
STATUTORY INSTRUMENTS

2014 No. 3102

TRANSPORT AND WORKS, ENGLAND
TRANSPORT, ENGLAND

The London Underground (Northern
Line Extension) Order 2014

Made - - - - 24th November 2014

Coming into force - - 15th December 2014

An application has been made to the Secretary of State in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006⁽¹⁾ for an Order under sections 1, 3 and 5 of the Transport and Works Act 1992⁽²⁾ (“the 1992 Act”).

The Secretary of State caused an inquiry to be held for the purposes of the application under section 11 of the 1992 Act.

The Secretary of State, having considered the objections made and not withdrawn, and the report of the person who held the inquiry, has determined to make an Order giving effect to the proposals comprised in the application with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 the opinion of the Secretary of State do not make any substantial change in the proposals.

Notice of the Secretary of State’s determination was published in the London Gazette on 17th November 2014.

The Secretary of State, in exercise of the powers conferred by sections 1, 3 and 5 of, and paragraphs 1 to 5, 7, 8, 10, 11 and 15 to 17 of Schedule 1 to the 1992 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the London Underground (Northern Line Extension) Order 2014 and comes into force on 15th December 2014.

(1) S.I. 2006/1466, amended by S.I. 2010/439, S.I. 2011/556, S.I. 2011/2085, S.I. 2012/147, S.I. 2012/1658, S.I. 2012/2590 and S.I. 2013/755.
(2) 1992 c. 42. Section 1 was amended by the Planning Act 2008 (c. 29), Schedule 2, paragraphs 51 and 52; section 5 was amended by S.I. 2012/1559.

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 1968 Act” means the Port of London Act 1968⁽⁵⁾;
- “the 1980 Act” means the Highways Act 1980⁽⁶⁾;
- “the 1984 Act” means the Road Traffic Regulation Act 1984⁽⁷⁾;
- “the 1990 Act” means the Town and Country Planning Act 1990⁽⁸⁾;
- “the 1991 Act” means the New Roads and Street Works Act 1991⁽⁹⁾;
- “the 2004 Act” means the Traffic Management Act 2004⁽¹⁰⁾;
- “the 2009 Act” means the Marine and Coastal Access Act 2009⁽¹¹⁾;
- “address” includes any number or address used for the purposes of electronic transmission;
- “the authorised railway” means the railway forming part of the authorised works;
- “the authorised works” means the scheduled works and any other works or operations 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;
- “building” includes any structure or erection or any part of a building, structure or erection;
- “carriageway” has the same meaning as in the 1980 Act;
- “cycle track” has same meaning as in the 1980 Act;
- “the deposited plans” means the plans certified by the Secretary of State as the deposited plans for the purposes of this Order;
- “the deposited sections” means the sections certified by the Secretary of State as the deposited sections for the purposes of this Order;
- “electronic transmission” means a communication transmitted—
- (a) by means of an electronic communications network; or
 - (b) by other means but while in electronic form;
- “footway” has the same meaning as in the 1980 Act;
- “the Harbour Master” means a person appointed by the Port of London Authority to be a harbour master and includes the harbour master’s deputies and assistants;
- “highway” and “highway authority” have the same meaning as in the 1980 Act;
- “the limits of deviation” means the various limits of deviation for the scheduled works shown on the deposited plans and the limits mentioned in article 5(1)(b) (power to deviate);
- “the limits of land for protective works” means the limits so shown and described on the deposited plans;

(3) 1961 c. 33.
(4) 1965 c. 56.
(5) 1968 c. xxxii.
(6) 1980 c. 66.
(7) 1984 c. 27.
(8) 1990 c. 8.
(9) 1991 c. 22.
(10) 2004 c. 18.
(11) 2009 c. 23.

“the limits of land to be used only temporarily” means the limits so shown and described on the deposited plans;

“LUL” means London Underground Limited (company registration number 01900907), whose registered office is Windsor House, 42 – 50 Victoria Street, London SW1H 0TL;

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

“mean high water level” means the level which is halfway between mean high water springs and mean high water neaps;

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

“the Order limits” means the limits of deviation, the limits of land for protective works and the limits of land to be used only temporarily;

“owner”, in relation to land, has the same meaning as in the Acquisition of Land Act 1981(12);

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

“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(13);

“the river area” means so much of the bed, waters, foreshore, banks and walls of the River Thames as is comprised in the lands in the London Borough of Wandsworth numbered 10005 and 10006 on the deposited plans;

“the scheduled works” means the works and operations specified in Schedule 1 (scheduled works) 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 3 of the 1991 Act;

“the tribunal” means the Lands Chamber of the Upper Tribunal; and

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows (whether or not the flow is intermittent), except a public sewer or drain.

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

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

(4) References in this Order to numbered plots are references to plot numbers shown on the deposited plans.

(5) References in this Order to points identified by letters and numbers are to be construed as references to the points marked on the deposited plans.

(6) All distances, directions and lengths stated in the description of the scheduled works or in any description of powers or lands are approximate, and distances between points on a scheduled work are taken to be measured along the scheduled work.

(12) 1981 c. 67.

(13) 1964 c. 40.

Application, modification and exclusion of legislative provisions relating to street works

3.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 of the 1991 Act (street works in England and Wales) as major transport works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) 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(14) of the 1980 Act (dual carriageways and roundabouts) or section 184 of that Act (vehicle crossings).

(2) In Part 3 of the 1991 Act references, in relation to major highway works, to the highway authority concerned are, in relation to works which are major transport works by virtue of paragraph (1), to be construed as references to LUL.

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—

- section 56 (directions as to timing);
- section 56A (power to give directions as to placing of apparatus);
- section 58 (restrictions following substantial road works);
- section 58A (restriction on works following substantial street works);
- section 73A (power to require undertaker to re-surface street);
- section 73B (power to specify timing etc. of re-surfacing);
- section 73C (materials, workmanship and standard of re-surfacing);
- section 78A (contributions to costs of re-surfacing by undertaker); and
- Schedule 3A (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) 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 apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by LUL under the powers conferred by article 10 (temporary stopping up and diversion of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act(15) referred to in paragraph (4) are—

- section 54(16) (advance notice of certain works) subject to paragraph (6);
- section 55(17) (notice of starting date of works) subject to paragraph (6);
- section 57(18) (notice of emergency works);
- section 59(19) (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);

(14) As amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).

(15) Sections 54, 55, 57, 60, 68 and 69 were amended by sections 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

(16) As also amended by section 49(1) of the Traffic Management Act 2004.

(17) As also amended by sections 49(2) and 51(9) of the Traffic Management Act 2004.

(18) As also amended by section 52(3) of the Traffic Management Act 2004.

(19) As amended by section 42 of the Traffic Management Act 2004.

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.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were references to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

PART 2

WORKS PROVISIONS

Principal powers

Power to construct and maintain works

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

(2) Subject to article 5 (power to deviate), 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), LUL may 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 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;
- (c) works to erect and construct offices, head houses and other buildings, machinery, apparatus, works and conveniences;
- (d) railway electrification and signalling works;
- (e) station services and finishes;
- (f) means of access, including footpaths;
- (g) retaining walls, wing walls, shafts, drainage works and culverts;
- (h) works to remove or alter the position of any street furniture or apparatus, including mains, sewers, drains, pipes, cables and lights;
- (i) works to alter the course of, or otherwise interfere with, watercourses;
- (j) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised works;
- (k) facilities and works for the benefit or protection of land or premises affected by the authorised works; and
- (l) the felling of trees.

(4) Subject to paragraph (6), LUL may 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 construction of the authorised works.

(5) LUL may remove any works constructed by it under this Order which have been constructed as temporary works or which it no longer requires.

(6) Paragraphs (3) and (4) only authorise the carrying out or maintenance of works—

- (a) within the Order limits; or
- (b) within the boundaries of any street abutting the Order limits or which has a junction with such a street.

(7) The powers conferred by this article may not be exercised within the boundaries of a street outside of the Order limits without the consent of the street authority but that consent must not be unreasonably withheld.

(8) In constructing and maintaining the scheduled works LUL may lay and install such number of railway lines, switches and crossings as may be necessary or expedient.

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

- (a) sections 70 and 73 of the 1968 Act (works not to be constructed, etc., without works licence and licensing of dredging, etc.); and
- (b) section 109 of the Water Resources Act 1991⁽²⁰⁾, section 23 of the Land Drainage Act 1991⁽²¹⁾ and any byelaws made under those Acts.

(10) Nothing in section 3 of the London Squares Preservation Act 1931⁽²²⁾ (protection of squares) has effect in relation to anything done for the purposes of or in connection with the exercise of any of the powers conferred by this Order with respect to works.

(11) Nothing in any agreement under section 9 of that Act (agreements between local authority and owner of a protected square) has effect to prohibit, restrict or impose any condition on the exercise of the powers conferred by this Order with respect to works.

(12) The authorised works may be constructed and maintained under the powers conferred by this article regardless of anything contained in, or done under, Part 1 of, or Schedule 2 to, the Commons Act 2006⁽²³⁾.

(a) (13) (a) The provisions of the 2009 Act listed in sub-paragraph (b) that relate to marine licences and the enforcement of marine licences apply in relation to any works approved by the Marine Management Organisation under paragraph 78 of Schedule 8 (protective provisions) or determined under paragraph 85 of Schedule 8. Any such approval or determination is to be treated for the purposes of the application of those provisions listed in sub-paragraph (b) as a marine licence and any requirement of such approval or determination is to be treated for those same purposes as a condition attached to a marine licence under section 71(1) of the 2009 Act.

(b) The provisions of the 2009 Act referred to in sub-paragraph (a) are:

- (i) section 65 (requirement for a licence);
- (ii) Chapter 3 (enforcement) of Part 4 (marine licensing);
- (iii) Chapter 2 (common enforcement powers) of Part 8 (enforcement); and
- (iv) section 263 (power to require information relating to certain substances and objects),

and all other provisions of the 2009 Act that apply for the purposes of the provisions listed above.

Power to deviate

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

- (a) deviate laterally from the lines or situations shown on the deposited plans within the limits of deviation and within the limits of land to be used only temporarily; and
- (b) deviate vertically from the levels shown on the deposited sections—

⁽²⁰⁾ 1991 c. 57.

⁽²¹⁾ 1991 c. 59.

⁽²²⁾ 1931 c. xciii.

⁽²³⁾ 2006 c. 26.

- (i) to any extent upwards not exceeding 3 metres except in relation to the parts of the scheduled works referred to in column (1) of the table below, where the extent of permitted upwards deviation for each such part is set out in the corresponding entry in column (2) of that table; and
- (ii) to any extent downwards as may be found to be necessary or convenient.

<i>(1)</i> <i>Part of scheduled work</i>	<i>(2)</i> <i>Upwards vertical deviation limit</i>
Work No. 7 (excluding head house)	0.5 metres
Work No. 8 (shaft and adit)	0.5 metres
Work No. 8 (hatch at top of shaft)	Ground level

- (2) Without limitation on the scope of paragraph (1), in constructing or maintaining the scheduled works LUL may within the limits mentioned in paragraph (1)—
- (a) deviate from their points of commencement and termination shown on the deposited plans and the deposited sections; and
- (b) deviate from the design of any tunnel or tunnel structure shown on the deposited sections and vary the number of tunnels and tunnel structures shown on the deposited sections.
- (3) Regardless of the provisions of this article, Work No. 10 may not deviate laterally into any part of the land in the London Borough of Wandsworth numbered 10006 on the deposited plans.

Stations

6.—(1) LUL may construct, maintain and operate stations on the specified lands, or on some of them, and LUL may construct, maintain and operate all necessary works and conveniences connected with those stations.

(2) The works and conveniences referred to in paragraph (1) include the ventilation shafts shown on the deposited sections.

(3) Nothing contained in the Covent Garden Market Act 1966⁽²⁴⁾ applies to any station provided by LUL under the powers conferred by this article.

(4) In paragraph (1) “the specified lands” means the land in the London Borough of Lambeth numbered 30331, 30332, 30341, 30355, 30369, 40014, 40017, 40105, 40110, 40115, 40120, 40135, 40140 and 40145 on the deposited plans and the land in the London Borough of Wandsworth numbered 20200, 20201, 20205, 20215 and 20235 on the deposited plans.

Streets

Power to alter layout, etc., of streets

7.—(1) LUL may for the purposes of the authorised works alter the layout of any street within the Order limits and the layout of any street abutting the Order limits or which has a junction with such a street and without limitation on the scope of this power LUL 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;

(24) 1966 c. i.

- (c) reduce the width of the carriageway of the street; and
- (d) carry out works for the provision, removal, suspension or alteration of parking places, loading bays, bus lanes, bus stop clearways and bus laybys.

(2) The powers conferred by paragraph (1) in relation to any street abutting the Order limits or which has a junction with such a street must not be exercised without the consent of the street authority, but such consent must not be unreasonably withheld.

Power to keep apparatus in streets

8.—(1) LUL may, for the purposes of or in connection with the construction, maintenance and use of the authorised works, alter, move, remove, place and maintain in any street within the Order limits any work, equipment or apparatus including 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 3 of the 1991 Act;
- (b) “electric line” has the meaning given by section 64(1) of the Electricity Act 1989(25); 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. LUL may, for the purposes of and to the extent necessary for the construction of the authorised works, enter upon any of the streets within the Order limits and any street abutting the Order limits or which has a junction with such a street and break up or open the street, or any sewer, drain or tunnel under it, or tunnel or bore under the street.

Temporary stopping up and diversion of streets

10.—(1) LUL 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 limitation on the scope of paragraph (1), LUL may use any street stopped up under the powers conferred by this article within the Order limits as a temporary working site.

(3) LUL must provide 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 limitation on the scope of paragraph (1), LUL may exercise the powers conferred by this article in relation to the streets specified in columns (1) and (2) of Schedule 2 (streets to be temporarily stopped up) to the extent specified in column (3) of that Schedule.

(5) LUL must not exercise the powers conferred by this article—

- (a) in relation to any street specified in Schedule 2 without first consulting the street authority; and
- (b) in relation to any other street, without the consent of the street authority, which may attach reasonable conditions to any consent, but the consent must not be unreasonably withheld.

(6) 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.

Access to works

- 11.** LUL may, for the purposes of the authorised works—
- (a) form and lay out means of access, or alter or improve existing means of access, in the locations marked on the deposited plans; and
 - (b) form and lay out such other means of access or alter or improve existing means of access at such locations within the Order limits as LUL 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.

Agreements with street authorities

- 12.—**(1) A street authority and LUL may enter into agreements with respect to—
- (a) the strengthening or improvement of any street under the powers conferred by this Order;
 - (b) the maintenance of any street or of the structure of any bridge or tunnel carrying a street over or under the authorised railway;
 - (c) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
 - (d) the execution in the street of any of the works referred to in article 9 (power to execute street works).
- (2) Such an agreement may, without limitation on the scope 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.

Use of private roads for construction

13.—(1) LUL may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction of the authorised works.

(2) LUL must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of such compensation, is to be determined under Part 1 of the 1961 Act.

The River Thames

Works in the river

14.—(1) Without affecting the other powers conferred by this Order or otherwise available to it, LUL may within the river area for the purposes of or in connection with the construction of the authorised works and despite any interference with any public or private rights—

- (a) alter, clean, dismantle, refurbish, remove, relocate or replace any work or structure;
- (b) carry out excavations and clearance, dredging, deepening, scouring, cleansing, dumping and pumping operations;

- (c) use, appropriate, sell, deposit or otherwise dispose of any materials (including liquids but excluding any wreck within the meaning of the Merchant Shipping Act 1995(26)) 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, abandoned, 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 authorised works;
- (g) temporarily remove, alter, strengthen, interfere with, occupy and use the banks, bed, foreshore, waters and walls of the River Thames; and
- (h) construct, place and maintain works and structures including piled fenders and protection piles,

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

(2) LUL may not exercise any of the powers conferred by paragraph (1)(h) in, on or over the land in the London Borough of Wandsworth numbered 10006 on the deposited plans without the prior consent of the Port of London Authority, such consent not to be unreasonably withheld.

