
STATUTORY INSTRUMENTS

2004 No. 757

The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004

PART 1 **E+W**

PRELIMINARY

Citation and commencement **E+W**

1. This Order may be cited as the Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 and shall come into force on 2nd April 2004.

Interpretation **E+W**

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961 ^{M1};

“the 1965 Act” means the Compulsory Purchase Act 1965 ^{M2};

“the 1984 Act” means the Road Traffic Regulation Act 1984 ^{M3};

“the 1990 Act” means the Town and Country Planning Act 1990 ^{M4};

“the 1991 Act” means the New Roads and Street Works Act 1991 ^{M5};

“the 1992 Act” means the Transport and Works Act 1992 ^{M6};

“the Applications Rules” means the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000 ^{M7};

“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 or any part of them;

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

“carriageway” has the same meaning as in the Highways Act 1980 ^{M8};

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

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

“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);

“the limits of land for safeguarding works” means the limits so shown and described on the deposited plans;

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

“mooring” means any buoy, pile, pontoon, chain or other apparatus used for the mooring of vessels;

“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^{M9} or the Rent Agriculture Act 1976)^{M10};

“the open space and exchange land plan” means the plan so headed and attached to the deposited plans;

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

“owner”, in relation to land, 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;

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

“RoDMA” means the company registered by the name of the Royal Docks Management Authority Limited with the registered number 2363622 or any other person or body exercising functions under the London Docklands Development Corporation Act 1994^{M11} as successor to RoDMA;

“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;

“tidal work” means so much of any temporary authorised work as is in, on, over or under the River Thames or King George V Dock or involves cutting their banks and walls;

“the tribunal” means the Lands Tribunal; and

“the tunnels” means the tunnels under the River Thames forming part of Work No. 1.

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

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

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

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

Marginal Citations

M1 1961 c. 33.

M2	1965 c. 56.
M3	1984 c. 27.
M4	1990 c. 8.
M5	1991 c. 22.
M6	1992 c. 42.
M7	S.I. 2000/2190.
M8	1980 c. 66.
M9	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) .
M10	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).
M11	1994 c. xiii.

Application of 1991 Act **E+W**

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) to (e) and (h) 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) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions shall apply (with the necessary modifications) in relation to the stopping up, alteration or diversion of a street by DLRL under the powers conferred by this Order whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(4) The provisions of the 1991 Act referred to in paragraph (3) 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; or
- (b) have effect in relation to street works as respects which the provisions of Part III of the 1991 Act apply.

PART 2 E+W

WORKS PROVISIONS

Principal Powers

Power to construct works E+W

- 4.—(1) DLRL may construct and maintain the scheduled works.
- (2) Subject to article 5, the scheduled works may only be constructed in the lines or situations shown on the deposited plans and in accordance with the levels shown on the deposited sections.
- (3) Subject to paragraph (6), DLRL may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, 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, cables and lights;
 - (d) works to alter the course of, or otherwise interfere with, rivers, streams or watercourses;
 - (e) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the other authorised works; and
 - (f) facilities and works for the benefit or protection of land or premises affected by the other authorised works.
- (4) Subject to paragraph (6), DLRL may carry out and maintain such other works (of whatever nature) as may be necessary or expedient for the purposes of, 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) shall only authorise the carrying out or maintenance of works—
- (a) within the limits of deviation for the scheduled works shown on the deposited plans;
 - (b) on land specified in columns (1) and (2) of Schedule 2 to this Order for the purpose specified in relation to that land in column (3) of that Schedule (being land shown on the deposited plans as lying within the limits of additional land to be acquired or used); and
 - (c) on land specified in columns (1) and (2) of Schedule 10 to this Order for the purpose specified in relation to that land in column (3) of that Schedule (being land shown on the deposited plans as lying within the limits of land to be used temporarily).
- (7) In constructing and maintaining the scheduled works DLRL may lay and install such number of railway lines, switches and crossings as may be necessary or expedient.

(8) The following enactments shall not apply to anything done under or in pursuance of this Order—

- (a) sections 70 and 73 of the Port of London Act 1968 ^{M12} (works not to be constructed, etc., without works licence and Licensing of dredging, etc.);
- (b) section 109 of the Water Resources Act 1991 ^{M13}, section 23 of the Land Drainage Act 1991 ^{M14} and any byelaws made under those Acts; and
- (c) section 13 of the London Docklands Development Corporation Act 1994 ^{M15}.

