 1961 Act” means the Land Compensation Act 1961(2);
 - “the 1965 Act” means the Compulsory Purchase Act 1965(3);
 - “the 1973 Act” means the Land Compensation Act 1973(4);
 - “the 1991 Act” means the New Roads and Street Works Act 1991(5);
 - “authorised works” means the scheduled works and any other works authorised by this Order;
 - “the book of reference” means the book of reference described in rule 7(5) of the Applications Rules prepared in connection with the application for this Order and marked by the Secretary of State as “the book of reference” for the purposes of this Order;
 - “the Company” means London Underground Limited;
 - “the deposited plans” means the plans described in rule 7(1)(a) and 7(3) of the Applications Rules prepared in connection with the application for this Order and marked by the Secretary of State as “the plans” for the purposes of this Order and references to land shown on those plans are references to land so shown in pursuance of those rules;
 - “the deposited sections” means the sections described in rule 7(2) of the Applications Rules prepared in connection with the application for this Order and marked by the Secretary of State as “the sections” for the purposes of this Order;
 - “highway” and “highway authority” have the same meaning as in the Highways Act 1980(6);

(1) 1845 c. 20.
(2) 1961 c. 33.
(3) 1965 c. 56.
(4) 1973 c. 26.
(5) 1991 c. 22.
(6) 1980 c. 66.

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

“the limits of deviation” means the lines marked “Limit of Deviation” shown on the deposited plans;

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

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

“Railtrack” means Railtrack plc and includes any person who derives title to any property from Railtrack plc and holds that property for railway purposes;

“the railways board” means the British Railways Board;

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

“street” includes part of a street;

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

“the tribunal” means the Lands Tribunal; and

“the waterways board” means the British Waterways Board;

(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.

Incorporation of Railways Clauses Acts

3.—(1) The following provisions of the 1845 Act shall be incorporated in this Order:—

section 24 (obstructing construction of railway);

section 46 (crossing of roads - level crossings) except for the words from “Provided always” to the end;

section 58 (company to repair roads used by them), except for the words from “and if any question” to the end;

section 68 (accommodation works by company);

section 71 (additional accommodation works by owners), except for the words “or directed by such justices to be made by the company” and “or, in case of difference, as shall be authorised by two justices”;

sections 72 and 73 (supplementary provisions relating to accommodation works);

section 77 (presumption that minerals excepted from acquisition of land);

sections 78 to 85E and Schedules 1 to 3 (minerals under railways), as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923(7);

sections 103 and 104 (refusal to quit carriage at destination);

section 105 (carriage of dangerous goods on railway);

section 145 (recovery of penalties);

section 154 (transient offenders).

(2) The following provision of the Railway Clauses Act 1863⁽⁸⁾ shall be incorporated in this Order:—section 12 (signals, watchmen etc.).

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

“the company” means the Company;

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

“lease” includes an agreement for a lease;

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

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

“the special Act” means this Order; and

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

PART II

WORKS PROVISIONS

Principal powers

Power to construct works

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

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

(3) Subject to paragraph (5) below, the Company may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the scheduled works, namely—

- (a) works to alter the position of apparatus, including mains, sewers, drains and cables,
- (b) works to erect and construct such houses, warehouses, offices, and other buildings, yards, stations, engines, machinery, apparatus, and other works, and conveniences as the Company thinks fit,
- (c) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses,
- (d) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the scheduled works, and
- (e) works for the benefit or protection of premises affected by the scheduled works.

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

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

are carried out on land specified in columns (1) and (2) of Schedule 2 to this Order for the purpose specified in relation to that land in column (3) of that Schedule.

Power to deviate

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

Streets

Power to execute street works

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

- (a) break up or open the street, or any sewer, drain or tunnel under it, or tunnel or bore under the street,
 - (b) place apparatus in the street,
 - (c) maintain apparatus in the street or change its position, and
 - (d) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b) and (c) above.
- (2) This article is subject to paragraph 3 of Schedule 9 to this Order.
- (3) In this article “apparatus” has the same meaning as in Part III of the 1991 Act.

Permanent stopping up of streets

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

(2) No street specified in columns (1) and (2) of Part I of Schedule 4 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 the letters and numbers shown on the deposited plans 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 available between the commencement and termination points of the street to be stopped up pending completion of the new street in accordance with sub-paragraph (a) above.