(3) Except in the case of an emergency, LUL must 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 conferred by paragraph (1)(d) or (e) before the exercise of those powers.

(4) A person may not without the consent in writing of LUL (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 or used in connection with the authorised works; or
- (b) remove, move or otherwise interfere with any work, machinery, apparatus, tools or other things in use or intended for use in constructing the authorised works.

(5) A person who without reasonable excuse contravenes paragraph (4), or fails to comply with any conditions attached to a consent given by LUL under that paragraph, is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) The power to dredge conferred by paragraph (1)(b) includes the power to carry out such additional dredging as may be required to provide side slopes or otherwise secure the dredged area against siltation, scouring or collapse.

(7) No materials dredged up or removed by LUL in exercise of the powers conferred by paragraph (1)(b) may be deposited except in accordance with a marine licence granted under Part 4 of the 2009 Act in any case where a marine licence is required by that Act.

Supplemental powers

No apparatus in the tunnels without consent

15.—(1) Regardless of anything contained in any other enactment, no person is to enter upon, break up or interfere with the tunnels or any part of the tunnels 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 LUL and in accordance with such terms and conditions as LUL may determine.

(2) In paragraph (1) “the tunnels” means the tunnels comprised in the authorised railway.

Discharge of water

16.—(1) LUL 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 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(27).

(3) LUL 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) LUL 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) LUL 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) LUL 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 or oil or matter in suspension or any other potentially polluting material.

(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(28).

(8) If a person who receives an application for consent or approval fails to notify LUL of a decision within 28 days of receiving that application for consent under paragraph (3) or approval under paragraph (4)(a) then that person is deemed to have granted consent or given approval, as the case may be.

(9) In this article, other than references to “public sewer or drain” or “watercourse”, expressions used both in this article and in the Water Resources Act 1991(29) have the same meaning as in that Act.

Water abstraction

17.—(1) The restriction imposed by section 24(1) of the Water Resources Act 1991(30) (restriction on abstraction of water) does not apply in relation to the abstraction of water for the purposes of, or in connection with, the construction of the authorised works.

(2) Section 48A(1) of the Water Resources Act 1991(31) (duty not to cause loss or damage to another by the abstraction of water) does not apply in relation to the abstraction of water in connection with the exercise of the powers conferred by this Order.

(3) Where—

(a) LUL causes loss or damage to another person by the abstraction of water in connection with the exercise of the powers conferred by this Order; and

(27) 1991 c. 56. Section 106 was amended by sections 35(1) and (8) and 43(2) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(28) S.I. 2010/675.

(29) 1991 c. 57.

(30) 1991 c. 57.

(31) Section 48A was inserted by section 24(1) of the Water Act 2003 (c. 37).

(b) the circumstances are such that causing the loss or damage would have constituted breach of the duty under section 48A(1) of the Water Resources Act 1991, but for paragraph (2), LUL must compensate the other person for the loss or damage.

(4) Compensation under paragraph (3) is to be assessed on the same basis as damages for breach of the duty under section 48A(1) of the Water Resources Act 1991.

(5) Section 48A(5) of the Water Resources Act 1991 (prohibition of claims in respect of loss or damage caused by abstraction of water which are not claims under that section) has no application to claims under this article or under Part 3 of Schedule 8 (protection for the Environment Agency).

(6) In this article, “abstraction” has the same meaning as in the Water Resources Act 1991.

Protective works to buildings

18.—(1) Subject to the following provisions of this article, LUL may at its own expense and from time to time carry out such protective works to any building lying within the Order limits as LUL considers to be necessary or expedient.

(2) Protective 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 LUL may (subject to paragraph (5)) enter and survey any building falling within paragraph (1) and any land within its curtilage and place on, leave on and remove from the land monitoring apparatus.

(4) For the purpose of carrying out protective works under this article to a building LUL may (subject to paragraphs (5) and (6)) with all necessary plant and equipment—

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

and in either case LUL may take exclusive possession of the building and land if this is reasonably required for the purpose of carrying out the protective works.

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building;
- (c) a right under paragraph (4)(a) to enter and take possession of a building or land; or
- (d) a right under paragraph (4)(b) to enter and take possession of land,

LUL must, 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 protective 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 of whether it is necessary or expedient to carry out the protective works or to enter and take possession of the building or land to be referred to arbitration under article 48 (arbitration).

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

(8) Where—

- (a) protective 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 protective works are inadequate to protect the building against damage caused by the construction or operation of that part of the works,

LUL must compensate the owners and occupiers of the building for any damage sustained by them.

(9) Without affecting article 47 (no double recovery), nothing in this article relieves LUL from any liability to pay compensation under section 10(2)(32) of the 1965 Act (further provision as to compensation for injurious affection).

(10) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, under Part 1 of the 1961 Act.

(11) In this article “protective works”, in relation to a building, means—

- (a) 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;
- (b) 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
- (c) 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

19. Any planning permission which is deemed by a direction given under section 90(2A)(33) of the 1990 Act (development with government authorisation) to be granted in relation to the authorised works is to 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.

20.—(1) LUL may for the purposes of this Order—

- (a) survey or investigate any land within the Order limits;
- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions as LUL 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 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).

(32) Section 10 was amended by section 4 of, and paragraph 13(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.

(33) Section 90(2A) was inserted by section 16(1) of the Transport and Works Act 1992 (c. 42).

(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 LUL—

- (a) must, if so required, before or after entering the land produce written evidence of authority to do so; and
- (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) LUL 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) If either a highway authority or a street authority fails to notify LUL of its decision within 14 days of receiving the application for consent under paragraph (4), that authority is deemed to have granted consent.

Power to lop trees overhanging the authorised works

21.—(1) LUL 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 on the authorised works; or
- (b) from constituting a danger to passengers or other persons using the authorised works.

(2) In exercising the powers conferred by paragraph (1), LUL must not cause unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from the exercise of those powers.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

Obstructing construction of the authorised works

22. Any person who, without reasonable excuse—

- (a) obstructs any person acting under the authority of LUL in constructing any of the authorised works; or
- (b) interferes with, moves or removes any apparatus belonging to any person acting under the authority of LUL,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

23.—(1) LUL may acquire compulsorily so much of the land shown on the deposited plans within the limits of deviation and described in the book of reference as may be required for the purposes of the authorised works and may use any land so acquired for those purposes or for any other purposes that are ancillary to its undertaking.

(2) This article is subject to article 28 (subsoil or new rights only to be acquired under or in certain lands).

Application of Part 1 of the 1965 Act

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

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(34) applies; and
- (b) as if this Order were a compulsory purchase order made under that Act.

(2) Part 1 of the 1965 Act, as applied by paragraph (1), has 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.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

25.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(35) applies to LUL as if this Order were a compulsory purchase order.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as applied by paragraph (1), has effect with the following modifications.

(3) In section 3 (preliminary notices) for subsection (1) substitute—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order the acquiring authority must include the particulars specified in subsection (3) 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)” substitute “(1)” and after “given” insert “and published”.

(5) In that section, for subsections (5) and (6) substitute—

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

- (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or

(34) 1981 c. 67.

(35) 1981 c. 66.

- (b) that person 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” insert “in a local newspaper circulating in the area in which the land is situated”; and
- (b) omit subsection (2).
- (7) In section 7 (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (8) References to the 1965 Act are construed as references to that Act as applied to the acquisition of land by article 24 (application of Part 1 of the 1965 Act).

Power to acquire new rights, etc.

26.—(1) LUL may acquire compulsorily such easements or other rights over any land referred to in article 23 (power to acquire land) 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) LUL may impose restrictive covenants affecting any land referred to in article 23 as may be required for the purpose of protecting the authorised railway.

(3) Subject to section 8 of the 1965 Act (other provisions as to divided land) (as substituted by paragraph 5 of Schedule 3 (modification of compensation and compulsory purchase enactments for creation of new rights)), where LUL acquires a right over land or the benefit of a restrictive covenant over land under paragraph (1) or (2) LUL is not required to acquire a greater interest in that land.

(4) Schedule 3 has 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 (subsoil or new rights only to be acquired under or in certain lands) of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(5) Paragraph (6) applies to land to which this article applies and which is used for the relocation of any apparatus which it is expedient to divert or replace in consequence of the carrying out of the authorised works.

(6) In relation to the land to which this paragraph applies, the power to acquire or create easements or other rights under paragraph (1) is to be treated as also authorising the acquisition or creation by a statutory undertaker in any case where the Secretary of State gives consent in writing for that acquisition or creation.

(7) The reference in paragraph (6) to a “statutory undertaker” means a licence holder within the meaning of Part 1 of the Electricity Act 1989⁽³⁶⁾, a gas transporter within the meaning of Part 1 of the Gas Act 1986⁽³⁷⁾, a water undertaker within the meaning of the Water Industry Act 1991⁽³⁸⁾, a sewerage undertaker within the meaning of Part 1 of that Act, any local authority which is a relevant local authority for the purposes of section 97 (performance of sewerage undertaker’s functions by local authorities, etc.) of that Act and a public communications provider within the meaning of section 151 (interpretation of Chapter 1) of the Communications Act 2003⁽³⁹⁾.

⁽³⁶⁾ 1989 c. 29.

⁽³⁷⁾ 1986 c. 44.

⁽³⁸⁾ 1991 c. 56.

⁽³⁹⁾ 2003 c. 21.

Power to acquire subsoil only

27.—(1) LUL may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in article 23 (power to acquire land) 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 LUL acquires any part of or rights in the subsoil of land under paragraph (1) LUL is not required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent article 34 (acquisition of part of certain properties) from applying where LUL acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Subsoil or new rights only to be acquired under or in certain lands

28.—(1) This article applies to the land specified in Schedule 4 (acquisition of subsoil and new rights only).

(2) In the case of the land specified in Part 1 of Schedule 4, LUL's power of compulsory acquisition under article 23 (power to acquire land) is limited to the acquisition of, or the acquisition of such easements or other new rights or the imposition of restrictive covenants over, so much of the subsoil of the land as LUL may require for the purposes of constructing, maintaining, protecting, renewing and using the authorised works.

(3) Where LUL acquires any part of, or acquires easements or other new rights or imposes restrictive covenants over the subsoil of land specified in Part 1 of Schedule 4, article 26(3) (power to acquire new rights, etc.) applies to the same extent as it applies to the acquisition of a new right under that article.

(4) In the case of the land specified in Part 2 of Schedule 4, LUL's power of compulsory acquisition under article 23 is limited to the acquisition of such easements or other new rights in the land or the imposition of such restrictive covenants over the land as it may require for the purposes of constructing, maintaining, protecting, renewing and using the authorised works.

(5) Where LUL acquires easements or other new rights or imposes restrictive covenants over the land specified in Part 2 of Schedule 4, article 26(3) applies to the same extent as it applies to the acquisition of a new right under that article.

(6) In the case of the land specified in Part 3 of Schedule 4, LUL's power of compulsory acquisition under article 23 is limited at surface level and above to the acquisition of such easements or other new rights in the land or the imposition of such restrictive covenants over the land as it may require for the purposes of constructing, maintaining, protecting, renewing and using the authorised works.

(7) Where LUL acquires easements or other new rights or imposes restrictive covenants over the land specified in Part 3 of Schedule 4, article 26(3) applies to the same extent as it applies to the acquisition of a new right under that article.

(8) References in this article to the subsoil of land are references to the subsoil lying 9 metres or more beneath the level of the surface of the land except in the case of the land set out in the table below, where the references are to the subsoil lying at and below the depth specified in the table beneath the level of the surface of the land.

<i>Number of land shown on the deposited plans</i>	<i>Depth beneath the level of the surface of the land</i>
20185	2 metres
20030, 20040, 20060, 20075, 20100, 20102, 20111, 20115, 20126, 20150, 20170 and 20178	4 metres

<i>Number of land shown on the deposited plans</i>	<i>Depth beneath the level of the surface of the land</i>
70005	5 metres
60710, 60720, 60725, 60730, 60810, 60815, 60820, 60825, 60830, 60840, 60850, 60885, 60890, 60900, 60910, 60955, 60975, 60980, 60990, 60995, 61005, 61010, 61020, 61025, 61035, 61040, 61045, 61050, 61055, 61060, 61065, 61070, 61080, 61142, 61155, 61160, 61165, 61170, 61175, 61180, 61190 and 61200	6 metres
20050, 20240, 20285, 20325, 20335, 20340, 20345, 20365, 20370, 20375, 20380, 20385, 20405, 20410, 20425, 20430, 20450, 20465, 20471, 20475, 20480, 20500, 20505, 30006, 30010, 30015, 30020, 30025, 30045, 30046, 30050, 30055, 30060, 30080, 30085, 30105, 30120, 30125, 30135 and 30145	7 metres
61555, 61565, 61575, 61655, 61665, 61675, 61680, 61685, 61695, 61710, 61720, 61730, 61740, 61750, 61760, 61770, 61825, 61830, 61840, 61850, 61860, 61870, 61880, 61890, 61900, 61910, 61915, 61930, 61940, 61950, 61960, 61970, 61980, 61990, 62000, 62018, 62020, 62025, 62030, 62035, 62040, 62045, 62050 and 70010	8 metres

- (9) For the purposes of paragraph (8) “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

29.—(1) LUL may enter upon and appropriate so much of the surface or subsoil of, or air-space over, any street within the Order limits as may be required for the purposes of the authorised works and may use the surface, subsoil or air-space for those purposes or any other purpose ancillary to its undertaking.

(2) Subject to paragraph (4), the power under paragraph (1) may be exercised in relation to a street without LUL being required to acquire any part of the street or any easement or right in the street.

(3) Subject to paragraph (5), 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 LUL acquiring any part of that person’s interest in the land, and who suffers loss by the exercise of that power, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

- (4) Paragraph (2) does 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 onto the street.

(5) Compensation is not payable under paragraph (3) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing of cost of necessary measures) 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

30.—(1) Subject to paragraph (2), LUL 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 5 (land of which temporary possession may be taken) and shown on the deposited plans as within the limits of land to be used only 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 limits of deviation in respect of which no notice of entry has been served under section 11 of the 1965 Act⁽⁴⁰⁾ (powers of entry) and no declaration has been made under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 (execution of declaration), except for the surface of the land listed in Schedule 6 (land at surface level of which temporary possession may not be taken);
- (b) remove any buildings, apparatus and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on the land; and
- (d) construct any works in relation to that land as are mentioned in Schedule 1 (scheduled works) or article 14 (works in the river), and any other works that are required.

(2) Regardless of paragraph (1), LUL may not under this article take exclusive possession of the river area but may only possess the river area subject to the supervision of the Harbour Master at such times and in such places and such manner as is necessary for LUL safely to carry out any of the authorised works under Schedule 1 (scheduled works) or article 14 (works in the river). At times and places where LUL is not actively carrying on such authorised works, the public right of navigation in the river area continues.

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

(4) LUL may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in columns (1) and (2) of Schedule 5, after the end of the period of 2 years beginning with the date of completion of the works specified in relation to that land in column (4) of that Schedule; or
- (b) in the case of land within the limits of deviation, after the end of the period of 2 years beginning with the date of completion of the works for which temporary possession of the land was taken unless LUL has, before 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.

⁽⁴⁰⁾ Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and S.I. 2009/1307.

(5) Subject to paragraph (6), before giving up possession of land of which temporary possession has been taken under this article, LUL must 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 LUL is not required to replace a building removed under this article or restore the land on which any permanent works have been constructed under paragraph (1)(d).

(6) Where under article 14(1)(h) or as part of Work No. 10 any piled fenders have been placed in the river area, LUL may not cut off those fenders but before giving up possession of land in which those fenders are placed LUL must remove them entirely or, if those fenders are within the scope of a licence granted under section 68 of the 1968 Act, may give up possession of that land with those fenders left wholly intact.

