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STATUTORY INSTRUMENTS

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**2002 No. 1066**

**TRANSPORT AND WORKS, ENGLAND**  
**TRANSPORT, ENGLAND**

The Docklands Light Railway (Silvertown and  
London City Airport Extension) Order 2002

*Made* - - - - 9th April 2002  
*Coming into force* - - 30th April 2002

Whereas an application has been made to the Secretary of State in accordance with the Transport and Works (Applications and Objections Procedure) Rules 1992(1) made under sections 6, 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;

And whereas the Secretary of State caused an inquiry to be held for the purposes of the application pursuant to section 11 of the Act;

And whereas the Secretary of State, having considered the objections made and not withdrawn and the report of the person who held the inquiry, has determined to make an order giving effect to the proposals comprised in the application with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;

And whereas the Secretary of State is satisfied that the provision of an alternative right of way for each of the streets mentioned in Part III of Schedule 5 to this Order is not required;

And whereas notice of the Secretary of State’s determination was published in the London Gazette on 22nd March 2002;

Now, therefore, 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 and of all other powers enabling him in that behalf, hereby makes the following Order:—

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(1) S.I. 1992/2902.  
(2) 1992 c. 42.

## PART I

### PRELIMINARY

#### Citation and commencement

1. This Order may be cited as the Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002 and shall come into force on 30th April 2002.

#### 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 1984 Act” means the Road Traffic Regulation Act 1984(5);

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

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

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

“the Applications Rules” means the Transport and Works (Applications and Objections Procedure) Rules 1992(9);

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

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

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

“carriageway” has the same meaning as in the Highways Act 1980(10);

“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 7(3) 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;

“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) below;

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

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

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(3) 1961 c. 33.

(4) 1965 c. 56.

(5) 1984 c. 27.

(6) 1990 c. 8.

(7) 1991 c. 22.

(8) 1992 c. 42.

(9) S.I. 1992/2902.

(10) 1980 c. 66.

“occupier” means a person occupying land under a tenancy for a period of more than one month (not being a statutory tenant within the meaning of the Rent Act 1977(11) or the Rent Agriculture Act 1976(12));

“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;

“the scheduled works” means the works specified in Schedule 1 to this Order 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 III of the 1991 Act;

“the telecommunications code” means Schedule 2 to the Telecommunications Act 1984(13); 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 so 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 III of the 1991 Act (street works) as major transport works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) and (d) of section 86(3) of that Act (which defines what highway authority works are major highway works); or
- (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) Section 56 (directions as to timing) and section 58 (restrictions following substantial road works) of the 1991 Act shall not apply in relation to any works executed under the power of this Order.

(3) The provisions of the 1991 Act mentioned in paragraph (4) below (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

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(11) 1977 c. 42. See section 2(1) and Schedule 1, as amended by the Housing Act 1980 (c. 51), sections 76 and 153 (2) and Schedule 26, and the Housing Act 1988 (c. 50), section 39(1).

(12) 1976 c. 80. See section 4, as amended by the Rent Act 1977, section 155 and Schedule 23, and the Housing Act 1980, section 76(3).

(13) 1984 c. 12.

powers conferred by this Order whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

- (4) The provisions of the 1991 Act referred to in paragraph (3) above 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.

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

## PART II

### WORKS PROVISIONS

#### *Principal Powers*

#### **Power to construct works**

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

(2) Subject to article 5 below, 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) below, DLRL 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 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 and cables and lights;
- (d) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;

(e) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised works; and

(f) facilities and works for the benefit or protection of land or premises affected by the authorised works.

(4) Subject to paragraph (6) below, DLRL 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) 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) and (4) above shall only authorise the carrying out or maintenance of works—

(a) within the limits of deviation shown on the deposited plans for the scheduled works; and

(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).

(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 convenient.

### **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) subject to paragraph (3) below, 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) above, in constructing or maintaining those sections of Works Nos. 1 and 3 to be carried on viaduct DLRL may deviate from the design of those viaducts shown on the deposited sections as it thinks fit, including by varying their points of commencement and termination, the number of supporting columns or other structures, the distances between them, the height of the underside of the viaducts above the level of the ground or the distance between the underside of the viaduct and the level of the rails.

(3) DLRL shall construct and maintain Work No.1 so that between the points measured 700 metres and 2,600 metres from the commencement of that work there is afforded at any vehicular access intersection point a clearance of at least 5.3 metres between the existing level of the access shown on the deposited sections or, if that level is altered by DLRL under its powers under this Order, the altered level, and the underside of the permanent viaduct structure forming part of that work.

(4) In paragraph (3) above, “vehicular access intersection point” means any point along the route of the section of Work No. 1 referred to in that paragraph where an access road or way that is shown on the deposited sections or which is provided in substitution therefore under this Order, passes underneath that work.

### **Stations**

6. DLRL may construct the stations specified in Schedule 3 to this Order on the lands specified in that Schedule and maintain and operate the stations so constructed, and it may construct, maintain and operate all necessary works and conveniences 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) above but subject to paragraph (3) below, DLRL may for the purpose of constructing, maintaining or using any scheduled work alter the layout of any street within the limits of deviation 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, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footpath, 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) above 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 limits of deviation 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 III of the 1991 Act;
- (b) “electric line” has the meaning given by section 64(1) of the Electricity Act 1989(14); 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 above or any other provision of this Order, enter upon any street within the limits of deviation 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 I and Part III of Schedule 5 to this Order and stop up vehicular rights of access and egress in each of the streets mentioned in columns (1) and (2) of Part II of that Schedule to the extent specified, by

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(14) 1989 c. 29.

reference to the letters and numbers shown on the deposited plans, in column (3) of Parts I, II and III of that Schedule.

(2) No street specified in columns (1) and (2) of Part I of Schedule 5 (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 points of the street to be stopped up until completion of the new street in accordance with sub-paragraph (a) above.

(3) No street specified in columns (1) to (3) of Part III of Schedule 5 to this Order (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) below is satisfied in relation to all the relevant land; and for this purpose “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) above 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 (or in the case of a street specified in Part II of Schedule 5 to this Order all vehicular 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 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.

(7) This article is subject to paragraph 2 of Schedule 10 to this Order.

### **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) below, prevent all persons from passing along the street.

(2) Without prejudice to the generality of paragraph (1) above, 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) above, DLRL 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, by reference to the letters and numbers shown on the deposited plans and set out 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) 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.

### **Access to works**

**12.** DLRL may, for the purposes of the construction or operation of the scheduled works, form and lay out such means of access or improve such existing means of access, to streets within the limits of deviation, as may be approved by the highway authority, but such approval shall not be unreasonably withheld.

### **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.

### **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 a 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 a 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 above.
- (2) Such an agreement may, without prejudice to the generality of paragraph (1) above—
- (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 limits of deviation, 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.

(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(15).

(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(16);
- (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 limits of deviation 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 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) above 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) 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—

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(15) 1991 c. 57.

(16) 1964 c. 40.

- (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;

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) 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 48 below.

(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 47 below, 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) above shall be determined, in case of dispute, under Part I of the 1961 Act.

(11) In this article—

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

### **Planning permission: supplementary matters**

**17.—**(1) In relation to the application of paragraph (3)(c) of the Second Schedule of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Tree Preservation Order) Regulations 1969(17) (including that paragraph as applied by regulation 3(ii) of the Town and Country Planning (Tree Preservation Order) (Amendment) and (Trees in Conservation Areas)

(Exempted Cases) Regulations 1975(18), 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 III 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(19) 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 limits of deviation;
- (b) without prejudice to the generality of sub-paragraph (a) above, 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) above, carry out 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) above; and
- (e) enter on the land for the purpose of exercising any of the powers conferred by sub-paragraphs (a) to (d) 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 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 I of the 1961 Act.

