
STATUTORY INSTRUMENTS

2015 No. 2044

TRANSPORT AND WORKS, ENGLAND
TRANSPORT, ENGLAND

The London Underground (Bank
Station Capacity Upgrade) Order 2015

Made - - - - 22nd December
2015
Coming into force - - 12th January 2016

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 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The Secretary of State, having considered the objections made and not withdrawn, and the report of the person who held the inquiry, has determined to make an Order giving effect to the proposals comprised in the application with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 18th December 2015.

The Secretary of State, in exercise of the powers conferred by sections 1 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 (Bank Station Capacity Upgrade) Order 2015 and comes into force on 12th January 2016.

⁽¹⁾ [S.I. 2006/1466](#).

⁽²⁾ [1992 c. 42](#). Section 1 was amended by the Planning Act 2008 ([c. 29](#)), section 36, Schedule 2, paragraphs 51 and 52; section 5 was amended by [S.I. 2012/1659](#).

Interpretation

2. In this Order—

- “the 1961 Act” means the Land Compensation Act 1961⁽³⁾;
- “the 1965 Act” means the Compulsory Purchase Act 1965⁽⁴⁾;
- “the 1984 Act” means the Road Traffic Regulation Act 1984⁽⁵⁾;
- “the 1980 Act” means the Highways Act 1980⁽⁶⁾;
- “the 1990 Act” means the Town and Country Planning Act 1990⁽⁷⁾;
- “the 1991 Act” means the New Roads and Street Works Act 1991⁽⁸⁾;
- “the 2004 Act” means the Traffic Management Act 2004⁽⁹⁾;
- “the access to works and permanent stopping up of streets plan” means the plan certified by the Secretary of State as the access to works and permanent stopping up of streets plan for the purposes of this Order;
- “address” includes any number or address used for the purposes of electronic transmission;
- “authorised railway” means the railway forming part of the authorised works;
- “authorised works” means the scheduled works and any other works authorised by this Order;
- “Bank station” means the Bank Monument Station Complex comprising Bank and Monument London Underground stations which serve the Company’s District, Circle, Waterloo & City, Central and Northern Lines and Bank station serving the Docklands Light Railway including all platforms, subways, passages, ticket halls and station entrances and exits serving those stations;
- “building” includes any structure or erection or any part of a building, structure or erection;
- “the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;
- “carriageway” has the same meaning as in the 1980 Act;
- “the Company” means London Underground Limited (Company registration number 01900907) whose registered office is Windsor House, 42-50 Victoria Street, London SW1H 0TL;
- “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;
- “highway” and “highway authority” have the same meaning as in the 1980 Act;
- “the land plan” means the plan certified by the Secretary of State as the land plan for the purposes of this Order;
- “the limits of deviation” means the limits of deviation for the scheduled works shown on the works plans;
- “maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace, and “maintenance” is to be construed accordingly;

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

“the Order limits” means the limits of land to be acquired or used shown on the land plan and described in the book of reference;

“owner”, in relation to land, has the same meaning as in the Acquisition of Land Act 1981⁽¹⁰⁾;

“pile interception works” means works to remove, modify, reconstruct, alter, replace or interfere with piles, caissons, foundations and other subterranean structures which may otherwise obstruct or interfere with the construction of Works Nos. 1, 4, or 19;

“the scheduled works” means the works specified in Schedule 1 (scheduled works) or any part of them;

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

“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;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plans” means the plans certified by the Secretary of State as the works plans for the purposes of this Order.

(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 air-space above its surface.

(3) 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.

Incorporation of Railways Clauses Acts

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845⁽¹¹⁾ are incorporated in this Order—

section 58⁽¹²⁾ (company to repair roads used by them), except for the words from “and if any question” to the end;

section 68 (accommodation works by company);

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

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

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

sections 78 to 85E⁽¹³⁾ and Schedules 1 to 3 (minerals under railways), as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923⁽¹⁴⁾;

section 103⁽¹⁵⁾ and 104 (refusal to quit carriage at destination);

⁽¹⁰⁾ 1981 c. 67.

⁽¹¹⁾ 1845 c. 20.

⁽¹²⁾ Section 58 was amended by section 46 of, and part 3 of Schedule 7 to, the Justices of the Peace Act 1949 (c. 101).

⁽¹³⁾ Section 84, as substituted, was amended by part 3 of Schedule 7 to the Justices of the Peace Act 1949 (c. 101) and section 46 of the Criminal Justice Act 1982 (c. 48). Section 85C, as substituted, was amended by virtue of section 17(2)(a) of the Interpretation Act 1978 (c. 30).

⁽¹⁴⁾ 1923 c. 20.

⁽¹⁵⁾ Section 103 was amended by the Statute Law Revision Act 1892 (c. 19), part 3 of Schedule 7 to the Justices of the Peace Act 1949 (c. 101) and section 46 of the Criminal Justice Act 1982 (c. 48).

section 105 (carriage of dangerous goods on railway); and
 section 145⁽¹⁶⁾ (recovery of penalties).

(2) Section 12 (signals, watchmen etc.) of the Railways Clauses Act 1863⁽¹⁷⁾ is incorporated in this Order.

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

“goods” includes any thing conveyed on the railway authorised to be constructed by this Order;

“lease” includes an agreement for a lease;

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

“the railway” means any railway authorised to be constructed by this Order and any other authorised works;

“the special Act” means this Order; and

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

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

4.—(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 (street works in England and Wales) of the 1991 Act 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⁽¹⁸⁾ of the 1980 Act (dual carriageways and roundabouts).

(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 the Company.

(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 resurfacing);

section 78A (contributions to costs of re-surfacing by undertaker); and

Schedule 3A (restriction on works following substantial street works).

⁽¹⁶⁾ Section 145 was amended by the Statute Law Revision Act 1892 (c. 19) and part 2 of Schedule 12 to the Transport Act 1962 (c. 46).

⁽¹⁷⁾ 1863 c. 92.

⁽¹⁸⁾ As amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and Schedule 9 to the New Roads and Street Works Act 1991 (c. 22).

(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 the Company under the powers conferred by article 13 (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⁽¹⁹⁾ referred to in paragraph (4) are—

- section 54⁽²⁰⁾ (advance notice of certain works), subject to paragraph (6);
- section 55⁽²¹⁾ (notice of starting date of works), subject to paragraph (6);
- section 57⁽²²⁾ (notice of emergency works);
- section 59⁽²³⁾ (general duty of street authority to co-ordinate works);
- section 60 (general duty of undertakers to co-operate);
- section 68 (facilities to be afforded to street authority);
- section 69 (works likely to affect other apparatus in the street);
- section 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 (5) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 15 (construction and maintenance of new or altered streets)—

- (a) affects the operation of section 87 of the 1991 Act (prospectively maintainable highways); and the Company is not by reason of any duty under that article to maintain a street to be taken to be a street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) has effect in relation to street works with regard to which the provisions of Part 3 of the 1991 Act apply.

Disapplication and modification of legislative provisions

5. Section 6 of the Ecclesiastical Jurisdiction Measure 1963⁽²⁴⁾, section 7 of the Faculty Jurisdiction Measure 1964⁽²⁵⁾ and Part 3 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991⁽²⁶⁾ do not apply to anything done under the powers conferred by this Order in relation to the lands numbered 108, 109 and 110 shown on the land plan.

⁽¹⁹⁾ Sections 54, 55, 57, 60, 68 and 69 were amended by section 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

⁽²⁰⁾ As also amended by section 49(1) of the Traffic Management Act 2004.

⁽²¹⁾ As also amended by section 49(2) and 51(9) of the Traffic Management Act 2004.

⁽²²⁾ As also amended by section 52(3) of the Traffic Management Act 2004.

⁽²³⁾ As amended by section 42 of the Traffic Management Act 2004.

⁽²⁴⁾ 1963 No. 1

⁽²⁵⁾ 1964 No. 5

⁽²⁶⁾ 1991 No. 1

PART 2

WORKS PROVISIONS

Principal powers

Power to construct and maintain works

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

(2) Subject to article 7 (power to deviate), the scheduled works may only be constructed in the lines or situations shown on the works plans and in accordance with the levels shown on the sections.

(3) Subject to paragraph (5), the Company 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 for the strengthening, alteration or demolition of any building;
- (b) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (c) works to erect and construct such offices and other buildings, electrical plant and machinery, apparatus, and other works and conveniences as the Company thinks fit;
- (d) make, provide and maintain all such approaches, lifts, stairs, escalators, ramps, passages, adits, head walls, retaining structures, means of access, shafts and stages as the Company thinks fit;
- (e) railway lines, electrification and signalling works and telecommunications works;
- (f) works to strengthen any subway;
- (g) works to alter the course of, or otherwise interfere with watercourses and wells;
- (h) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the scheduled works; and
- (i) works for the benefit or protection of land or premises affected by the scheduled works.