(7) LUL 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.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(9) Without affecting article 47 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2)(41) of the 1965 Act (further provision as to compensation for injurious affection) 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 LUL takes possession of land under this article, LUL is not required to acquire the land or any interest in it.

(11) Section 13(42) of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 24(1) (application of Part 1 of the 1965 Act).

Temporary use of land for maintenance of works

31.—(1) Subject to paragraphs (2) and (3), at any time during the maintenance period relating to any of the scheduled works, LUL may—

- (a) enter upon and take temporary possession of any land within the limits of deviation, except the land at surface level mentioned in Schedule 6 (land at surface level of which temporary possession may not be taken), if such possession is reasonably required for the purpose of 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 buildings on the land as may be reasonably necessary for that purpose.

(2) Regardless of paragraph (1), LUL may not under this article take exclusive possession of the river area but may only possess the river area subject to the supervision of the Harbour Master at such times and in such places and such manner as is necessary for LUL safely to carry out any of the authorised works under Schedule 1 (scheduled works) or article 14 (works in the river). At times and places where LUL is not actively carrying on such authorised works, the public right of navigation in the river area continues.

(3) Paragraph (1) does not authorise LUL to take temporary possession of—

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

(41) Section 10 was amended by section 4 of, and paragraph 13(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.

(42) Section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and part 3 of Schedule 23, to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

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

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

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

(6) Before giving up possession of land of which temporary possession has been taken under this article, LUL must 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.

(7) LUL 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.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(9) Without affecting article 47 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2) of the 1965 Act (further provision as to compensation for injurious affection) 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 LUL takes possession of land under this article, LUL is not required to acquire the land or any interest in it.

(11) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 24(1) (application of Part 1 of the 1965 Act).

(12) In this article "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.

Compensation

Disregard of certain interests and improvements

32.—(1) In assessing the compensation payable to any person on the acquisition from that person of any land under this Order, the tribunal must 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 that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

Set-off for enhancement in value of retained land

33.—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land which belongs

to that person in the same capacity which will accrue to that person by reason of the construction and use of the authorised works.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any new rights in land (including the subsoil) under article 26 (power to acquire new rights, etc.), the tribunal must set off against the value of the right so acquired—

- (a) any increase in the value of the land over which the new rights are required; and
- (b) any increase in value of any contiguous or adjacent land which belongs to that person in the same capacity,

which will accrue to that person by reason of the construction of the authorised works.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2), as if this Order were a local enactment for the purposes of that Act.

Supplementary

Acquisition of part of certain properties

34.—(1) This article applies instead of section 8(1)(43)(other provisions as to divided land) of the 1965 Act (as applied by article 24 (application of Part 1 of the 1965 Act)) in any case where—

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

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on LUL a counter-notice objecting to the sale of the land subject to the notice to treat which states that the owner 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 must 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 must sell only the land subject to the notice to treat is, unless LUL agrees to take the land subject to the counter-notice, to 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 must 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 is deemed to be a notice to treat for that part.

(43) Section 8 was amended by [S.I. 2009/1307](#).

(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 is 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 LUL is authorised to acquire compulsorily under this Order.

(8) If LUL 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 is 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 LUL 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, LUL 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, must pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

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

Extinction or suspension of private rights of way

35.—(1) Subject to paragraph (6), all private rights of way over land subject to compulsory acquisition under this Order are extinguished—

- (a) as from the date of acquisition of the land by LUL, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by LUL under section 11(1)(44) (powers of entry) of the 1965 Act,

whichever is the sooner.

(2) Subject to paragraph (6), all private rights of way over land owned by LUL which, being within the limits of deviation, is required for the purposes of this Order, are extinguished on the appropriation of the land for any of those purposes by LUL.

(3) Subject to paragraph (6), all private rights of way over land of which LUL takes temporary possession under this Order are suspended and unenforceable for as long as LUL 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 is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(44) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and S.I. 2009/1307.

(5) This article does not apply in relation to any right of way to which section 271 or 272 of the 1990 Act⁽⁴⁵⁾ (extinguishment of rights of statutory undertakers, etc.), or paragraph 4(3) or paragraph 44(2) of Schedule 8 (protective provisions) applies.

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

(a) any notice given by LUL before—

(i) the completion of the acquisition of;

(ii) LUL's appropriation of;

(iii) LUL's entry onto; or

(iv) LUL's taking temporary possession of,

the land, that any or all of those paragraphs do not apply to any right of way specified in the notice; and

(b) any agreement which makes reference to this article made (whether before or after any of the events mentioned in sub-paragraph (a) and before or after the coming into force of this Order) between LUL and the person in or to whom the right of way in question is vested or belongs.

(7) If any such agreement as is mentioned in sub-paragraph (6)(b) is expressed to have effect also for the benefit of those deriving title from or under the person in or to whom the right of way in question is vested or belongs, it is 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

36.—(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 is to be served under Part 1 of the 1965 Act, as applied to the acquisition of land by article 24 (application of Part 1 of the 1965 Act); and

(b) no declaration is to be executed under section 4 (execution of declaration) of the Compulsory Purchase (Vesting Declarations) Act 1981⁽⁴⁶⁾, as applied by article 25 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The powers conferred by article 30 (temporary use of land for construction of works) cease at the end of the period referred to in paragraph (1); but nothing in this paragraph prevents LUL from 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.

PART 4

OPERATION OF AUTHORISED WORKS

Power to operate and use the authorised works

37. LUL may operate and use the authorised works as a system, or part of a system, of transport for the carriage of passengers.

⁽⁴⁵⁾ Section 272 was amended by paragraphs 103(1) and (2) of Schedule 17 to the Communications Act 2003 (c. 21).

⁽⁴⁶⁾ 1981 c. 66.

PART 5

PROTECTIVE PROVISIONS

Statutory undertakers, etc.

38. The provisions of Schedule 7 (provisions relating to statutory undertakers, etc.) have effect.

Protection of interests

39. The provisions of Schedule 8 (protective provisions) have effect.

PART 6

MISCELLANEOUS AND GENERAL

Temporary traffic regulation

40.—(1) Subject to the provisions of this article LUL may, for the purposes of and during construction of the authorised works—

- (a) permit, suspend or modify the use as a parking place those roads specified in column (1) of Part 1 of Schedule 9 (temporary traffic regulation), along the lengths, between the points and to the extent specified in columns (2) and (3) of that Part of that Schedule, for the purposes specified in column (4) of that Part of that Schedule;
- (b) suspend or convert the operation of the bus lanes on the roads specified in column (1) of Part 2 of Schedule 9, along the lengths, between the points and to the extent specified in columns (2) and (3) of that Part of that Schedule, for the purposes specified in column (4) of that Part of that Schedule;
- (c) suspend or install the pedestrian crossings on the roads specified in column (1) of Part 3 of Schedule 9, at the locations specified in columns (2) and (3) of that Part of that Schedule, for the purposes specified in column (4) of that Part of that Schedule; and
- (d) so far as may be necessary or expedient for the purposes of or in connection with construction of the authorised works—
 - (i) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
 - (ii) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
 - (iii) suspend or authorise the use as a parking place of any road;
 - (iv) make provision as to the direction or priority of vehicular traffic on any road; and
 - (v) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by LUL.

(2) The powers conferred by paragraph (1)(d) may only be exercised after LUL has consulted the chief officer of police, the traffic authority and such other persons as it considers necessary and appropriate, after LUL has taken into consideration any representations made to it by any such persons and after LUL has obtained the consent of the traffic authority in whose area the road concerned is situated (which must not be unreasonably withheld).

(3) LUL must not exercise the powers conferred by this article in relation to any road unless it has—

- (a) given not less than 4 weeks' notice in writing of its intention to do so 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 7 days of its receipt of notice of LUL's intention, specify in writing.
- (4) Any prohibition, suspension or other provision made by LUL under paragraph (1) has effect as if duly made by, as the case may be—
- (a) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or
 - (b) the local authority in whose area the road is situated, as an order under section 32 (power of local authorities to provide parking places) of the 1984 Act,
- and the instrument by which it is effected may specify savings and exemptions (in addition to those mentioned in Schedule 9) to which the prohibition, restriction or other provision is subject.
- (5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by LUL from time to time by subsequent exercise of the powers conferred by paragraph (1).
- (6) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.
- (7) The powers conferred on LUL by this article with respect to any road have effect subject to any agreement entered into by LUL with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

Powers of disposal, agreements for operation, etc.

41.—(1) LUL may, with the consent of the Mayor of London 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 with them.

(2) Without limitation on the scope of paragraph (1), LUL 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 to, or consequential on those matters, and the defraying of, or the making of contributions towards, the cost of those matters by LUL or any other person.

(3) Any agreement under paragraph (2) may provide, amongst other things, for the exercise of the powers of LUL in respect of the authorised works or any part of them, and for the transfer to any person of the authorised works or any part of them together with the rights and obligations of LUL in relation to them.

(4) The exercise of the powers conferred by any enactment by any person further to any sale, lease, charge or disposal under paragraph (1), or any agreement under paragraph (2), is subject to the same restrictions, liabilities and obligations as would apply under this Order if those powers were exercised by LUL.

(5) Sections 163 (restrictions on disposal of land) and 207(2) (restrictions on contracting out certain services) of the Greater London Authority Act 1999⁽⁴⁷⁾ do 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).

(47) 1999 c. 29.

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 those works, and any agreement entered into by LUL 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 prejudices the operation of any agreement to which this article applies.

(3) No such enactment or rule of law applies 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(**48**) (summary proceedings by person aggrieved by statutory nuisances) in relation to a nuisance falling within paragraph (g) of section 79(1)(**49**) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine is to be imposed, under section 82(2) of that Act if the defendant shows—

- (a) that the nuisance relates to premises used by LUL for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to the authorised works and that the nuisance is attributable to the carrying out of the authorised works which are being carried out in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61(**50**) (prior consent for work on construction sites) or section 65(**51**) (noise exceeding registered level), of the Control of Pollution Act 1974(**52**); or
- (b) that the nuisance is a consequence of the operation of the authorised works and that it cannot reasonably be avoided.

(2) The following provisions of the Control of Pollution Act 1974—

- (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

(48) 1990 c. 43. Section 82 was amended by section 5(2) of the Noise and Statutory Nuisance Act 1993 (c. 40) and paragraph 6 of Schedule 17 to the Environment Act 1995 (c. 25).

(49) Section 79(1) was amended by section 2(2) of the Noise and Statutory Nuisance Act 1993, section 120 of, and paragraph 2(a) of Schedule 17 and paragraph 89(2) of Schedule 22 to, the Environment Act 1995, sections 101(2) and 102(2) of the Clean Neighbourhoods and Environment Act 2005 (c. 16) and sections 109(2), 110(2), 111(2) and 112(2)(a) of the Public Health etc. (Scotland) Act 2008 (asp. 5).

(50) Section 61 was amended by Schedule 7 to the Building Act 1984 (c. 55), paragraph 15(3) of Schedule 15 to the Environmental Protection Act 1990 (c. 43), Schedule 24 to the Environment Act 1995 and paragraph 10 of Schedule 6 to the Building (Scotland) Act 2003 (asp. 8).

(51) Section 65 was amended by paragraph 15(4) of Schedule 15 to the Environmental Protection Act 1990 and Schedule 24 to the Environment Act 1995.

(52) 1974 c. 40.

- (b) section 65(8) (corresponding provision in relation to consent for registered noise level to be exceeded),

do not apply where the consent relates to the use of premises by LUL 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 do not affect the application to the authorised works of section 122 of the Railways Act 1993⁽⁵³⁾ (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 under the provisions of article 18 (protective works to buildings) or article 20 (power to survey and investigate land, etc.); and
- (b) discloses to any person any information obtained as a result of that entry and relating to any manufacturing process or trade secret,

is 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 that person's performance of a duty in connection with the purposes for which the person was authorised to enter the land.

Certification of plans, etc.

45. LUL must, 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 respectively, true copies of the book of reference, the deposited plans and the deposited sections, and a document so certified is 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—

- (a) by post; or
- (b) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

(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⁽⁵⁴⁾ (references to service by post) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person 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, the last known address of that person at the time of service.

⁽⁵³⁾ 1993 c. 43. As amended by the Transport Act 2000 (c. 38) and the Railways Act 2005 (c. 14).

⁽⁵⁴⁾ 1978 c. 30.

(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 the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person 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) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is taken to be fulfilled where the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission either in writing or by electronic transmission.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

No double recovery

47. Compensation is not 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. Any difference under any provision of this Order, unless otherwise provided for, must 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 giving notice in writing to the other) by the President of the Institution of Civil Engineers.

Signed by the authority of the Secretary of State

Martin Woods
Head of the Transport and Works Act Orders
Unit
Department for Transport

24th November 2014

SCHEDULES

SCHEDULE 1

Article 2(1)

SCHEDULED WORKS

In the London Boroughs of Southwark and Lambeth

Work No. 1 — A railway 975 metres in length located in a single bored tunnel structure. The railway commences at a step-plate junction with the London Underground Northern line at a point below De Laune Street and Kennington Park Road 80 metres north-east along De Laune Street from the junction with Harmsworth Street and terminates at a point below Claylands Road 9 metres south-east along Claylands Road from the junction with Trigon Road. The route crosses beneath Harmsworth Street and Kennington Park Place before continuing beneath Kennington Park. The route then crosses beneath Brixton Road, Camberwell Road and Kennington Park Road, terminating at Claylands Road.

Work No. 1 includes a temporary gallery tunnel for the construction by the spray concrete lining method of Work No. 1 from Kennington Park to the step-plate junction. This single temporary tunnel commences at a point beneath De Laune Street 92 metres north-east from the junction between De Laune Street and Harmsworth Street and terminates at a point beneath the north-east corner of Kennington Park at Kennington Park Place.

In the London Borough of Lambeth

Work No. 2 — A railway 848 metres in length located in a single bored tunnel structure. The railway commences at a step-plate junction with the London Underground Northern line at a point below Cleaver Square, Radcot Street and Kennington Park Road 31 metres south-east and 39 metres north-east from the junction of Radcot Street and Methley Street and terminates at a point 20 metres north-east of Claylands Road. The route crosses beneath Radcot Street, Ravensdon Street and Kennington Road before passing beneath Kennington Green, Clayton Street, Bowling Green Street and Kennington Oval (Road) and then terminates near Claylands Road.

Work No. 2 includes a temporary gallery tunnel for the construction by the spray concrete lining method of Work No. 2 from Kennington Green to the step-plate junction. This single temporary tunnel commences at a point beneath Cleaver Square 51 metres north-east and 13 metres south-east from the junction of Radcot Street and Methley Street and terminates at a point beneath the south corner of Kennington Green.

In the London Boroughs of Lambeth and Wandsworth

Work No. 3 — A railway 2,300 metres in length located in two parallel bored tunnel structures, including a number of cross-passages (incorporating pump stations in some cases) between the tunnel structures. The railway commences at a point 20 metres north-east of Claylands Road and terminates at a point beneath Prince of Wales Drive 49 metres north-west of Battersea Park Road. The work includes two new stations: Nine Elms station is to be constructed on land adjacent to the north side of Pascal Street and Battersea station is to be constructed on land north of Battersea Park Road and south of the disused Battersea Power Station. The stations include two ventilation shafts each, that may extend to a height of 71 metres above Ordnance Datum at Nine Elms and 60.5 metres above Ordnance Datum at Battersea through future commercial developments above the stations or, in the absence of these, to a height of 9.5 metres and 11.6 metres

above Ordnance Datum for the two ventilation shafts at Nine Elms and 14.49 metres and 19.3 metres above Ordnance Datum for the two ventilation shafts at Battersea.