### **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.

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(18) S.I. 1975/148.

(19) S.I. 1999/1892.

## PART III

### 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 any other purposes connected with or ancillary to its undertaking.

(2) This article is subject to article 25(2) below.

#### **Application of Part I of the Compulsory Purchase Act 1965**

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

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981<sup>(20)</sup> applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part I 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.

#### **Vesting Declarations**

**22.**—(1) The Compulsory Purchase (Vesting Declarations) Act 1981<sup>(21)</sup> shall apply as if this Order were a compulsory purchase order.

(2) In its application by virtue of paragraph (1) above, 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—

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

<sup>(20)</sup> 1981 c. 67.

<sup>(21)</sup> 1981 c. 66.

(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 the London Gazette or 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 under article 21 above.

### **Powers to acquire new rights**

**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 above as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

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

(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.

### **Powers 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 above 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) above DLRL shall not be required to acquire an interest in any other part of the land.

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

### **Rights under or over streets**

**25.**—(1) DLRL may enter upon and appropriate so much of the surface, subsoil of, or air-space 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) The power under paragraph (1) above 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 above, the powers of compulsory acquisition of land conferred by this Order shall not apply in relation to the street.

(3) Any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) above 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 I of the 1961 Act.

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

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, 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) above 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.

### **Certain lands not to be acquired compulsorily**

26. Nothing in this Order shall authorise DLRL to acquire compulsorily any of the lands mentioned in Schedule 8 to this Order, or any rights over those lands, but DLRL may acquire by agreement any part of those lands, or any rights over them, for the purpose of the authorised works.

### *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 9 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 entering upon and taking temporary possession of any land under this article 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 9 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 this article, 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 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 47 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) Where DLRL takes possession of 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 below "building" includes structure or any other erection.

### **Temporary use of land for maintenance of works**

**28.—**(1) 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 in connection with, maintaining the work or any ancillary works connected with it or securing the safe operation of any such work;
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) above 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) above, or as to the amount of the compensation, shall be determined under Part I of the 1961 Act.

(8) Without prejudice to article 47 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 (6) above.

(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) 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 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) 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**

**30.**—(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 21 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 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 I 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 10 to this Order applies.

(6) Paragraphs (1), (2) and (3) above 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) above 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) above 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.

### **Time limit for exercise of powers of acquisition**

**32.**—(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 I of the 1965 Act, as applied to the acquisition of land under article 21 above; and
- (b) no declaration shall be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981, as applied by article 22 above.

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

## PART IV

### OPERATION OF AUTHORISED WORKS

#### **Maintenance of approved works, etc.**

**33.**—(1) Where pursuant to regulations(22) made under section 41 of the 1992 Act (approval of works, plant and equipment) approval has been obtained from the Health and Safety Executive with respect to any works, plant or equipment (including vehicles) forming part of the authorised works, such works, plant and equipment shall not be used in a state or condition other than that in which they were at the time that the approval was given unless any change thereto does not materially impair the safe operation of the authorised works.

(2) If without reasonable cause the provisions of paragraph (1) above are contravened, DLRL shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) No proceedings shall be instituted in England and Wales in respect of an offence under this article except by or with the consent of the Health and Safety Executive or the Director of Public Prosecutions.

#### **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) above, 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) above, or as to the amount of the compensation, shall be determined under Part I of the 1961 Act.

#### **Trespass on authorised railway**

**35.**—(1) Any person who—

- (a) trespasses on the authorised railway; or
- (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.

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(22) See [S.I. 1994/157](#).

## PART V

### PROTECTIVE PROVISIONS

#### **Statutory undertakers, etc.**

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

#### **For protection of railway undertakers**

37. The provisions of Schedule 11 to this Order shall have effect.

#### **For protection of the London Borough of Newham**

38. The provisions of Schedule 12 to this Order shall have effect.

#### **For protection of the Environment Agency**

39. The provisions of Schedule 13 to this Order shall have effect.

#### **For protection of specified undertakers**

40. The provisions of Schedule 14 to this Order shall have effect.

## PART VI

### MISCELLANEOUS AND GENERAL

#### **Powers of disposal, agreements for operation, etc.**

41.—(1) 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, the whole or any part of the authorised works and any land held in connection therewith.

(2) Without prejudice to the generality of paragraph (1) above, DLRL may enter into and carry into effect agreements with respect to any of the following matters, namely, the construction, maintenance, use and operation of the authorised works, or any part or parts of them, by any other person, and other matters incidental or subsidiary thereto or consequential thereon, and the defraying of, or the making of contributions towards, the cost of the matters aforesaid by DLRL or any other person.

(3) Any agreement under subsection (2) above may provide (inter alia) for the exercise of the powers of DLRL in respect of the authorised works or any part or parts thereof, and for the transfer to any person of the authorised works or any part or parts 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) above, or any agreement under paragraph (2) above, shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those powers were exercised by DLRL.

(5) Section 163 of the Greater London Authority Act 1999<sup>(23)</sup> 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) above.

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

**42.**—(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**

**43.**—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990<sup>(24)</sup> (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<sup>(25)</sup>; 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.

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<sup>(23)</sup> 1999 c. 29.

<sup>(24)</sup> 1990 c. 43.

<sup>(25)</sup> 1974 c. 40.

(3) The provisions of this article are without prejudice to the application to the authorised works of section 122 of the Railways Act 1993<sup>(26)</sup> (statutory authority as a defence to actions in nuisance, etc.) or any rule of common law having similar effect.

#### **Disclosure of confidential information**

**44.** A person who—

- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 16 or article 18 above; 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.**

**45.** 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, plans and 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**

**46.—(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<sup>(27)</sup> as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) above is, if he has given an address for service, that address, and otherwise—

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

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

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

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

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<sup>(26)</sup> 1993 c. 43.

<sup>(27)</sup> 1978 c. 30.

**No double recovery**

47. 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.

**Arbitration**

48. 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 for Transport, Local Government and the Regions

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

9th April 2002

## SCHEDULES

### SCHEDULE 1

Articles 2(1) and (4)

#### SCHEDULED WORKS

In the London Borough of Newham

Work No. 1—A railway (3,326 metres in length) commencing at a junction with the DLR Poplar to Beckton railway at a point 314 metres south of the centre of Canning Town DLR station platform, passing southwards under Work No. 5, through the existing underpass beneath the (A1020) Lower Lea Crossing, across the area known as the Thames Wharf site, over the Royal Albert and Victoria Docks Cut, then passing south-eastwards along the south-western side of North Woolwich Road, over Bell Lane, Fisons Road, Knights Road and Bradfield Road, then passing eastwards along the south side of North Woolwich Road over Barrier Park Road and Thames Road, then passing north-eastwards across North Woolwich Roundabout and the area known as the Silvertown triangle site, then passing eastwards over the Railtrack Stratford to North Woolwich railway, over Connaught Road, Work No. 16, Camel Road and Hartmann Road, and along the north side of Hartmann Road, then passing south-eastwards, over Hartmann Road again and terminating at a point 25 metres north of the junction of Drew Road and Leonard Street, adjacent to the terminal of London City Airport, including two lengths of viaduct, the first over the Jubilee Line tunnels at the Thames Wharf site (108 metres in length), commencing 437 metres south of the commencement of this work and terminating 545 metres south of the commencement of this work, the second (2,662 metres in length) commencing at a point 664 metres from the commencement of this work and terminating at the termination point of this work.