(9) In exercising the powers of paragraph (3)(b) to demolish the building constructed on the land numbered 288 on the deposited plans, DLRL shall—

- (a) dismantle the Greens End façade of that building in such a manner as will enable it to be re-used elsewhere; and
- (b) thereafter securely store that dismantled façade until such time as the Council of the London Borough of Greenwich (or any person or body nominated by that council) requests DLRL to transfer the façade to it or to him, which DLRL shall do forthwith and for no charge;

but if no such request has been made within one year of completion of the station authorised by article 6 DLRL shall be relieved of its obligations under sub-paragraph (b) and may dispose of the façade.

Marginal Citations

M12 1968 c. xxxii.

M13 1991 c. 57.

M14 1991 c. 59.

M15 1994 c. xiii.

Power to deviate **E+W**

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

- (a) deviate laterally from the lines or situations shown on the deposited plans within the limits of deviation relating to that work shown on those plans; and
- (b) deviate vertically from the levels shown on the deposited sections—
 - (i) to any extent not exceeding 5 metres upwards; and
 - (ii) to any extent downwards.

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

- (a) deviate from their points of commencement and termination shown on the deposited plans;
- (b) in relation to Work No.1, vary the commencement and termination point of any bored or cut and cover tunnel or any tunnel structure shown on the deposited plans, deviate from the design of any such tunnel or tunnel structure shown on the deposited sections and vary the number of tunnels and tunnel structures shown on those sections; and
- (c) in relation to any intended bridge, viaduct, aqueduct, gantry or other structure above ground level, deviate from the design shown on the deposited sections as it thinks fit, including by varying the number of any supporting columns or other structures, the distances between them and the height or clearance above the level of the ground.

Stations **E+W**

6.—(1) DLRL may construct, maintain and operate a station on the specified lands, or on some of them, and DLRL may construct, maintain and operate all necessary works and conveniences connected with that station.

(2) In paragraph (1) “the specified lands” means the land in the London Borough of Greenwich numbered 249, 255a, 255b, 255c, 255d, 255e, 255f, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 273, 280, 281, 282, 283, 284, 285, 286, 287 and 288 on the deposited plans.

Streets

Power to alter layout of streets **E+W**

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

(2) Without prejudice to the specific powers conferred by paragraph (1) but subject to paragraph (3), DLRL may for the purpose of constructing, maintaining or using any scheduled work, 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, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street; and
- (d) carry out works for the provision or alteration of parking places and bus laybys.

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

Power to keep apparatus in streets **E+W**

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^{M16}; 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.

Marginal Citations

M16 1989 c. 29.

Power to execute street works **E+W**

9. DLRL may, for the purpose of exercising the powers conferred by article 8 or any other provision of this Order, enter upon any street within the 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 **E+W**

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

(2) No street specified in columns (1) and (2) of Part 1 of Schedule 4 to this Order (being a street to be stopped up for which a substitute is to be provided) shall be wholly or partly stopped up under this article unless either—

- (a) the new street to be substituted for it, and which is specified in relation to it by reference to 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).

(3) No street specified in columns (1) to (3) of Part 2 of Schedule 4 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) 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) is that—

- (a) DLRL is in possession of the land; or
- (b) there is no right of access to the land from the street concerned; or
- (c) there is reasonably convenient access to the land otherwise than from the street concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

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

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

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

(7) This article is subject to paragraph 2 of Schedule 12 to this Order.

Temporary stopping up of streets **E+W**

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

- (a) divert the traffic from the street, and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without prejudice to the generality of paragraph (1), DLRL may use any street stopped up under the powers of this article as a temporary working site.

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

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

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

- (a) in relation to any street specified as mentioned in paragraph (4), without first consulting the street authority; and
- (b) in relation to any other street, without the consent of the street authority, but such consent shall not be unreasonably withheld.

Access to works E+W

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 E+W

13.—(1) Any street to be constructed under this Order shall be completed to the reasonable satisfaction of the highway authority and shall, unless otherwise agreed, be maintained by and at the expense of DLRL for a period of 12 months from its completion and at the expiry of that period by and at the expense of the highway authority.