From Claylands Road the route westwards crosses beneath Cottingham Road, Fentiman Road, Meadow Road, Old South Lambeth Road, South Lambeth Road, Wilcox Road and Wandsworth Road and is approximately parallel to Pascal Street at Nine Elms station. From Nine Elms station the route continues westwards beneath parts of New Covent Garden Market, a railway viaduct, Nine Elms Lane, Cringle Street, Kirtling Street and is parallel to Battersea Park Road at Battersea station. From Battersea station the route crosses beneath two further existing railways and the Battersea Dogs and Cats Home, terminating at a point beneath Prince of Wales Drive.

In the London Boroughs of Southwark and Lambeth

Work No. 4a — A cross-passage between the London Underground Northern line southbound platform tunnels at Kennington station located beneath Kennington Park Road 41 metres north-east from the junction with Kennings Way.

Work No. 4b — A cross-passage between the London Underground Northern line southbound platform tunnels at Kennington station located beneath Kennington Park Road 109 metres north-east from the junction with Kennings Way.

Work No. 4c — A cross-passage between the London Underground Northern line northbound platform tunnels at Kennington station located beneath Kennington Park Road 92 metres north-east from the junction with Kennings Way.

Work No. 4d — A cross-passage between the London Underground Northern line northbound platform tunnels at Kennington station located beneath Kennington Park Road 39 metres north-east from the junction with Kennings Way.

In the London Borough of Lambeth

Work No. 7 — A ventilation and intervention shaft located above Work No. 1 in Kennington Park on the corner of Kennington Park Place and St. Agnes Place including an underground connecting adit, a substation and a head house.

Work No. 8 — A ventilation and intervention shaft located above Work No. 2 in Kennington Green including an underground connecting adit and a head house located on land at the corner of Kennington Road and Montford Place within the gin distillery.

In the London Borough of Wandsworth

Work No. 9 — A temporary road 65 metres in length commencing at its junction with Battersea Park Road before crossing Work No. 3 at the Battersea station site. The temporary road is located 20 metres west of Savona Street.

Work No. 10 — A temporary conveyor belt 420 metres in length with a side branch of 30 metres to a loading hopper, commencing at a point 68 metres north of Battersea Park Road, located within land adjacent to the former Battersea Power Station, and terminating at the eastern end of the existing Battersea Power Station jetty in the River Thames, including a temporary access road, temporary access onto the jetty and a temporary loading conveyor along the length of the jetty together with such temporary or permanent modifications to the jetty and its cranes (including their temporary removal if necessary) as may be required to facilitate the loading of barges and dredging of the River Thames to permit the loading of excavated material onto barges moored alongside the jetty.

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

SCHEDULE 2

Article 10

STREETS TO BE TEMPORARILY STOPPED UP

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>
London Borough of Southwark	Kennington Park Place	130 metres of footway on the southern side of the street from a point 15 metres west of the junction with De Laune Street to a point 130 metres east of that point
London Borough of Lambeth	St Agnes Place	12 metres of footway on the northern side of the street from the intersection with Kennington Park Place
	Kennington Road (A23)	80 metres of the northbound lane adjacent to the eastern side of the Kennington Green work site between the northern and southern edges of the Green
	Kennington Green	All footways around and adjoining Kennington Green
	Kennington Road	18 metres of road and footway between its intersection with Montford Place and the Beefeater Gin distillery access (including suspension of 2 parking places)
	Kennington Road	Road comprising 4 parking places on the northern edge of Kennington Green
	Kennington Road	Road comprising 8 parking places on the western edge of Kennington Green
	Wandsworth Road	70 metres of footway on the western side of Wandsworth Road from its

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>
	Pascal Street	junction with Pascal Street, adjacent to the Nine Elms station work site 120 metres of footway and 1 parking bay on the northern side of Pascal Street adjacent to the Nine Elms work site

SCHEDULE 3

Article 26

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 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 and in the case of the imposition of a restrictive covenant, as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973⁽⁵⁵⁾ has effect subject to the modifications set out in sub-paragraphs (2) and (3).

(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—

- (a) for the words “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for the words “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

(3) For section 58(1)⁽⁵⁶⁾ (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, substitute—

“(1) In determining under section 8(1) or 34(2) of the Compulsory Purchase Act 1965, or section 166(2) of the Town and Country Planning Act 1990 whether—

- (a) a right over or a restrictive covenant affecting land consisting of a house, building or manufactory can be taken or imposed without material detriment or damage to the house, building or manufactory; or

⁽⁵⁵⁾ 1973 c. 26.

⁽⁵⁶⁾ Section 58(1) was amended by section 16(3) of, and Schedule 5 to, the Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66), section 4 of, and paragraph 29(1) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.

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

- (b) a right over or a restrictive covenant affecting land consisting of a park or garden belonging to a house can be taken or imposed without seriously affecting the amenity or convenience of the house,

the Upper Tribunal must take into account not only the effect of the acquisition of the right or the imposition of the restrictive covenant but also the use to be made of the right or restrictive covenant proposed to be acquired or imposed, and, in a case where the right or restrictive covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use to be made of the other land.”.

Application of the 1965 Act

3.—(1) The 1965 Act has 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, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are to be 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 the restrictive covenant imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable or the restrictive covenant is or is to be enforceable.

(2) Without limitation on the scope of sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right, or in relation to the imposition of a restrictive covenant, with the modifications specified in the following provisions of this Schedule.

4. For section 7 of the 1965 Act (measure of compensation in case of severance) substitute —

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the restrictive covenant 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 the owner, 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 (other provisions as to divided land) substitute —

“8.—(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, or a restrictive covenant affecting, land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right or the imposition of the restrictive covenant would apart from this section fall to be determined by the Upper Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that land, and—
 - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased or the restrictive covenant imposed without material detriment to that land; or

- (ii) where that land consists of such a park or garden, that the right cannot be purchased or the restrictive covenant imposed without seriously affecting the amenity or convenience of the house to which that land belongs,

the London Underground (Northern Line Extension) Order 2014⁽⁵⁷⁾ (“the Order”) in relation to that person, ceases to authorise the purchase of the right or the imposition of a restrictive covenant and is 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 is 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 is to 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 6 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 affects 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),

are modified so 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 or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

7. Section 11⁽⁵⁸⁾ of the 1965 Act (powers of entry) is modified so as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restrictive covenant, it has power, exercisable in the equivalent circumstances and subject to the equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12⁽⁵⁹⁾ (penalty for unauthorised entry) and 13⁽⁶⁰⁾ (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

8. Section 20⁽⁶¹⁾ of the 1965 Act (protection for interests of tenants at will, etc.) applies 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 any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

⁽⁵⁷⁾ S.I. 2014/3102.

⁽⁵⁸⁾ Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and S.I. 2009/1307.

⁽⁵⁹⁾ Section 12 was amended by section 56(2) of, and part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).

⁽⁶⁰⁾ Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

⁽⁶¹⁾ Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 and S.I. 2009/1307.

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

9. Section 22 of the 1965 Act (interests omitted from purchase) is modified so 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 or to enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

SCHEDULE 4

Article 28

ACQUISITION OF SUBSOIL AND NEW RIGHTS ONLY

PART 1

LAND IN WHICH ONLY SUBSOIL OR NEW RIGHTS OVER SUBSOIL MAY BE ACQUIRED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>
London Borough of Wandsworth	20030, 20040, 20050, 20060, 20075, 20100, 20102, 20111, 20115, 20126, 20150, 20170, 20178, 20185, 20240, 20285, 20325, 20335, 20340, 20345, 20365, 20370, 20375, 20380, 20385, 20405, 20410, 20425, 20430, 20450, 20465, 20471, 20475, 20480, 20500, 20505, 30006, 30010, 30015, 30020, 30025, 30045, 30046, 30050, 30055, 30060, 30080, 30085, 30105, 30120, 30125, 30135, 30145, 30165, 30170, 30180, 30185, 30220, 30236, 30240, 30270, 30295, 30300, 30315, 30325, 30340, 30342, 30351, 30356, 30367, 30370 and 40010.
London Borough of Lambeth	40021, 40022, 40165, 40195, 40205, 40215, 40225, 40235, 40245, 40255, 40265, 40275, 40285, 40295, 40305, 40315, 40325, 40335, 40360, 40370, 40375, 40380, 40385, 40390, 40395, 40400, 40405, 40410, 40415, 40420, 40425, 40430, 40435, 40440, 40445, 40450, 40465, 40480, 40505, 40510, 40530, 40540, 40565, 40580, 40590, 40600, 40610, 40611, 40615, 40620, 40625, 40630, 40635, 40640, 40645, 40655, 40670, 40675, 40680, 40691, 40695, 40700, 40765, 40770, 40775, 40780, 40785, 40790, 40795, 40805, 40815, 40825, 40840, 40841, 40851, 40856, 40870, 40880, 40885, 40890, 40895, 40900, 40925, 40935, 40940, 40945, 40950, 40955, 40960, 40970, 40985, 40995, 41000, 41005, 41015, 41025, 41035, 41045, 41055, 41065, 41075, 41085, 41090, 41099, 41100, 41105, 41110, 41115, 41120, 41125, 41130, 41135, 41140, 41150, 41160, 41170, 41180, 41190, 41200, 41240, 41250, 41260, 41270, 41280, 41290, 41300, 41310, 41320, 41330, 41340, 41345, 41350, 41355, 41360, 41370, 41380, 41390, 41400, 41405, 41410, 41415, 41420, 41425, 41430, 41435, 41440, 41450, 41460, 41470, 41480, 41490, 41506, 41510, 41525, 41535, 41545, 41550, 41555, 41560, 50010, 50011, 50020, 50030, 50040, 50050, 50060, 50070, 50080, 50090, 50095, 50100, 50105, 50110, 50115, 50120, 50130,

(1) <i>Area</i>	(2) <i>Number of land shown on the deposited plans</i>
	50140, 50160, 50175, 50180, 50191, 50195, 50200, 50205, 50230, 50240, 50250, 50270, 50280, 50290, 50300, 50315, 50325, 50335, 50345, 50355, 50365, 50375, 50385, 50390, 50395, 50400, 50405, 50410, 50420, 50430, 50440, 50450, 50460, 50470, 50480, 50490, 50500, 50505, 50511, 50515, 50516, 50535, 50545, 50546, 50570, 50580, 50590, 50600, 50610, 50615, 50620, 50625, 50635, 50641, 50650, 50660, 50665, 50670, 50675, 50680, 50685, 50690, 50695, 50700, 50705, 50720, 50730, 50740, 50765, 50770, 50780, 50790, 50800, 50815, 50825, 50835, 50845, 50855, 50865, 50880, 50890, 50900, 50910, 50920, 50930, 50935, 50945, 50950, 50960, 50965, 50975, 50985, 50995, 51005, 51015, 51030, 51045, 51060, 51080, 51085, 51120, 51125, 51130, 51135, 51140, 51170, 51180, 51190, 51200, 51210, 51220, 51230, 51240, 51250, 51273, 51280, 51295, 51315, 51320, 51350, 51360, 51375, 51390, 51401, 51405, 51410, 51411, 51415, 51420, 51425, 51430, 51440, 51450, 51480, 51485, 51490, 51495, 51520, 51525, 51540, 60015, 60025, 60040, 60045, 60075, 60090, 60105, 60120, 60135, 60140, 60160, 60175, 60190, 60200, 60210, 60215, 60255, 60265, 60316, 60321, 60335, 60365, 60370, 60380, 60385, 60410, 60420, 60440, 60450, 60465, 60475, 60495, 60505, 60515, 60535, 60540, 60545, 60560, 60570, 60575, 60590, 60600, 60610, 60615, 60620, 60625, 60630, 60645, 60655, 60665, 60710, 60720, 60725, 60730, 60735, 60740, 60745, 60750, 60760, 60770, 60810, 60815, 60820, 60825, 60830, 60840, 60850, 60859, 60885, 60890, 60900, 60910, 60955, 60975, 60980, 60990, 60995, 61005, 61010, 61020, 61025, 61035, 61040, 61045, 61050, 61055, 61060, 61065, 61070, 61080, 61142, 61155, 61160, 61165, 61170, 61175, 61180, 61190, 61200, 61210, 61215, 61260, 61275, 61280, 61285, 61290, 61295, 61300, 61305, 61310, 61315, 61320, 61325, 61335, 61345, 61360, 61375, 61390, 61400, 61420, 61430, 61455, 61465, 61475, 61540 and 70005.
London Borough of Southwark	61500, 61510, 61545, 61550, 61555, 61565, 61575, 61625, 61635, 61645, 61655, 61665, 61675, 61680, 61685, 61695, 61710, 61720, 61730, 61740, 61750, 61760, 61770, 61825, 61830, 61840, 61850, 61860, 61870, 61880, 61890, 61900, 61910, 61915, 61930, 61940, 61950, 61960, 61970, 61980, 61990, 62000, 62018, 62020, 62025, 62030, 62035, 62040, 62045, 62050, 62065, 62070, 62075, 62080, and 70010.

*Status: This is the original version (as it was originally made).***PART 2****LAND OVER WHICH ONLY NEW RIGHTS MAY BE ACQUIRED**

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>
London Borough of Wandsworth	10055, 10056, 10057, 10058, 10059, 20205, 20266, 30331 and 30332.

PART 3**LAND OVER WHICH ONLY NEW RIGHTS MAY
BE ACQUIRED AT SURFACE LEVEL OR ABOVE**

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>
London Borough of Lambeth	60280 and 61470.

SCHEDULE 5

Article 30

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Area</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 works</i>
River Thames, Jetty and Battersea Power Station site	10005, 10006, 10040, 10050, 10051, 10052, 10053 and 10054	Work site, jetty access	Work Nos. 3 and 10
Railway track and adjacent land, Battersea	10008, 10009, 10010, 10015 and 10020	Work site access	Work No. 3
Battersea Power Station site	10060, 10061, 10062, 10063 and 10064	Temporary work site	Work No. 3
Railway track and railway bridge	20180, 20185, 20190, 20195 and 20196	Railway protective measures and street works	Work No. 3

<i>(1)</i> <i>Area</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 works</i>
Land adjacent to Battersea Park Road	20210, 20220, 20226, 20230 and 20240	Work site	Work No. 3
Land forming and adjacent to Battersea Park Road	20197 and 20225	Work site, accommodation works and street works	Work No. 3
Land adjacent to Battersea Power Station	20260, 20265, 20270 and 20275	Work site	Work No. 10
Land adjacent to Battersea Power Station	20245 and 20255	Work site	Work Nos. 3 and 10
Battersea Dogs and Cats Home and adjacent land, including railway arches	20065, 20070, 20080, 20085, 20090, 20095, 20101, 20105, 20106, 20107, 20108, 20110, 20120, 20121, 20122, 20123, 20125, 20130, 20135, 20140, 20145, 20155, 20159, 20160, 20161, 20162, 20165, 20174, 20175, 20176, 20177, 20178 and 20179	Work site and accommodation works	Work No. 3
Railway and land adjacent to railway, Battersea Dogs and Cats Home	20060, 20075, 20100, 20102, 20111, 20115, 20126, 20150 and 20170	Work site and accommodation works	Work No. 3
Land adjacent to Railway, New Covent Garden Market and land forming and adjacent to Pascal Street	30350, 30351, 30355, 30356, 30360, 30365, 30367, 30369, 30370, 30375, 40005, 40010, 40015, 40021, 40022, 40131 and 40170	Work site and accommodation works	Work No. 3
Land adjacent to Kirtling Street	30070	Access for protective works	Work No. 3

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

(1) <i>Area</i>	(2) <i>Number of land shown on the deposited plans</i>	(3) <i>Purpose for which temporary possession may be taken</i>	(4) <i>Authorised works</i>
Post Office Way, land adjacent to Post Office Way and land adjacent to Ponton Road	30191, 30205, 30245 and 30285	Access for protective works	Work No. 3
Land adjacent to Wandsworth Road	40150 and 40155	Work site	Work No. 3
Land forming and adjacent to Pascal Street	40025, 40026, 40031, 40062, 40076, 40086, 40125, 40126 and 40130	Street works	Work No. 3
Land forming and adjacent to Bramley Crescent	40065 and 40080	Access for protective works	Work No. 3
Luscombe Way and car park adjacent to Luscombe Way	40345 and 40350	Access for protective works	Work No. 3
Car parking and private road	40520	Access for protective works	Work No. 3
Wilcox Close	40555	Access for protective works	Work No. 3
Walton Close	40495	Access for protective works	Work No. 3
Land and private road at Bolney Meadow Estate	50215	Access for protective works	Work No. 3
Land and private road (Cottingham Road) at Ashmole Housing Estate	50555	Access for protective works	Work No. 3
Land and private roads (Carroun Road,	50525 and 50530	Access for protective works	Work No. 3