(4) Subject to paragraph (5), the Company may carry out 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 scheduled works, other than works that would interfere with a navigable watercourse.

(5) Paragraphs (3) and (4) only authorise the carrying out or maintenance of works outside of the limits of deviation if such works are carried out—

- (a) on any of the streets specified in Schedule 2 to this Order (streets subject to street works); or
- (b) on land specified in columns (1) and (2) of Schedule 8 (land of which temporary possession may be taken) for the purposes specified in column (3) of that Schedule.

(6) In constructing Works Nos.1, 4 and 19 the Company may carry out pile interception works.

Power to deviate

7. In constructing or maintaining any of the scheduled works, the Company may—

- (a) deviate laterally from the lines or situations shown on the works plans to the extent of the limits of deviation for that work; and
- (b) deviate vertically from the levels shown on the sections—
 - (i) to any extent not exceeding 3 metres upwards; or
 - (ii) to any extent downwards as may be found to be necessary or convenient.

Station works at Bank

8. The Company may, in the construction of Work No. 1, and within the limits of deviation alter and extend Bank station with all necessary works and conveniences connected with that Work, including the construction of a new passenger platform, enlarged passenger circulating areas and a new station entrance on Cannon Street, in the City of London.

Streets

Power to alter layout, etc., of streets

9.—(1) The Company may for the purposes of the construction 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 the Company may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street; and
- (d) carry out works for the provision, 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 although it may be given subject to reasonable conditions including in relation to paragraph (3)(b) conditions to preserve the integrity of the City of London Corporation’s Traffic and Environmental Zone.

(3) Without limitation on the scope of the powers conferred under this article, the Company may—

- (a) temporarily remove or relocate bollards, gates or any other obstruction preventing the passage of vehicular traffic along and over Sherborne Lane delineated on the land plan and shown numbered 91;
- (b) temporarily remove or relocate bollards, gates or any other obstruction preventing the passage of vehicular traffic along and over the designated land; and
- (c) provide a controlled pedestrian crossing in Cannon Street within the Order limits.

(4) In this article—

- (a) “the designated land” means—
 - (i) the unnamed street off Laurence Pountney Lane delineated on the land plan and shown numbered 128 and 129; and
 - (ii) land at the junction of Upper Thames Street with Suffolk Lane delineated on the land plan and shown numbered 186 and 187; and
- (b) “the City of London Corporation’s Traffic and Environmental Zone” means the security and surveillance cordon implemented by the City of London and Tower Hamlets (Prescribed Routes) Traffic Order 1994(27), the City of London (Prescribed Routes) (No1) Traffic Order 1998(28), the City of London, Hackney, Islington and Tower Hamlets

(27) 1994 No. 9.

(28) 1998 No. 5.

(Prescribed Routes) Traffic Order 2000(29), and the City of London (Prescribed Routes) (No1) Traffic Order 2005 (30).

Power to keep apparatus in streets

10.—(1) The Company may, for the purposes of or in connection with the construction of the authorised works, alter, move, remove, place and maintain in any street within and abutting the Order limits or which has a junction with such a street, any work, equipment or apparatus including foundations, road islands, bollards, substations, electric lines, closed circuit television monitoring equipment and any other electrical equipment 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(31); 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

11.—(1) The Company may, for the purposes of the construction of the authorised works, enter upon so much of any of the streets specified in Schedule 2 (streets subject to street works) as is within and abutting the Order limits or which has a junction with such a street and may—

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

(2) This article is subject to paragraph 3 of Schedule 10 (provisions relating to statutory undertakers etc.).

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

Stopping up of streets

12.—(1) Subject to the provisions of this article, the Company may, in connection with the construction of the authorised works, stop up each of the streets specified in columns (1) and (2) of Schedule 3 (streets to be stopped up) to the extent specified in column (3) of that Schedule.

(2) No street specified in columns (1) and (2) of Schedule 3 (being a street to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in paragraph (3) is satisfied in relation to all the land which abuts on either side of the street to be stopped up.

(3) The condition referred to in paragraph (2) is that—

- (a) the Company is in possession of the land; or
- (b) there is no right of access to the land from the street concerned; or

(29) 2001 No. 5.

(30) 2005 No. 3.

(31) 1989 c. 29.

- (c) there is reasonably convenient access to the land otherwise than from the street concerned; or
 - (d) the owners and occupiers of the land have agreed to the stopping up.
- (4) Where a street has been stopped up under this article—
- (a) all rights of way over or along the street so stopped up are extinguished; and
 - (b) the Company may appropriate and use for the purposes of its railway undertaking so much of the street so stopped up.
- (5) Any person who suffers loss by the suspension or extinguishment 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.
- (6) This article is subject to paragraph 2 of Schedule 10 (provisions relating to statutory undertakers etc.) and paragraph 4 of Schedule 11 (protection for electricity, gas, water and sewerage undertakers).

Temporary stopping up and diversion of streets

- 13.**—(1) The Company, during and for the purposes of the construction of the authorised works, may temporarily stop up, alter or divert any street and may for any reasonable time—
- (a) divert the traffic from the street; and
 - (b) subject to paragraph (2), prevent all persons from passing along the street.
- (2) The Company 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 (or to and from any other premises accessible for pedestrians from, and only from that street) if there would otherwise be no such access.
- (3) Without limitation on the scope of paragraph (1), the Company may exercise the powers conferred by this article in relation to the streets specified in columns (1) and (2) of Schedule 4 (streets to be temporarily stopped up) to the extent specified in column (3) of that Schedule.
- (4) The Company must not exercise the powers conferred by this article—
- (a) in relation to any street specified as mentioned in paragraph (3) 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 such consent must not be unreasonably withheld.
- (5) Without limitation on the scope of the powers conferred under this article, any part of Arthur Street, Martin Lane and that part of King William Street shown shaded on the works plan which is stopped up under this article may be used as a work site for the purposes of the construction of the authorised works.
- (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

- 14.** The Company may, for the purposes of the construction of the authorised works—
- (a) form and lay out means of access, or improve existing means of access, in the location specified in columns (1) and (2) of Schedule 5 (access to works) at the points marked ‘A’ on the access to works and permanent stopping up of streets plan; and
 - (b) with the approval of the highway authority after consultation with the local planning authority, such approval not to be unreasonably withheld (but may be subject to reasonable

conditions), form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the Company reasonably requires for the purposes of the authorised works.

Construction and maintenance of new or altered streets

15.—(1) Any street to be constructed under this Order must be completed to the reasonable satisfaction of the highway authority and must be maintained by and at the expense of the Company for a period of 12 months from its completion and from the expiry of that period by and at the expense of the highway authority.

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

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

(4) In any action against the Company in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without affecting any other defence or the application of the law relating to contributory negligence) to prove that the Company had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(5) For the purposes of a defence under paragraph (4), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the Company knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street;
- (e) where the Company could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the Company had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the Company had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

Agreements with street authorities

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

- (a) the construction of any new street (including any structure carrying the street over or under a railway) under the powers conferred by this Order;
- (b) the maintenance of the structure of any bridge or tunnel carrying a street over or under a railway;
- (c) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or

- (d) the execution in the street of any of the works referred to in article 11(1) (power to execute street works).
- (2) Such an agreement may, without limitation on the scope of paragraph (1)—
 - (a) make provision for the street authority to carry out any function under this Order which relates to the street in question; and
 - (b) contain such terms as to payment and otherwise as the parties consider appropriate.

Supplemental powers

Discharge of water

17.—(1) The Company 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(32).

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

- (4) The Company 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.
- (a) (5) (a) The Company must not, in the exercise of the powers conferred by this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

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

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010(33).

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

- (9) In this article—
 - (a) “public sewer or drain” means a sewer or drain which belongs to the Environment Agency, a local authority or a sewerage undertaker; and
 - (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(34) have the same meaning as in that Act.

(32) 1991 c. 56.

(33) S.I. 2010/675.

(34) 1991 c. 57.

Protective works to buildings, roads and apparatus of a statutory undertaker

18.—(1) Subject to the following provisions of this article, the Company may at its own expense carry out such protective works to—

- (a) any building; or
- (b) any road; or
- (c) any apparatus of a statutory undertaker

lying within the Order limits as the Company 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, road or apparatus of any part of the authorised works; or
- (b) after the completion of the construction of that part of the authorised works in the vicinity of the building, road or apparatus 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 the Company may (subject to paragraph (5)) enter and survey any building, go onto and survey any road or access and survey any apparatus falling within paragraph (1) and any land within the curtilage of the building or in which the apparatus is located.