(3) Where a street has been permanently stopped up under this article all rights of way over or along the street so stopped up shall be extinguished, and the Company may, without making any payment therefor but subject to sections 77 to 85E of, and Schedules 1 to 3 to, the 1845 Act (which relate to minerals under railways), appropriate and use for the purposes of their undertaking the street so stopped up.

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

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

Temporary stopping up of streets

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

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

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

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

(4) Without prejudice to paragraph (3) above, the Company may, for a period not exceeding 4 years from the date upon which the Company commence to exercise the powers conferred by this article in relation to Dunston Road narrow and stop up so much of Dunston Road shown on the deposited plans and numbered 111 in the London borough of Hackney as lies within the limits of deviation.

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

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

(6) The provisions of the 1991 Act mentioned in paragraph (7) below and any regulations made, or code of practice issued or approved under, those provisions shall apply (with the necessary modifications) in relation to the stopping up, alteration or diversion of a street by the Company under the powers conferred by this article where no street works are executed in that street as they would apply if the stopping up, alteration or diversion were occasioned by street works executed in that street by the Company.

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

- section 54 (advance notice of certain works);
- section 55 (notice of starting date of works);
- section 59 (general duty of street authority to co-ordinate works);
- section 60 (general duty of undertakers to co-operate);
- section 69 (works likely to affect other apparatus in the street);
- section 76 (liability for cost of temporary traffic regulation);
- section 77 (liability for cost of use of alternative route); and

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

Access to works

9. The Company may, for the purposes of the authorised works—

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

Construction and maintenance of new or altered streets

10.—(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 the Company for a period of 24 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 the Company for a period of 24 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) above do not apply in relation to the structure of any bridge or tunnel carrying a street over or under any railway of the Company.

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

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

Construction of bridges

11. Notwithstanding any other provision of this Order or any enactment or rule of law the Company may, in constructing and maintaining Work No 1, reconstruct, renew or alter any of the bridges carrying the railway over the streets specified in Part II of Schedule 1 to this Order so that such bridges have no greater height above those streets than they had on the date of application for this Order under section 6 of the Act.

Agreements with street authorities

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

- (a) the construction of any new street (including any structure carrying the street over or under a railway) under the powers conferred by this Order,
 - (b) the maintenance of the structure of any bridge or tunnel carrying a street over or under a railway,
 - (c) any stopping up, alteration or diversion of a street under the powers conferred by this Order, or
 - (d) the execution in the street of any of the works referred to in article 6(1) above.
- (2) Such an agreement may, without prejudice to the generality of paragraph (1) above–
- (a) make provision for the street authority to 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 powers

Discharge of water

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

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

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

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

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

(6) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by section 85(1), (2) or (3) of the Water Resources Act 1991⁽⁹⁾.

(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, a joint planning board, the Commission for the New Towns, an urban development corporation or a harbour authority within the meaning of the Harbours Act 1964⁽¹⁰⁾,
- (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

14.—(1) Subject to the following provisions of this article, the Company may at its own expense and from time to time carry out such safeguarding works to any building lying within 35 metres of any of the authorised works (other than safeguarding works), as the Company considers to be necessary or expedient.

(2) Safeguarding works may be carried out –

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

⁽⁹⁾ 1991 c. 57.

⁽¹⁰⁾ 1964 c. 40.

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

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

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

(5) Before exercising–

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

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

(6) Where notice is served under paragraph (5)(a), (c) or (d) above, the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the safeguarding works or to enter the building or land to be referred to arbitration under article 34 below.

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

(8) Where–

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

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

(9) Subject to article 33 below, nothing in this article shall relieve the Company from any liability to pay compensation under section 10(2) of the 1965 Act.

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

(11) In this article–

- (a) “building” includes any structure or erection or any part of a building, structure or erection,
- (b) any reference to a building within a specified distance of a work includes–
 - (i) in the case of a work under the surface of the ground, a reference to any building within the specified distance of the point on the surface below which the work is situated, and
 - (ii) where a work has not commenced, a reference to a building within the specified distance of the proposed site of the work, and
- (c) “safeguarding works” , in relation to a building, means–

- (i) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, maintenance or operation of the authorised works, and
- (ii) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, maintenance or operation of the authorised works.