(1) <i>Area</i>	(2) <i>Number of land shown on the deposited plans</i>	(3) <i>Purpose for which temporary possession may be taken</i>	(4) <i>Authorised works</i>
Cottingham Road) at Ashmole Housing Estate			
Land adjacent to Harleyford Street	51340	Access for protective works	Work No. 2
Private road adjacent to Ashmole Street	51070	Access for protective works	Work No. 2
Access road from Ashmole Primary School to Claylands Lane	51075 and 51100	Access for protective works	Work No. 1
Private access way into Belgrave House	51555	Access for protective works	Work No. 1
Land adjacent to Kennington Green	60265, 60270, 60281, 60309, 60310, 60316 and 60321	Work site	Work No. 8
Land at Kennington Park	61450, 61455, 61460, 61465, 61475, 61480	Work site	Work No. 7
Land at, and to the north of, Beefeater Gin distillery	60300	Work site for accommodation works	Work No. 8
Land at Stannary Place	60476, 60477, 60480 and 60485	Access for protective works	Work No. 2
Land and roadway at Alverston House and Lockwood House	60005	Access for protective works	Work No. 2
Land and electricity substation adjacent to Lohmann House	60100	Access for protective works	Work No. 2

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

<i>(1)</i> <i>Area</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 works</i>
Land adjacent to Kilner House, roadway (Pegasus Place) and access road to Sherwin House	60150, 60156 and 60166	Access for protective works	Work No. 2
Land at Kennington	61501, 61560, 61570, 61580, 61585, 61590, 61595, 61600, 61605, 61610, 61615, 61690, 61700, 61705, 61715, 61725, 61735, 61745, 61755, 61765, 61775, 61780, 61785, 61790, 61795, 61800, 61805, 61920, 61925, 61935, 61945, 61955, 61965, 61975, 61985, 61995, 62005, 62010, 62011, 62055 and 62060	Temporary use of subsoil	Work No. 1
Land forming and adjacent to Kennington Road (A23)	60320	Worksite and temporary use of subsoil	Work Nos. 8 and 2
Land at Kennington	60320, 60355, 60360, 60430, 60435, 60445, 60460, 60520, 60635, 60640, 60650, 60660, 60670, 60680, 60685, 60690, 60695, 60700, 60755, 60765, 60775, 60780, 60785, 60790, 60795, 60796, 60835, 60845, 60855, 60860, 60865, 60870, 60875, 60880, 60895, 60905, 60915, 60920, 60925, 60930, 60935, 60940, 61066, 61075, 61085, 61090, 61100, 61105, 61110, 61115, 61123, 61125, 61130, 61135, 61140, 61141, 61185, 61195 and 61205	Temporary use of subsoil	Work No. 2

SCHEDULE 6

Articles 30 and 31

LAND AT SURFACE LEVEL OF WHICH
TEMPORARY POSSESSION MAY NOT BE TAKEN

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>
London Borough of Wandsworth	20030, 20040, 20050, 20285, 20325, 20335, 20340, 20345, 20365, 20370, 20375, 20380, 20385, 20405, 20410, 20425, 20430, 20450, 20465, 20471, 20475, 20480, 20500, 20505, 30006, 30010, 30015, 30020, 30025, 30045, 30046, 30050, 30055, 30060, 30080, 30085, 30105, 30120, 30125, 30135, 30145, 30165, 30170, 30180, 30185, 30220, 30236, 30240, 30270, 30295, 30300, 30315, 30325, 30340 and 30342
London Borough of Lambeth	40165, 40195, 40205, 40215, 40225, 40235, 40245, 40255, 40265, 40275, 40285, 40295, 40305, 40315, 40325, 40335, 40360, 40370, 40375, 40380, 40385, 40390, 40395, 40400, 40405, 40410, 40415, 40420, 40425, 40430, 40435, 40440, 40445, 40450, 40465, 40480, 40505, 40510, 40530, 40540, 40565, 40580, 40590, 40600, 40610, 40611, 40615, 40620, 40625, 40630, 40635, 40640, 40645, 40655, 40670, 40675, 40680, 40691, 40695, 40700, 40765, 40770, 40775, 40780, 40785, 40790, 40795, 40805, 40815, 40825, 40840, 40841, 40851, 40856, 40870, 40880, 40885, 40890, 40895, 40900, 40925, 40935, 40940, 40945, 40950, 40955, 40960, 40970, 40985, 40995, 41000, 41005, 41015, 41025, 41035, 41045, 41055, 41065, 41075, 41085, 41090, 41099, 41100, 41105, 41110, 41115, 41120, 41125, 41130, 41135, 41140, 41150, 41160, 41170, 41180, 41190, 41200, 41240, 41250, 41260, 41270, 41280, 41290, 41300, 41310, 41320, 41330, 41340, 41345, 41350, 41355, 41360, 41370, 41380, 41390, 41400, 41405, 41410, 41415, 41420, 41425, 41430, 41435, 41440, 41450, 41460, 41470, 41480, 41490, 41506, 41510, 41525, 41535, 41545, 41550, 41555, 41560, 50010, 50011, 50020, 50030, 50040, 50050, 50060, 50070, 50080, 50090, 50095, 50100, 50105, 50110, 50115, 50120, 50130, 50140, 50160, 50175, 50180, 50191, 50195, 50200, 50205, 50230, 50240, 50250, 50270, 50280, 50290, 50300, 50315, 50325, 50335, 50345, 50355, 50365, 50375, 50385, 50390, 50395, 50400, 50405, 50410, 50420, 50430, 50440, 50450, 50460, 50470, 50480, 50490, 50500, 50505, 50511, 50515, 50516, 50535, 50545, 50546, 50570, 50580, 50590, 50600, 50610, 50615, 50620, 50625, 50635, 50641, 50650, 50660, 50665, 50670, 50675, 50680, 50685, 50690, 50695, 50700, 50705, 50720, 50730, 50740, 50765, 50770, 50780, 50790, 50800, 50815, 50825, 50835, 50845, 50855, 50865, 50880, 50890, 50900, 50910, 50920, 50930, 50935, 50945, 50950, 50960, 50965, 50975, 50985, 50995, 51005, 51015, 51030, 51045, 51060, 51080, 51085, 51120, 51125, 51130, 51135, 51140, 51170, 51180, 51190, 51200, 51210, 51220, 51230, 51240, 51250, 51273, 51280, 51295, 51315, 51320, 51350, 51360, 51375,

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

(1) Area	(2) Number of land shown on the deposited plans
London Borough of Southwark	51390, 51401, 51405, 51410, 51411, 51415, 51420, 51425, 51430, 51440, 51450, 51480, 51485, 51490, 51495, 51520, 51525, 51540, 60015, 60025, 60040, 60045, 60075, 60090, 60105, 60120, 60135, 60140, 60160, 60175, 60190, 60200, 60210, 60215, 60255, 60335, 60355, 60360, 60365, 60370, 60380, 60385, 60410, 60420, 60430, 60435, 60440, 60445, 60450, 60460, 60465, 60475, 60495, 60505, 60515, 60520, 60535, 60540, 60545, 60560, 60570, 60575, 60590, 60600, 60610, 60615, 60620, 60625, 60630, 60635, 60640, 60645, 60650, 60655, 60660, 60665, 60670, 60680, 60685, 60690, 60695, 60700, 60710, 60720, 60725, 60730, 60735, 60740, 60745, 60750, 60755, 60760, 60765, 60770, 60775, 60780, 60785, 60790, 60795, 60796, 60810, 60815, 60820, 60825, 60830, 60835, 60840, 60845, 60850, 60855, 60859, 60860, 60865, 60870, 60875, 60880, 60885, 60890, 60895, 60900, 60905, 60910, 60915, 60920, 60925, 60930, 60935, 60940, 60955, 60975, 60980, 60990, 60995, 61005, 61010, 61020, 61025, 61035, 61040, 61045, 61050, 61055, 61060, 61065, 61066, 61070, 61075, 61080, 61085, 61090, 61100, 61105, 61110, 61115, 61123, 61125, 61130, 61135, 61140, 61141, 61142, 61155, 61160, 61165, 61170, 61175, 61180, 61185, 61190, 61195, 61200, 61205, 61210, 61215, 61260, 61275, 61280, 61285, 61290, 61295, 61300, 61305, 61310, 61315, 61320, 61325, 61335, 61345, 61360, 61375, 61390, 61400, 61420, 61430 and 70005 61500, 61501, 61510, 61545, 61550, 61555, 61560, 61565, 61570, 61575, 61580, 61585, 61590, 61595, 61600, 61605, 61610, 61615, 61625, 61635, 61645, 61655, 61665, 61675, 61680, 61685, 61690, 61695, 61700, 61705, 61710, 61715, 61720, 61725, 61730, 61735, 61740, 61745, 61750, 61755, 61760, 61765, 61770, 61775, 61780, 61785, 61790, 61795, 61800, 61805, 61825, 61830, 61840, 61850, 61860, 61870, 61880, 61890, 61900, 61910, 61915, 61920, 61925, 61930, 61935, 61940, 61945, 61950, 61955, 61960, 61965, 61970, 61975, 61980, 61985, 61990, 61995, 62000, 62005, 62010, 62011, 62018, 62020, 62025, 62030, 62035, 62040, 62045, 62050, 62055, 62060, 62065, 62070, 62075, 62080 and 70010

SCHEDULE 7

Article 38

PROVISIONS RELATING TO STATUTORY UNDERTAKERS, ETC.

1. Sections 271 to 274(62) of the 1990 Act (extinguishment of rights of statutory undertakers, etc.) apply in relation to any land acquired or appropriated by LUL under this Order subject to the

(62) Sections 272 to 274 were amended by paragraphs 103(1) and (2) of Schedule 17 to the Communications Act 2003 (c. 21).

following provisions of this Schedule; 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(63), which provide for the payment of compensation) have effect accordingly.

2. In the provisions of the 1990 Act, as applied by paragraph 1, references to the appropriate Minister are references to the Secretary of State.

3. Where any apparatus of public utility undertakers or of a public communications provider 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 paragraph 1, any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from LUL compensation in respect of expenditure reasonably incurred by that person, 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. Paragraph 3 does 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 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,

is entitled to recover from LUL compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

5. The provisions of the 1990 Act mentioned in paragraph 1, as applied by that paragraph, do not have effect in relation to apparatus as respects which Part 3 of the 1991 Act applies.

6. In this Schedule—

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003(64); and

“public utility undertakers” has the same meaning as in the 1980 Act(65).

SCHEDULE 8

Article 39

PROTECTIVE PROVISIONS

PART 1

PROTECTION FOR NETWORK RAIL

1. The following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between LUL and Network Rail and, in the case of paragraph 15, any other person on whom rights or obligations are conferred or imposed by that paragraph.

2. In this Part of this Schedule—

(63) Section 279(3) was amended by paragraphs 103(1) and (2), and section 280 was amended by paragraph 104, of Schedule 17 to the Communications Act 2003. Sections 280 and 282 were amended by [S.I. 2009/1307](#).

(64) [2003 c. 21](#).

(65) [1980 c. 66](#) as amended by section 190(3) of, and part 1 of Schedule 27 to, the Water Act [1989 \(c. 15\)](#) and section 112(4) of, and Schedule 18 to, the Electricity Act [1989 \(c. 29\)](#).

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

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as amended from time to time, granted to Network Rail by the Secretary of State in exercise of powers under section 8 of the Railways Act 1993⁽⁶⁶⁾;

“Network Rail” includes any associated company of Network Rail Infrastructure Limited 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 1159 of the Companies Act 2006)⁽⁶⁷⁾ the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“Network Rail Infrastructure Limited” means Network Rail Infrastructure Limited, a company limited by shares and incorporated under the Companies Act 1985, whose registered number is 02904587 and registered office is Kings Place, 90 York Way, London, N1 9AG;

“plans” includes sections, designs, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used for the benefit of Network Rail for the purposes of such railway or works, apparatus or equipment; 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.

3.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval must not be unreasonably withheld or delayed but may be subject to reasonable conditions and is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with LUL with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements arising from those procedures; and
- (b) use its reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised works under this Order.

4.—(1) LUL must not exercise the powers conferred by article 20 (power to survey and investigate land, etc.) or the powers conferred by section 11(3) of the 1965 Act (powers of entry) or

⁽⁶⁶⁾ 1993 c. 43.

⁽⁶⁷⁾ 2006 c. 46.

the Compulsory Purchase (Vesting Declarations) Act 1981(68) as applied by this Order in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) LUL must 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 Network Rail.

(3) LUL must not exercise the powers conferred by section 271 or 272 of the 1990 Act, as applied by Schedule 7 (provisions relating to statutory undertakers, etc.), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) LUL must not under the powers conferred by this Order acquire or use, or acquire new rights over or seek to impose any restrictions on the use of, any railway property except with the consent of Network Rail.

5.—(1) LUL must, before commencing construction of any specified work, supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration under article 48 (arbitration).

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld or delayed, and if by the period of 56 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated disapproval of those plans and the grounds of disapproval the engineer is 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 Network Rail, Network Rail gives notice to LUL that Network Rail 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, then if LUL desires such part of the specified work to be constructed, Network Rail must construct it (together with any adjoining part of the specified work which LUL reasonably requires to be constructed in one operation with that work) without unnecessary delay on behalf of and to the reasonable satisfaction of LUL in accordance with the plans approved or deemed to be approved or settled under this paragraph.

(4) When signifying approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of the safe and efficient operation of the railways of Network Rail or the services of operators using those railways (including any relocation of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes are to be constructed by Network Rail but at the expense of LUL, or if Network Rail so desires such protective works must be carried out by LUL at its own expense without unnecessary delay and LUL must not commence the construction of the specified works until the engineer has notified LUL that the protective works have been completed to the engineer's reasonable satisfaction.

6.—(1) Any specified work and any protective works to be constructed under paragraph 5(4) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 5;
- (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

(68) 1981 c. 66.

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- (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 Network Rail or the traffic on it or the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of, a specified work, LUL must, regardless of any approval described in sub-paragraph (1)(a), make good such damage and pay to Network Rail all reasonable expenses which Network Rail may incur and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes—

- (a) any liability on LUL with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents; or
- (b) any liability on Network Rail with respect to any damage, costs, expenses or loss attributable to the negligence of LUL or its servants, contractors or agents.

7. LUL must—

- (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 the engineer may reasonably require with regard to a specified work or the method of constructing it.

8. Network Rail must at all times afford reasonable facilities to LUL and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply LUL with such information as it may reasonably require with regard to such works or the method of constructing them.

9.—(1) If any permanent or temporary alterations or additions to railway property, or to any protective works under paragraph 5(4), are reasonably necessary during the construction of a specified work, or during a period of 12 months after the opening for public use of any authorised work that includes a specified work, in consequence of that specified work, such alterations and additions may be carried out by Network Rail and if Network Rail gives to LUL reasonable notice of its intention to carry out such alterations and additions, LUL must pay to Network Rail 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 Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by LUL, Network Rail gives notice to LUL that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if LUL desires that part of the specified work to be constructed, Network Rail must assume construction of that part of the specified work and LUL must, regardless of any such approval of a specified work under paragraph 5(1), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(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 must be set off against any sum payable by LUL to Network Rail under this paragraph.