(4) For the purpose of carrying out protective works under this article to a building, road or apparatus the Company may (subject to paragraphs (5) and (6))—

- (a) enter the building, go onto the road or access the apparatus and any land within the curtilage of the building or in which the apparatus is located; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building (but outside its curtilage) or adjacent to the road or land in which the apparatus is located, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building, road or apparatus;
- (b) a right under paragraph (3) to enter a building, go onto a road or access apparatus and land within the curtilage of the building or in which the apparatus is located; and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building, go onto a road or access apparatus and land within the curtilage of the building or in which the apparatus is located; or
- (d) a right under paragraph (4)(b) to enter land,

the Company must, except in the case of emergency, serve on the owners and occupiers of the building or land or the owner of the road or apparatus 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 a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land or the owner of the road or apparatus concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 50 (arbitration).

(7) The Company must compensate the owners and occupiers of any building or land or the owner of the road or apparatus 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, road or apparatus falling within paragraph (1); and
- (b) within the period of 5 years beginning with the day on which the part of the authorised works constructed in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building, road or apparatus against damage caused by the construction or operation of that part of the authorised works,

the Company must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Without affecting article 49 (no double recovery) nothing in this article relieves the Company from any liability to pay compensation under section 10(2) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) 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, road or apparatus means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building, road or apparatus by the construction, maintenance or operation of the authorised works; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building, road or apparatus by the construction, maintenance or operation of the authorised works; and

“road” includes any structures supporting the road.

Power to survey and investigate land

19.—(1) The Company may for the purposes of this Order—

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

(2) In connection with any apparatus which may be placed or left on land under the powers conferred by paragraph (1)(d) of this article, the Company may, subject to payment, connect to and use any electrical supply on the land for the purposes of powering such apparatus.

(3) 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.

(4) Any person entering land under this article on behalf of the Company—

- (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.

(5) 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.

(6) The Company 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.

(7) Nothing in this article overrides the requirement for scheduled monument consent under the Ancient Monuments and Archaeological Areas Act 1979⁽³⁵⁾.

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

20.—(1) The Company may acquire compulsorily so much of the land shown on the land plan which is within the Order limits and is included in Schedule 7 (acquisition of land and of subsoil of land only and power to impose restrictive covenants) as may be required for the purposes of the authorised works and may use the land so acquired for those purposes or for any other purposes that are ancillary to its railway undertaking.

(2) This article is subject to article 23 (power to acquire subsoil only).

Application of Part 1 of the Compulsory Purchase Act 1965

21.—(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⁽³⁶⁾ applies; and
- (b) as if this Order were a compulsory purchase order 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

22.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981⁽³⁷⁾ applies as if this Order were a compulsory purchase order.

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

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

⁽³⁵⁾ 1979 c. 46.

⁽³⁶⁾ 1981 c. 67.

⁽³⁷⁾ 1981 c. 66.

“(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
- (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 to be construed as references to that Act as applied to the acquisition of land under article 20 (power to acquire land).

Power to acquire subsoil only

23.—(1) In the case of the land specified in the table in Part 2 (land of which only subsoil may be acquired) of Schedule 7 (acquisition of land and of subsoil of land only and power to impose restrictive covenants), the Company’s power under article 20(1) (power to acquire land) may, subject to paragraph (2), be exercised only in relation to so much of the subsoil or under-surface of the land as lies more than 9 metres below the level of the surface.

(2) Paragraph (1) does not prevent the Company from exercising the powers conferred by article 24(1) (power to acquire new rights) in relation to so much of the subsoil or under-surface of the land between the land lying more than 9 metres below the level of the surface of the land and the surface of the land.

(3) Where the Company acquires any part of or rights in the subsoil of land under paragraph (1) it is not required to acquire an interest in any other part of the land.

(4) Paragraph (3) does not prevent article 29 (acquisition of part of certain properties) from applying where the Company acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Power to acquire new rights

24.—(1) The Company may acquire compulsorily such easements or other rights over any land that it is empowered to acquire under paragraph (1) of article 20 (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) In the case of the land specified in the table in Part 3 (land over which restrictive covenants may be imposed) of Schedule 7 (acquisition of land and of subsoil of land only and power to impose restrictive covenants) the Company's power under article 20(1) (power to acquire land) also includes power to impose restrictive covenants over the land for the purposes specified in relation to the land in column (3) of the table.

(3) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights and power to impose restrictive covenants) where the Company acquires a right over land under paragraph (1) the Company is not required to acquire a greater interest in that land.

(4) Schedule 6 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 of a right over land by the creation of a new right.

Rights under or over streets

25.—(1) The Company may enter upon and appropriate so much of the 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 subsoil or air-space for those purposes or any other purpose ancillary to its railway undertaking.

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

(3) 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 the Company 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 (sharing of cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary possession of land

Temporary use of land for construction of works

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

- (a) enter upon and take temporary possession of the land specified in columns (1) and (2) of Schedule 8 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column 3 of that Schedule;
- (b) remove any buildings, street furniture and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and temporary buildings on that land; and
- (d) temporarily occupy and use air-space for the purposes of the operation of a crane in connection with the construction of the authorised works.

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

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

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

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

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(7) Without affecting article 49 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2) (further provision as to compensation for injurious affection) of the 1965 Act⁽³⁸⁾ or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (5).

(8) The powers of compulsory acquisition of land conferred by this Order do not apply in relation to the land referred to in paragraph (1) except that the Company is not precluded from—

- (a) acquiring any part of the subsoil (or rights in the subsoil) of that land under article 23 (power to acquire subsoil only); or
- (b) acquiring new rights over any part of that land under article 24 (power to acquire new rights).

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

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act⁽³⁹⁾ 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 21(1) (application of Part 1 of the Compulsory Purchase Act 1965).

Compensation

Disregard of certain interests and improvements

27.—(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.

⁽³⁸⁾ 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.

⁽³⁹⁾ Section 13 was amended by sections 62(3) and 139 of, and paragraph 27 and 28 of Schedule 13, and part 3 of Schedule 23, to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(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

28.—(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 belonging to that person in the same capacity which will accrue to that person by reason of the construction of the authorised works.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) under article 23 (power to acquire new rights), the tribunal must set-off against the value of the rights 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 belonging to that person in the same capacity,

which will accrue to him 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

29.—(1) This article applies instead of section 8(1) of the 1965 Act (as applied by article 21 (application of Part 1 of the Compulsory Purchase Act 1965)) in any case where—

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

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the Company a counter-notice objecting to the sale of the land subject to the notice to treat 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 the Company 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 the 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.

(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 the Company is authorised to acquire compulsorily under this Order.

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

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) 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 the Company is authorised to acquire compulsorily under this Order.

(9) In any case where by virtue of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the Company may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and if it does so 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, the Company must pay the owner compensation for any loss sustained by him due to the severance of that part in addition to the value of the interest acquired.

Extinction or suspension of private rights of way

30.—(1) 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 the Company, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the Company under section 11(1) of the 1965 Act,

whichever is the sooner.

(2) In respect of land owned by the Company and required for the purposes of this Order all private rights of way are extinguished on the appropriation of the land for any of those purposes by the Company.

(3) All private rights of way over land of which the Company takes temporary possession under this Order are suspended and unenforceable for as long as the Company 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.

(5) This article does not apply in relation to any right of way to which section 271 or 272 of the 1990 Act (extinguishment of rights of statutory undertakers etc.) or paragraph 2 of Schedule 10 (provisions relating to statutory undertakers etc.) applies.

Time limit for exercise of powers of acquisition

31.—(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 21 (application of Part 1 of the Compulsory Purchase Act 1965); and
- (b) no declaration is to be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 22 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The powers conferred by article 26 (temporary use of land for construction of works) cease at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the Company 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

MISCELLANEOUS AND GENERAL

Traffic regulation

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

- (a) permit, suspend or modify the use as a parking place in the manner specified in Part 1 of Schedule 9 (traffic regulation) of those roads specified in column (1) and along the lengths, between the points and to the extent specified in columns (2) and (3) of that Part of that Schedule;
- (b) suspend the operation of the bus lanes in the manner specified in Part 2 of Schedule 9 on the roads specified in column (1) and along the lengths, between the points and to the extent specified in columns (2) and (3) of that Part of that Schedule;
- (c) suspend the pedestrian crossings in the manner specified in Part 3 of Schedule 9 on the roads specified in column (1) and at the locations specified in columns (2) and (3) of that Part of that Schedule;
- (d) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles in the manner specified in Part 4 of Schedule 9 on the roads specified in column (1) and at the location and to the extent specified in columns (2) and (3) of that Part of the Schedule
- (e) make provision as to the movement of vehicular traffic in the manner specified in Part 5 of Schedule 9 on the roads specified in column (1) and at the location and to the extent specified in columns (2) and (3) of that Part of the Schedule;

- (f) permit or prohibit driving in the manner specified in Part 6 of Schedule 9 on the roads specified in column (1) and at the location and to the extent specified in columns (2) and (3) of that Part of the Schedule; and
- (g) 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 the Company.