Power to survey and investigate land

- 15.**—(1) The Company may for the purposes of this Order—
- (a) survey or investigate any land shown within the limits or which may be affected by the authorised works,
 - (b) without prejudice to the generality of sub-paragraph (a) above, make trial holes in such positions as the Company thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples,
 - (c) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes, and
 - (d) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (c) above.
- (2) No land may be entered, or equipment placed or left on or removed from the land under paragraph (1) above, unless at least 7 days' notice has been served on every owner and occupier of the land.
- (3) Any person entering land under this article on behalf of the Company—
- (a) shall, if so required, before or after entering the land produce written evidence of his authority to do so, and
 - (b) may take with him such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.
- (4) No trial holes shall be made under this article in a carriageway or footway without the consent of the street authority, but such consent shall not be unreasonably withheld.
- (5) The Company shall make compensation for any damage occasioned, by the exercise of the powers conferred by this article, to the owners and occupiers of the land, such compensation to be determined, in case of dispute, under Part I of the 1961 Act.

Temporary closure of part of Grand Union Canal (Regent's Canal)

- 16.**—(1) In this article “the waterway” means so much of the Grand Union Canal (Regent's Canal) shown on the deposited plans and numbered 112 in the London borough of Hackney and “towpath” means so much of the towpath lying adjacent to the northern bank of the waterway between the letters A and B shown on the deposited plans.
- (2) The Company, during and for the purpose of the construction of Work No 1, may temporarily close any part of the waterway and divert barges and other boats therefrom.
- (3) During the period of the closure referred to in paragraph (2) above, all rights of navigation along, and obligations of the waterways board to maintain for navigation, the waterway or part thereof so closed shall be suspended and unenforceable against the waterways board.
- (4) The Company, during and for the purposes of the construction of Work No 1, may temporarily stop up the towpath and prevent all persons from passing along the towpath and may construct temporary steps between the letters F and A shown on the deposited plans to be used in connection with paragraph (5) below.

(5) During the period of closure referred to in paragraph (4) above, the Company shall use reasonable endeavours to make available a temporary diversion of the towpath between the letters B, C, D, E, F and A shown on the deposited plans.

(6) Any person who suffers loss by the suspension of any right under paragraph (2) of this article shall be entitled to compensation, to be determined, in case of dispute, under Part I of the 1961 Act.

PART III

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

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

- (a) so much of the land shown on the deposited plans within the limits of deviation for the scheduled works (except in the case of the lands delineated in the deposited plans and thereon numbered 27c and 42c in the London borough of Tower Hamlets) as may be required for the purposes of the authorised works, and
- (b) so much of the land specified in columns (1) and (2) of Schedule 2 to this Order as may be required for the purpose specified in relation to that land in column (3) of that Schedule;

and may use any land so acquired for those purposes or (except in the case of the lands delineated in the deposited plans and thereon numbered 27c and 42c in the London borough of Tower Hamlets) for any other purposes connected with or ancillary to its railway undertaking.

- (a) (2) (a) The Company shall not under the powers of this Order, without the consent of Railtrack, acquire or enter upon, take or use, whether temporarily or permanently or acquire any new rights over the lands of Railtrack delineated on the deposited plans and thereon numbered:
 - (i) 1 in the London borough of Islington;
 - (ii) 283a, 284, 285, 286, 287 in the London borough of Hackney; and
 - (iii) 1a, 8a, 18a, 19a, 21a, 22, 24, 25, 26 and 28 to 38 inclusive in the London borough of Tower Hamlets.

- (b) This paragraph shall not prevent the Company from acquiring the interest of any person other than Railtrack in the land mentioned in paragraph (2)(a) above.

(3) The Company shall not under the powers of this Order acquire compulsorily any part of the lands delineated on the deposited plans and thereon numbered 64 and 65 in the London borough of Hackney.

Application of Part I of Compulsory Purchase Act 1965

18.—(1) Part I of the 1965 Act, insofar 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⁽¹¹⁾ applies, and
- (b) as if this Order were a compulsory purchase order under that Act.

(11) 1981 c. 67.

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

Powers to acquire new rights

19.—(1) Subject to paragraphs (2) and (3) of article 17 above, the Company may acquire compulsorily such easements or other rights over any land referred to in paragraph (1)(a) or (b) of that article as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

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

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

Rights under streets

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

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

(3) The Company shall not be required to pay any compensation for the exercise of the powers conferred by paragraph (1) above where the street is a highway; but where the street is not a highway any owner or occupier of subsoil suffering loss by the entry upon and appropriation of such subsoil shall be entitled to compensation to be determined, in case of dispute, under Part I of the 1961 Act.