10. LUL must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of LUL as provided by paragraph 5(3) or in constructing any protective works under the provisions of paragraph 5(4)

- 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 approval by the engineer of plans submitted by LUL and the supervision by the engineer of the construction of a specified work;
 - (c) in respect of the employment or procurement of the services of any inspectors and other persons whom it is reasonably necessary to appoint for inspecting, 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
 - (d) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or consequence of the construction or failure of a specified work.

11.—(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail’s apparatus generated by the operation of the authorised works where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’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 Network Rail 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 applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 5(1) for the relevant part of the authorised works giving rise to EMI (unless LUL 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), LUL must in the design and construction of the authorised works take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

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

- (a) LUL must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 5(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to LUL all information in the possession of Network Rail reasonably requested by LUL in respect of Network Rail’s apparatus identified under sub-paragraph (a); and
- (c) Network Rail must allow LUL reasonable facilities for the inspection of Network Rail’s apparatus identified under sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 5(1) has effect subject to this sub-paragraph.

(6) If at any time prior to the authorised works being open for public use regardless of any measures adopted under sub-paragraph (3), the testing or commissioning of the authorised works causes EMI then LUL must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as

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soon as reasonably practicable after it has been issued) cease to use (or procure the cessation of use of) LUL'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)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) LUL must afford reasonable facilities to Network Rail for access to the LUL's apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to LUL for access to Network Rail's apparatus in the investigation of such EMI; and
- (c) Network Rail must make available to LUL any additional material information in its possession reasonably requested by LUL in respect of Network Rail's apparatus or such EMI.

(8) Where Network Rail approves modifications to Network Rail's apparatus under sub-paragraph (5) or (6)—

- (a) Network Rail must allow LUL reasonable facilities for the inspection of the relevant part of Network Rail's apparatus; and
- (b) any modifications to Network Rail's apparatus approved under those sub-paragraphs must be carried out and completed by LUL in accordance with paragraph 6.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 15(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail 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 Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 10(a) any modifications to Network Rail's apparatus under this paragraph are 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 (arbitration) to the Institution of Civil Engineers is to be read as a reference to the Institution of Electrical Engineers.

12. LUL must 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 Network Rail unless it has first consulted Network Rail and it must comply with Network Rail'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 belonging to Network Rail.

13. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to LUL informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, LUL must, 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.

14. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the date when this Order was made by reason of the existence of a specified work, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to LUL, are to be repaid by LUL to Network Rail.

15.—(1) LUL must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (but subject to article 47 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction or maintenance of a specified work or the failure of such a work; or
- (b) by reason of any act or omission of LUL or of any person in its employment or of its contractors or others whilst engaged upon a specified work,

and LUL must indemnify Network Rail 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 Network Rail on behalf of LUL or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer’s supervision will not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse LUL from any liability under the provisions of this sub-paragraph.

(2) Network Rail must give LUL reasonable notice of any such claim or demand and must make no settlement or compromise of such a claim or demand without the prior consent of LUL.

(3) The sums payable by LUL under sub-paragraph (1) may include a sum equivalent to the relevant costs.

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

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs will, in the event of default, be enforceable directly by any train operator concerned to the extent that the relevant costs would be payable to that train operator under sub-paragraph (4).

(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 Network Rail’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); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 (licences) of the Railways Act 1993.

16. Network Rail must, on receipt of a request from LUL, from time to time provide LUL free of charge with written estimates of the costs, charges, expenses and other liabilities for which LUL is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 15) and with such information as may reasonably enable LUL to assess the reasonableness of any such estimate or claim made or to be made under this Part of this Schedule (including any claim relating to those relevant costs).

17. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must 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 Network Rail 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 LUL under this Part of this Schedule or increasing the sums so payable.

18. LUL must, no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 45 (certification of plans, etc.) are certified by the Secretary of State, provide a set of those plans to Network Rail in the form of a computer disc with read only memory.

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19. LUL and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into and carry into effect agreements for the transfer to LUL 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 Network Rail relating to any railway property.

PART 2

PROTECTION FOR THE LONDON BOROUGHS OF LAMBETH, SOUTHWARK AND WANDSWORTH

20.—(1) The following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between LUL and the appropriate Council.

(2) In this Part of this Schedule—

“the appropriate Council” means—

- (a) the Council of the London Borough of Lambeth, in relation to any authorised work constructed in the area of that council;
- (b) the Council of the London Borough of Southwark, in relation to any authorised work constructed in the area of that council; or
- (c) the Council of the London Borough of Wandsworth, in relation to any authorised work constructed in the area of that council;

“highway” means a street vested in or maintainable by the appropriate Council; and

“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.

21. Before commencing to construct any scheduled work LUL must consult the appropriate 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, that construction is reduced to a minimum; and
- (b) the land within the limits of deviation to be occupied and used by LUL as temporary working sites for the purpose of that construction, the period for which and the manner in which each site is to be used and the steps to be taken by LUL in order to mitigate any injury to amenity.

22. LUL must consult the appropriate Council as to—

- (a) the routes in the appropriate 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 must not be disposed of by LUL in the appropriate Council’s area in any manner that is objected to in writing by the appropriate Council.

23. Before commencing to construct any authorised work which will involve highway operations, LUL must consult the appropriate Council—

- (a) as to the time when that work will be commenced;

(b) as to the extent of the surface of the highway which it may be reasonably necessary for LUL to occupy in the construction of that work; and

(c) as to the conditions under which that work will be constructed,

so as to avoid or minimise inconvenience to the public and to ensure the safety of the public and LUL must also consult the appropriate Council on the measures which the appropriate Council considers necessary to discharge its duty to co-ordinate street works under section 59 of the 1991 Act (general duty of street authority to co-ordinate works) and its network management duty under section 16 of the 2004 Act (the network management duty).

24. Any such highway must be reinstated by LUL in a manner reasonably approved by the appropriate Council and to its reasonable satisfaction.

25. LUL must not, except with the consent of the appropriate Council, deposit any soil, subsoil or materials or stand any vehicle or plant on any highway (except on so much of it as is for the time being temporarily stopped up or occupied under the powers conferred by this Order) so as to obstruct the use of the highway by any person or, except with the same consent, deposit any soil, subsoil or materials on any highway except within a hoarding.

26. Except in an emergency or where reasonably necessary to secure the safety of the public no direction or instruction may be given by the appropriate Council to the contractors, servants or agents of LUL regarding any highway operations without the prior consent in writing of LUL; but the appropriate Council is not liable for any additional costs which may be incurred as a result of the giving of instructions or directions under this paragraph.

27. LUL must, if reasonably so required by the appropriate Council, provide and maintain during such time as LUL 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⁽⁶⁹⁾ in such position as may be necessary to prevent undue interference with the flow of traffic in any highway.

28. LUL must indemnify the appropriate 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 associated apparatus or any other property or work belonging to, or under the jurisdiction or control of, or maintainable by, the appropriate Council on or under any highway which may be caused by, or in consequence of, any act or default of LUL, its contractors, servants or agents but the appropriate Council must give to LUL reasonable notice of any such claim and no settlement or compromise of it may be made without LUL's prior consent.

29. Wherever in this Part of this Schedule provision is made with respect to the approval or consent of the appropriate Council, that approval or consent must be in writing and may be given subject to such reasonable terms and conditions as the appropriate Council may require in the interests of safety and in order to minimise inconvenience to persons using the highway, but must not be unreasonably withheld.

⁽⁶⁹⁾ S.I. 1994/1519.

PART 3

PROTECTION FOR THE ENVIRONMENT AGENCY

30.—(1) The following provisions of this Part of this Schedule have effect unless otherwise agreed in writing between LUL and the Agency.

(2) In this Part of this Schedule—

“the Agency” means the Environment Agency;

“construction” includes execution, placing, altering, replacing, relaying and removal and “construct” and “constructed” are construed accordingly;

“drainage work” means any watercourse and includes any land which provides or is expected to provide flood storage capacity for any watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;

“environmental duties” means the Agency’s duties in the Environment Act 1995(70), the Natural Environment and Rural Communities Act 2006(71) and the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003(72);

“the fishery” means any waters containing fish and the spawn, habitat or food of such fish;

“plans” includes sections, drawings, specifications and method statements;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 16 metres of a drainage work or is otherwise likely to—

- (a) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
- (b) affect the flow, purity or quality of water in any watercourse or other surface waters or ground water;
- (c) cause obstruction to the free passage of fish or damage to any fishery; or
- (d) affect the conservation, distribution or use of water resources; and

“watercourse” includes all drains.

31.—(1) Before beginning to construct any specified work, LUL must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 28 days of the submission of the plans reasonably require.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 41.

(3) Any approval of the Agency required under this paragraph—

- (a) must not be unreasonably withheld;
- (b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval and, in the case of a refusal, accompanied by a statement of the grounds of refusal; and
- (c) may be given subject to such reasonable requirements as the Agency may make for the protection of any drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution or in the discharge of its environmental duties.

(70) 1995 c. 25.

(71) 2006 c. 16.

(72) S.I. 2003/3242.

(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

32. Without limitation on the scope of paragraph 31, the requirements which the Agency may make under that paragraph include conditions requiring LUL at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage; or
- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

33.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 32, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part of this Schedule; and
- (b) to the reasonable satisfaction of the Agency,

and an officer of the Agency is entitled to watch and inspect the construction of such works.

(2) LUL must give to the Agency not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date on which it is brought into use.

(3) If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the Agency may by notice in writing require LUL at LUL's own expense to comply with the requirements of this Part of this Schedule or (if LUL so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Agency reasonably requires.

(4) Subject to sub-paragraph (5) and paragraph 37, if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (3) is served upon LUL, it has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice and any expenditure incurred by it in so doing is recoverable from LUL.

(5) In the event of any dispute as to whether sub-paragraph (3) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency must not except in emergency exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined.

34.—(1) Subject to sub-paragraph (5) LUL must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation or on land held by LUL for the purposes of, or in connection with the specified works, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any such drainage work which LUL is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require LUL to repair and restore the work, or any part of such work, or (if LUL so elects and the Agency in writing consents, such

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consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(3) Subject to paragraph 37, if, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on LUL, LUL has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and may recover any expenditure reasonably incurred by it in so doing from LUL.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the Agency must not except in a case of emergency exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined.

(5) This paragraph does not apply to—

- (a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not prevented by the powers conferred by the Order from doing so; and
- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part of this Schedule.

35. Subject to paragraph 37, if by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by LUL to the reasonable satisfaction of the Agency and if LUL fails to do so, the Agency may make good the impairment or damage and recover from LUL the expense reasonably incurred by it in doing so.

36.—(1) LUL must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in the fishery during the construction of any specified work.

(2) If by reason of—

- (a) the construction of any specified work; or
- (b) the failure of any such work,

damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on LUL requiring it to take such steps as may be reasonably practicable to make good the damage, or, as the case may be, to protect the fishery against such damage.

(3) Subject to paragraph 37, if within such time as may be reasonably practicable for that purpose after the receipt of written notice from the Agency of any damage or expected damage to a fishery, LUL fails to take such steps as are described in sub-paragraph (2), the Agency may take those steps and may recover from LUL the expense reasonably incurred by it in doing so.

(4) Subject to paragraph 37, in any case where immediate action by the Agency is reasonably required in order to secure that the risk of damage to the fishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from LUL the reasonable cost of so doing provided that notice specifying those steps is served on LUL as soon as reasonably practicable after the Agency has taken, or commenced to take, the steps specified in the notice.

37. Nothing in paragraphs 33(4), 34(3), 35, 36(3) and 36(4) authorises the Agency to execute works on or affecting a railway forming part of the authorised works without the prior consent in writing of LUL such consent not to be unreasonably withheld or delayed.

38. LUL must indemnify the Agency in respect of all costs, charges and expenses which the Agency may reasonably incur or have to pay or which it may sustain—

- (a) in the examination or approval of plans under this Part of this Schedule; and

- (b) in the inspection of the construction of the specified works or any protective works required by the Agency under this Part of this Schedule.

39.—(1) Without affecting the other provisions of this Part of this Schedule, LUL must indemnify the Agency from all claims, demands, proceedings, costs, damages, expenses or loss, which may be made or taken against, recovered from, or incurred by, the Agency by reason of—

- (a) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence;
- (b) any damage to the fishery;
- (c) any raising or lowering of the water table in land adjoining the authorised works or any sewers, drains and watercourses;
- (d) any flooding or increased flooding of any such lands; or
- (e) inadequate water quality in any watercourse or other surface waters or in any groundwater,

which is caused by the construction of any of the specified works or any act or omission of LUL, its contractors, agents or employees whilst engaged upon the work.

(2) The Agency must give to LUL reasonable notice of any such claim or demand and no settlement or compromise may be made without the agreement of LUL which agreement must not be unreasonably withheld or delayed.

40. The fact that any work or thing has been executed or done by LUL in accordance with a plan approved or deemed to be approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve LUL from any liability under the provisions of this Part of this Schedule.

41. Any dispute arising between LUL and the Agency under this Part of this Schedule, if the parties agree, is to be determined by arbitration under article 48 (arbitration), but otherwise is to be determined by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Transport acting jointly on a reference to them by LUL or the Agency, after notice in writing by one to the other.

PART 4

PROTECTION FOR ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

Interpretation

42.—(1) The following provisions of this Part of this Schedule have effect unless otherwise agreed in writing between LUL and the undertaker concerned.

(2) The provisions of Schedule 7 (provisions relating to statutory undertakers, etc.), in so far as they relate to the removal of apparatus, do not apply in relation to apparatus to which this Schedule applies.

43. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the undertaker in question to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means—

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- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(73)) belonging to or maintained by that undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;
- (c) in the case of a water undertaker—
 - (i) mains, pipes or other apparatus belonging to or maintained by that undertaker for the purposes of water supply; and
 - (ii) mains, pipes or other apparatus that is the subject of an agreement to adopt made under section 51A of the Water Industry Act 1991(74); and
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested in the undertaker under the Water Industry Act 1991; 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 of that Act,

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 in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over, across, along or upon land;

“plans” includes sections, specifications and method statements; and

“undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
 - (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986(75);
 - (c) a water undertaker within the meaning of the Water Industry Act 1991; and
 - (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,
- for the area of the authorised works, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained.

On-street apparatus

44. This Part of this Schedule does not apply to anything done or proposed to be done in relation to or affecting apparatus in respect of which the relations between LUL and the undertaker are regulated by the provisions of Part 3 of the 1991 Act.

Acquisition of land

45.—(1) Regardless of any provision in this Order or anything shown on the deposited plans LUL must not acquire any apparatus other than by agreement with the undertaker.

(73) 1989 c. 29.

(74) 1991 c. 56.

(75) 1986 c. 44.

(2) LUL may, in the exercise of the powers conferred by this Order, acquire or appropriate any interest in any land in which any apparatus is placed and, following the removal of such apparatus in accordance with the provisions of this Part of this Schedule, any rights in that land relating to that apparatus are extinguished, but that apparatus must not be removed under this Part of this Schedule and any right of an undertaker to use, maintain or renew that apparatus in that land must not be extinguished, until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the undertaker in question.

Removal of apparatus

46.—(1) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, LUL requires the removal of any apparatus placed in that land, it must give to the undertaker in question written notice of that requirement, together with plans of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) LUL must, subject to sub-paragraph (3), afford to the undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of LUL and for the subsequent use, maintenance and renewal of that apparatus.

(2) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of LUL, or LUL is unable to afford such facilities and rights as are mentioned in sub-paragraph (1), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the undertaker in question must, on receipt of a written notice to that effect from LUL, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(3) The obligation imposed on the undertaker under sub-paragraph (2) does not extend to the exercise by the undertaker of any power to acquire any land or rights in land by compulsory purchase order.

(4) Any alternative apparatus to be constructed in land of LUL under this Part of this Schedule is to be constructed in such manner and in such line or situation as may be agreed between the undertaker in question and LUL or in default of agreement settled by arbitration in accordance with article 48 (arbitration).

