
STATUTORY INSTRUMENTS

2015 No. 2044

**The London Underground (Bank
Station Capacity Upgrade) Order 2015**

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 unreasonably 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⁽¹⁾ (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⁽²⁾; 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⁽³⁾ (statutory authority as a defence to actions in nuisance, etc.) or any rule of common law having similar effect.

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.

(1) 1990 c.43. There are amendments to this Act which are not relevant to this Order.

(2) 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.

(3) 1993 c.43.

(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⁽⁴⁾ (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)⁽⁵⁾ 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).

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

(4) 1857 c. 81. There are amendments to this Act which are not relevant to this Order.

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

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⁽⁶⁾ 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—

- (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—

(6) 1999 c.29.

- (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(7) 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.

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.