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

(3) The Company 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 so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may within 7 days of its receipt of notice of the Company's intention specify in writing.

(4) Any prohibition, suspension or other provision made by the Company 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 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 the Company from time to time by subsequent exercise of the powers of 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 the Company by this article with respect to any road have effect subject to any agreement entered into by the Company with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

Traffic signs

33.—(1) The Company may, for the purposes of the authorised works, place or maintain traffic signs of a type prescribed by regulations made under section 64(1)(a) (general provisions as to traffic

signs) of the 1984 Act or of a character authorised by the Secretary of State on any street within the Order limits or which gives access to such a street, or on any street in connection with any instrument made under article 32 (traffic regulation) or any other street as reasonably required for conveying information to traffic.

(2) The Company—

- (a) must consult with the traffic authority as to the placing of signs; and
- (b) may subject to any directions given under section 65 (powers and duties of highway authorities as to placing of traffic signs) of the 1984 Act, enter into arrangements with the consent of the traffic authority for the signs to be placed and maintained by the traffic authority, such consent not to be unreasonable withheld.

(3) Any power conferred by section 65 of the 1984 Act to give directions to a traffic authority or local traffic authority as to traffic signs includes a power to give directions to the Company as to traffic signs under this article; and the powers conferred by paragraph (1) are exercisable subject to and in conformity with any directions given under that section.

(4) A traffic authority or other authority having power under or by virtue of the 1984 Act to place and maintain, or cause to be placed and maintained, traffic signs on any street referred to in paragraph (1) must consult with the Company as to the placing of any traffic signs that appear to the traffic authority may affect the authorised works.

(5) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

Defence to proceedings in respect of statutory nuisance

34.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990⁽⁴⁰⁾ (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance—

- (a) relates to premises used by the Company for the purposes of or in connection with the construction or maintenance of the authorised works and that the nuisance is attributable to the carrying out of the authorised works in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974⁽⁴¹⁾; or
- (b) is a consequence of the construction or maintenance of the authorised works and that it cannot reasonably be avoided.

(2) 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) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the Company for the purposes of or in connection with the construction or maintenance of the authorised works.

(3) The provisions of this article do not affect the application to the authorised works of section 122 of the Railways Act 1993⁽⁴²⁾ (statutory authority as a defence to actions in nuisance, etc.) or any rule of common law having similar effect.

⁽⁴⁰⁾ 1990 c.43. There are amendments to this Act which are not relevant to this Order.

⁽⁴¹⁾ 1974 c.40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c.25. There are other amendments to the 1974 Act which are not relevant to this Order.

⁽⁴²⁾ 1993 c.43.

Removal of human remains

35.—(1) In this article “the specified land” means the land within the limits of deviation and any land beneath the streets specified in Schedule 2 (streets subject to street works).

(2) Before the Company carries out any development or works which will or may disturb any human remains in the specified land it must remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(3) Before any such remains are removed from the specified land the Company must give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of 2 successive weeks in a newspaper circulating in the area of the authorised works; and
- (b) displaying a notice in a conspicuous place on or near to the specified land.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (3) the Company must send a copy of the notice to the City of London Corporation.

(5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the Company of that person’s intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,

and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the Company a certificate for the purpose of enabling compliance with paragraph (11).

(7) If the Company is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who is to remove the remains and as to the payment of the costs of the application.

(8) The Company must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph has been given to the Company in respect of any remains in the specified land; or
- (b) such notice is given and no application is made under paragraph (7) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the Company, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (10) the Company is to remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the Company thinks suitable for the purpose; and, so far as possible, remains from individual graves are to be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the Company is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the Company must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(11) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation must be sent by the Company to the Registrar General giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) must be sent by the Company to the City of London Corporation.

(12) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.

(13) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(14) Section 25 of the Burial Act 1857⁽⁴³⁾ (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) does not apply to a removal carried out in accordance with this article.

Water abstraction

36.—(1) The restriction imposed by section 24(1) of the Water Resources Act 1991 (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 (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) the Company 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
- (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),

it 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 Schedule 12 (protection for the Environment Agency).

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

Planning permission

37. Planning permission which is deemed by a direction under section 90(2A)⁽⁴⁴⁾ of the 1990 Act 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).

⁽⁴³⁾ 1857 c. 81. There are amendments to this Act which are not relevant to this Order.

⁽⁴⁴⁾ Section 90(2A) was inserted by section 16(1) of the Transport and Works Act 1992 (c. 42).

Powers of disposal, agreements for operation, etc.

38.—(1) The Company may, with the consent of the Secretary of State, sell, lease, charge or otherwise dispose of, on such terms and conditions as it thinks fit, the whole or any part of the authorised works and any land held in connection with them.

(2) Without limitation on the scope of paragraph (1), the Company 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 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 the Company or any other person.

(3) Any agreement under paragraph (2) may provide, amongst other things, for the exercise of the powers of the Company 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 the Company 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 the Company.

(5) Sections 163 (restriction on disposal of land) and 207(2) (restrictions on contracting out certain services) of the Greater London Authority Act 1999⁽⁴⁵⁾ 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).

Application of landlord and tenant law

39.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised works or the right to operate the same; and
- (b) any agreement entered into by the Company 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.

Obstruction of construction of authorised works

40. Any person who, without reasonable excuse—

(45) 1999 c.29.

- (a) obstructs any person acting under the authority of the Company in setting out the lines of the scheduled works or in constructing any authorised work; or
- (b) interferes with, moves or removes any apparatus belonging to any person acting under the authority of the Company,

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

Disclosure of confidential information

41. A person who—

- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 18 (protective works to buildings, roads and apparatus of a statutory undertaker) or article 19 (power to survey and investigate land); and
- (b) discloses to any person any information obtained by him 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.

Statutory undertakers etc.

42. The provisions of Schedule 10 (provisions relating to statutory undertakers etc.) have effect.

For the protection of specified undertakers

43. The provisions of Schedule 11 (for the protection of electricity, gas, water and sewerage undertakers) have effect.

For the protection of the Environment Agency

44. The provisions of Schedule 12 (for the protection of the Environment Agency) have effect.

For the protection of operators of electronic communications apparatus

45. The provisions of Schedule 13 (for the protection of operators of electronic communications code network) have effect.

For the protection of the City of London Corporation

46. The provisions of Schedule 14 (for the protection of the City of London Corporation) have effect.

Certification of plans etc.

47. The Company must, as soon as practicable after the making of this Order, submit copies of the book of reference, the sections, the land plan and the works plans, and the access to works and permanent stopping up of streets plan to the Secretary of State for certification that they are, respectively, true copies of the book of reference, sections and plans referred to in this Order; 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

48.—(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 (references to service by post) of the Interpretation Act 1978⁽⁴⁶⁾ 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, that person’s last known address at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and 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 transmission 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

49. 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.

(46) 1978 c. 30.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Arbitration

50. 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 authority of the Secretary of State

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

22nd December 2015

SCHEDULES

SCHEDULE 1

Articles 2 and 6

SCHEDULED WORKS

In the City of London -

Work No.1 - A railway 662 metres in length in tunnel, being a realignment of part of the southbound railway of the Company's Northern Line, commencing by a junction with the southbound railway beneath a point 16 metres north of the junction of Gresham Street with Lothbury, passing in a southerly direction and terminating by a junction with the southbound railway beneath a point 39 metres south of the bridge carrying King William Street over Lower Thames Street.

Work No.1A - A passenger subway linking the proposed passenger platform forming part of Work No.1 to the Company's existing Northern Line southbound passenger platform at Bank station, commencing by a junction with Work No.1 beneath a point 37 metres south-west of the junction of Sherborne Lane with King William Street and terminating beneath a point 7 metres south-east of that road junction.

Work No.1B - A passenger subway linking the proposed passenger platform forming part of Work No.1 to the Company's existing Northern Line southbound platform at Bank station, commencing by a junction with Work No.1 beneath a point 40 metres south-west of the junction of Sherborne Lane with King William Street and terminating beneath a point 17 metres south-east of that road junction.

Work No. 1C - A passenger subway linking the proposed passenger platform forming part of Work No.1 to the Company's existing Northern Line southbound platform at Bank station, commencing beneath a point 8 metres north-west of the junction of Abchurch Lane with King William Street and terminating at a junction with Work No. 1 beneath a point 38 metres west of that road junction.

Work No. 1D - A passenger subway linking the proposed passenger platform forming part of Work No.1 to the Company's existing Northern Line southbound platform at Bank station, commencing beneath a point 28 metres south-east of the junction of Abchurch Lane with King William Street and terminating at a junction with Work No. 1 beneath a point 47 metres south-west of that road junction.