Work No. 2—A railway (442 metres in length) being a realignment of the tracks of part of the DLR Poplar to Beckton railway, commencing at a junction with that railway at a point 226 metres south of the centre of Canning Town DLR station platform, passing southwards under Work No. 5, then south-eastwards and terminating at a junction with that railway at a point 1 metre east of the centre of the viaduct carrying Silvertown Way over that railway.

Work No. 3—A railway (1,023 metres in length) commencing at a junction with Work No. 1 at its point of termination, passing south-eastwards across Hartmann Road and then passing eastwards along the north side of Newland Street and Brixham Street and terminating at a point 40 metres north-east of the junction of Pier Road and Claremont Close, including a viaduct across Works Nos. 20 and 21.

Work No. 4—An access road (139 metres in length) commencing at a new junction with the eastbound carriageway of the (A1020) Lower Lea Crossing 280 metres north-west of the Lower Lea Roundabout, passing northwards and terminating at a point 139 metres north of its commencement, together with a turning head at the point of its termination.

Work No. 5—A reconstruction of the existing London Underground Jubilee Line footbridge over the Poplar to Beckton railway 385 metres south of the centre of Canning Town DLR station platform, to carry that footbridge over Works Nos. 1 and 2, commencing at a point 24 metres south of the termination of Work No. 4 and terminating 25 metres east of its commencement, adjacent to the facility known as the Jubilee Line portal plant building.

Work No. 6—An access road (152 metres in length) commencing at a junction on the Lower Lea Crossing 59 metres north-west of the Lower Lea roundabout passing north-eastwards and



then north-westwards and terminating at a point 152 metres north-west of its commencement, adjacent to the facility known as the Jubilee Line access shaft, together with a turning head at the point of termination.

Work No. 7—An access road for the proposed Thames Wharf Station (212 metres in length) commencing at a junction with Dock Road 36 metres south-west of the Lower Lea Roundabout passing south-westwards under Work No. 1, then passing south-eastwards and terminating at a point 212 metres south of its commencement, together with a turning head at the point of termination.

Work No. 8—An access road (111 metres in length) being a realignment of the existing access road between Dock Road and Thames Wharf, commencing at its existing junction with Dock Road, passing south-westwards under Work No. 1 and terminating at a point 111 metres south-west of its commencement.

Work No. 9—An access road (82 metres in length) being a realignment of the existing access road between Dock Road and the north-west side of the area currently known as the former Barge Lock, commencing at its junction with Dock Road, passing south-westwards under Work No. 1 and terminating at a point 82 metres from its commencement.

Work No. 10—An access road (51 metres in length) being a realignment of the existing access road between North Woolwich Road and the south-east side of the area currently known as the former Barge Lock, commencing at its junction with North Woolwich Road passing south-westwards under Work No. 1 and terminating 51 metres south-west of its commencement.

Work No. 11—A cycle track and footway (86 metres in length) being a realignment of the existing cycle track and footway, commencing at a junction with the east side of Knights Road 17 metres south of the centre of North Woolwich Road, passing eastwards along the south side of North Woolwich Road and terminating at a junction with the west side of Bradfield Road 13 metres south of the centre of North Woolwich Road.

Work No. 12—A cycle track and footway (418 metres in length) being a realignment of the existing cycle track and footway, commencing at a junction with the east side of Bradfield Road 13 metres south of the centre of North Woolwich Road and terminating at a junction with the west side of Barrier Park Road, 13 metres south of the centre of North Woolwich Road.

Work No. 13—A road (125 metres in length) being a realignment of Barrier Park Road commencing at a junction with that road at a point 50 metres south-east of its junction with North Woolwich Road, passing eastwards under Work No. 1 and terminating at a junction with the Barrier Park car park at a point 125 metres east of its commencement.

Work No. 14—A cycle track and footway (152 metres in length) being a realignment of the existing cycle track and footway, commencing at a junction with the east side of Barrier Park Road, 13 metres south of the centre of North Woolwich Road, passing eastwards and terminating at a junction with the existing cycle track and footway 135 metres east of Barrier Park Road.

Work No. 15—A road (496 metres in length) being a realignment and improvement of Hartmann Road, commencing at a junction with Connaught Road at a point 24 metres south-east of the junction between Camel Road and Connaught Road, passing north-eastwards over Camel Road, then eastwards and terminating at a junction with Hartmann Road 20 metres north-east of the junction between Drew Road and Leonard Street, adjacent to the terminal of London City Airport.

Work No. 16—An access road (44 metres in length) being a realignment and extension of the existing access road to the facility known as the London City Airport fuel farm, commencing at a junction with Work No. 15 at a point 43 metres north-east of the commencement of Work No. 15, passing north-westwards across Camel Road and passing under Work No. 1

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and terminating at a junction with the existing access road 44 metres north-west of its commencement at the gates to the fuel farm.

Work No. 17—A road (25 metres in length) to connect Camel Road with Work No. 15, commencing at a junction with Work No. 15 at a point 103 metres from the commencement of Work No. 15, passing south-eastwards and terminating at a junction with Camel Road 25 metres south-east of its commencement.

Work No. 18—A road (119 metres in length) being a realignment of Hartmann Road, commencing at a junction with Hartmann Road at a point 82 metres east of the roundabout at the junction of Hartmann Road and Connaught Road, passing south-eastwards and terminating at a junction with Work No. 15 at a point 140 metres north-east of the junction between Work No. 15 and Connaught Road.

Work No. 19—A road (43 metres in length) commencing at a junction with Work No. 15 at a point 384 metres east of the junction between Work No. 15 and Connaught Road, passing north-eastwards under Work No. 1 and terminating at a junction with Hartmann Road 43 metres north-east of its junction with Work No. 15.

Work No. 20—A road (306 metres in length) being a realignment of the extension of Hartmann Road, commencing at a junction with Work No. 15 at its termination point, passing south-eastwards under Work No. 3, then passing eastwards and terminating at a junction with the extension of Hartmann Road 55 metres north-west of the junction between Newland Road and Kennard Street, adjacent to the London City Airport car park entrance.

Work No. 21—An access road (43 metres in length) being a realignment and extension of the existing access road for the facility known as the London City Airport remote plant room, commencing at a junction with Work No. 20 at a point 77 metres south-east of the junction between Work No. 15 and Work No. 20, passing south-westwards under Work No. 3 and terminating at a junction with the existing access road 43 metres south-west of its junction with Work No. 20.

Work No. 22—A footway (145 metres in length) commencing at a junction with Parker Street, at a point 67 metres north of the junction of Parker Street and Drew Road, passing south eastwards and terminating at a point 17 metres north-east of the junction of Saville Road and Drew Road, including a ramped footway from its point of commencement up to the realigned and improved Hartmann Road (Work No. 15).