(4) Paragraphs (2) and (3) above shall not apply in relation to—

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

(5) Nothing in paragraph (3) above shall relieve the Company from liability to compensate under section 10(2) of the 1965 Act or under Part I of the 1973 Act as incorporated or applied by this Order, arising from the exercise of the powers conferred by paragraph (1) above.

Temporary possession of land

Temporary use of land for construction of works

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

- (a) enter upon and take temporary possession of the land specified in columns (1) and (2) of Schedule 8 to this Order for the purpose specified in relation to that land in column (3) of that Schedule,
- (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 28 days before entering upon and taking temporary possession of land under this article the Company shall serve notice of the intended entry on the owners and occupiers of the land.

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

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

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

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

(7) Without prejudice to article 33 below, nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (5) above.

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

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

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

Compensation

Disregard of certain interests and improvements

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

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

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

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

Supplementary

Acquisition of part of certain properties

23.—(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 18 above) in any case where—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, and

(b) that the material detriment is not confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the Company is authorised to acquire compulsorily under this Order.

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

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

Extinction or suspension of private rights of way

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

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

(b) on the entry on the land by the Company under section 11(1) of the 1965 Act, whichever is sooner.

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

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

(4) This article does not apply in relation to any right of way to which section 271 or 272 of the Town and Country Planning Act 1990⁽¹²⁾ (extinguishment of rights of statutory undertakers etc.) or paragraph 2 of Schedule 9 to this Order applies.

Time limit for exercise of powers of acquisition

25.—(1) The powers conferred by this Order to acquire land or rights over land compulsorily, and the power conferred by article 21 above to enter upon and take temporary possession of land, shall cease at the end of the period of 5 years beginning on the day on which this Order comes into force.

(2) Paragraph (1) above shall not prevent the Company remaining in possession of land in accordance with article 21 above after the end of that period, if the land was entered and possession of it was taken before the end of that period.

(12) 1990 c. 8.

PART IV

MISCELLANEOUS AND GENERAL

Agreements with Railtrack

26.—(1) In this article—

“the designated lands” means so much of the land of Railtrack as is described in article 17(2) of this Order;

“the specified works” means so much of the scheduled works as will be constructed on or over the designated lands.

(2) Any work of alteration or adaptation of property of Railtrack which may be necessary in order to construct the specified works and thereafter the use, maintenance, repair and renewal of such property and of the specified works shall be carried out and regulated by the Company or Railtrack, or by the Company and Railtrack jointly, in accordance with such terms and conditions as may be agreed in writing between the Company and Railtrack.

(a) (3) (a) Any agreement made under this article may relate to the whole or part of the designated lands or the specified works and may contain such incidental, consequential or supplementary provisions as may be so agreed, including (but without prejudice to the generality of the foregoing) provisions—

(i) with respect to the defraying of, or the making of contributions towards, the cost of such works or alteration or adaptation or the costs of such maintenance, repair and renewal as are referred to in paragraph (2) above by the Company or by Railtrack or by the Company and Railtrack jointly; and

(ii) for the exercise by Railtrack, or by the Company, or by Railtrack and the Company jointly, of all or any of the powers and rights of Railtrack and the Company (as the case may be) in respect of any part of the designated lands or the specified works under any enactment or contract.

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

(4) In constructing the specified works the Company may re-align so much of the North London Line as lies within the limits of deviation of Work No. 1 in such position and on such terms as shall be agreed between the Company and Railtrack.

(5) The Company and Railtrack may enter into, and carry into effect, agreements for the transfer to the Company of—

(a) any part of the designated lands,

(b) any lands, works or other property held in connection with any part of the designated lands, and

(c) any rights and obligations (whether or not statutory) of Railtrack relating to any part of the designated lands.

(6) In this article “the North London Line” has the same meaning as in Part I of Schedule 1 to this Order.

Transfer of rights and obligations

27.—(1) In this article—

“the 1861 Act” means the North London Railway (City Branch) Act 1861(13);

“the railway land” means any land which is acquired by the Company from the railways board or Railtrack for the purposes of this Order or is acquired by the Company from the railways board pursuant to article 23 above, other than the land upon which the viaduct is situated;

“the viaduct” means so much of the viaduct which formerly carried the City branch of the North London Railway of the railways board between Worship Street and Haggerston Road in the London Borough of Hackney authorised by the 1861 Act as is acquired by the Company for the purposes of this Order, together with all works and conveniences forming part of or connected with the viaduct, and includes the land on which the viaduct is situated.