(5) The undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 48 (arbitration), and after the grant to the undertaker of any such facilities and rights as are referred to in sub-paragraphs (1) or (2), proceed with all reasonable despatch to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by LUL to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if LUL gives notice in writing to the undertaker in question that it desires itself to execute any work to which this sub-paragraph applies, that work, instead of being executed by the undertaker, may be executed by LUL with the prior written consent of the undertaker (which must not be unreasonably withheld or delayed and is to 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 undertaker and the promoter or, in default of agreement, determined by arbitration, with all reasonable despatch under the superintendence, if given, and to the reasonable satisfaction of the undertaker.

(7) In carrying out any work under sub-paragraph (6) LUL must comply with all statutory obligations which would have been applicable had the works been carried out by the undertaker.

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(8) Sub-paragraph (6) applies to any part of any work necessary in connection with construction of alternative apparatus, or the removal of apparatus required to be removed, as will take place in any land of LUL.

(9) Nothing in sub-paragraph (6) authorises LUL to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 600 millimetres of the apparatus.

Facilities and rights for alternative apparatus

47.—(1) Where, in accordance with the provisions of this Part of this Schedule, LUL affords to an undertaker facilities and rights for the construction, use, maintenance and renewal in land of LUL of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between LUL and the undertaker in question or in default of agreement settled by arbitration in accordance with article 48 (arbitration).

(2) In settling those terms and conditions in respect of the alternative apparatus to be constructed across or along the authorised works, the arbitrator must—

- (a) give effect to all reasonable requirements of LUL for ensuring the safety and efficient operation 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 proposed works of LUL or the traffic on the railway; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions if any applicable to the apparatus constructed across or along the authorised works for which the alternative apparatus is to be substituted and to any other reasonable requirements of the undertaker.

(3) If the facilities and rights to be afforded by LUL in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator more or less favourable on the whole to the undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation to or by LUL by or to that undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection and plan approval

48.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 46(1) that are near to, or will or may affect, any apparatus the removal of which has not been required by LUL under paragraph 46(1), LUL must submit to the undertaker in question plans of those works.

(2) Those works are to be executed only in accordance with the plans submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and an officer of the undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by the undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which the plans under sub-paragraph (1) are submitted to it.

(4) If an undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by LUL, reasonably requires the removal of any apparatus and gives written notice to LUL

of that requirement, paragraphs 42 to 47 apply as if the removal of the apparatus had been required by LUL under paragraph 46(1).

(5) Nothing in this paragraph precludes LUL from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, new plans instead of the plans previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plans.

(6) LUL is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the undertaker in question notice as soon as is reasonably practicable and plans of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

(7) Nothing in sub-paragraph (6) entitles LUL to carry out works to any apparatus but, upon receipt of notice from LUL, the undertaker must proceed to carry out such works as may be required without unreasonable delay.

Expenses

49.—(1) Subject to the following provisions of this paragraph, LUL must repay to an undertaker the reasonable expenses incurred by that 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 Part of this Schedule (including any costs reasonably incurred or compensation properly paid in connection with the acquisition of facilities and 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 LUL of any power under this Order; and
- (c) the survey of any land, apparatus or works; the inspection, superintendence and monitoring of works; or the installation or removal of any temporary works reasonably necessary in consequence of the exercise by LUL of any power under this Order; and any other work or thing rendered reasonably necessary in consequence of the exercise by LUL of any such power,

within a reasonable time of being notified by the undertaker that it has incurred such expenses.

(2) The value of any apparatus removed under the provisions of this Part of this Schedule is to be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) alternative 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 currently available type; 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 situated,

and the placing of apparatus of that type or capacity or those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by LUL or, in default of agreement, is not determined by arbitration in accordance with article 48 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule 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 undertaker in question by virtue of sub-paragraph (1), is to be reduced by the amount of that excess.

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(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as 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 cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to an undertaker in respect of works by virtue of sub-paragraph (1) must, 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 undertaker any financial benefit by deferment of the time for renewal of the apparatus in the normal 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.

(6) In any case where work is carried out by LUL under paragraphs 46(6) to (8) and, if such work had been carried out by the undertaker, the repayment made to the undertaker under sub-paragraph (1) would fall to be reduced under sub-paragraphs (3) to (5), the undertaker must pay to the LUL such sum as represents the amount of that reduction.

Indemnity

50.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction, maintenance or failure of any of the authorised works, any damage is 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 property of an undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any undertaker, LUL must bear and pay the cost reasonably incurred by that undertaker in making good such damage or restoring the supply, and must—

- (a) make reasonable compensation to that undertaker for any other expenses, loss, damages, penalty or costs incurred by the undertaker; and
- (b) indemnify the undertaker against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from, or incurred by, the 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 undertaker on behalf of LUL or in accordance with plans approved by the undertaker or in accordance with any requirement of the undertaker or under its supervision does not, subject to sub-paragraph (2), excuse LUL from any liability under the provisions of this paragraph.

(2) Nothing in sub-paragraph (1) imposes any liability on LUL with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an undertaker, its officers, servants, contractors or agents.

(3) An undertaker must give LUL reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of LUL, which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Access

51. If in consequence of the exercise of the powers conferred by this Order the access to any apparatus is materially obstructed LUL must provide such alternative means of access to that apparatus as will enable the undertaker to maintain or use the apparatus no less effectively than was possible before the obstruction.

Cooperation

52. Where in consequence of the proposed construction of any of the authorised works, LUL or the undertaker requires the removal of apparatus under paragraph 46(1) or the undertaker makes requirements for the protection or alteration of apparatus under paragraph 48(2), LUL must 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 the undertaker must use all reasonable endeavours to co-operate with LUL for that purpose.

Exercise of safeguarding and survey powers

53.—(1) LUL must, so far as is reasonably practicable, so exercise the powers conferred by article 18 (protective works to buildings) so as not to obstruct or render less convenient the access to any apparatus.

(2) LUL must not, in the exercise of the powers conferred by section 11(3) of the 1965 Act (powers of entry), as applied by this Order, or by article 20 (power to survey and investigate land, etc.), make any trial holes which interfere with any apparatus without the consent of the undertaker (which must not be unreasonably withheld).

Arbitration

54. Any difference arising between LUL and an undertaker under this Part of this Schedule (other than a difference as to its meaning or construction) must be determined by arbitration in the manner provided by article 48 (arbitration) and in determining any difference under this Part of this Schedule the arbitrator may, if the arbitrator thinks fit, require LUL 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.

PART 5

PROTECTION FOR OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

55.—(1) The following provisions of this Part of this Schedule have effect unless otherwise agreed in writing between LUL and the operator.

(2) In this Part of this Schedule—

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system are to be construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

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“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the Communications Act 2003⁽⁷⁶⁾;

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the Communications Act 2003; and
- (b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the Communications Act 2003; and

“operator” means the operator of an electronic communications code network.

56.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the construction of the authorised works, or of any subsidence resulting from any of those works—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (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 an operator; or
- (b) there is any interruption in the supply of the service provided by an operator,

LUL must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and must—

- (i) make reasonable compensation to an operator for loss sustained by it; and
- (ii) indemnify an operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, an operator by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on LUL with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give LUL reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand may be made without the consent of LUL which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between LUL and the operator under this paragraph is to be referred to and settled by arbitration under article 48 (arbitration).

57. This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between LUL and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised works.

(76) 2003 c. 21. See section 106.

PART 6

PROTECTION FOR THE PORT OF LONDON AUTHORITY

General

58. In this Part of this Schedule—

“construction” includes execution, placing, relaying, renewal and works of maintenance and, in its application to a specified work which includes or comprises any operation, means the carrying out of that operation and “construct” and “constructed” have corresponding meanings;

“the PLA” means the Port of London Authority;

“plans” includes plans, sections, elevations, drawings, specifications and programmes and construction methods including, where applicable, such relevant hydraulic information about the River Thames as may be reasonably requested by the PLA; and

“specified work” means any authorised work, wherever situated, any part of which—

- (a) is, or may be, in, on, under or over the surface of land below mean high water level forming part of the River Thames; or
 - (b) may affect the River Thames or any function of the PLA,
- including any projection over the River Thames by any authorised work or any plant or machinery.

59. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between LUL and the PLA.

Approval of detailed design

60.—(1) LUL must not commence any specified work until plans of the work have been approved in writing by the PLA.

(2) LUL must submit to the PLA plans of the specified work and such further particulars as the PLA may, within 28 days starting with the day on which plans are submitted under this sub-paragraph, reasonably require, and the particulars so supplied are to provide all information necessary to enable the PLA to determine whether approval should be given and, if so, whether conditions should be imposed.

(3) Any approval of the PLA required under this paragraph must not be unreasonably withheld but may be given subject to such reasonable modifications, terms and conditions as the PLA may make for the protection of—

- (a) traffic in, or the flow or regime of, the River Thames;
- (b) the use of its land, or the River Thames, for the purposes of performing its functions; or
- (c) the performance of any of its functions connected with environmental protection.

(4) Requirements made under sub-paragraph (3) may include conditions as to—

- (a) the proposed location of any temporary work and its dimensions;
- (b) the programming of temporary works;
- (c) the removal of any temporary work and the undertaking by LUL of any related work or operation that the PLA considers to be necessary for the purpose of removing or preventing any obstruction to navigation;
- (d) the relocation, provision and maintenance of works, moorings, apparatus and equipment necessitated by the specified work; and

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(e) the expiry of the approval if LUL does not commence construction or carrying out of the approved specified work within a prescribed period.

(5) Subject to sub-paragraph (6), an application for approval under this paragraph is deemed to have been refused if it is neither given nor refused within 28 days of the specified day.

(6) An approval of the PLA under this paragraph is not deemed to have been unreasonably withheld if approval within the time limited by sub-paragraph (5) has not been given pending the outcome of any consultation on the approval in question that the PLA is obliged to carry out in the proper exercise of its functions.

(7) LUL must carry out all operations for the construction of any specified work without unnecessary delay and to the reasonable satisfaction of the PLA so that traffic in, or the flow or regime of, the River Thames, and the exercise of the PLA's functions, do not suffer more interference than is reasonably practicable. The PLA is entitled at all reasonable times, on giving such notice as may be reasonable in the circumstances, to inspect and survey those operations and LUL must provide all reasonable facilities to enable that inspection and survey to take place.

(8) In this paragraph "the specified day" means, in relation to any specified work—

- (a) the day on which plans and sections of that work are submitted to the PLA under sub-paragraph (1); or
- (b) the day on which LUL provides the PLA with all further particulars of the work that have been requested by the PLA under that sub-paragraph,

whichever is the later.

61.—(1) This paragraph applies to any specified work that includes or is ancillary to any jetty modification comprised in Work No. 10.

(2) When LUL submits for approval under paragraph 60 plans of any specified work to which this paragraph applies it must state whether the work is intended to be temporary or permanent.

(3) If at any time before the completion of construction of the authorised works LUL decides that, contrary to the statement given under sub-paragraph (2), a work to which this paragraph applies should be permanent or temporary, as the case may be, it must without delay apply to the PLA for confirmation of approval of the specified work.

(4) On making any application under this paragraph LUL must provide the PLA with any revised plans of the specified work together with such further information as the PLA may, within 28 days starting with the date on which the application is made, reasonably require.

(5) Any approval of the PLA required under this paragraph must not be unreasonably withheld but paragraph 60(3) applies.

(6) Conditions imposed by the PLA under paragraph 60(3) or sub-paragraph (5) may include (in the case of a permanent work) conditions as to the future ownership and maintenance of the work, and in the absence of appropriate arrangements regarding ownership and maintenance it is reasonable for the PLA to withhold approval under this paragraph.

(7) The removal of any temporary work to which this paragraph applies and any required removal of materials, plant and equipment or making good must be carried out to the reasonable satisfaction, and subject to the supervision (if given), of the PLA.

Discharges, etc.

62.—(1) LUL must not without the consent of the PLA exercise the powers conferred by article 16 (discharge of water) so as to—

- (a) deposit in or allow to fall or be washed into the River Thames any gravel, soil or other material;

(b) discharge or allow to escape either directly or indirectly into the River Thames any offensive or injurious matter in suspension or otherwise; or

(c) directly or indirectly discharge any water into the River Thames.

(2) LUL must not without the consent of the PLA exercise the powers conferred by article 17 (water abstraction) so as to—

(a) adversely affect the regime of the River Thames; or

(b) impair the effective operation for drainage purposes of any drainage work, channel or watercourse.

(3) Any consent of the PLA under this paragraph must not be unreasonably withheld but may be given subject to such terms and conditions as the PLA may reasonably impose.

(4) Any consent under this paragraph is deemed to have been given if it is neither given nor refused (or is refused but without an indication of the grounds for refusal) within 35 days of the day on which the request for consent is submitted under sub-paragraph (1).

(5) Any discharge of water under article 16 or, as the case may be, any abstraction under article 17 is subject to the terms of any conditions attached to a consent given under this paragraph to that discharge or abstraction.

63. LUL must not, in exercise of the powers conferred by article 16 (discharge of water), or article 17 (water abstraction) damage or interfere with the beds or banks of any watercourse forming part of the River Thames unless such damage or interference is approved as a specified work under this Order or is otherwise approved in writing by the PLA.

Navigational lights, buoys, etc.

64. Unless and until such time as a specified work is licensed under section 66 of the 1968 Act (licensing of works) or removed, LUL must, at or near that work, and any other work of which LUL is in possession in exercise of any of the powers conferred by this Order (being in either case a work which is below mean high water level), exhibit such lights, lay down such buoys and take such other steps for preventing danger to navigation as the PLA may from time to time reasonably require.

Directions as to lights

65. Unless and until such time as a specified work is licensed under section 66 of the 1968 Act (licensing of works) or removed, LUL must comply with any reasonable directions of the Harbour Master from time to time with regard to the lighting of that specified work, or the screening of such lighting, so as to ensure that it is not a hazard to navigation on the River Thames.

Removal of temporary works

66. On completion of the construction of any part of a permanent specified work that is below mean high water level, LUL must as soon as practicable remove—

(a) any temporary specified work carried out only for the purposes of that part of the permanent work; and

(b) any materials, plant and equipment used for such construction,

and must make good the site to the reasonable satisfaction of the PLA.

Protective action

67.—(1) If any specified work—

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(a) is constructed otherwise than in accordance with the requirements of this Schedule or with any condition in an approval given under paragraph 60(3); or

(b) during construction gives rise to sedimentation, scouring, currents or wave action, which would be materially detrimental to traffic in, or the flow or regime of, the River Thames,

then the PLA may by notice in writing require LUL at LUL's own expense to comply with the remedial requirements specified in the notice.

(2) The requirements that may be specified in a notice given under sub-paragraph (1) are—

(a) in the case of a specified work to which sub-paragraph (1)(a) applies, such requirements as may be specified in the notice for the purpose of giving effect to the requirements of—

(i) this Schedule; or

(ii) the condition that has been breached; or

(b) in any case within sub-paragraph (1)(b), such requirements as may be specified in the notice for the purpose of preventing, mitigating or making good the sedimentation, scouring, currents or wave action so far as required by the needs of traffic in, or the flow or regime of, the River Thames.

(3) If LUL does not comply with a notice under sub-paragraph (1), or is unable to do so then the PLA may in writing require LUL to—

(a) remove, alter or pull down the specified work, and where the specified work is removed to restore the site of that work (to such extent as the PLA reasonably requires) to its former condition; or

(b) take such other action as the PLA may reasonably specify for the purpose of remedying the non-compliance to which the notice relates.

(4) If a specified work gives rise to environmental impacts over and above those anticipated by any environmental document, LUL must, in compliance with its duties under any enactment, take such action as is necessary to prevent or mitigate those environmental impacts and in so doing must consult and seek to agree the necessary measures with the PLA.