## 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</i>
Silvertown	174, 175 and 180	Provision of replacement school, community facilities and local amenities
King George V Dockside	205	Relocation of airport support services

**SCHEDULE 3**

Article 6

**STATIONS**

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Location of proposed station</i>	<i>(3)</i> <i>Number of land shown on deposited plans</i>
London Borough of Newham	Thames Wharf	33, 36 and 37 to 41
	West Silvertown	53, 61, 62, 63 and 65 to 69
	Pontoon Dock	70, 89, 90, 91 and 93
	London City Airport	133, 165, 166, 177, 178, 181, 183, 184, 187 and 195
	King George V	204, 211, 212, 214, 217 and 218

**Key to Schedules 4 and 5**

FS	Footpath diversion
RS	Realignment of street
SS	Stopping up of street
WE	Kerb line modification

**SCHEDULE 4**

Article 7

**STREETS SUBJECT TO ALTERATION OF LAYOUT**

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
London Borough of Newham.	Access road to land currently known as the Limmo off Lower Lea Roundabout.	Adaption of existing access road between points RS1 and RS2.
	Dock Road at junction of access road to land currently known as Thames Wharf site.	Re-configuration of island and kerblines at point WE1.
	North Woolwich Road and adjacent access car parking and forecourt to Carlsberg Tetley.	Modifications to kerblines to North Woolwich Road and car parking and forecourt layout between points WE2 and WE3.
	Junction of North Woolwich Road and Bell Lane.	Alterations to kerblines.
	North Woolwich Road and adjacent access car parking and forecourt to Akzo Nobel.	Alterations to kerblines to North Woolwich Road and access, car parking and

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
		forecourt layout between points WE4 and WE5.
	Junction of North Woolwich Road and Fisons Road.	Modifications to kerblines and alterations of junction.
	North Woolwich Road and adjacent access, car parking and forecourt to Plaistow Wharf.	Alterations to kerblines to North Woolwich Road and access, car parking and forecourt layout between points WE6 and WE7.
	Footway and cycleway on south side of North Woolwich Road.	Realignment, widening and alterations to edgelines to facilitate West Silvertown Station between points WE7 and WE8.
	Access off North Woolwich Road to Kierbeck Holdings Limited.	Re-configuration of access and alteration to kerblines at point WE9.
	Access off North Woolwich Road to Crescent Wharf.	Re-configuration of access and alteration to kerblines at point WE10.
	Access off North Woolwich Road to TDG Logistics.	Re-configuration of access and alteration to kerblines at point WE11.
	Access off North Woolwich Road to Minoco Wharf.	Re-configuration of access and alteration to kerblines at point WE12.
	Barrier Park car park.	Alterations to layout.
	Turning bay to access road off North Woolwich Road serving Thames Barrier.	Alterations to layout and modifications of kerblines between points WE13 and WE14.
	Northern end and turning head of Oriental Road.	Re-configuration of turning head and modifications to kerblines between points WE15 and WE16.
	Camel Road.	Modifications to kerblines between points WE17 and WE18.
	Drew Road.	Modifications to kerblines between points WE19 and WE20.
	Traffic circulation, pick up/drop down, taxi bays, bus bays,	Re-configuration of layout and modifications to kerblines

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
	parking bays and footways serving London City Airport terminal main entrance off Hartmann Road.	within area between points WE21, WE22, WE23 and WE24.
	Access off extension of Hartmann Road serving main car parking area to London City Airport and adjacent to King George V Dock.	Re-configuration of layout and modifications to kerblines between points WE25 and WE26.
	Junction of Brixham Street and Dockland Street.	Modifications to footway edgeline between points WE27 and WE28.
	Claremont Close.	Modifications to footway edgelines between points WE29 and WE30.

**SCHEDULE 5**

Article 10

**STREETS TO BE PERMANENTLY STOPPED UP**

**PART I**

**STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED**

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of Stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
London Borough of Newham.	Access road to land currently known as the Limmo off Dock Road across Thames Wharf and beneath underpass below Lower Lea Crossing.	Between points SS4 and SS5.	Work No.4.
	Access roads to land currently known as Thames Wharf site off Dock Road.	Between points SS4 and SS6.	Work No.7 (part).
	Junction and access road off Dock Road to Thames Wharf serving Court Steel Company Limited and others.	Between points SS7and SS8.	Work No.8.

*Status: This is the original version (as it was originally made).*

<i>(1) Area</i>	<i>(2) Street to be stopped up</i>	<i>(3) Extent of Stopping up</i>	<i>(4) New street to be substituted</i>
	Junction and access road off Dock Road adjacent to the northwest side of the former barge lock to General Marine and others.	Between points RS3 and RS4.	Work No.9.
	Junction and access road off Dock Road adjacent to north-east side of former barge lock to Carlsberg Tetley.	Between points RS5 and RS6.	Work No.10.
	Footway and cycleway south side of North Woolwich Road.	Between points SS11 and SS12.	Work No.11.
	Footway and cycleway south side of North Woolwich Road.	Between points SS13 and SS14.	Work No.12.
	Barrier Park Road.	Between points SS15 and SS16.	Work No.13 (part).
	Footway and cycleway south side of North Woolwich Road.	Between points SS17 and SS18.	Work No.14.
	Hartmann Road.	Between points SS20 and SS21, and SS22 and SS23.	Works Nos.15, 18 and 19.
	Access road off Camel Road serving London City Airport fuel farm.	Between points SS24 and SS25.	Works Nos.15 (part) and 16.
	Link road between Hartmann Road and Parker Street.	Between points SS28 and SS29.	Work No. 22 (part).
	Camel Road.	Between points SS26 to SS27.	Works Nos.15 (part) and 17.
	Drew Road footways between Parker Street and Wythes Road.	Between points SS31 and SS32.	Work No.22
	Footpath linking Parker Street to Drew Road.	Between points FS1 and FS2.	Work No.22.

*Status: This is the original version (as it was originally made).*

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of Stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
	Footpath linking Parker Street to Wythes Road.	Between points FS3 and FS4.	Work No.22.
	Extension of Hartmann Road.	Between points SS23 to SS33.	Work No.20.
	Access road off extension of Hartmann Road serving London City Airport remote plant room.	Between points SS34 and SS35.	Work No.21.

## PART II

### STREET IN WHICH VEHICULAR RIGHTS ONLY ARE TO BE EXTINGUISHED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be affected</i>	<i>(3)</i> <i>Extent of stopping up</i>
London Borough of Newham.	Drew Road between Parker Street and Wythes Road.	Between points SS31 and SS32.

## PART III

### STREETS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
London Borough of Newham.	Staircase on south-east corner of underpass beneath Lower Lea Crossing.	Complete staircase at point SS1.
	Staircase and part footpath on south-west corner of underpass beneath Lower Lea Crossing.	Between points SS2 and SS3.
	Access road off Connaught Road.	At point SS19.
	Parker Street.	Northern end between points SS29 and SS30.

**Status:** This is the original version (as it was originally made).

**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	Lower Lea Crossing
	Dock Road
	North Woolwich Road
	Accesses off North Woolwich Road to Carlsberg Tetley
	Bell Lane
	Access off North Woolwich Road to Akzo Nobel
	Fisons Road
	Access off North Woolwich Road to Plaistow Wharf
	Access off North Woolwich Road to Kierbeck Holdings Limited
	Access off North Woolwich Road to Crescent Wharf
	Access off North Woolwich Road to TDG Logistics
	Access off North Woolwich Road to Minoco Wharf
	Silvertown Way
	Knights Road
	Bradfield Road
	Burt Road
	Access serving the Thames Barrier
	Access road off north-west corner of North Woolwich Roundabout
	Thames Road



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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>
	North Woolwich Roundabout
	Oriental Road
	A112 Connaught Bridge
	A1011 Connaught Road
	Parker Street
	Wythes Road
	Drew Road
	Leonard Street
	Newland Street
	Brixham Street
	Dockland Street
	Pier Road
	Claremont Close
	Access road joining extension of Hartmann Road to Woolwich Manor Way/North Circular Road
	Woolwich Manor Way
	North Circular Road

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**SCHEDULE 7**

Article 23

**MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS**

*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 as they apply as respects compensation on the compulsory purchase of land and interests in land.