(2) Unless otherwise agreed in writing between the Company and Railtrack or the railways board (as the case may be), all the rights and obligations of the railways board and Railtrack, whether statutory or otherwise, relating to the railway land and the viaduct shall be transferred to the Company to the exclusion of the railways board and Railtrack by virtue of this Order on the date upon which the Company enters upon the viaduct and the railway land under the powers conferred by article 17 above.

(3) In this article “the City branch of the North London Railway” has the same meaning as in Part I of Schedule 1 to this Order.

Statutory undertakers etc.

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

For protection of Railtrack

29.—(1) For the protection of Railtrack the following provisions shall, unless otherwise agreed in accordance with the provisions of article 26 above or otherwise agreed in writing between the Company and Railtrack for the purposes of this article, apply and have effect.

(2) In this article—

“construction” includes reconstruction and for the purposes of paragraphs (11) and (13) of this article includes maintenance and repair of the specified works;

“the engineer” means an engineer to be appointed by Railtrack;

“plans” includes sections, drawings, particulars and schedules of construction;

“railway property” means any railway of Railtrack, and any works, apparatus and equipment of Railtrack connected therewith and includes any lands held or used by Railtrack for the purposes of such railway or works, apparatus and equipment; and

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

(3) The exercise by the company against Railtrack of the powers of article 15 above or the powers of section 11(3) of the 1965 Act shall be confined to lands in relation to which the Company’s powers of compulsory acquisition are not subject to the consent of Railtrack under article 17(2) above.

(a) (4) (a) The Company shall, before commencing the construction of the specified works, furnish to Railtrack such proper and sufficient plans thereof (including particulars as to the working methods and the regulation of traffic in the vicinity of the specified works) as may reasonably be required by the engineer and shall not commence the specified works

until plans thereof have been approved in writing by the engineer or settled by arbitration as provided in sub-paragraph (b) below.

- (b) The engineer's approval under sub-paragraph (a) above shall not be unreasonably withheld and any question of whether it has been unreasonably withheld shall be settled by arbitration, and in any event if within 56 days after such plans have been furnished to Railtrack the engineer has not notified his disapproval thereof and the grounds of his disapproval, he shall be deemed to have approved the plans as submitted.

(5) If within 56 days after such plans have been furnished to Railtrack, Railtrack give notice to the Company that Railtrack desire themselves to construct any part of the specified works, which in the opinion of the engineer will or may affect the stability of railway property and the safe operation of the railways of Railtrack or the services of operators using the same, then, if the Company desire such part of the specified works to be constructed, Railtrack shall construct it with all reasonable dispatch on behalf of, and to the reasonable satisfaction of, the Company in accordance with the plans approved or deemed to be approved or settled as aforesaid.

(6) Upon signifying his approval or disapproval of the plans the engineer may specify any protective works (including any relocation of works, apparatus and equipment necessitated by the specified works), whether temporary or permanent, which in his opinion should be carried out before the commencement of the construction of the specified works to ensure the stability of railway property, the continuation of safe and effective operation of the railways of Railtrack or the services of operators using the same and the comfort and safety of the 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 Railtrack with all reasonable dispatch, or, if Railtrack so desires, such protective works shall be carried out by the Company at its own expense and the Company shall not commence the construction of the specified works until the engineer has notified the Company that the protective works have been completed.

(7) The Company shall give to the engineer not less than 56 days' notice of their intention to commence the construction of any of the specified works and also, except in emergency (when they shall give such notice as may be reasonably practicable), of their intention to carry out any works for the repair or maintenance of the specified works in so far as such works of repair or maintenance affect or interfere with railway property.

- (a) (8) (a) The construction of the specified works and of any protective works carried out by the Company by virtue of the provisions of paragraph (6) above shall, when commenced, be carried out with all reasonable dispatch in accordance with the plans approved or deemed to be approved or settled as aforesaid and under the supervision (if given), and to the reasonable satisfaction, of the engineer, and in such manner as to cause as little damage as may be to railway property and as little interference as may be with the conduct of traffic on the railways of Railtrack and the use by passengers of railway property and, if any damage to railway property or any such interference shall be caused by the carrying out of the specified works the Company shall, notwithstanding any such approval as aforesaid, make good such damage and shall pay to Railtrack all reasonable expenses to which they may be put and compensation for any loss which they may sustain by reason of any such damage or interference.
- (b) Nothing in this paragraph shall impose any liability on the Company with respect to any damage, cost, expense or loss which is attributable to the act, neglect or default of Railtrack or their servants or agents.