(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street shall when completed to the reasonable satisfaction of the street authority, unless otherwise agreed, be maintained by and at the expense of DLRL for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

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

Agreements with street authorities E+W

14.—(1) A street authority and DLRL may enter into agreements with respect to—

- (a) the construction of any new street (including any structure carrying the street over or under the authorised railway) under the powers conferred by this Order;
- (b) the strengthening or improvement of any street under the powers conferred by this Order;
- (c) the maintenance of any street or of the structure of any bridge or tunnel carrying a street over or under the authorised railway;
- (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
- (e) the execution in the street of any of the works referred to in article 9.

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

- (a) provide for the street authority to carry out any function under this Order which relates to the street in question; and

- (b) contain such terms as to payment and otherwise as the parties consider appropriate.

The River Thames and King George V Dock

Works in the River and Dock **E+W**

15.—(1) Without prejudice to the other powers conferred by this Order or otherwise available to it, DLRL may within the dock area and the river area for the purposes of or in connection with the construction, operation or maintenance of the authorised works and notwithstanding any interference thereby with any public or private rights—

- (a) alter, relocate or replace any work or structure;
- (b) carry out excavations and clearance, dredging, deepening, dumping and pumping operations;
- (c) use, appropriate and dispose of any materials (including liquids but excluding any wreck within the meaning of the Merchant Shipping Act 1995^{M17}) obtained by it in carrying out any such operations;
- (d) remove or relocate any mooring;
- (e) remove and relocate any vessel or structure sunk, stranded or abandoned or moored or left (whether lawfully or not);
- (f) temporarily moor or anchor vessels and structures and load and unload into and from such vessels or structures equipment, machinery, soil and any other materials in connection with the construction of the works;
- (g) temporarily remove, alter, strengthen, interfere with, occupy and use the banks, bed, foreshore, waters and walls of King George V Dock and the River Thames; and
- (h) construct, place and maintain temporary works and structures;

in such manner and to such extent as may appear to it to be necessary or convenient.

(2) Except in the case of an emergency, DLRL will use its reasonable endeavours to notify the owner of any mooring and the owner or master of any vessel or structure affected by the proposal to exercise the powers of paragraph (1)(d) or (e) before the exercise of that power.

(3) In this article—

- (a) “the dock area” means so much of the bed, waters, banks and walls of King George V Dock as is comprised in the lands numbered 2 and 3 on the deposited plans in the London Borough of Newham; and
- (b) “the river area” means so much of the bed, waters, foreshore, banks and walls of the River Thames as is comprised in the lands numbered 92, 93 and 107 on the deposited plans in the London Borough of Greenwich.

Marginal Citations

M17 1995 c. 21.

Protection of the tunnels, etc. **E+W**

16.—(1) A person may not without the consent in writing of DLRL (which may be given subject to conditions)—

- (a) use, for the purpose of landing or embarking persons or landing or loading goods from or into any vessel, any work constructed in connection with the tunnels or the other authorised works;
 - (b) interfere with the tunnels or with any land within 3 meters of the tunnels (measured in any direction); or
 - (c) remove, move or otherwise interfere with any work, machinery, apparatus, tools or other things in use or intended for use in constructing the tunnels or the other authorised works.
- (2) A person who without reasonable excuse contravenes paragraph (1), or fails to comply with any conditions attached to a consent given by DLRL under that paragraph, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Supplemental

No apparatus in the tunnels without consent E+W

17. Notwithstanding anything contained in any other enactment, no person shall enter upon, break up or interfere with the tunnels or any part thereof for the purpose of placing or doing anything in or in relation to any sewer, drain, main, pipe, wire or other apparatus or executing any work except with the written consent of DLRL and in accordance with such terms and conditions as DLRL may determine.

Discharge of water E+W

18.—(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 ^{M18}.

(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 ^{M19};
- (b) “watercourse” includes King George V Dock and 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.

Marginal Citations

M18 1991 c. 57.

M19 1964 c. 40.

Safeguarding works to buildings **E+W**

19.—(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 or the limits of land for safeguarding works 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) and any land belonging to it.

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

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

(5) Before exercising—

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

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

(6) Where notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the safeguarding works or to enter the building or land to be referred to arbitration under article 55.

(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 54, nothing in this article shall relieve DLRL from any liability to pay compensation under section 10(2) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) shall be determined, in case of dispute, under Part 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; and
- (b) “safeguarding works”, in relation to a building, means—
- (i) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, maintenance or operation of the authorised works;
 - (ii) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, maintenance or operation of the authorised works; and
 - (iii) any works the purpose of which is to secure the safe operation of the authorised works or to prevent or minimise the risk of such operation being disrupted.