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**2.—(1)** Without prejudice to the generality of paragraph 1 above, the Land Compensation Act 1973<sup>(28)</sup> shall have effect subject to the modifications set out in sub-paragraphs (2) and (3) below.

(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 below—

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

(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 below—

- (a) for the word “part” in paragraphs (a) and (b) there shall be substituted the words “a right over land consisting”;
- (b) for the word “severance” there shall be substituted the words “right over 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 proposed”; and
- (d) for the words “part is” there shall be substituted the words “right 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 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 references to—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

(2) Without prejudice to the generality of sub-paragraph (1) above, Part I 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 with the modifications specified in the following provisions of this Schedule.

**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 is depreciated by the acquisition of the right 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 land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

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(28) 1973 c. 26.

- (a) a question of disputed compensation in respect of the purchase of the right 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 without material detriment to that land; or
  - (ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs;

the Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002 (“the Order”) shall, in relation to that person cease to authorise the purchase of the right 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:—

- (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 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, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (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

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any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right 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, subject to compliance with that section as respects compensation.

### SCHEDULE 8

Article 26

#### LAND NOT TO BE ACQUIRED COMPULSORILY

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>
Land beneath and adjoining Silvertown Way	21 and 22
Lower Lea crossing (structure of underpass)	26
Silvertown Way	64
Dock Road	40 and 45
Pontoon Dock/Barrier Park	91A and 91B
Silvertown	178

### SCHEDULE 9

Article 27

#### LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<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 temporary possession may be taken</i>	<i>(4)</i> <i>Authorised work</i>
Lower Lea	2, 23, 34, 35, 42 and 43	Working site	Works Nos. 1, 2 and 4 to 10
Pontoon Dock/Barrier Park	95 and 96	Working site and provision of access and servicing facilities for Barrier Park	Works Nos. 1 and 11 to 14
King George V Dockside	213, 215, 216 and 219	Working site and construction access	Works Nos. 1, 3 and 15 to 22

## SCHEDULE 10

Articles 9, 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) above references to the appropriate Minister are references to the Secretary of State.

(3) Where any apparatus of public utility undertakers or of a public telecommunications operator 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) above, 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) above 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) above, as applied by that sub-paragraph, shall not have effect in relation to apparatus as respects which paragraph 2 below or Part III of the 1991 Act applies.

(6) In this paragraph—

“public telecommunications operator” means—

- (a) a person authorised, by a licence to which section 9 of the Telecommunications Act 1984(29) applies, to run a public telecommunications system; or
- (b) a person to whom the telecommunications code has been applied pursuant to section 10 of that Act; and

“public utility undertakers” has the same meaning as in the Highways Act 1980(30).

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

2.—(1) Where a street is stopped up under article 10 of this Order any statutory utility whose apparatus is under, in, upon, over, along or across the street shall have the same powers and rights

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(29) 1984 c. 12.

(30) 1980 c. 66.

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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) above 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) above—

- (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) above shall be reduced by the amount of that excess.

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

- (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) above (and having regard, where relevant, to sub-paragraph (5) above) 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 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 30th June 1992, as revised and re-issued from time to time.

(8) Sub-paragraphs (4) to (7) above shall not apply where the authorised works constitute major transport works for the purposes of Part III 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 telecommunications operator under paragraph 9 of the telecommunications code 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 III of the 1991 Act;

“public telecommunications operator” has the same meaning as in paragraph 1, above;

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

“statutory utility” means a statutory undertaker for the purposes of the Highways Act 1980 or a public telecommunications operator as defined in paragraph 1(6) above.

## SCHEDULE 11

Article 37

### FOR PROTECTION OF RAILWAY UNDERTAKERS

#### PART I

#### RAILTRACK

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

(2) In this Part of this Schedule—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Railtrack PLC for the purpose in question;

“plans” includes sections, designs, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals and programmes;

“Railtrack” means Railtrack PLC and any associated company of Railtrack PLC 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) the holding company of Railtrack PLC, a subsidiary of Railtrack PLC or another subsidiary of the holding company of Railtrack PLC;

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“railway property” means any railway belonging to Railtrack PLC and any land, works, apparatus and equipment belonging to Railtrack directly related to any such railway and any easement or other property interest held by or for the benefit of Railtrack; 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 adversely affect, railway property.

**2.—**(1) DLRL shall not exercise the powers conferred by article 18 above or 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 Railtrack PLC.

(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 Railtrack PLC.

(3) DLRL shall not exercise the powers conferred by sections 271 or 272 of the 1990 Act, as applied by Schedule 10 to this Order, in relation to any right of access of Railtrack to railway property but such right of access may be diverted with the consent of Railtrack PLC.

(4) DLRL shall not under the powers of this Order acquire or use or acquire new rights over any railway property except with the consent of Railtrack PLC.

(5) Where Railtrack PLC is asked to give its consent pursuant to sub-paragraph (1), (2), (3) or (4) above, such consent shall not be unreasonably withheld but may be given subject to reasonable conditions.

**3.—**(1) DLRL shall before commencing construction of any specified work supply to Railtrack PLC proper and sufficient plans of that work for the reasonable approval of the engineer and shall not commence such construction of the specified work until plans of that work have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) above shall not be unreasonably withheld, and if by the end of the period of 56 days beginning with the date on which such plans have been supplied to Railtrack PLC the engineer has not intimated his disapproval of those plans and the grounds of his disapproval he shall be deemed to have approved the plans as submitted.

(3) If by the end of the period of 56 days beginning with the date on which such plans have been supplied to Railtrack PLC, Railtrack PLC gives notice to DLRL that Railtrack PLC 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 Railtrack PLC then, if DLRL desires such part of the specified work to be constructed, Railtrack PLC shall construct it (together with any adjoining part of the specified work which DLRL reasonably requires to be constructed in one operation with that work) with all reasonable dispatch on behalf of and to the reasonable satisfaction of DLRL in accordance with the plans approved or deemed to be approved or settled under this paragraph and under the supervision (where appropriate and if given) of DLRL.

(4) In the event of Railtrack PLC not constructing or completing any part of a specified work pursuant to sub-paragraph (3) above with all reasonable dispatch and to the reasonable satisfaction of DLRL in accordance with such programme as may be agreed with DLRL or settled by arbitration, Railtrack PLC shall pay compensation to DLRL for any loss which it may sustain as a result.

(5) 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 a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Railtrack PLC or the services of operators using the same (including any relocation of works, apparatus and equipment necessitated by a specified work), and such protective works as may be reasonably necessary for those purposes shall be constructed by Railtrack PLC or by DLRL, if Railtrack PLC so desires, 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.

**4.—(1)** Any specified work 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 3 above;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Railtrack PLC or the traffic thereon and the use by passengers of railway property,

and, if any damage to railway property or any such interference or obstruction is caused or takes place in consequence of the construction of a specified work, DLRL shall, notwithstanding any such approval, make good such damage and shall pay to Railtrack PLC all reasonable expenses to which Railtrack may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

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

**5.** 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.

**6.** Railtrack PLC shall at all times afford reasonable facilities to DLRL and its agents for access to any works carried out by Railtrack PLC 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.