Work No. 2 – A passenger subway incorporating two banks of triple escalators between a proposed station entrance hall on the north side of Cannon Street to a passenger subway (Work No.1C) commencing at a point 19 metres north of the junction of Nicholas Lane with Cannon Street and terminating by a junction with Work No.1C beneath a point 15 metres west of the junction of Abchurch Lane with King William Street.

Work No. 3 – A passenger subway incorporating a bank of triple escalators between the existing Docklands Light Railway passenger subway at Bank station to the Company's Northern Line passenger concourse commencing by a junction with Work No.1B beneath a point 22 metres south-west of the junction of Sherborne Lane with King William Street and terminating at the Docklands Light Railway passenger concourse beneath a point 12 metres south-west of the junction of Abchurch Lane with King William Street.

Work No. 4 - A passenger subway incorporating a moving passenger walkway between the passenger subway forming Work No.1A and the proposed passenger subway to the Company's Central Line forming Work No. 5, commencing beneath a point 27 metres west of the junction of Prince's Street with Threadneedle Street and terminating by a junction with Work No.1A at a point 22 metres south-west beneath the junction of Sherborne Lane with King William Street.

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Work No. 5 – A passenger subway incorporating a bank of triple escalators between the passenger subway forming Work No.4 and the Company’s Central Line, commencing beneath a point 7 metres east of the junction of Prince’s Street with Threadneedle Street and terminating beneath a point 34 metres west of that road junction.

Work No. 6 - A passenger subway forming a reconstruction and enlargement of the existing passenger subway connecting the passenger subway forming Work No.5 to the Company’s Central Line passenger platforms at Bank station, commencing beneath a point 11 metres south-east of the junction of Prince’s Street with Threadneedle Street and terminating beneath a point 8 metres north of that road junction.

Work No. 7 - A tunnel for construction purposes commencing beneath a point 20 metres south of the junction of Sherborne Lane with King William Street and terminating beneath a point 11 metres south-east of that road junction.

Work No. 8 - A tunnel for construction purposes commencing beneath a point 14 metres west of the junction of Abchurch Lane with King William Street and terminating beneath a point 7 metres north of that road junction.

Work No. 9 – A tunnel for construction purposes commencing beneath a point 29 metres south of the junction of Abchurch Lane with King William Street and terminating beneath a point 22 metres south-east of that road junction.

Work No. 10 - A tunnel for construction and maintenance purposes, commencing by a junction with Work No.1 at a point 34 metres east of the junction of Abchurch Lane with Cannon Street and terminating at a point 10 metres north of the junction of Nicholas Lane with King William Street. Work No. 10 includes alterations to the headwalls of the Company’s existing Northern Line southbound and northbound platforms and to the Company’s existing escalator tunnel to Monument Station to enlarge the existing passenger subway.

Work No. 11 - A tunnel for construction and maintenance purposes linking Work No.1 to the Company’s existing Northern Line southbound tunnel, commencing by a junction with Work No.1 beneath a point 28 metres south of the junction of Prince’s Street with Moorgate and terminating beneath a point 28 metres south of that road junction.

Work No. 12 - A tunnel for construction and maintenance purposes linking Work No.1 to the Company’s existing Northern Line southbound tunnel, commencing by a junction with Work No.1 beneath a point 24 metres north-west of the junction of King William Street with Arthur Street and terminating beneath a point 20 metres north-east of that road junction.

Work No. 13A - A passenger subway linking the Docklands Light Railway arrival platform to the concourse of that railway at Bank station, commencing beneath a point 36 metres north-west of the junction of Abchurch Lane with King William Street and terminating beneath a point 32 metres north-west of that road junction.

Work No. 13B - A passenger subway linking the Docklands Light Railway departure platform to the concourse of that railway at Bank station, commencing beneath a point 32 metres north-west of the junction of Abchurch Lane with King William Street and terminating beneath a point 30 metres north-west of that road junction.

Work No. 14 - A passenger subway linking the Docklands Light Railway arrival and departure platforms to the concourse of that railway at Bank station, commencing beneath a point 20 metres south-west of the junction of Abchurch Lane with King William Street and terminating beneath a point 7 metres south-east of that junction.

Work No. 15 - A passenger subway linking the Docklands Light Railway arrival platform to the concourse of that railway at Bank station, commencing beneath a point 30 metres south of the junction of Abchurch Lane with King William Street and terminating beneath a point 26 metres south of that road junction.

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Work No. 16 - A passenger subway connecting the Company's Central Line eastbound and westbound passenger platforms at Bank station, commencing beneath a point 21 metres north-east of junction of Walbrook with Queen Victoria Street and terminating beneath a point 15 metres north-east of that road junction.

Work No. 17 - A tunnel for services between Work No.4 and the Company's existing Central Line ticket hall, commencing beneath a point 29 metres south-west of junction of Prince's Street with Threadneedle Street and terminating beneath a point 6 metres south of that road junction.

Work No.18 – A passenger subway connecting Work No.1A to the Company's existing passenger lift (No. D6) commencing beneath a point 20 metres south of the junction of St Swithin's Lane and King William Street and terminating beneath a point 10 metres south of the junction of Sherborne Lane with King William Street.

Work No. 19 - A tunnel for construction and maintenance purposes linking Work No.1 to Work Nos. 4 and 5, commencing by a junction with Work No.1 beneath a point 65 metres north-west of the junction of Poultry with King William Street and terminating beneath a point 27 metres west of that road junction.

Work No. 20 - A tunnel for construction and maintenance purposes, commencing by a junction with Work No. 3 beneath a point 33 metres south of the junction of Sherborne Lane with King William Street and terminating at point 26 metres south of that road junction.

Work No. 21 - A passenger subway between the proposed lift shaft and Work No.1D, commencing beneath a point 31 metres south of the junction of Abchurch Lane with King William Street and terminating at point 36 metres south of that junction.

Work No. 22 - A tunnel for operational services between the proposed shaft to incorporate a proposed lift and Work No.1D, commencing beneath a point 34 metres south of the junction of Abchurch Lane with King William Street and terminating at point 38 metres south of that road junction.

Work No. 23 - A tunnel for construction purposes, linking Work No.1C with Work No. 3, commencing by a junction with Work No.3 beneath a point 27 metres south of the junction of Sherborne Lane with King William Street and terminating at point 24 metres west of the junction of Abchurch Lane with King William Street.

Work No. 24 - A tunnel for operational services linking Work No 10 to the proposed lift shaft, commencing by a junction with Work No. 1 at a point 16 metres west of the junction of Nicholas Lane with King William Street and terminating at a point 14 metres west of that road junction.

SCHEDULE 2

Articles 6 and 11

STREETS SUBJECT TO STREET WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to street works</i>
City of London	Moorgate Founders Court Gresham Street Lothbury Prince's Street

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to street works</i>
	Grocers' Hall Court
	Poultry
	St Mildred's Court
	Mansion House Street
	Threadneedle Street
	Cornhill
	Queen Victoria Street
	Walbrook
	Bucklersbury
	St Stephen's Row
	Mansion House Place
	Lombard Street
	King William Street
	St Swithin's Lane
	Cleary Court
	Post Office Court
	Sherborne Lane
	Abchurch Lane
	Abchurch Yard
	Nicholas Passage
	Nicholas Lane
	Clement's Lane
	Lombard Court
	St Clement's Court
	Eastcheap

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(1)	(2)
<i>Area</i>	<i>Street subject to street works</i>
	Gracechurch Street
	Monument Street
	Lower Thames Street
	Upper Thames Street
	Arthur Street
	Martin Lane
	Laurence Pountney Lane
	Unnamed section of street off Laurence Pountney Lane delineated on the land plan and numbered 128 and 129
	Cannon Street
	Laurence Pountney Hill
	Suffolk Lane

SCHEDULE 3

Article 12

STREETS TO BE STOPPED UP

STREETS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

(1)	(2)	(3)
<i>Area</i>	<i>Street to be stopped up</i>	<i>Extent of stopping up</i>
City of London	Cannon Street	The areas shown red between points A1, A2, A3, A4 and B1, B2, B3 and B4 shown on the access to works and permanent stopping up of streets plan
	Nicholas Lane	The areas shown red between points C1, C2, C3, C4 and D1, D2, and D3 shown on the access to works and permanent stopping up of streets plan

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SCHEDULE 4

Article 13

STREETS TO BE TEMPORARILY STOPPED UP

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Area</i>	<i>Street to be temporarily stopped up</i>	<i>Extent of temporary stopping up</i>
City of London	Moorgate	Within the Order limits
	Founders Court	Within the Order limits
	Gresham Street	Within the Order limits
	Lothbury	Within the Order limits
	Prince's Street	Within the Order limits
	Grocers' Hall Court	Within the Order limits
	Poultry	Within the Order limits
	St Mildred's Court	Within the Order limits
	Mansion House Street	Within the Order limits
	Threadneedle Street	Within the Order limits
	Cornhill	Within the Order limits
	Queen Victoria Street	Within the Order limits
	Walbrook	Within the Order limits
	Bucklersbury	Within the Order limits
	St Stephen's Row	Within the Order limits
	Mansion House Place	Within the Order limits
	Lombard Street	Within the Order limits
	King William Street	Within the Order limits
	St Swithin's Lane	Within the Order limits
	Cleary Court	Within the Order limits
	Post Office Court	Within the Order limits
	Sherborne Lane	Within the Order limits