(12) The powers of this article may not be exercised in relation to the land lying within the limits of deviation that is specified in Schedule 6 to this Order.

Town and country planning **E+W**

20.—(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^{M20} (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^{M21}, 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^{M22} 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).

Marginal Citations

M20 S.I. 1969/17.

M21 S.I. 1975/148.

M22 S.I. 1999/1892.

Power to survey and investigate land, etc. E+W

- 21.—(1) DLRL may for the purposes of this Order—
- (a) survey or investigate any land within the Order limits and any land specified in columns (1) and (2) of Schedule 10 to this Order;
 - (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions as DLRL thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
 - (c) without prejudice to the generality of sub-paragraph (a), carry out archaeological investigations on any such land;
 - (d) place on, leave on and remove from the land apparatus for use in connection with the exercise of any of the powers conferred by sub-paragraphs (a) to (c); and
 - (e) enter on the land for the purpose of exercising any of the powers conferred by sub-paragraphs (a) to (d).
- (2) No land may be entered, or equipment placed or left on or removed from the land under paragraph (1), unless at least 7 days' notice has been served on every owner and occupier of the land.
- (3) Any person entering land under this article on behalf of DLRL—
- (a) shall, if so required, before or after entering the land produce written evidence of his authority to do so; and
 - (b) may take with him such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.
- (4) No trial holes shall be made under this article in a carriageway or footway without the consent of the street authority, but such consent shall not be unreasonably withheld.
- (5) DLRL shall make compensation for any damage occasioned, by the exercise of the powers conferred by this article, to the owners and occupiers of the land, such compensation to be determined, in case of dispute, under Part I of the 1961 Act.
- (6) The powers of this article may not be exercised in relation to the land lying within the limits of deviation that is specified in Schedule 7 to this Order.

Obstruction of construction of authorised works E+W

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

PART 3 E+W

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land E+W

23.—(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 28 and 29(2).

(3) DLRL may not acquire compulsorily the lands numbered 255c, 255e and 256 on the deposited plans or any part of them.

Application of Part I of the Compulsory Purchase Act 1965 E+W

24.—(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 ^{M23} 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.

Marginal Citations

M23 1981 c. 67.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981 E+W

25.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981 ^{M24} shall apply to DLRL as if this Order were a compulsory purchase order.

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

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

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

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

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

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

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

- (a) he is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion; or
 - (b) he holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”
- (6) In section 5 (earliest date for execution of declaration)—
- (a) in subsection (1), after “publication” there shall be inserted “ in a local newspaper circulating in the area in which the land is situated ”; and
 - (b) subsection (2) shall be omitted.
- (7) In section 7 (constructive notice to treat), in subsection(1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted.
- (8) References to the 1965 Act shall be construed as references to that Act as applied to the acquisition of land under article 24.

Marginal Citations

M24 1981 c. 66.

Powers to acquire new rights **E+W**

26.—(1) DLRL may compulsorily acquire such easements or other rights over any land referred to in paragraph (1)(a) or (b) of article 23 as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

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

(3) Schedule 8 to this Order shall have effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article or article 28 of a right over land by the creation of a new right.

Powers to acquire subsoil only **E+W**

27.—(1) DLRL may compulsorily acquire so much of the subsoil of the land referred to in paragraph (1)(a) or (b) of article 23 as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where DLRL acquires any part of the subsoil of land under paragraph (1) DLRL shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) shall not prevent article 34 from applying where DLRL acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

Subsoil or new rights only to be acquired under or in certain lands **E+W**

28.—(1) This article applies to the land specified in Schedule 9 to this Order.

(2) In the case of the land specified in Part 1 of Schedule 9, subject to paragraph (4) DLRL’s powers of compulsory acquisition under article 23(1)(a) shall be limited to the acquisition of, or of such easements or other new rights in, so much of the subsoil of the land as it may require for or in connection with the authorised works.

(3) Where DLRL acquires any part of, or easements or other new rights in, the subsoil of land specified in Part 1 of Schedule 9, it shall not be required to acquire a greater interest in the land or an interest in any other part of it.

(4) In the case of the land specified in Part 2 of Schedule 9, subject to paragraph (2) DLRL's powers of compulsory acquisition under article 23(1)(a) shall be limited to the acquisition of such easements or other new rights in the land as it may require for the purposes of constructing, maintaining, protecting, renewing and using the authorised works.