**7.—(1)** If any alterations or additions, either permanent or temporary, to railway property are reasonably necessary during the construction of a specified work, or during a period of 12 months after the commencement of regular revenue-earning train operations using the new railways comprised in any specified work, in consequence of the construction of a specified work, and Railtrack PLC gives to DLRL reasonable notice of its intention specifying the alterations or additions to be carried out, DLRL shall pay to Railtrack PLC 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 Railtrack in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) The engineer shall, in respect of the capitalised sums referred to in this paragraph and paragraph 8(a) below, provide such details of the formula by which those sums have been calculated as DLRL may reasonably require.

(3) 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 DLRL to Railtrack PLC under this paragraph.

**8.** DLRL shall repay to Railtrack PLC all reasonable fees, costs, charges and expenses reasonably incurred by Railtrack—

- (a) in constructing any part of a specified work on behalf of DLRL as provided by paragraph 3(3) above or in constructing any protective works under the provisions of paragraph 3(5) above including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works; and
- (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.

9.—(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2) below, electromagnetic interference with Railtrack’s apparatus generated by the operation of the authorised works (including the operation of trains using the new railways comprised in the works) where such interference is of a level which adversely affects the safe operation of Railtrack’s apparatus; and

“Railtrack’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 Railtrack 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 Railtrack’s apparatus carried out after approval of plans under paragraph 3(1) above 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) below, DLRL shall in the design and construction of the authorised works take all measures necessary to prevent EMI and shall establish with Railtrack (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

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

- (a) DLRL shall consult with Railtrack PLC as early as reasonably practicable to identify all Railtrack’s apparatus which may be at risk of EMI, and thereafter shall continue to consult with Railtrack PLC (both before and after formal submission of plans under paragraph 3(1) above) to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Railtrack PLC shall make available to DLRL all information in Railtrack’s possession reasonably requested by DLRL in respect of Railtrack’s apparatus identified pursuant to paragraph (a) above; and
- (c) Railtrack PLC shall allow DLRL reasonable facilities for the inspection of Railtrack’s apparatus identified pursuant to paragraph (a) above.

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Railtrack’s apparatus, Railtrack shall not withhold its consent unreasonably to modifications of Railtrack’s apparatus, but the means of prevention and the method of their execution shall be selected in Railtrack PLC’s reasonable discretion and in relation to such modifications paragraph 3(1) above 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) above, the testing or commissioning of the authorised works causes EMI then DLRL shall immediately upon receipt of notification by Railtrack 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) above) to Railtrack’s apparatus.

(7) In the event of EMI having occurred—

- (a) DLRL shall afford reasonable facilities to Railtrack PLC for access to DLRL's apparatus in the investigation of such EMI;
  - (b) Railtrack shall afford reasonable facilities to DLRL for access to Railtrack's apparatus in the investigation of such EMI; and
  - (c) Railtrack shall make available to DLRL any additional material information in its possession reasonably requested by DLRL in respect of Railtrack's apparatus or such EMI.
- (8) Where Railtrack PLC approves modifications to Railtrack's apparatus pursuant to sub-paragraphs (5) or (6) above—
- (a) Railtrack shall allow DLRL reasonable facilities for the inspection of the relevant part of Railtrack's apparatus;
  - (b) any modifications to Railtrack's apparatus approved pursuant to those sub-paragraphs shall be carried out and completed by DLRL in accordance with paragraph 4 above.
- (9) To the extent that it would not otherwise do so, the indemnity in paragraph 13(1) below shall apply to the costs and expenses reasonably incurred or losses suffered by Railtrack 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 Railtrack's apparatus) or in consequence of any EMI to which sub-paragraph (6) above applies.
- (10) For the purpose of paragraph 8(a) above any modifications to Railtrack'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 48 above to the Institution of Civil Engineers shall be read as a reference to the Institution of Electrical Engineers.
- 10.** If at any time after the completion of a specified work, not being a work vested in Railtrack, Railtrack PLC gives notice to DLRL informing it that the state of maintenance of the specified work 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 as not adversely to affect railway property.
- 11.** 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 Railtrack PLC unless it shall have first consulted Railtrack PLC and it shall comply with Railtrack PLC'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.
- 12.** Any additional expenses which Railtrack 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 Railtrack PLC.
- 13.—(1)** DLRL shall pay to Railtrack PLC all reasonable costs, charges, damages and expenses not otherwise provided for in this Schedule which may be occasioned to or reasonably incurred by Railtrack—
- (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 Railtrack 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 Railtrack 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

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not (if it was done without negligence on the part of Railtrack 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) Railtrack PLC 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) above shall include a sum equivalent to the relevant costs.

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

(5) The obligation under sub-paragraph (3) above to pay Railtrack PLC 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) above.

(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 Railtrack’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) above; 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 Railways Act 1993.

**14.** In the assessment of any sums payable to Railtrack 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 Railtrack 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.

**15.** DLRL and Railtrack PLC may enter into, and carry into effect, agreements for the transfer to DLRL of—

- (a) any 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 railway property; and
- (c) any rights and obligations (whether or not statutory) of Railtrack PLC relating to any railway property.

## PART II

### THE UNDERGROUND COMPANIES

**16.—**(1) The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between DLRL and LUL, have effect for the protection of the Underground companies.

(2) In this Part of this Schedule—

“construction” includes execution, demolition, placing, alteration, reconstruction and maintenance and “construct” and “constructed” have corresponding meanings;

“EMI” means, subject to paragraph 24(1) below, electromagnetic interference with the Underground companies' works and apparatus generated by the operation of the authorised works (including the operation of trains using the new railways comprised in the works) where

such interference is of a level which adversely affects the safe operation of the Underground companies' works and apparatus;

“the engineer” means an engineer appointed by LUL for the purpose in question;

“LUL” means London Underground Limited;

“maintenance” means works of maintenance and repair that are material to the structures and safe operation of railway property;

“plans” includes sections, designs, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals and programmes;

“PPP company” means a company undertaking to carry out or secure the carrying out of any or all of the work mentioned in section 210(3) of the Greater London Authority Act 1999<sup>(31)</sup>;

“PPP-related third party” means any person with whom arrangements of the type mentioned in section 215(2)(b) of the Greater London Authority Act 1999 are entered into;

“railway property” means any railway belonging to LUL, any works, apparatus and equipment of the Underground companies connected with any such railway and any land, premises, arch, cellar or vault belonging to or used by the Underground companies for the purposes of any such railway, works, apparatus or equipment;

“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 adversely affect, railway property;

“subsidiary” has the same meaning as in section 736 of the Companies Act 1985<sup>(32)</sup>;

“the Underground companies” means LUL, any subsidiary of LUL, a PPP company, any subsidiary of a PPP company and any PPP-related third party; and

“the Underground companies' works and 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 the Underground companies 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.

17.—(1) DLRL shall not exercise the powers conferred by article 18 above or 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 LUL.

(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 LUL.

(3) The provisions of Schedule 10 to this Order shall not apply to any railway property to which this Part of this Schedule applies.

(4) Except with the consent of LUL, DLRL shall not under the powers of Part III of this Order—

- (a) acquire or enter upon,
- (b) take or use, whether temporarily or permanently,
- (c) acquire any new right over, or
- (d) acquire any existing right of the Underground companies relating to,

any railway property.

(5) Where LUL is asked to give its consent pursuant to sub-paragraph (1), (2), (3) or (4) above, such consent shall not be unreasonably withheld but may be given subject to reasonable conditions.

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(31) 1999 c. 29.

