

SCHEDULES

SCHEDULE 5

Section 5

TEMPORARY POSSESSION AND USE OF LAND

Occupation and use for construction of works

- 1 (1) The nominated undertaker may, in connection with the construction of the works specified in column (1) of the following table (or any works which are necessary or expedient for the purposes of or in connection with those works)—
- (a) enter upon and take possession of the land specified in relation to those works in columns (2) and (3) of that table for such purposes as are so specified in column (4) of that table, and
 - (b) for such purposes as are so specified—
 - (i) remove from the land any structure or vegetation, and
 - (ii) construct on the land temporary works (including the provision of means of access) and structures.

<i>(1)</i> <i>Works</i>	<i>(2)</i> <i>Area</i>	<i>(3)</i> <i>Number of land shown on deposited plans</i>	<i>(4)</i> <i>Purpose for which temporary possession may be taken</i>
1/3A and 1/3B	City of Westminster	217	The provision of a working site.
1/3A and 1/3B		451	The provision of a working site.
1/3A and 1/3B		692	The provision of a working site.
1/9D		30c	The provision of a working site.
1/3A and 1/3B	City of London	104a and 104b	The provision of a working site.
1/3A and 1/3B		104c	The provision of a working site.
Proposed Whitechapel Station comprised in Works Nos. 1/3A and 1/3B	London Borough of Tower Hamlets	245b	The provision of access for construction.

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<i>(1)</i> <i>Works</i>	<i>(2)</i> <i>Area</i>	<i>(3)</i> <i>Number of land shown on deposited plans</i>	<i>(4)</i> <i>Purpose for which temporary possession may be taken</i>
Any of the works authorised by this Act	London Borough of Tower Hamlets	972 and 976	The provision of access and a working site.
Any of the works authorised by this Act		753, 774, 775, 788, 789 and 796	The provision of access and barge loading facilities.
1/7, 1/33A and 1/33B	London Borough of Greenwich	160, 165 and 170	The provision of a working site.
Any of the works authorised by this Act	London Borough of Bexley	83a	The provision of a working site.
The provision of overhead electrification equipment and works to Maidenhead Bridge	Royal Borough of Windsor & Maidenhead	62 and 72	The provision of a working site and access for construction.
3/3A	Borough of Slough	81	The provision of access and a working site.
3/6		172 and 173	The provision of a working site.
3/7A and 3/7B		187	The provision of a working site.
The provision and renewal of railway systems and station facilities for operational purposes (Ealing Broadway Station)	London Borough of Ealing	111	The provision of a working site.

- (2) Not less than 28 days before entering upon and taking possession of land under this paragraph, the nominated undertaker shall give notice to the owners and occupiers of the land of its intention to do so.
- (3) The nominated undertaker may not remain in possession of any land under this paragraph after the end of the period of one year beginning with the date of

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completion of the works specified in relation to the land in column (1) of the table in sub-paragraph (1) unless the owners of the land agree.

- (4) The nominated undertaker shall pay compensation to the owners and occupiers of land of which possession is taken under this paragraph for any loss which they may suffer by reason of the exercise in relation to the land of the power or powers conferred by this paragraph.
 - (5) Any dispute as to a person's entitlement to compensation under sub-paragraph (4), or as to the amount of compensation, shall be determined under and in accordance with Part 1 of the Land Compensation Act 1961 (c. 33).
 - (6) Nothing in this paragraph shall affect any liability to pay compensation under section 10(2) of the Compulsory Purchase Act 1965 (c. 56), as applied to the acquisition of land under section 6(1), or under any other enactment, otherwise than for loss for which compensation is payable under sub-paragraph (4).
 - (7) In this paragraph, "structure" includes any erection.
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- (1) Before giving up possession of land of which possession has been taken under paragraph 1, the nominated undertaker shall, in accordance with a scheme agreed with the owners of the land and the relevant planning authority, put the land into such condition as the scheme may provide.
 - (2) If, in relation to any land of which possession has been taken under paragraph 1, no scheme has been agreed for the purposes of this paragraph within 6 months of the date of completion of the works specified in relation to the land in column (1) of the table in paragraph 1(1), the scheme shall be such as may be determined by the appropriate Ministers after consultation with the nominated undertaker, the owners of the land and the relevant planning authority.
 - (3) Unless the owners of the land and the nominated undertaker otherwise agree, a scheme determined under sub-paragraph (2) shall provide for land to be restored to its former condition.
 - (4) Unless the nominated undertaker otherwise agrees, a scheme determined under sub-paragraph (2) shall not provide for the nominated undertaker to replace any structure removed under paragraph 1, other than a fence.
 - (5) Where the appropriate Ministers ask the relevant planning authority for assistance in connection with the carrying out by them of their function under sub-paragraph (2), they may require the nominated undertaker to reimburse to the planning authority any expenses which it reasonably incurs in meeting the request.
 - (6) The duty under sub-paragraph (1) in relation to any land shall be owed separately to the owners of the land and to the relevant planning authority.
 - (7) Where a scheme for the purposes of this paragraph provides for any step to be taken by the nominated undertaker before a specified date and that step has not been taken before that date, the relevant planning authority may—
 - (a) enter the land concerned and take that step, and
 - (b) require the nominated undertaker to reimburse to it any expenses which it reasonably incurs in acting under paragraph (a).
 - (8) In this paragraph—

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“appropriate Ministers” means the Secretary of State for Communities and Local Government and the Secretary of State for Transport acting jointly;

“relevant planning authority” means—

- (a) in relation to land in the area of a unitary authority, the local planning authority;
- (b) in relation to land not in the area of a unitary authority, the district planning authority;

“structure” includes any erection.