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<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>
	Abchurch Lane	Within the Order limits
	Abchurch Yard	Within the Order limits
	Nicholas Passage	Within the Order limits
	Nicholas Lane	Within the Order limits
	Clement's Lane	Within the Order limits
	Lombard Court	Within the Order limits
	St Clement's Court	Within the Order limits
	Eastcheap	Within the Order limits
	Gracechurch Street	Within the Order limits
	Monument Street	Within the Order limits
	Lower Thames Street	Within the Order limits
	Upper Thames Street	Within the Order limits
	Arthur Street	Within the Order limits
	Martin Lane	Within the Order limits
	Laurence Pountney Lane	Within the Order limits
	Unnamed section of street off Laurence Pountney Lane delineated on the land plan and numbered 128 and 129	Within the Order limits
	Cannon Street	Within the Order limits
	Laurence Pountney Hill	Within the Order limits
	Suffolk Lane	Within the Order limits

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 5

Article 14

ACCESS TO WORKS

<i>(1)</i>	<i>(2)</i>
<i>Area</i>	<i>Description of access</i>
City of London	Cannon Street Nicholas Lane Suffolk Lane

SCHEDULE 6

Article 24

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS AND IMPOSITION OF RESTRICTIVE COVENANTS

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⁽⁴⁷⁾ 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 “land is acquired or taken” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5, 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 land consisting of a house, building or manufactory can be taken without material detriment or damage to the house, building or manufactory; or
- (b) a right over land consisting of a park or garden belonging to a house can be taken 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 but also the use to be made of the right proposed to be acquired, and, in a case where the

⁽⁴⁷⁾ 1973 c. 26.

right is proposed to be acquired 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 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 Lands Chamber of 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 (Bank Station Capacity Upgrade) Order 2015(48) (“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

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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 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 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

8. Section 20 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.

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 7

Articles 20, 23 and 24

ACQUISITION OF LAND AND OF SUBSOIL OF LAND ONLY
AND POWER TO IMPOSE RESTRICTIVE COVENANTS

PART 1

ACQUISITION OF LAND

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the land plan</i>
City of London	99, 100, 101, 102, 103, 104, 105, 106, 107

PART 2

LAND OF WHICH ONLY SUBSOIL MAY BE ACQUIRED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the land plan</i>
City of London	5, 6, 12, 15, 17, 18, 19, 24, 25, 29, 34, 35, 37, 38, 39, 45, 46, 56, 76, 77, 78, 80, 82, 83, 91, 92, 93, 98, 109, 118, 119, 132, 133, 134, 137, 139, 143, 145, 147, 148, 149, 154, 158, 159

PART 3

LAND OVER WHICH RESTRICTIVE COVENANTS MAY BE IMPOSED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the land plan</i>	<i>(3)</i> <i>Purpose for which restrictive covenants may be imposed</i>
City of London	18, 25, 29, 35, 78, 80, 143, 149	Protection of tunnels

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SCHEDULE 8

Articles 6 and 26

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the land plan</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>
City of London	108	Erecting scaffolding to carry out protective works to St Mary Abchurch and carrying out of utility works.
City of London	90, 92, 93, 97, 108, 109, 110, 116, 120, 121	Crane oversailing.
City of London	128, 129	To provide a temporary means of passage for persons and vehicles from Laurence Pountney Lane to access adjacent buildings.

SCHEDULE 9

Article 32

TRAFFIC REGULATION

PART 1

PARKING PLACES

<i>(1)</i> <i>Road</i>	<i>(2)</i> <i>Side</i>	<i>(3)</i> <i>Description</i>	<i>(4)</i> <i>Notes</i>
Suffolk Lane	South end where it meets Upper Thames Street	Suspension and removal of motorcycle parking place (1.8 metres wide and 5.5 long) from the curb line of Suffolk Lane 18 metres south west of the centre of the junction of Suffolk Lane with Bush Lane to a point 5.5 metres south east of that point.	To enable emergency vehicle access to Cannon Street from Upper Thames Street when Arthur Street is closed.
Laurence Pountney Hill	South	Introduction of a new motorcycle parking place (1.8 metres wide and 5.5 metres long) and associated signage and road markings from a point 39 metres east of the centre of the junction of Laurence Pountney	To provide a replacement motorcycle parking place for the removal of the motorcycle parking place on Suffolk Lane.

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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>
		Hill with Suffolk Lane to a point 5.5 metres east of this point.	

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>
A3 King William Street	West	Suspension of the Bus Lane along the nearside lane of the northbound A3 King William Street dual carriageway from a point 31 metres north of the centre of the junction of the A3 King William Street with Arthur Street to a point 90 metres south of that point.	To facilitate its use by other vehicles to enable the Arthur Street Work Site to utilise adjacent sections of the highway.
A3 King William Street	West	Suspension of part of Bus Lane along the nearside lane of the A3 King William Street northbound dual carriageway from a point 31 metres north of the centre of the junction of the A3 King William Street with Arthur Street to a point 42 metres south of that point.	To facilitate turning manoeuvres by authorised construction traffic turning left from Arthur Street to A3 King William Street.
Arthur Street	North	Suspension of the eastbound Bus Lane along Arthur Street approaching A3 King William Street from a point 44 metres east of the junction of Arthur Street with Martin Lane to a point 28 metres east of that point.	To facilitate through and turning manoeuvres by authorised vehicles leaving Arthur Street and turning left onto the A3 King William Street.

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>
Arthur Street	Crossing southbound carriageway	Suspension of a light controlled pedestrian crossing across Arthur Street centred on a point 7 metres	For the Arthur Street Work Site.

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(1) <i>Road</i>	(2) <i>Side</i>	(3) <i>Description</i>	(4) <i>Notes</i>
		south-west of the centre of the junction of Arthur Street with A3 King William Street.	

PART 4

NO WAITING AND NO LOADING AT ANY TIME

(1) <i>Road</i>	(2) <i>Side</i>	(3) <i>Description</i>	(4) <i>Notes</i>
			<i>(in this part of this Schedule 'Whole Block Site off Cannon Street' means the land numbered 99,100,101,102,103,104,105, 106 and 107 on the land plan)</i>
Cannon Street	North	No loading or unloading at any time (24 hours all days) restriction along the northern side of Cannon Street from its junction with Abchurch Lane in an easterly direction to its junction with Nicholas Lane; an overall distance of 40 metres. Exemptions to apply for authorised construction vehicles.	To prevent loading/unloading activity along the frontage of the Whole Block Site off Cannon Street to facilitate construction activity, with exemptions for construction traffic.
Cannon Street	South	No loading or unloading at any time (24 hours all days) restriction along the southern side of Cannon Street from a point 20 metres west of the centre of its junction with Martin Lane in a westerly direction for an overall distance of approximately 40 metres.	To prevent loading/unloading activity opposite the frontage of the Whole Block Site off Cannon Street to facilitate construction traffic entering and exiting the site.
King William Street	West	No loading or unloading at any time (24 hours all days) restriction along the western side of King William Street from its junction with Abchurch Lane in a southerly direction to its junction with Nicholas Lane; an overall distance of	To prevent loading/unloading activity along the frontage of the Whole Block Site off Cannon Street to facilitate construction activity, with exemptions for construction traffic.

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(1) Road	(2) Side	(3) Description	(4) Notes <i>(in this part of this Schedule 'Whole Block Site off Cannon Street' means the land numbered 99,100,101,102,103,104,105, 106 and 107 on the land plan)</i>
		59 metres. Exemptions to apply for authorised construction vehicles.	
Suffolk Lane	South end where it meets Upper Thames Street	No loading or unloading at any time (24 hours all days) restriction along the south end of Suffolk Lane where it meets Upper Thames Street; an overall distance of 5.5 metres.	To prevent loading/unloading activity for clear access for emergency service vehicles.
Suffolk Lane	West	No loading or unloading at any time (24 hours all days) restriction along the western side of Suffolk Lane from its southernmost point to its junction with Bush Lane; an overall distance of 18 metres.	To prevent loading/unloading activity for clear access for emergency service vehicles.
Suffolk Lane	East	No loading or unloading at any time (24 hours all days) restriction along the eastern side of Suffolk Lane from its southernmost point to a point 24 metres north of that point; an overall distance of 24 metres.	To prevent loading/unloading activity for clear access for emergency service vehicles.
Bush Lane	North and South	No loading or unloading at any time (24 hours all days) restriction along the northern and southern sides of Bush Lane at its junction with Bush Lane; an overall distance on each side of 17 metres.	To prevent loading/unloading activity for clear access for emergency service vehicles.
Laurence Pountney Hill	East	No loading or unloading at any time (24 hours all days) restriction along the east side of Laurence Pountney Hill; an overall distance of 4 metres.	To prevent loading/unloading activity for clear access for motorcycle parking.