(32) 1985 c. 6.

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**18.—(1)** DLRL shall before commencing construction of any specified work supply to LUL proper and sufficient plans of that work for the reasonable approval of the engineer and shall not commence such construction of the specified work until plans of that work have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) above shall not be unreasonably withheld, and if by the end of the period of 56 days beginning with the date on which such plans have been supplied to LUL the engineer has not intimated his disapproval of those plans and the grounds of his disapproval he shall be deemed to have approved the plans as submitted.

(3) When signifying his approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in his reasonable opinion should be carried out before the commencement of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of any railway belonging to LUL or the services of operators using the same (including any relocation of works, apparatus and equipment necessitated by a specified work), and such protective works as may be reasonably necessary for those purposes shall be constructed by LUL or by DLRL, if LUL so desires, 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.

(4) The engineer shall inspect the protective works and notify DLRL that they have been completed to his reasonable satisfaction, or otherwise, as soon as reasonably practicable after they have been completed.

**19.—(1)** Any specified work and any protective work specified pursuant to paragraph 18(3) above 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 18 above;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway belonging to LUL or the traffic thereon and the use by passengers of railway property,

and, if any damage to railway property or any such interference or obstruction is caused or takes place in consequence of the construction of a specified work, DLRL shall, notwithstanding any such approval, make good such damage and shall pay to LUL all reasonable expenses to which LUL may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(2) Nothing in this paragraph shall impose any liability on DLRL with respect to any damage, cost, expense or loss attributable to the negligence of the Underground companies or their servants, contractors or agents and any liability of DLRL under this paragraph shall be reduced proportionately to the extent to which any damage, cost, expense or loss is attributable to the negligence of the Underground companies or their servants, contractors or agents.

**20.** 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.

**21.** The Underground companies shall at all times afford reasonable facilities to DLRL and its agents for access to any works carried out by LUL under this Part of this Schedule during their

construction and LUL shall supply DLRL with such information as it may reasonably require with regard to such works or the method of constructing them.

**22.**—(1) If any alterations or additions, either permanent or temporary, to railway property are reasonably necessary during the construction of a specified work, or during a period of 12 months after the commencement of regular revenue-earning train operations using the new railways comprised in any specified work, in consequence of the construction of a specified work, and LUL gives to DLRL reasonable notice of its intention to carry out any such alterations or additions specifying the alterations or additions to be carried out, DLRL shall pay to LUL 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 the Underground companies in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) The engineer shall, in respect of the capitalised sums referred to in this paragraph and paragraph 23(a) below, provide such details of the formula by which those sums have been calculated as DLRL may reasonably require.

(3) 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 DLRL to LUL under this paragraph.

**23.** DLRL shall repay to LUL all reasonable fees, costs, charges and expenses reasonably incurred by the Underground companies—

- (a) in constructing any protective works under the provisions of paragraph 18(3) above including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the employment or procurement of the services of any inspectors, supervisory staff, signalmen, watchmen and other persons whom it shall be reasonably necessary to appoint for inspecting, monitoring, 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 and to ensure the continued safe and economic operation of LUL's railway undertaking or the services of operators using the same (including any relocation of works, apparatus and equipment necessitated by a specified work) and the comfort and safety of passengers;
- (c) in respect of any special traffic working resulting from any speed restrictions which may, in the reasonable 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;
- (d) in respect of any additional temporary lighting of railway property in the vicinity of a specified work, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work; and
- (e) 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.

**24.**—(1) This paragraph shall apply to EMI only to the extent that such EMI is not attributable to any change to the Underground companies' apparatus carried out after approval of plans under paragraph 18(1) above 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).

(2) Subject to sub-paragraph (4) below, DLRL shall in the design and construction of the authorised works take all measures necessary to prevent EMI and shall establish with LUL (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

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(3) In order to facilitate DLRL's compliance with sub-paragraph (2) above—

- (a) DLRL shall consult with LUL as early as reasonably practicable to identify all the Underground companies' works and apparatus which may be at risk of EMI, and thereafter shall continue to consult with LUL (both before and after formal submission of plans under paragraph 18(1) above) to identify all potential causes of EMI and the measures required to eliminate them;
- (b) the Underground companies shall make available to DLRL all information in their possession reasonably requested by DLRL in respect of the Underground companies' works and apparatus identified pursuant to paragraph (a) above; and
- (c) the Underground companies shall allow DLRL reasonable facilities for the inspection of the Underground companies' works and apparatus identified pursuant to paragraph (a) above.

(4) In any case where it is established that EMI can only reasonably be prevented by modifications to the Underground companies' works and apparatus, the Underground companies shall not withhold their consent unreasonably to modifications of the Underground companies' works and apparatus, but the means of prevention and the method of their execution shall be selected in LUL's reasonable discretion and in relation to such modifications paragraph 18(1) above shall have effect subject to this sub-paragraph.

(5) 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 (2) above, the testing or commissioning of the authorised works causes EMI then DLRL shall immediately upon receipt of notification by LUL 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 (4) above) to the Underground companies' works and apparatus.

(6) In the event of EMI having occurred—

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

(7) Where the Underground companies approve modifications to the Underground companies' works and apparatus pursuant to sub-paragraphs (4) or (5) above—

- (a) the Underground companies shall allow DLRL reasonable facilities for the inspection of the relevant part of the Underground companies' works and apparatus;
- (b) any modifications to the Underground companies' works and apparatus approved pursuant to those sub-paragraphs shall be carried out and completed by DLRL in accordance with paragraph 19 above.

(8) To the extent that it would not otherwise do so, the indemnity in paragraph 26(1) below shall apply to the costs and expenses reasonably incurred or losses suffered by the Underground companies 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 the Underground companies' works and apparatus) or in consequence of any EMI to which sub-paragraph (5) above applies.



(9) For the purpose of paragraph 23(a) above any modifications to the Underground companies' works and apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(10) In relation to any dispute arising under this paragraph the reference in article 48 above to the Institution of Civil Engineers shall be read as a reference to the Institution of Electrical Engineers.

**25.** If at any time after the completion of a specified work, not being a work vested in the Underground companies, LUL gives notice to DLRL informing it that the state of maintenance of the specified work 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 as not adversely to affect railway property.

**26.—(1)** DLRL shall pay to LUL all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to or reasonably incurred by the Underground companies—

- (a) by reason of the construction 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 the Underground companies 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 the Underground companies 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 the Underground companies or of any person in their employ or of their contractors or agents) excuse DLRL from any liability under the provisions of this sub-paragraph.

(2) The Underground companies 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) Any liability of DLRL under this paragraph shall be reduced proportionately to the extent to which any cost, charge, damage, expense, claim, demand or loss is attributable to the negligence of the Underground companies or their servants, contractors or agents.

**27.** In the assessment of any sums payable to the Underground companies under this Part of 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 the Underground companies 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 Part of this Schedule or increasing the sums so payable.

**28.** DLRL and the Underground companies may enter into, and carry into effect, agreements for the transfer to DLRL of—

- (a) any 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 railway property; and
- (c) any rights and obligations (whether or not statutory) of the Underground companies relating to any railway property.

## SCHEDULE 12

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 of the London Borough of Newham, 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;

“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 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<sup>(33)</sup> 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.

## SCHEDULE 13

Article 39

### FOR PROTECTION OF THE ENVIRONMENT AGENCY

**1.** The following provisions of this Schedule shall, unless otherwise agreed in writing between DLRL and the Environment Agency, have effect.