- 3 (1) The nominated undertaker may use any road situated on land specified in the table in paragraph 8 of Schedule 6 for the passage of persons or vehicles (with or without materials, plant and machinery) for the purpose of or in connection with the construction of the works authorised by this Act.
- (2) The nominated undertaker shall compensate the person having the management of a road to which sub-paragraph (1) applies for any loss which he may suffer by reason of the exercise of the power conferred by that sub-paragraph.
- (3) Any dispute as to a person’s entitlement to compensation under sub-paragraph (2), or as to the amount of such compensation, shall be determined under and in accordance with Part 1 of the Land Compensation Act 1961 (c. 33).

Occupation and use for maintenance of works

- 4 (1) At any time during the maintenance period relating to any of the scheduled works, the nominated undertaker may—
 - (a) enter upon and take possession of any land which is—
 - (i) within 20 metres from that work, and
 - (ii) within the limits of deviation for the scheduled works or the limits of land to be acquired or used,
 if such possession is reasonably required for the purpose of or in connection with maintaining the work or any ancillary works connected with it, and
 - (b) construct on the land such temporary works (including the provision of means of access) and structures as may be reasonably so required.
- (2) Sub-paragraph (1) shall not authorise the nominated undertaker to take possession of—
 - (a) a house, any other structure which is for the time being occupied, or a garden belonging to a house,
 - (b) land specified in the table in paragraph 8, 9, 11(1) or 12 of Schedule 6, or
 - (c) such of the land specified in columns (1) and (2) of the table in paragraph 10 of Schedule 6 as falls outside the description specified in relation to it in column (3) of the table.
- (3) Not less than 28 days before entering upon and taking possession of land under this paragraph, the nominated undertaker shall give notice to the owners and occupiers of the land of its intention to do so.
- (4) The nominated undertaker may only remain in possession of land under this paragraph for so long as may be reasonably required to carry out the maintenance works for which possession of the land was taken.

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- (5) Before giving up possession of land of which possession has been taken under this paragraph, the nominated undertaker shall restore the land to the reasonable satisfaction of the owners of the land.
- (6) The nominated undertaker shall pay compensation to the owners and occupiers of land of which possession is taken under this paragraph for any loss which they may suffer by reason of the exercise in relation to the land of the powers conferred by this paragraph.
- (7) Any dispute as to a person's entitlement to compensation under sub-paragraph (6), or as to the amount of the compensation, shall be determined under and in accordance with Part 1 of the Land Compensation Act 1961.
- (8) Nothing in this paragraph shall affect any liability to pay compensation under section 10(2) of the Compulsory Purchase Act 1965 (c. 56), as applied to the acquisition of land under section 6(1), or under any other enactment, otherwise than for loss for which compensation is payable under sub-paragraph (6).
- (9) In this paragraph—
 - (a) “the maintenance period”, in relation to any work, means the period beginning with the date on which the work is completed and ending 5 years after the date on which it is brought into general use;
 - (b) “structure” includes any erection;
 - (c) any reference to land within a specified distance of a work includes, in the case of a work under the surface of the ground, a reference to land within the specified distance of any point on the surface below which the work is situated.

Suspension of private rights of way

- 5 (1) Subject to sub-paragraph (2), all private rights of way over land of which the nominated undertaker takes possession under paragraph 1 or 4 above shall be suspended and unenforceable for as long as it remains in lawful possession of the land.
- (2) The nominated undertaker may, in relation to a right of way, by direction provide—
 - (a) that sub-paragraph (1) shall not apply to the right, or
 - (b) that sub-paragraph (1) shall apply to the right only to such extent as may be specified in the direction.
- (3) The nominated undertaker shall compensate any person who suffers loss by reason of the suspension of any right under sub-paragraph (1).
- (4) Any dispute as to a person's entitlement to compensation under sub-paragraph (3), or as to the amount of the compensation, shall be determined under and in accordance with Part 1 of the Land Compensation Act 1961 (c. 33).

Enforcement

- 6 Section 13 of the Compulsory Purchase Act 1965 (c. 56) (refusal to give possession to acquiring authority) applies for the purposes of this Schedule as if—
 - (a) references to the acquiring authority were references to the nominated undertaker,

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- (b) references to compensation payable to the person refusing to give possession were references to compensation payable under this Schedule, and
- (c) in subsection (1) for “this Act” there were substituted “Schedule 5 to the Crossrail Act 2008”.