(5) If the PLA becomes aware that any specified work is causing an environmental impact over and above those anticipated by any environmental document, the PLA must notify LUL of that environmental impact, the reasons why the PLA believes that the environmental impact is being caused by the specified work and of measures that the PLA reasonably believes are necessary to counter or mitigate that environmental impact. LUL must implement either the measures that the PLA has notified to LUL or such other measures as LUL believes are necessary to counter the environmental impact identified, giving reasons to the PLA as to why it has implemented such other measures.

(6) In this paragraph “environmental document” means—

(a) the environmental statement prepared for the purposes of the application for this Order together with any supplementary environmental statement or other document so prepared by way of clarification or amplification of the environmental statement; and

(b) any other document containing environmental information provided by LUL to the PLA for the purposes of any approval under paragraph 60.

68.—(1) If a specified work is abandoned or falls into decay, the PLA may by notice in writing require LUL to take such reasonable steps as may be specified in the notice either to repair or restore the specified work, or any part of it, or to remove the specified work and (to such extent and within such limits as the PLA reasonably requires) restore the site of that work to its condition prior to the construction of the specified work.

(2) If any specified work is in such condition that it is, or is likely to become, a danger to or an interference with navigation in the River Thames, the PLA may by notice in writing require LUL to take such reasonable steps as may be specified in the notice—

- (a) to repair and restore the work or part of it; or
- (b) if LUL so elects, to remove the specified work and (to such extent as the PLA reasonably requires) to restore the site to its former condition.

(3) If on the expiration of such reasonable period as may be specified in a notice under this paragraph the work specified in the notice has not been completed to the satisfaction of the PLA, the PLA may undertake that work and any expenditure reasonably incurred by the PLA in so doing is recoverable from LUL.

Facilities for navigation

69.—(1) LUL must not in the exercise of the powers conferred by this Order interfere with any marks, lights or other navigational aids in the river without the consent of the PLA, and must ensure that access to such aids remains available during and following construction of any specified work.

(2) LUL must provide at any specified work, or must afford reasonable facilities at such work (including an electricity supply) for the PLA to provide at LUL's cost, from time to time such navigational lights, signals, radar or other apparatus for the benefit, control and direction of navigation as the PLA may deem necessary by reason of the construction and presence of the specified work and must ensure access remains available to such facilities during and following construction of the specified work until such time as the specified work is licensed under section 66 of the 1968 Act (licensing of works) or removed.

Survey of riverbed

70.—(1) Before the commencement of construction of the first specified work below mean high water level to be constructed following approval under paragraph 60, the PLA may, at LUL's expense (such expense to be that which is reasonably incurred), carry out a survey of such parts of the River Thames as might be affected by sedimentation, scouring, currents or wave action that might result from the construction of such of the authorised works as would constitute specified works below mean high water level if they were to be constructed, for the purposes of establishing the condition of the River Thames at that time.

(2) Before the commencement of construction of any other specified work approved under paragraph 60, the PLA may, at LUL's expense (such expense to be that which is reasonably incurred), carry out a survey of such parts of the River Thames as might be affected by sedimentation, scouring, currents or wave action resulting from that specified work for the purpose of establishing the condition of the River Thames at that time.

(3) The PLA may, at LUL's expense (such expense to be that which is reasonably incurred), carry out such surveys of the River Thames as are reasonably required during the construction of any specified work to ascertain the effect of that specified work on the River Thames and the PLA must make available to LUL the results of any such survey.

(4) After completion of, respectively, any specified work and all the specified works constructed under this Order, the PLA may, at LUL's expense (such expense to be that which is reasonably incurred) carry out a further survey of the parts of the River Thames which were surveyed prior to the construction of that work, or as the case may be a survey of the completed specified works as so constructed, for the purpose of establishing the condition of the River Thames and the effect that the specified work is, or as the case may be the specified works are, having on navigation, the flow and the regime of the River Thames and the exercise of the PLA's functions.

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(5) The PLA must not under this paragraph carry out a survey of any part of the River Thames as respects which LUL has provided to the PLA survey material which the PLA is satisfied establishes the condition of the River Thames, and in the case of a survey under sub-paragraph (3), the effect of the specified work, or as the case may be the specified works.

Interaction with other infrastructure projects

71.—(1) This paragraph applies when—

- (a) LUL is carrying out the authorised works;
- (b) any other person (an “undertaker”) is taking preliminary action or carrying out works or operations (any of which is an “other work”) preparatory to or in connection with any other infrastructure project for which authorisation has been sought or given; and
- (c) both the authorised works and the other work are being carried out in, on, over, under or making use of the River Thames at the same time.

(2) When this paragraph applies LUL must participate in and assist with the taking of reasonable measures in order to ensure that the safety of navigation on the River Thames is not adversely affected by reason of the carrying out of the authorised works and any other work.

(3) The obligations of LUL under this paragraph commence at such time as an undertaker commences any other work whilst the authorised works are being carried out in, on, over, under or making use of the River Thames and continue from time to time whenever sub-paragraph (1) (c) applies.

(4) The reasonable measures referred to in sub-paragraph (2) are to be such as—

- (a) are agreed between the PLA and LUL or, failing such agreement, as are determined in accordance with article 48 (arbitration); and
- (b) proportionately reflect the extent to which, as between the authorised works and any other work, the need for any measure is attributable to the carrying out of the authorised works.

(5) LUL and the PLA must each take such steps as are reasonably practicable, in so far as compatible with their statutory functions, to secure that an undertaker assumes or is made subject to obligations in relation to any other work that are equivalent to those placed upon LUL by this paragraph.

Statutory functions

72. Subject to article 4(9) (power to construct and maintain works) the exercise in, under or over the River Thames by LUL of any of its functions under this Order is subject to—

- (a) any enactment relating to the PLA;
- (b) any byelaw, direction or other requirement made by the PLA or the Harbour Master under any enactment; and
- (c) any other exercise by the PLA or the Harbour Master of any function conferred by or under any enactment.

Indemnity

73.—(1) LUL is responsible for and must make good to the PLA all costs, charges, damages losses or expenses which may be incurred reasonably or suffered by the PLA by reason of —

- (a) the construction or operation of a specified work or its failure;
- (b) the exercise of any other power under this Order; or

- (c) any act or omission of LUL, its employees, contractors or agents or others whilst engaged on the construction or operation of a specified work or dealing with any failure of a specified work,

and LUL must indemnify the PLA from and against all claims and demands arising out of or in connection with the specified works or any such failure, act or omission.

(2) The fact that any act or thing may have been done—

- (a) by the PLA on behalf of LUL; or
- (b) by LUL, its employees, contractors or agents in accordance with plans or particulars submitted to or modifications or conditions specified by the PLA, or in a manner approved by the PLA, or under its supervision or the supervision of its duly authorised representative,

does not (if it was done or required without negligence on the part of the PLA or its duly authorised representative, employee, contractor or agent) excuse LUL from liability under the provisions of this paragraph.

(3) The PLA must give LUL reasonable notice of any such claim or demand as is referred to in sub-paragraph (1) and no settlement or compromise of it is to be made without the prior consent of LUL.

Compensation for river bed

74. Regardless of article 4(9)(a), and unless otherwise agreed in writing between LUL and the PLA, compensation is payable to the PLA in respect of any specified work below mean high water level and any rights required in connection with such a specified work as if LUL had been required—

- (a) to obtain a licence for the work under section 66 (licensing of works) of the 1968 Act; and
- (b) to pay consideration for the licence determined in accordance with the provisions of section 67 (consideration for licence) of that Act;

and the PLA's reasonable costs incurred in connection with the determination of such compensation is recoverable from LUL.

Disposals, etc.

75. LUL must within 7 days after the completion of any sale, agreement or other transaction under paragraph (1) or (2) of article 41 (powers of disposal, agreements for operation, etc.) in relation to which any powers, rights and obligations of LUL are transferred to another party, notify the PLA in writing, and the notice must include particulars of the other party to the transaction under article 41, the general nature of the transaction and details of the extent, nature and scope of the works or functions sold, transferred or otherwise dealt with.

Disputes

76. Any dispute arising between LUL and the PLA under this Part of this Schedule is to be determined by arbitration as provided in article 48 (arbitration).

PART 7

PROTECTION FOR THE MARINE MANAGEMENT ORGANISATION

77.—(1) The following provisions of this Part of this Schedule have effect unless otherwise agreed in writing between LUL and the MMO.

(2) In this Part of this Schedule—

“the MMO” means the Marine Management Organisation;

“construction” includes execution, placing, altering, replacing, relaying and removal and “construct” and “constructed” are to be construed accordingly;

“plans” includes sections, drawings, specifications and method statements;

“specified work” means so much of any authorised work as is—

- (a) a licensable marine activity under section 66 (licensable marine activities) of the 2009 Act;
 - (b) not exempt from requiring a marine licence by virtue of an order made under section 74 (exemptions specified by order) of the 2009 Act; and
 - (c) over, in, on, or under that part of the UK marine area that is within the river area; and
- “UK marine area” has the definition given to it in section 42 (UK marine area) of the 2009 Act.

78.—(1) Before beginning to construct or carry out any specified work, LUL must submit to the MMO plans of the specified work and such further particulars available to LUL as the MMO may within 28 days of the submission of the plans reasonably require.

(2) Any specified work must not be constructed or carried out except in accordance with such plans as may be approved in writing by the MMO, or determined under paragraph 85.

(3) Any approval of the MMO required under this paragraph—

- (a) must not be unreasonably withheld;
- (b) must be given or refused within 3 months of the specified day, and in the case of a refusal, will be accompanied by a statement of the grounds of refusal; and
- (c) may be given subject to such reasonable requirements as the MMO may make for the protection of the cleanliness, safety, productivity and biological diversity of the River Thames or otherwise in the discharge of the MMO’s statutory duties.

(4) The MMO must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

(5) In this paragraph, “the specified day” means, in relation to any specified work—

- (a) the day on which plans of that work are submitted to the MMO under sub-paragraph (1); or
- (b) the day on which LUL provides the MMO with all further particulars of the specified work that have been requested by the MMO under that sub-paragraph,

whichever is the later.

79. Without limitation on the scope of paragraph 78, the requirements which the MMO may make under that paragraph include conditions in relation to any specified work as to—

- (a) the method or manner in which it is carried out;
- (b) the times of year at which it may be carried out;
- (c) the handling (other than disposal) of dredged material; and
- (d) appropriate and proportionate mitigation measures to minimise any adverse impacts on the marine environment, marine biota (in particular, migratory fish species) and archaeological and heritage assets.

80. Where any specified work involves dredging, the plans submitted under paragraph 78(1) must include the results of laboratory testing of the material to be dredged. This testing must be undertaken by a laboratory which is accredited to the standard required by the MMO and the tests undertaken must be to the standard accepted by the MMO.

81.—(1) Subject to sub-paragraph (2), any specified work must be constructed or carried out—

- (a) in accordance with the plans approved in writing by the MMO or determined under this Part of this Schedule; and
- (b) to the reasonable satisfaction of the MMO.

(2) LUL must give to the MMO not less than 14 days’ notice in writing of LUL’s intention to commence construction or the carrying out of any specified work and LUL must also give to the MMO notice in writing of the completion of the work not later than 7 days after the date on which the work is completed.

82. Where there is any actual or potential conflict between any requirements imposed by the Environment Agency under Part 3 of this Schedule and any requirement made by the MMO under paragraph 78, the MMO must liaise with the Environment Agency in order to seek expeditiously to remove that actual or potential conflict but if it persists, then the requirement of the MMO may be referred for determination under paragraph 85.

83. Where there is any actual or potential conflict between any terms and conditions imposed by the Port of London Authority under Part 6 of this Schedule and any requirement made by the MMO under paragraph 78, the MMO must liaise with the Port of London Authority in order to seek expeditiously to remove that actual or potential conflict but if it persists, then the requirement of the MMO may be referred for determination under paragraph 85.

84. LUL must indemnify the MMO in respect of all costs, charges and expenses which the MMO may reasonably incur or have to pay or which it may sustain—

- (a) for any sediment analyses and testing including the interpretation of the results;
- (b) in the examination or approval of plans under this Part of this Schedule; and
- (c) in the inspection of the construction of the specified works under sections 246 (power to board and inspect vessels and marine installations) to 248 (power to enter and inspect vehicles) of the 2009 Act.

85. Any dispute arising between LUL and the MMO under this Part of this Schedule is to be determined by arbitration under article 48 (arbitration) if the parties agree, but otherwise is to be determined by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Transport acting jointly on a reference to them by LUL or the MMO, after giving notice in writing by one to the other.

SCHEDULE 9

Article 40

TEMPORARY TRAFFIC REGULATION

PART 1

PARKING PLACES

(1) <i>Road</i>	(2) <i>Side</i>	(3) <i>Description</i>	(4) <i>Notes</i>
London Borough of Southwark			
Kennington Park Place	Southern	Suspension of 13 parking places from a point 15	Parking places to be suspended to provide

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<i>(1)</i> <i>Road</i>	<i>(2)</i> <i>Side</i>	<i>(3)</i> <i>Description</i>	<i>(4)</i> <i>Notes</i>
		metres west of the junction with De Laune Street to a location 80 metres east of this point	access for construction vehicles to and from the Kennington Park worksite
London Borough of Lambeth			
Montford Place	Northern	Creation of 2 Car Club parking places opposite No. 362 Kennington Road	Parking places to be created to replace two Car Club parking places suspended due to the Kennington Green worksite
Pascal Street	Northern	Suspension of 12 parking places and 5 motorcycle parking places	Parking places to be suspended to ensure two way traffic on Pascal Street

PART 2 BUS LANES

<i>(1)</i> <i>Road</i>	<i>(2)</i> <i>Side</i>	<i>(3)</i> <i>Description</i>	<i>(4)</i> <i>Notes</i>
London Borough of Lambeth			
Kennington Road (A23)	Western	Suspension of 80 metres of northbound bus lane adjacent to Kennington Green worksite	Bus lane needs to be suspended to make space for the Kennington Green worksite
London Borough of Wandsworth			
Battersea Park Road	Northern	Conversion of 60 metres of the eastbound bus lane to a general traffic lane between 75 and 101 Battersea Park Road	Modification made in order to accommodate new temporary signalised junction at the access point to the Battersea station worksite opposite 77-89 Battersea Park Road

<i>(1)</i> <i>Road</i>	<i>(2)</i> <i>Side</i>	<i>(3)</i> <i>Description</i>	<i>(4)</i> <i>Notes</i>
	Southern	Conversion of 90 metres of the westbound bus lane to a general traffic lane between 75 and 101a Battersea Park Road	Modification made in order to accommodate new temporary signalised junction at the access point to the Battersea station worksite opposite 77-89 Battersea Park Road

PART 3
PEDESTRIAN CROSSINGS

<i>(1)</i> <i>Road</i>	<i>(2)</i> <i>Side</i>	<i>(3)</i> <i>Description</i>	<i>(4)</i> <i>Notes</i>
London Borough of Lambeth			
Kennington Road (A23)	Western and eastern	Suspension of pedestrian crossing perpendicular to Kennington Green	Suspension necessitated by the existence of the Kennington Green worksite hoardings at the western edge of the crossing
London Borough of Wandsworth			
Battersea Park Road	Northern and southern	Installation of signalised crossing opposite 77-89 Battersea Park Road to serve Battersea station worksite (incorporating existing dual pelican crossing at Thessaly Street)	Installation is required to ensure the safe movement of construction vehicles to and from the Battersea station worksite

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises London Underground Limited to construct and operate an extension to the Northern line from Kennington station in the London Boroughs of Lambeth and Southwark to a new station at the site of the disused Battersea Power Station in the London Borough of Wandsworth with an intermediate station at Nine Elms, Vauxhall.

The Order authorises the compulsory acquisition and the temporary use of land for the purposes of the works and confers other powers in connection with the construction and operation of the works.

A copy of the deposited plans, the deposited sections and the book of reference mentioned in the Order and certified in accordance with article 45 (certification of plans, etc.) may be inspected free of charge during normal working hours at the offices of London Underground Limited at Windsor House, 42 – 50 Victoria Street, London SW1H 0TL.