**2.** Before applying for any consent under section 109 of the Water Resources Act 1991<sup>(34)</sup> in respect of the Royal Albert and Victoria Docks Cut, DLRL shall undertake a condition survey of the existing culvert within the limits of deviation and shall provide the Environment Agency with a copy of the report of that survey contemporaneously with the application for consent.

**3.** In carrying out any works under the powers conferred by this Order along the River Thames, Bow Creek, Pontoon Dock, Royal Albert Dock or King George V Dock, DLRL shall do nothing to affect the tidal defences.

**4.** In carrying out the authorised works, DLRL shall—

- (a) maintain vehicular and pedestrian access to and egress from the Thames Barrier along the Barrier Access Road or provide a reasonably suitable alternative for Environment Agency employees, their vehicles and security vehicles employed in connection with the Thames Barrier;
- (b) maintain reasonable access to and egress from the open channel section of the Royal Victoria Docks Cut between Dock Road and the outfall culvert.

**5.** If, in an emergency relating to the Thames Barrier or the Barking Barrier and its associated gates, the Environment Agency notifies DLRL that it requires the use of the Barrier Access Road for emergency vehicles and plant and DLRL is at that time undertaking works that cause an obstruction

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<sup>(33)</sup> S.I. 1994/1519.

<sup>(34)</sup> 1991 c. 57.

to the Barrier Access Road, DLRL shall immediately upon receipt of such notice take such steps as may be reasonably necessary to ensure the removal of the obstruction, including if necessary the temporary suspension of so much of the authorised works as is causing the obstruction.

**6.** So much of Work No.1 as crosses the Barrier Access Road or any carriageways at the North Woolwich Roundabout which need to be used to access the Barrier Access Road shall be constructed with a minimum clearance of 5.3 metres to the underside of the permanent viaduct structure and so that no supporting pillar intrudes into the carriageway so as to cause any restriction on access or egress or to the turning arrangements at the junction with Woolwich North Road.

**7.** DLRL may relocate the turning bay on the Barrier Access Road within the limits of deviation so far as this is necessary to ensure that the authorised works do not prevent an adequate turning bay remaining continuously available during and after the construction of the works.

**8.** Subject to paragraphs 4 to 7 above, DLRL will not acquire from the Environment Agency under the powers conferred by this Order any rights or interests in the Barrier Access Road and adjacent land beyond those that are reasonably required for or in connection with the construction and operation of the authorised works, including for the avoidance of doubt the airspace occupied by and above the viaduct forming part of Work No. 1, associated pillars and rights to protect the safe and efficient operation and use of the authorised works and access for the maintenance of those works.

**9.** 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 (including the tidal docks);
- (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; 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 limits of deviation or the further 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.

**10.** The approval of plans supplied under paragraph 9 above 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.

**11.** For the purposes of paragraph 9 above, “banks” has the meaning given by section 72 of the Land Drainage Act 1991<sup>(35)</sup> and “plans” includes sections, drawings, specifications, calculations and descriptions.

**12.** Any culvert or any structure designed to contain or divert the flow of any watercourse being a culvert or structure situated within any land within the limits of deviation for the scheduled works, whether constructed under the powers conferred by this Order or in existence prior to the making of this Order, shall be maintained by DLRL in good repair and condition and free from obstruction.

**13.** Nothing in paragraph 12 above shall have the effect of requiring DLRL to carry out works of maintenance in respect of any culvert or structure which the Environment Agency or another person is liable to maintain.

**14.** 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

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(35) 1991 c. 59.

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 undertaker as a debt due from it to the Environment Agency.

## SCHEDULE 14

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<sup>(36)</sup>) 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 public gas transporter for the purposes of the transportation and storage of gas;
- (c) in the case of a specified undertaker which is a water undertaker, mains, pipes or other apparatus belonging to, or maintained by, the undertaker for the purposes of water supply; and
- (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<sup>(37)</sup>; 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;

“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

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<sup>(36)</sup> 1989 c. 29.

<sup>(37)</sup> 1991 c. 56.

*Status: This is the original version (as it was originally made).*

(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) Transco plc, whose registered office is 130 Jermyn Street, London SW1Y 4UR;
- (b) Scottish and Southern Energy plc, whose registered office is Inveralmond House, 200 Dunkeld Road, Perth PH1 3AQ; or
- (c) Thames Water Utilities Limited, whose registered office is Gainsborough House, Manor Farm Road, Reading, Berkshire, RG2 0JN,

or any person succeeding any such company as a licence holder within the meaning of Part I of the Electricity Act 1989, a public gas transporter within the meaning of Part I of the Gas Act 1986(38), a water undertaker within the meaning of the Water Industry Act 1991 or as a sewerage undertaker within the meaning of Part I 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 10*

2. Paragraphs 1(1) and 2 of Schedule 10 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, 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 below or the power of DLRL to carry out works under paragraphs 20 to 29 below.

4. 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 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 III 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.

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, repair, renew or inspect any apparatus be extinguished until any necessary alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the specified undertaker.

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(38) 1986 c. 44.

*Removal of apparatus*

8. Paragraphs 9 to 12 below 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, repair, renewal and inspection 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 above 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 above 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 above, 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 above.

*Removal of apparatus and construction of alternative apparatus by DLRL*

13. Paragraphs 14 to 16 below 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 above 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 above 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.

*Status: This is the original version (as it was originally made).*

*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, repair, renewal and inspection 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 above 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 above 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 above 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 above applies until the specified undertaker has given written approval of the plans so submitted.

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

- (a) may be given subject to reasonable conditions for any purpose mentioned in paragraph 24 below;
- (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 above 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 above, 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 above.

**27.** Nothing in paragraphs 20 or 26 above 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 above to 42 days shall be treated as a reference to 21 days.

**28.** DLRL shall not be required to comply with paragraph 20 above 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 above so far as reasonably practicable in the circumstances.

**29.** Nothing in paragraph 28 above 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 above or a specified undertaker makes requirements for the protection or alteration of apparatus under paragraph 25 above, 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.

*Status: This is the original version (as it was originally made).*

### *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 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 above 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, inter alia, to the nature of the authorised works, then, if such placing involves cost in the construction of works under paragraphs 9 to 12 above 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 above shall be reduced by the amount of that excess.

**35.** For the purposes of paragraph 34 above—

- (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 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 above 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 above and, if such work had been carried out by the specified undertaker, the repayment made to the specified undertaker under paragraph 32 above would fall to be reduced pursuant to paragraphs 34 to 36 above, 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 above or protective works required by a condition imposed under paragraph 23(a) above or required under paragraph 25(b) above, 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 below, excuse DLRL from any liability under the provisions of this paragraph.

**39.** Nothing in paragraph 38 above 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.

**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

*Status: This is the original version (as it was originally made).*

provided by article 48 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 41 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 above to a successor in title to a specified undertaker named in paragraph 1 above 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.

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### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises Docklands Light Railway Limited (DLRL) to construct an extension to the Docklands Light Railway from Canning Town in the London Borough of Newham to North Woolwich in the London Borough of Newham, passing through Silvertown and alongside London City Airport and, for that purpose, compulsorily or by agreement to acquire land and rights in land.

A copy of the deposited plans and the deposited sections prescribed by rules 7(1)(a), 7(2) and 7(3) of the Transport and Works (Applications and Objections Procedure) Rules 1992 (S.I. 1992/2902), may be inspected at the offices of Docklands Light Railway Limited, PO Box 154, Castor Lane, Poplar, London E14 0DX.