(5) Where DLRL acquires easements or other new rights in the land specified in Part 2 of Schedule 9, article 26(2) shall apply as it applies to the acquisition of a new right under that article.

(6) References in this article to the subsoil of land are references to the subsoil lying more than 5 metres beneath the level of the surface of the land or, in the case of Works Nos. 19A and 19B and any necessary works and conveniences connected therewith, lying more than 4 metres beneath the level of the surface of the land; and for this purpose "the level of the surface of the land" means—

- (a) in the case of any land on which a building is erected, the level of the surface of the ground adjoining the building;
- (b) in the case of a river, dock, canal, navigation, watercourse or other water area, the level of the surface of the ground nearest to it which is at all times above water level; or
- (c) in any other case, ground surface level.

Rights under or over streets E+W

29.—(1) DLRL may enter upon and appropriate so much of the surface, subsoil of, or airspace over, any street shown on the deposited plans and described in the book of reference as may be required for the purposes of the authorised works and may use the surface, subsoil and air-space for those purposes or any other purpose connected with or ancillary to its undertaking.

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

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

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

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

(5) Compensation shall not be payable under paragraph (3) to any person who is an undertaker, to whom section 85 of the 1991 Act applies, in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary possession of land

Temporary use of land for construction of works E+W

30.—(1) DLRL may, in connection with the carrying out of the authorised works—

- (a) enter upon and take temporary possession of—

- (i) the land specified in columns (1) and (2) of Schedule 10 to this Order and shown on the deposited plans as within the limits of land to be used temporarily, for the purpose specified in relation to that land in column (3) of that Schedule relating to the authorised works (or any of those works) so specified in column (4) of that Schedule; and
 - (ii) any of the land within the Order limits, except the land at surface level mentioned in Schedule 11 to this Order, 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) DLRL may, in connection with the carrying out of the authorised works, temporarily use the dock and may give reasonable directions to RoDMA and to any officer, employee, servant or agent of RoDMA with regard to operation of the dock and the bridge for the purposes of DLRL's exercise of the powers of this paragraph, paragraph (1) and article 15.
- (3) Subject to paragraph (4), not less than 14 days before exercising the powers of paragraphs (1) or (2) DLRL shall serve notice of the intended entry or use on the owners and occupiers of the land in the case of paragraph (1) and on RoDMA in the case of paragraph (2).
- (4) DLRL shall, except in an emergency, give RoDMA 24 hours' notice of any direction proposed to be given by DLRL under paragraph (2) and RoDMA shall comply with such a direction unless it has a reasonable excuse not to do so.
- (5) DLRL may not, without the agreement of the owners of the land in the case of paragraph (1), or RoDMA in the case of paragraph (2), remain in possession of any land of which temporary possession has been taken or use has been made under this article—
- (a) in the case of land specified in columns (1) and (2) of Schedule 10 to this Order, after the end of the period of 2 years beginning with the date of completion of the work or works specified in relation to that land in column (4) of that Schedule;
 - (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; or
 - (c) in the case of the dock, after DLRL has vacated the adjacent land specified in Schedule 10 to this Order and numbered 2 on the deposited plans in the London Borough of Newham, pursuant to sub-paragraph (a).
- (6) Before giving up possession of land of which temporary possession has been taken under paragraph (1), DLRL shall remove all temporary works above a level 1 metre below the surface of the ground and restore the land above that level to the reasonable satisfaction of the owners of the land; but DLRL shall not be required to replace a building removed under this article.
- (7) DLRL shall pay compensation to the owners and occupiers of land of which temporary possession is taken under paragraph (1) or (2), for any loss or damage arising from the exercise in relation to the land of the powers conferred by paragraphs (1), (2) and (6).
- (8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, shall be determined under Part I of the 1961 Act.
- (9) Without prejudice to article 54, 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 (7).

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

(11) In this article and article 31 “building” includes structure or any other erection.

(12) In this article—

“the bridge” means the bascule bridge carrying the A117 Woolwich Manor Way over the eastern end of King George V Dock; and

“the dock” means so much of King George V Dock, the lock and lock gates leading to and from the River Thames, the two jetties on either side of the riverward entrance to the lock and the associated roads, works, lands and buildings as are comprised in the lands numbered 1, 4, 5, 6, 7, 8, 9, 10 and 11 on the deposited plans in the London Borough of Newham.

