
STATUTORY INSTRUMENTS

2013 No. 198

The Crossrail (Kensal Green) Order 2013

PART 2

WORKS AND LANDS PROVISIONS

Power to carry out works

- 3.—(1) The undertaker may carry out the scheduled works.
- (2) The scheduled works may only be carried out within the Order limits.
- (3) Subject to paragraph (5), and without limitation on the scope of any other powers available to it under any other enactment, the undertaker may from time to time carry out and maintain such of the following works as may be necessary or expedient for the purposes of, or for purposes ancillary to, the carrying out of the scheduled works, namely—
- (a) works to alter the position of apparatus, including mains, sewers, drains, pipes, cables and street furniture;
 - (b) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the scheduled works; and
 - (c) works for the benefit or protection of land or premises affected by the scheduled works.
- (4) Subject to paragraph (5), the undertaker may from time to time carry out and maintain such other works (of whatever nature) as may be necessary or expedient for the purposes of, or for purposes ancillary to, the carrying out of the scheduled works.
- (5) The works specified in paragraphs (3) and (4) may only be carried out within the Order limits.

Access to works

4. The undertaker may, for the purposes of the authorised works—
- (a) form and lay out means of access, or improve existing means of access, in the location specified in columns (1) and (2) of Schedule 2 (access to works); and
 - (b) form and lay out such other means of access or improve existing means of access, at such locations within the Order Limits as the undertaker reasonably requires for the purposes of the authorised works as may be approved by the highway authority but such approval must not be unreasonably withheld.

Discharge of water

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

(2) Any dispute arising from the exercise of the powers conferred by paragraph (1) to connect to or use a public sewer or drain is to be determined as if it were a dispute under section 106 of the Water Industry Act 1991⁽¹⁾.

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not make any opening into any public sewer or drain except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must 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.

(6) The undertaker must 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, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010⁽²⁾.

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Environment Agency, an internal drainage board, a local authority or a sewerage undertaker; and
- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991⁽³⁾ have the same meaning as in that Act.

Power to survey and investigate land

6.—(1) The undertaker may for the purposes of this Order—

- (a) survey or investigate any land shown within the Order limits or which may be affected by the authorised works;
- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions as the undertaker thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land;
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes; and
- (e) enter on the land for the purpose of exercising 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 the undertaker—

- (a) must, if so required, before or after entering the land produce written evidence of authority to do so; and

(1) 1991 c. 56.

(2) S.I. 2010/675.

(3) 1991 c. 57.

(b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes are to be made under this article—

(a) in a carriageway or footway without the consent of the highway authority; or

(b) in a private street without the consent of the street authority

but such consent must not be unreasonably withheld.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) Nothing in this article overrides the requirement to obtain scheduled monument consent under the Ancient Monuments and Archaeological Areas Act 1979(4).

Temporary use of land for carrying out works

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

(a) enter upon and take temporary possession of the land specified in column (1) of Schedule 1 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (2) of that Schedule;

(b) remove any buildings and vegetation from that land; and

(c) construct temporary works (including the provision of means of access) and buildings on that land.

(2) Not less than 14 days before entering upon and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

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

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to replace a building removed under this article nor reinstate the position of apparatus altered or remove other works undertaken under article 3 (power to carry out works).

(5) The undertaker must 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), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(7) Without affecting article 20 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (5).

(8) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(9) The undertaker may not take temporary possession of plot number 5 on the works and land plan without first obtaining the consent of Network Rail.

Suspension of private rights of way

8.—(1) All private rights of way over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

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

(3) Nothing in this article affects the operation of provisions in the agreement and deed of grant referred to in article 14 (modification of provisions in agreement and deed of grant relating to Canal Way).

Temporary stopping up of Canal Way

9.—(1) The undertaker, during and for the purposes of the execution of the authorised works, may temporarily stop up, alter or divert Canal Way and may for any reasonable time—

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

(2) The undertaker must provide reasonable access for pedestrians going to or from premises abutting Canal Way affected by the exercise of the powers conferred by this article if there would otherwise be no such access.

(3) The undertaker must not exercise the powers conferred by this article without first consulting the street authority for Canal Way.

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

Power to execute street works

10.—(1) The undertaker may, for the purposes of the authorised works, enter upon Canal Way to the extent necessary and may—

- (a) break up or open Canal Way, or any sewer, drain or tunnel under it, or tunnel or bore under Canal Way;
- (b) place apparatus in Canal Way;
- (c) maintain apparatus in Canal Way or change its position; and
- (d) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b) and (c).

(2) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

(3) This article is subject to Part 1 of Schedule 3 (provisions relating to statutory undertakers, etc.).

Application of Part 1 of the 1965 Act

11.—(1) Except as provided for in paragraph (2), sections 1, 3 and 13 of the 1965 Act, in so far as not inconsistent with the provisions of this Order, apply to the temporary use of land under this Order to the same extent as they apply to a compulsory purchase to which the Acquisition of Land Act 1981(5) applies and as if this Order were a compulsory purchase Order under that Act.

(2) Section 13 of the 1965 Act does not apply to the land referred to in article 7(9).

Time limit for exercise of powers of temporary possession

12. The powers conferred by article 7 (temporary use of land for carrying out of works) cease after the end of the period of 5 years beginning with the day on which this Order comes into force, but nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession of it was taken before the end of that period.