(9) The Company shall at all times afford reasonable facilities to the engineer for access to the specified works during their construction and shall supply him with all such information as he may reasonably require with regard to the specified works or the method of construction thereof.

(10) During the construction of any works by Railtrack under this article Railtrack shall at all times afford reasonable facilities to the Company and their agents for access to those works, and

shall supply the Company with such information as they may reasonably require with regard to such works or the method of construction thereof.

- (a) (11) (a) If any alterations or additions, either permanent or temporary, to railway property shall be reasonably necessary during the construction of the specified works, or during a period of 12 months after the completion thereof, in consequence of the construction of the specified works, such alterations and additions may be carried out by Railtrack and, if Railtrack give to the Company reasonable notice of their intention to carry out such alterations or additions, the Company shall pay to Railtrack the reasonable cost thereof including, in respect of permanent alterations and additions, a capitalised sum representing any increase in the costs which may be expected to be reasonably incurred by Railtrack in maintaining, working and, when necessary, renewing any such alterations or additions.
- (b) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions, a capitalised sum representing such saving shall be set off against any sum payable by the Company to Railtrack under this article.
- (12) The Company shall repay to Railtrack all reasonable costs, charges and expenses reasonably incurred by Railtrack—
- (a) in constructing any part of the specified works on behalf of the Company as provided by paragraph (5) of this article or in constructing any protective works under the provisions of paragraph (6) of this article, including, in respect of any permanent protective works, a capitalised sum representing the costs which may be expected to be reasonably incurred by Railtrack in maintaining and renewing such works;
- (b) 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 the specified works;
- (c) 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 the specified works, or from the substitution or diversion of services which may be reasonably necessary for the same reason;
- (d) 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 the specified works; and
- (e) in respect of the supervision by the engineer of the construction of the specified works.
- (a) (13) (a) The Company shall be responsible for, and make good to Railtrack, all reasonable costs, charges, damages and expenses not otherwise provided for in this article which may be occasioned to, or reasonably incurred by, Railtrack—
- (i) by reason of the construction of the specified works (as opposed to their existence) or the failure thereof; or
- (ii) by reason of any act or omission of the Company or of any person in its employ, or of its contractors or others whilst engaged upon the construction of the specified works;
- and the Company shall indemnify Railtrack from and against all claims and demands arising out of or in connection with the construction of the specified works or any such failure, act or omission as aforesaid, and the fact that any act or thing may have been done in accordance with any requirement of the engineer or under his supervision shall not (if it was not attributable to the act, neglect or default of Railtrack or of any person in their employ, or of their contractors or agents) excuse the Company from any liability under the provisions of this article.

- (b) Any liability of the Company under this paragraph shall be reduced proportionately to the extent to which any costs, charges, damages and expenses are attributable to the act neglect or default of Railtrack or of any person in their employ, or of their contractors or agents.
- (c) Railtrack shall give to the Company reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Company.

(14) Any difference arising between the Company and Railtrack under this article (other than a difference as to its meaning or construction) shall be referred to and settled by arbitration.

Public Open Space

30.—(1) As from the date on which this Order comes into force, the date on which the special category land is vested in the Company or the date on which the exchange land is vested in the Company, whichever is the latest, the exchange land shall vest in the person in whom the special category land was vested immediately before it was vested in the Company, subject to the like rights, trusts and incidents as attached to the special category land; and the special category land shall thereupon be discharged from all rights trusts and incidents to which it was previously subject.

(2) In this article—

“special category land” means the lands delineated on the deposited plans and thereon numbered 45a, 46a, 50a, 53a, 55a, 55b, 56a and 59a in the London borough of Tower Hamlets; and

“exchange land” means the lands delineated on the deposited plans and thereon numbered 27c and 42c in the London borough of Tower Hamlets.

Certification of plans etc.

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

Service of notices

32.—(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(**14**) as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) above is, if he has given an address for service, that address, and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body, and

(b) in any other case, his last known address at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorized 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—

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- (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

33. 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.

Arbitration

34. 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 for the time being of the Institution of Civil Engineers.

Signed by authority of the Secretary of State for Transport

20th January 1997

A. S. D. Whybrow
Head of Traffic Policy Division
Department of Transport