
STATUTORY INSTRUMENTS

2006 No. 2905

**The Docklands Light Railway (Stratford
International Extension) Order 2006**

PART 6

MISCELLANEOUS AND GENERAL

Agreements with Network Rail and railway enactments

41.—(1) DLRL and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to DLRL of—

- (a) any abandoned railway property shown on the deposited plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such abandoned railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any land, works or property referred to in this paragraph.

(2) Where—

- (a) agreement is made for the transfer to DLRL of any land, works and property under paragraph (1), or
- (b) agreement was made for the transfer from Network Rail to DLRL of any land, works and property before the date of the coming into force of this Order which, had it been made on or after that date, could have been made under paragraph (1),

DLRL may adapt for use, maintain, use and operate any railway on, in, over or under that land, works and property.

(3) Subject to paragraph (4), any enactment by which any railway within the Order limits or the temporary land was authorised, including the enactments specified in Part 1 of Schedule 16, and the enactments specified in Part 2 of Schedule 16 so far as not repealed by paragraph (5), shall have effect subject to the provisions of this Order.

(4) Nothing in paragraph (3) shall prejudice any express statutory provision for—

- (a) the protection of the owner, lessee or occupier of any property specifically identified by the provision; or
- (b) the protection or benefit of any public trustees or commissioners, corporation or other person, specifically named in such provision.

(5) Subject to paragraph (6), on the date of the transfer to DLRL of Network Rail's freehold interest in the land within the limits of deviation for Work No.1, or so much of that interest as DLRL may require for the purposes of that work—

- (a) the enactments mentioned in Part 2 of Schedule 16 shall be repealed to the extent specified in the third column of that Part of that Schedule and to the extent that they apply to the abandoned railway formation; and
- (b) any enactment except this Order not so mentioned and specified shall be repealed or revoked to the extent that it applies to the abandoned railway formation.

(6) The repeal of the enactments mentioned in paragraph (5) shall not prejudice the continued operation and effect of any deed, or of any other agreement or instrument (whether or not executed under seal), relating to any land, works or property referred to or affected by any of those enactments and in existence before the repeal takes effect.

(7) In this article, “abandoned railway property” means any railway belonging to Network Rail and any station, land, works, apparatus and equipment belonging to Network Rail or connected therewith and includes any easement of other property interest held or used by Network Rail for the purposes of such railway or works, apparatus or equipment, which is intended to be, or has been, abandoned by Network Rail in consequence of the construction of the works authorised by this Order.

Temporary traffic regulation

42.—(1) Subject to the provisions of this article DLRL may, for the purposes and during the construction of the authorised works, and with the consent of the traffic authority in whose area the road is situated—

- (a) prohibit the waiting of vehicles at any time on the roads specified in column (1) and along the lengths and between the points specified in columns (2) and (3) of Schedule 17 to this Order; and
- (b) suspend any traffic regulation order in so far as it is inconsistent with any prohibition made by DLRL under this paragraph.

(2) DLRL shall consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (3).

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

- (a) given not less than 6 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 21 days of its receipt of notice of DLRL's intention specify in writing.

(4) Any prohibition or other provision made by DLRL under paragraph (1)(a) or (b) shall have effect as if duly made by the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act and the instrument by which it is effected may specify savings to which the prohibition is subject.

Saving for Railways Act 1993

43. Nothing in this Order, or in any enactment incorporated with or applied by this Order, shall prejudice or affect the operation of Part 1 of the 1993 Act.

Powers of disposal, agreements for operation, etc.

44.—(1) Subject to paragraph (5) 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—

- (a) the whole or any part of the authorised works and any land held in connection therewith; and
- (b) the whole or any part of the abandoned railway formation.

(2) Without prejudice to the generality of paragraph (1) but subject to paragraph (5), DLRL may enter into and carry into effect agreements with respect to any or all of the following matters—

- (a) the construction, maintenance, use and operation of the authorised works, or any part of them, by any other person;
- (b) the exercise of the powers of article 4 in relation to the abandoned railway formation, or any part of it, by any other person;
- (c) other matters incidental or subsidiary thereto or consequential thereon; and
- (d) the defraying of, or the making of contributions towards, the cost of those matters by DLRL or any other person.

(3) Any agreement under subsection (2) may provide, among other things, for the exercise of the powers of DLRL in respect of the authorised works or the abandoned railway formation or any part thereof, and for the transfer to any person of the authorised works or the abandoned railway formation or any part 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) DLRL shall not exercise the powers of this article in relation to Work No.2 without the consent of Network Rail, which shall not be unreasonably withheld or delayed.

(6) Sections 163 and 207(2) of the Greater London Authority Act 1999⁽¹⁾ 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).

Application of landlord and tenant law

45.—(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.

(1) 1999 c. 29.

Defence to proceedings in respect of statutory nuisance

46.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990⁽²⁾ (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—

- (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⁽³⁾; 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

47. A person who—

- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 16 or article 18; 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.

Certification of plans, etc.

48.—(1) 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 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.

(2) 1990 c. 43.

(3) 1974 c. 40.

Service of notices

49.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served by post.

(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⁽⁴⁾ 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) This article shall not be taken to exclude the employment of any method of service not expressly provided for by it.

No double recovery

50. 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

51. 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.

(4) 1978 c. 30.