(13) This article is without prejudice to the provisions of article 15.

(14) Section 13 of the 1965 Act shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 24(1).

Temporary use of land for maintenance of works E+W

31.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any of the scheduled works, DLRL may—

(a) enter upon and take temporary possession of any land within the limits of deviation and lying within 20 metres from that work, except the land at surface level mentioned in Schedule 11 to this Order, 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; and

(b) construct such temporary works (including the provision of means of access) and building on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) shall not authorise DLRL to take temporary possession of—

(a) any house or garden belonging to a house; or

(b) any building (other than a house) if it is for the time being occupied.

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

(4) DLRL may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance works for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, DLRL shall remove all temporary works above a level 1 metre below the surface of the ground and restore the land above that level to the reasonable satisfaction of the owners of the land.

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

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

(8) Without prejudice to article 54, nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph(6).

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

(10) Section 13 of the 1965 Act shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 24(1).

(11) In this article—

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

Market traders **E+W**

32.—(1) Where DLRL considers that the carrying on by the holder of a public markets licence of the trading permitted by that licence would prevent or render less convenient the exercise of the powers of article 30 or 31, or the construction of the authorised works, DLRL may—

- (a) revoke that licence; or
- (b) with the consent of the Council, vary its principal or subsidiary terms.

(2) DLRL shall serve written notice of any such revocation or variation on the licence-holder in question not less than 28 days before the revocation or variation is to take effect.

(3) Where DLRL revokes a public markets licence under this article, the Council may remit or refund, as it considers appropriate, the whole or a part of any fee paid for the grant or renewal of the licence.

(4) DLRL shall pay compensation to any person who suffers any loss or damage from the exercise of the powers conferred by paragraph (1).

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

(6) In this article—

“the Council” means the Council of the London Borough of Greenwich; and

“public markets licence” means a licence to trade at Beresford Market granted to any person by the Council pursuant to its rights under section 4 of the Woolwich Borough Council Act 1903 ^{M25} or any other enactment.

Marginal Citations

M25 1903 c. clxxvii (3 Edw.7).

Compensation

Disregard of certain interests and improvements **E+W**

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

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

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

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

Supplementary

Acquisition of part of certain properties E+W

34.—(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 24) 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 **E+W**

35.—(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 of 272 of the 1990 Act (extinguishment of rights of statutory undertakers, etc.) or paragraph 2 of Schedule 12 to this Order applies.

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

(a) any notice given by DLRL before the completion of the acquisition of the land, DLRL's appropriation of it, DLRL's entry onto it or DLRL's taking temporary possession of it, as the case may be, that any or all of those paragraphs shall not apply to any right of way specified in the notice; and

(b) any agreement made (whether before or after any of the events mentioned in subparagraph (a) and before or after the coming into force of this Order) between DLRL and the person in or to whom the right of way in question is vested or belongs.

(7) If any such agreement as is referred to in paragraph (6)(b) which is made with a person in or to whom the right of way is vested or belongs is expressed to have effect also for the benefit of those deriving title from or under him, it shall be effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

Open space **E+W**

36.—(1) DLRL shall not under the powers of this Order take possession of any part of the existing open space until DLRL has taken possession of so much of the replacement land as is equivalent in area to the amount of the existing open space that is required by DLRL for the authorised works.

(2) Upon DLRL's possession of so much of the existing open space as is required for the authorised works that land shall be discharged from all rights, trusts and incidents to which it was previously subject.

(3) DLRL shall lay out as replacement open space before the authorised works are first brought into public use so much of the replacement land of which possession has been taken under paragraph (1).

(4) As soon as the Council of the London Borough of Greenwich has certified that the land referred to in paragraph (3) has been laid out to its reasonable satisfaction that land shall vest in the London Development Agency subject to the like rights, trusts and incidents as attached to so much of the existing open space of which possession has been taken under paragraph (1).

(5) In this article—

- (a) “the existing open space” means the open space comprised in the land in the London Borough of Greenwich numbered 98 on the deposited plans and coloured red on the open space and exchange land plan; and
- (b) “the replacement land” means the land in the London Borough of Greenwich numbered 95, 96, 99, 100 and 108 on the deposited plans and coloured green on the open space and exchange land plan.

