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STATUTORY INSTRUMENTS

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**2005 No. 3105**

**The Docklands Light Railway  
(Capacity Enhancement) Order 2005**

**PART 6**

**MISCELLANEOUS AND GENERAL**

**Traffic regulation**

**45.**—(1) Subject to the provisions of this article DLRL may during and for the purposes of the authorised works from the commencement of this Order and with the consent of the traffic authority in whose area the relevant street is situated (such consent not to be unreasonably withheld)—

- (a) prohibit or restrict the parking, stopping, waiting or the loading or unloading of vehicles, at any time, in the relevant streets;
- (b) suspend temporarily the use of any parking place within a relevant street; and
- (c) revoke any traffic regulation order in so far as it is inconsistent with any prohibition or restriction made by DLRL under this paragraph.

(2) DLRL shall not exercise the powers of this article unless it has—

- (a) given not less than 12 weeks' notice in writing of its intention to do so to the chief officer of police and the traffic authority in whose area the relevant streets are situated; and
- (b) not less than seven days before exercising any power under this article, given notice of the intention to exercise the power of this article by publishing a notice in a local newspaper circulating in the area.

(3) Any prohibition or restriction made by DLRL under paragraph (1) above shall not apply to any vehicle of a statutory utility for so long as it is engaged in connection with the laying, erection, alteration, repair or inspection of any apparatus of that utility.

(4) In this article—

“the relevant streets” means the carriageway of the streets specified in columns (1) and (2) of Schedule 15 to this Order; and

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act or an electronic communications code operator or a former PTO as defined in article 2(1).

**Powers of disposal, agreements for operation, etc.**

**46.**—(1) DLRL 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 designated works and any land held in connection therewith.

(2) Without prejudice to the generality of paragraph (1), DLRL 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 designated works, or any part or parts of them, by any other person, and other

matters incidental or subsidiary thereto or consequential thereon, and the defraying of, or the making of contributions towards, the cost of the matters aforesaid by DLRL or any other person.

(3) Any agreement under paragraph (2) may provide, among other things, for the exercise of the powers of DLRL in respect of the works or any part or parts thereof, and for the transfer to any person of the works or any part or parts thereof together with the rights and obligations of DLRL in relation thereto.

(4) The exercise of the powers of any enactment by any person in pursuance of any sale, lease, charge or disposal under paragraph (1), or any agreement under paragraph (2), shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those powers were exercised by DLRL.

(5) Sections 163 and 207(2) of the Greater London Authority Act 1999<sup>(1)</sup> shall 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).

(6) In this article—

“designated works” means any of the authorised works which are to be constructed on any lands which were subject to a transfer scheme made pursuant to section 3 of the London Docklands Railway (Lewisham) (No. 2) Act 1993<sup>(2)</sup>.

#### **Application of landlord and tenant law**

47.—(1) This article applies to any agreement for leasing to any person the whole or any part of the authorised works or the right to operate the same, and any agreement entered into by DLRL 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 shall prejudice the operation of any agreement to which this article applies.

(3) Accordingly no such enactment or rule of law shall apply 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.

#### **Defence to proceedings in respect of statutory nuisance**

48.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990<sup>(3)</sup> (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 shall be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows—

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(1) 1999 c. 29.  
(2) 1993 c. viii.  
(3) 1990 c. 43.

- (a) that the nuisance relates to premises used by DLRL for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to works and that the nuisance is attributable to the carrying out of works which are being carried out in accordance with a notice served under section 60, or a consent given under section 61 or 65, of the Control of Pollution Act 1974<sup>(4)</sup>; or
  - (b) that the nuisance is a consequence of the operation of the works authorised by this Order and that it cannot reasonably be avoided.
- (2) The following provisions of the Control of Pollution Act 1974, namely—
- (a) 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); and
  - (b) section 65(8) (corresponding provision in relation to consent for registered noise level to be exceeded);

shall not apply where the consent relates to the use of premises by DLRL for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to works.

(3) The provisions of this article are without prejudice to the application to the authorised works of section 122 of the 1993 Act (statutory authority as a defence to actions in nuisance, etc.) or any rule of common law having similar effect.

#### **Disclosure of confidential information**

- 49.** A person who—
- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 20 or article 22; and
  - (b) discloses to any person any information obtained by him relating to any manufacturing process or trade secret;

shall be 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 performing his duty in connection with the purposes for which he was authorised to enter the land.

#### **Application of certain railway enactments**

**50.**—(1) Any enactment by which any railway or former railway of Network Rail comprised within the affected properties was authorised shall have effect subject to the provisions of this Order.

- (2) Nothing in paragraph (1) shall prejudice any express statutory provision for —
- (a) the protection of the owner, lessee or occupier of any specifically designated property; or
  - (b) the protection or benefit of any public trustees or commissioners, corporation or other person, specifically named in such provision.

(3) In this article “affected properties” means any land described in the book of reference which is owned by Network Rail or in which Network Rail has an interest.

#### **Certification of plans, etc.**

**51.** DLRL shall, as soon as practicable after the making of this Order, submit copies of the book of reference, the deposited plans and the deposited sections to the Secretary of State for certification that they are true copies of, respectively, the book of reference, the deposited plans and the deposited

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(4) 1974 c. 40.

sections referred to in this Order; and a document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

### Service of notices

**52.**—(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) subject to paragraphs (5), (6), (7) and (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 of the Interpretation Act 1978<sup>(5)</sup> as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) is, if he 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, his 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 his name or address cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to him 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 shall be taken to be fulfilled where the recipient of the notice or other document to be transmitted has given his 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 he requires a paper copy of all or any part of that notice or other document the sender shall provide such a copy as soon as reasonably practicable.

(7) A person may revoke his consent to the use of electronic transmission 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 he shall—

- (a) give notice in writing or by electronic transmission revoking any consent given by him for that purpose; and
- (b) such revocation shall be final and shall take effect on a date specified by the person in the notice but that date shall not be less than 7 days after the date on which the notice is given.

(9) This article shall not be taken to exclude the employment of any method of service not expressly provided for by it.

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(5) 1978 c. 30.

**No double recovery**

**53.** Compensation shall not be payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law, or under two or more different provisions of this Order.

**Arbitration**

**54.** Unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) shall 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 notice in writing to the other) by the President of the Institution of Civil Engineers.