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STATUTORY INSTRUMENTS

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**2009 No. 2364**

The London Underground (Victoria  
Station Upgrade) Order 2009

PART 2

WORKS PROVISIONS

*Streets*

**Power to alter layout, etc., of streets**

6.—(1) The Company may for the purposes of the authorised works alter the layout of any street within the Order limits and the layout of any street having a junction with such a street and without prejudice to this power the Company may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footway or verge within the street;
- (b) alter the level or increase the width of any such kerb, footway or verge; and
- (c) carry out works for the provision or alteration of parking places, loading bays, bus stop clearways and bus laybys.

(2) The powers in paragraph (1) shall not be exercised without the consent of the street authority, but such consent shall not be unreasonably withheld.

**Power to execute street works**

7.—(1) The Company may, for the purposes 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 the Order limits 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), including works necessary to prepare the ground for tunnelling or other works.

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

**Stopping up of streets**

8.—(1) Subject to the provisions of this article the Company may, in connection with the authorised works, stop up the street specified in column (2) of Schedule 3 (street to be stopped up) to the extent specified in column (3) of that Schedule.

(2) Where a street has been stopped up under this article—

- (a) all rights of way over or along it shall be extinguished; and
- (b) the Company may appropriate and use for the purposes of its undertaking so much of the site of the street so stopped up.

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

(4) This article is subject to paragraph 2 of Schedule 8 (provisions relating to statutory undertakers, etc.) and paragraph 3 of Schedule 10 (for protection of specified undertakers).

### **Temporary stopping up and diversion of streets**

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

- (a) divert the traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without prejudice to the generality of paragraph (1), the Company may use any street stopped up under the powers conferred by this article as a temporary working site.

(3) The Company shall provide reasonable access for pedestrians going to or from premises abutting a street affected by the exercise of the powers conferred by this article if there would otherwise be no such access.

(4) Without prejudice to the generality of paragraph (1), the Company may exercise the powers conferred by this article in relation to the streets specified in column (2) of Schedule 4 (streets to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the traffic regulation plan and set out in column (3) of that Schedule.

(5) The power conferred by paragraph (4) shall not be used to stop up the carriageway of Bressenden Place such that it is not available for the passage of traffic until a temporary alternative route for the passage of such traffic as is reasonably likely to have used that part of Bressenden Place to be stopped up is provided between points marked A and B on the traffic regulation plan and Victoria Street.

(6) The Company shall following the provision of the temporary alternative route referred to in paragraph (5) maintain that route to the reasonable satisfaction of the street authority and that route (or any subsequent temporary alternative route that meets the requirements of paragraph (5)) shall remain until such time as the temporary stopping up and diversion of Bressenden Place as authorised by paragraph (4) has ended.

(7) The Company shall not exercise the powers conferred by this article—

- (a) in relation to any street specified as mentioned in paragraph (4) or (5), 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 shall not be unreasonably withheld.

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

### **Access to works**

**10.** The Company may, for the purposes of the authorised works with the approval of the highway authority, such approval not to be unreasonably withheld, form and lay out such 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 altered or diverted streets**

**11.**—(1) Where a street is altered or diverted under this Order, or is reinstated following its temporary diversion, the altered, diverted or reinstated part of the street shall, when completed to the reasonable satisfaction of the street authority, unless otherwise agreed, 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.

(2) 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 prejudice to 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.

(3) For the purposes of a defence under paragraph (2), the court shall 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; and
- (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 that the Company had arranged for a competent person to carry out or supervise the maintenance of that 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**

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

- (a) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
- (b) any stopping up, alteration, diversion or reinstatement of a street under the powers conferred by this Order; or
- (c) the execution in the street of any of the works referred to in article 7 (power to execute street works).

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

- (a) provide for the street authority to carry out any function under this Order which relates to the street in question; and
- (b) contain such terms as to payment and otherwise as the parties consider appropriate.