Time limit for exercise of powers of acquisition **E+W**

37.—(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 24; and
- (b) no declaration shall be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981, as applied by article 25.

(2) The power conferred by article 30 to enter upon and take temporary possession of land shall cease at the end of the period mentioned in paragraph (1); but this paragraph shall not prevent DLRL from remaining in possession of land in accordance with article 30 after the end of that period, if the land was entered and possession of it was taken before the end of that period.

PART 4 **E+W**

OPERATION OF AUTHORISED WORKS

Maintenance of approved works, etc. **E+W**

38.—(1) Where pursuant to regulations ^{M26} 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) 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.

Marginal Citations

M26 See [S.I. 1994/157](#).

Power to lop trees overhanging authorised works **E+W**

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

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

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

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

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

Trespass on authorised railway **E+W**

40.—(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.

PART 5 **E+W**

PROTECTIVE PROVISIONS

Statutory undertakers, etc. **E+W**

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

For protection of railway interests **E+W**

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

For protection of the London Boroughs of Newham and Greenwich **E+W**

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

For protection of the Environment Agency **E+W**

44. The provisions of Schedule 15 to this Order shall have effect.

For protection of specified undertakers **E+W**

45. The provisions of Schedule 16 to this Order shall have effect.

For protection of navigation interests **E+W**

46. The provisions of Schedule 17 to this Order shall have effect.

PART 6 **E+W**

MISCELLANEOUS AND GENERAL

Traffic regulation **E+W**

47.—(1) Subject to the provisions of this article, DLRL may, for the purposes of the authorised works, at any time prior to the expiry of 12 months from the opening of the authorised railway for use and with the consent of the traffic authority in whose area the road is situated—

- (a) prohibit the waiting of vehicles at any time on the road specified in column (1) and along the lengths and between the points specified in columns (2) and (3) of Schedule 18 to this Order; and
 - (b) revoke any traffic regulation order in so far as it is inconsistent with any prohibition made by DLRL under this paragraph.
- (2) DLRL shall not exercise the powers of this article unless it has—
- (a) given not less than 12 weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
 - (b) advertised its intention in such manner as the traffic authority may within 28 days of its receipt of notice of DLRL's intention specify in writing.

(3) Any prohibition or other provision made by DLRL under sub-paragraph (1)(a) or (b) shall have effect as if duly made by the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act and the instrument by which it is effected may specify savings (in addition to those mentioned in Schedule 18) to which the prohibition is subject.

Powers of disposal, agreements for operation, etc. **E+W**

48.—(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), 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) 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), or any agreement under paragraph (2), shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those powers were exercised by DLRL.

(5) Sections 163 and 207(2) of the Greater London Authority Act 1999 ^{M27} 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).

Marginal Citations

M27 1999 c. 29.

Application of landlord and tenant law **E+W**

49.—(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 **E+W**

50.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 ^{M28} (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 ^{M29}; or
- (b) that the nuisance is a consequence of the operation of the works authorised by this Order and that it cannot reasonably be avoided.
- (2) The following provisions of the Control of Pollution Act 1974, namely—

- (a) section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990); and
- (b) section 65(8) (corresponding provision in relation to consent for registered noise level to be exceeded);

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

(3) The provisions of this article are without prejudice to the application to the authorised works of section 122 of the Railways Act 1993 ^{M30} (statutory authority as a defence to actions in nuisance, etc.) or any rule of common law having similar effect.

Marginal Citations

M28 1990 c. 43.

M29 1974 c. 40.

M30 1993 c. 43.

Disclosure of confidential information **E+W**

51. A person who—

- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 19 or article 21; 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. **E+W**

52. DLRL shall, as soon as practicable after the making of this Order, submit copies of the book of reference, the deposited plans, the deposited sections and the open space and exchange land plan to the Secretary of State for certification that they are true copies of, respectively, the book of reference, the deposited plans, the deposited sections and the open space and exchange land plan 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 **E+W**

53.—(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 ^{M31} as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) is, if he has given an address for service, that address, and otherwise—

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

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

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

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

Marginal Citations

M31 1978 c. 30.

No double recovery **E+W**

54. 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 **E+W**

55. 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.

Changes to legislation: There are currently no known outstanding effects for the The Docklands
Light Railway (Woolwich Arsenal Extension) Order 2004. (See end of Document for details)

Signed by authority of the Secretary of State

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

Changes to legislation:

There are currently no known outstanding effects for the The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004.