

SCHEDULE 1

Article 2

DESCRIPTION OF THE SCHEDULED WORKS

In the London Borough of Barking and Dagenham—

Work No 1. A barrage across the river with moveable barrage gates incorporating a fish pass, a weir and associated structures commencing on the western bank of the river at reference point TQ4405783303 and terminating on the eastern bank of the river at reference point TQ4410983314.

Work No 2. Reconstruction of part of the river wall to the west of Work No 1.

Work No 3. Buildings and structures on the land to the east of Work No 1.

SCHEDULE 2

Articles 3 and 21

ACQUISITION OF CERTAIN LANDS

(1) Area	(2) Number of land shown on land plan	(3) Purpose for which land may be acquired
London Borough of Barking and Dagenham	3	To construct the barrage, sector gates and associated river bed protection.
	1	To reconstruct the western river bank, facilitate connection of the barrage and to construct a security fence.
	2	Access to the scheduled works on Areas 1 and 3 to carry out repairs and maintenance to the authorised works.
	4	Access to the scheduled works on Areas 1 and 3 to carry out repairs and maintenance to the authorised works.

SCHEDULE 3

Article 24

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) Area	(2) Number of land shown on land plan	(3) Purpose for which temporary possession may be taken	(4) Authorised work or works
London Borough of Barking and Dagenham	2	Access to the western river bank to facilitate	Works Nos. 1 and 2

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(1) Area	(2) Number of land shown on land plan	(3) Purpose for which temporary possession may be taken	(4) Authorised work or works
		construction of the barrage.	
	4	Access along Fresh Wharf Road from Highbridge Road to Area 2.	Works Nos. 1 and 2

SCHEDULE 4

Article 23

**MODIFICATION OF COMPENSATION AND COMPULSORY
PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS**

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land shall 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 as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without prejudice to the generality of paragraph 1, the Land Compensation Act 1973 shall have effect subject to the modifications set out in sub-paragraphs (2) and (3) below.

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the Act of 1965 as substituted by paragraph 4—

- (a) for the words “land is acquired or taken” there shall be substituted the words “a right over land is purchased”, and
- (b) for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable”.

(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 Act of 1965 as substituted by paragraph 5—

- (a) for the word “part” in paragraphs (a) and (b) there shall be substituted the words “a right over land consisting”;
- (b) for the word “severance” there shall be substituted the words “right over the whole of the house, building or manufacture or of the house and the park or garden”;
- (c) for the words “part proposed” there shall be substituted the words “right proposed”; and
- (d) for the words “part is”, there shall be substituted the words “right is”.

3.—(1) The Act of 1965 shall have 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 as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are to be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired; or

(b) the land over which the right is or is to be exercisable.

(2) Without prejudice to the generality of sub-paragraph (1) above, Part I of the Act of 1965 shall apply in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

4. For section 7 of the Act of 1965 (measure of compensation) there shall be substituted the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right 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 his, 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 Act of 1965 (which relates to cases in which a vendor cannot be required to sell part only of a building or garden) there shall be substituted the following—

(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 land consisting of a house, building or manufacture 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 would apart from this section fall to be determined by the Lands Tribunal (‘the tribunal’); and
- (b) before the tribunal has determined that question the person satisfies the tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and
 - (i) where that land consists of a house, building or manufacture, that the right cannot be purchased without material detriment to that land, or
 - (ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs.

the Barking Barrage Order 1994 (“the Order”) shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be 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 shall 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 six 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 prejudices any other power of authority to withdraw the notice”.

6. The following provisions of the Act of 1965 (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)

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- (b) paragraph 10(3) of Schedule 1 (owners under incapacity)
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners), and
- (d) paragraph 2(3) and 7(2) of Schedule 4 (common land),

shall be so modified 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 is vested absolutely in the acquiring authority.

7. Section 11 of the Act of 1965 (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter the purpose of exercising that right (which shall be 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 Act of 1965 shall be modified correspondingly.

8. Section 20 of the Act of 1965 (protection for interests of tenants at will etc) shall apply 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 in question.

9. Section 22 of the Act of 1965 (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified 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, subject to compliance with that section as respects compensation.

SCHEDULE 5

Article 28

PROVISIONS RELATING TO STATUTORY UNDERTAKERS ETC.

Apparatus of statutory undertakers etc. on land acquired

1.—(1) Sections 271 to 274 of the 1990 Act (power to extinguish rights of statutory undertakers etc. and power of statutory undertakers etc. to remove or re-site apparatus) shall apply in relation to any land acquired or appropriated by the Borough 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 any rights under sections 271 and 272, and sections 279(2) to (4), 280 and 282, which provide for the payment of compensation) shall have effect accordingly.

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

(3) Where any apparatus of public utility undertakers or of a public telecommunications operator 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) above, any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the Borough compensation in respect of expenditure reasonably incurred by him, 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) above shall not apply in the case of the removal of a public sewer but where such 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,

shall be entitled to recover from the Borough compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of making his drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

(5) The provisions of the 1990 Act mentioned in sub-paragraph (1) above, as applied by that sub-paragraph, shall not have effect in relation to apparatus as respects which Part III of the New Roads and Street Works Act 1991 applies.

(6) In this paragraph—

“the 1990 Act” means the Town and Country Planning Act 1990;

“public telecommunications operator” means—

(a) a person authorised, by a licence to which section 9 of the Telecommunications Act 1984 applies, to run a public telecommunications system, or

(b) a person to whom the telecommunications code has been applied pursuant to section 10 of that Act; and

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