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PART 5 DIRECTION OF TRAFFIC

<i>(1)</i> <i>Road</i>	<i>(2)</i> <i>Side</i>	<i>(3)</i> <i>Description</i>	<i>(4)</i> <i>Notes</i>
Abchurch Lane	Entire carriageway	Suspension of all or part of the northbound One Way restriction for motorised vehicles along Abchurch Lane from its junction with Cannon Street to King William Street, an overall maximum distance of 89 metres.	To allow access to the road from King William Street in the event that sections of Abchurch Lane are closed for construction works.
Abchurch Lane	Entire carriageway	Suspension of southbound contraflow cycle lane along whole or part of road.	To allow access by motorised vehicles to the road from King William Street in the event that sections of Abchurch Lane are closed for construction works.
Bucklersbury	Entire carriageway	Suspension of all of the One Way restriction for motorised vehicles along Bucklersbury from its junction with Queen Victoria Street to Walbrook, an overall maximum distance of 43 metres.	To allow two way traffic in the event that sections of Walbrook are closed for protective works.

PART 6 PROHIBITION OF MOVEMENT

<i>(1)</i> <i>Road</i>	<i>(2)</i> <i>Side</i>	<i>(3)</i> <i>Description</i>	<i>(4)</i> <i>Notes</i>
			<i>(in this part of this Schedule 'Whole Block Site off Cannon Street' means the land numbered 99,100,101,102,103,104,105, 106 and 107 on the land plan)</i>
Arthur Street	North	Suspension of 'No Entry except Left Turning' buses Order. Northern end of Arthur Street at its junction with A3 King William Street.	To enable authorised vehicles to turn from Arthur Street onto the northbound carriageway of the A3 King William Street.

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(1) <i>Road</i>	(2) <i>Side</i>	(3) <i>Description</i>	(4) <i>Notes</i>
A3211 Upper Thames Street	Westbound Carriageway	Suspension of ‘No Right Turn except buses’ restriction and replacement with ‘No Right Turn except Authorised Construction Traffic’: Restriction on manoeuvres A3211 Upper Thames Street westbound carriageway for vehicles turning right into Arthur Street.	<p>(in this part of this Schedule ‘Whole Block Site off Cannon Street’ means the land numbered 99,100,101,102,103,104,105, 106 and 107 on the land plan)</p> <p>To manage access during closure of Arthur Street and facilitate turning manoeuvres and access from the westbound carriageway of A3211 Upper Thames Street by construction vehicles only.</p>
Suffolk Lane	South end where it meets Upper Thames Street	Introduction of a “No Entry Except for Cycles” restriction.	To prevent unauthorised vehicles from accessing Suffolk Lane from Upper Thames Street.
King William Street	Northbound carriageway for vehicles turning left onto Cannon Street and right onto Gracechurch Street and Eastcheap (via Monument junction)	Suspension of the 18 tonne vehicle weight restriction.	To allow heavy goods vehicles from the Arthur Street Work Site to travel to the Whole Block Site off Cannon Street via Monument Junction and for construction vehicles to travel from the Arthur Street Work Site eastbound via Monument Junction.

SCHEDULE 10

Article 42

PROVISIONS RELATING TO STATUTORY UNDERTAKERS ETC.

Apparatus of statutory undertakers etc. on land acquired

1.—(1) Sections 271 to 274 (power to extinguish rights of statutory undertakers etc. and power of statutory undertakers etc. to remove or re-site apparatus) of the 1990 Act apply in relation to any land acquired or appropriated by the Company under this Order subject to the following provisions of this paragraph: 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

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any rights under sections 271 and 272, and sections 279(2) to (4), 280 and 282, which provide for the payment of compensation) have effect accordingly.

(2) In the provisions of the 1990 Act, as applied by sub-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 sub-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 the Company 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) Sub-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 the Company 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 sub-paragraph (1), as applied by that sub-paragraph, do not have effect in relation to apparatus as respects which paragraph 2 or Part 3 of the 1991 Act applies.

(6) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003⁽⁴⁹⁾; and

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

Apparatus of statutory undertakers etc. in stopped up streets

2.—(1) Where a street is stopped up under article 12 (stopping up of streets) any statutory utility whose apparatus is under, in, upon, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Order had not been made.

(2) Where a street is stopped up under article 12 any statutory utility whose apparatus is under, in, upon, over, along or across the street may, and if reasonably requested to do so by the Company must—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in that other position.

(3) Subject to the following provisions of this paragraph, the Company must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and

(49) 2003 c. 21.

- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.
- (4) If in the course of the execution of relocation works under sub-paragraph (2)—
 - (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
 - (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the Company, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this paragraph would be payable to the statutory utility by virtue of sub-paragraph (3) is to be reduced by the amount of that excess.
- (5) For the purposes of sub-paragraph (4)—
 - (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of 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 is to be treated as if it also had been agreed or had been so determined.
- (6) An amount which apart from this sub-paragraph would be payable to a statutory utility in respect of works by virtue of sub-paragraph (3) (and having regard, where relevant, to sub-paragraph (4)) 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 utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.
- (7) Sub-paragraphs (3) to (6) do not apply where the authorised works constitute major transport works for the purposes of Part 3 of the 1991 Act, but instead—
 - (a) the allowable costs of the relocation works are to be determined in accordance with section 85 of that Act (sharing of cost of necessary measures) and any regulations for the time being having effect under that section; and
 - (b) the allowable costs are to be borne by the Company and the statutory utility in such proportions as may be prescribed by any such regulations.
- (8) In this paragraph—
 - “apparatus” has the same meaning as in Part 3 of the 1991 Act,
 - “relocation works” means work executed, or apparatus provided, under sub-paragraph (2), and
 - “statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in paragraph 1(6).

Railway and navigation undertakings

3.—(1) Subject to the following provisions of this paragraph, the powers under article 11 (power to execute street works) to break up or open a street are not exercisable where the street, not being a highway maintainable at public expense (within the meaning of the 1980 Act) is under the control or management of, or is maintainable by, railway undertakers or a navigation authority except with the consent of the undertakers or authority.

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(2) Sub-paragraph (1) does not apply to the carrying out under this Order of emergency works, within the meaning of Part 3 of the 1991 Act.

(3) A consent given for the purpose of sub-paragraph (1) may be made subject to such reasonable conditions as may be specified by the person giving it but must not be unreasonably withheld.

(4) In this paragraph “navigation authority” means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock.

SCHEDULE 11

Article 43

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

1.—(1) The following provisions, unless otherwise agreed in writing between the Company and the undertakers concerned, have effect.

(2) The provisions of Schedule 10 (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.

2.—(1) In 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—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989⁽⁵⁰⁾) 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, any mains, pipes or other apparatus belonging to or maintained by that undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested in the undertaker under the Water Industry Act 1991⁽⁵¹⁾; 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 or upon land; and

⁽⁵⁰⁾ 1989 c. 29.

⁽⁵¹⁾ 1991 c. 56.

“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⁽⁵²⁾;
- (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.

3. This Schedule does not apply to apparatus in respect of which the relations between the Company and the undertaker are regulated by the provisions of Part 3 of the 1991 Act.

4.—(1) Where any street is stopped up under article 12 (stopping up of streets), any undertaker whose apparatus is in the street has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up, but nothing in this paragraph affects any right of the Company or of the undertaker to require the removal of that apparatus under paragraph 6(2) or the power of the Company to carry out works under paragraph 8.

(2) The Company must give not less than 28 days’ notice in writing of its intention to stop up any street under article 12 to any undertaker whose apparatus is in that street.

5. Regardless of any provision in this Order or anything shown on the lands plan or works plans the Company must not acquire any apparatus other than by agreement.

6.—(1) If, in the exercise of the powers conferred by this Order, the Company acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Schedule and any right of an undertaker to maintain 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.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the Company 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 a plan and section 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) the Company 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 the Company and for the subsequent maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the Company, or the Company is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), 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 the Company, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the Company under 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 the Company or in default of agreement settled by arbitration in accordance with article 50 (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 50, and after the grant to the

⁽⁵²⁾ 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by section 76 of the Utilities Act 2000 (c. 27).

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undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the Company to be removed under the provisions of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the Company 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, must be executed by the Company without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the undertaker.

(7) 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 the Company.

(8) Nothing in sub-paragraph (6) authorises the Company 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 300 millimetres of the apparatus.

7.—(1) Where, in accordance with the provisions of this Schedule, the Company affords to an undertaker facilities and rights for the construction and maintenance in land of the Company of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the Company and the undertaker in question or in default of agreement settled by arbitration in accordance with article 50 (arbitration).

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

- (a) give effect to all reasonable requirements of the Company for ensuring the safety and efficient operation of the railway and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the Company 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 in or along the railway for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the Company 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 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 by the Company to that undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

8.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 6(2) that are near to, or will or may affect, any apparatus the removal of which has not been required by the Company under paragraph 6(2), the Company must submit to the undertaker in question a plan, section and description of the works to be executed.

(2) Those works are to be executed only in accordance with the plan, section and description 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 a plan, section and description 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 the Company, reasonably requires the removal of any apparatus and gives written notice to the Company of that requirement, paragraphs 6 and 7 apply as if the removal of the apparatus had been required by the Company under paragraph 6(2).

(5) Nothing in this paragraph precludes the Company 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, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The Company 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 a plan, section and description 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.

9.—(1) Subject to the following provisions of this paragraph, the Company must repay to an undertaker the reasonable expenses incurred by that undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 6(2).

(2) The value of any apparatus removed under the provisions 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 Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the Company or, in default of agreement, is not determined by arbitration in accordance with article 50 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under 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 sub-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.

(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; 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 ordinary course, be reduced by the amount which represents that benefit.

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10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the works referred to in paragraph 6(2), 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, the Company must—

- (a) bear and pay the cost reasonably incurred by that undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that undertaker for any other expenses, loss, damages, penalty or costs incurred by the undertaker,

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the Company 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 the Company reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the Company, 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.

SCHEDULE 12

Article 44

FOR THE PROTECTION OF THE ENVIRONMENT AGENCY

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

(2) In 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;

“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; or
- (b) affect the flow, purity or quality of water in any watercourse or ground water.

2.—(1) Before beginning to construct any specified work, the Company 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 13.

(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 for the protection of water resources, or for the prevention of flooding or pollution or in the discharge of its environmental duties.
- (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).

3. Without limitation on the scope of paragraph 2, the requirements which the Agency may make under that paragraph include conditions requiring the Company 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.

4.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 3, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under 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) The Company 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 Schedule, the Agency may by notice in writing require the Company at the Company's own expense to comply with the requirements of this Schedule or (if the Company 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 7, if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (3) is served upon the Company, 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 the Company.

(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.

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5.—(1) Subject to the provisions of this Schedule and except to the extent that the Agency or another person is liable to maintain any such work and is not precluded by the exercise of the powers conferred by this Order from so doing, the Company 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 the Company 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 the Company is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require the Company to repair and restore the work, or any part of such work, or (if the Company so elects and the Agency in writing consents, such 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 7, 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 the Company, the Company 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 the Company.

(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.

6. Subject to paragraph 7, 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 the Company to the reasonable satisfaction of the Agency and if the Company fails to do so, the Agency may make good the impairment or damage and recover from the Company the expense reasonably incurred by it in doing so.

7. Nothing in paragraphs 4(4), 5(3) and 6 authorises the Agency to execute works on or affecting the authorised works.

8. The Company 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 Schedule; and
- (b) in the inspection of the construction of the specified works or any protective works required by the Agency under this Schedule.

9.—(1) Without affecting the other provisions of this Schedule, the Company 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 raising or lowering of the water table in land adjoining the authorised works or any sewers, drains and watercourses;
- (c) any flooding or increased flooding of any such lands; or
- (d) inadequate water quality in any watercourse or in any groundwater,

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

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

10. The fact that any work or thing has been executed or done by the Company 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 the Company from any liability under the provisions of this Schedule.

11. Any dispute arising between the Company and the Agency under this Schedule, if the parties agree, is to be determined by arbitration under article 50 (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 the Company or the Agency, after notice in writing by one to the other.

SCHEDULE 13

Article 45

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORK

1.—(1) The provisions of this Schedule, unless otherwise agreed in writing between the Company and the operator, have effect.

(2) In this Schedule—

“the 2003 Act” means the Communications Act 2003⁽⁵³⁾;

“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 communication code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act⁽⁵⁴⁾;

“electronic communications network” has the same meaning as in chapter 1 of Part 2 of the 2003 Act⁽⁵⁵⁾;

“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 2003 Act; 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 2003 Act; and

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

2. The temporary stopping up or diversion of any street under article 13 (temporary stopping up and diversion of streets) does not affect any right of the operator under paragraph 10 of the electronic

⁽⁵³⁾ 2003 c. 21.

⁽⁵⁴⁾ See section 106.

⁽⁵⁵⁾ See section 32.

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communications code to maintain any apparatus which, at the time of the stopping up or diversion, is in that street.

3.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised works or their construction, 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,

the Company 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) Sub-paragraph (1) does not apply to—

- (a) any apparatus in respect of which the relations between the Company 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.

(3) Nothing in sub-paragraph (1) imposes any liability on the Company 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.

(4) The operator must give the Company 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 the Company 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.

(5) Any difference arising between the Company and the operator under this Schedule is to be referred to and settled by arbitration under article 50 (arbitration).

SCHEDULE 14

Article 46

FOR THE PROTECTION OF THE CITY OF LONDON CORPORATION

1.—(1) The following provisions of this Schedule have effect, unless otherwise agreed in writing between the Company and the Corporation.

(2) In this Schedule—

“the Corporation” means the City of London Corporation.

“the highway” means a street vested in or maintained by the Corporation; 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.

2. Before commencing to construct any work which will involve highway operations the Company must consult the Corporation about the programme for the construction of that work

so as to secure, so far as may be reasonably practicable, that disturbance and the duration of any disturbance occasioned by, or in connection with, that construction is reduced to a minimum.

3. The Company must consult the Corporation as to—

- (a) the routes in the Corporation'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 the Company in the Corporation's area in any manner that is objected to in writing by the Corporation.

4. Before commencing to construct any authorised work which will involve highway operations, the Company must consult the Corporation—

- (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 the Company to occupy in the construction of that work;
- (c) as to the conditions under which that work will be constructed;
- (d) as to the measures and precautions the Company is to adopt to prevent damage or injury to the highway or damage or disturbance to any property of the Corporation on or under any highway;
- (e) so as to avoid or minimise inconvenience to the public and to ensure the safety of the public; and
- (f) as to the measures which the Corporation 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).

5. Any highway which has been subject to highway operations must be reinstated by the Company in a manner reasonably approved by the Corporation and to its reasonable satisfaction.

6. Except as expressly authorised by this Order the Company must not, except with the consent of the Corporation, 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 or interfere with the safe use of the highway by any person or deposit any soil, subsoil or materials on any highway except within a hoarding.

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

8. The Company must, if reasonably so required by the Corporation, provide and maintain during such time as the Company 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⁽⁵⁶⁾ in such position as may be necessary to prevent undue interference with the flow of traffic in any highway.

(56) S.I. 1994/1519.

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9. The Company must indemnify the Corporation against any claim which may be made against the Corporation 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 Corporation on or under any highway which may be caused by, or in consequence of, any act or default of the Company, its contractors, agents or employees; but the Corporation must give to the Company reasonable notice of any such claim and no settlement or compromise of it may be made without the Company's prior consent.

10. If any damage to any highway or any property of the Corporation on or under any highway is caused by, or results from, the construction of the authorised works or any act or omission of the Company, its contractors, agents or employees whilst engaged upon such work, the Company may, in the case of damage to a highway, make good such damage to the reasonable satisfaction of the Corporation and, where the Company does not so make good, or in the case of damage to property of the Corporation, the Company is liable to the Corporation for the remediation costs of any such damage (including replacement costs of the damaged item if beyond reasonable repair).

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

12. The fact that any act or thing may have been done in accordance with plans approved by the Corporation does not of itself (if it was not attributable to the act, neglect or default of the Corporation, or of any person in its employ or its contractors or agents), affect any claim for damages, under this Schedule or otherwise.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises London Underground Limited (referred to in this Order as the Company) to construct and operate works at Bank station in the City of London for the purposes of creating additional passenger access capacity to the Company's Northern line underground railway at that station.

The works include a new southbound running tunnel to carry a diversion of the Northern line together with a new passenger platform at Bank station to serve the diverted line. The Order also authorises cross passages from the proposed new platform to the existing Northern line southbound platform (which will become a new underground passenger concourse serving the Northern line) as well as other works and conveniences to improve passenger access between the Northern line, Central Line and Docklands Light Railway including new step free passenger access at street level within a proposed new station entrance in Cannon Street. The works will also improve emergency, fire and evacuation protection measures currently in place at Bank station.

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

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A copy of the works plans, sections, land plan and the book of reference mentioned in the Order and certified in accordance with article 47 of this Order 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.