

# CROSSRAIL ACT 2008

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS AND SCHEDULES

#### *Planning*

##### *Section 10: Planning: general*

41. *Section 10(1)* provides for deemed planning permission under Part 3 of the Town and Country Planning Act 1990, to be granted for the development authorised by the Act, subject to subsection (2).
42. *Section 10(2), (3), (4) and (8)* provides that the deemed planning permission only applies to development comprising a specified work listed in Schedule 1 to the Act (a “scheduled work”) or, in the case of other ancillary development not comprising a scheduled work which is likely to have a significant effect on the environment or otherwise requires environmental assessment, if the ancillary development has been environmentally assessed in the environmental statements deposited with or produced during the passage of the Crossrail Bill.
43. *Section 10(5)* provides that where an application for planning permission is made to the local planning authority in respect of development excluded from the deemed planning permission conferred by section 10(1) by virtue of subsection (2), (3), (4) and (8), the requirements for environmental assessment are to apply to the application even if the area of the development does not exceed the thresholds provided for in the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.
44. *Section 10(6)* brings into effect Schedule 7. Schedule 7 establishes a planning regime that seeks to give local planning authorities an appropriate degree of control over the detailed planning aspects of Crossrail (and is to be augmented by other arrangements outside the Act, such as a Planning Memorandum and a Construction Code of Practice, designed to sit alongside the legislative provisions). These provisions, and the accompanying documents, are based on the framework established for the Channel Tunnel Rail Link.

##### *Section 11: Permitted development: time limit*

45. *Section 11(1)* provides that, for scheduled works, the deemed planning permission granted by Section 11 applies only to works begun within ten years of Royal Assent.
46. *Section 11(2)* allows the Secretary of State to extend this time limit by means of an order.
47. *Section 11(3)* provides for such an order to be subject to the negative resolution procedure.
48. *Section 11(4)* disapplies section 91 of the Town and Country Planning Act 1990, which sets out the duration of normal planning permission, in respect of the planning permission granted by subsection (1).

***Section 12: Fees for planning applications***

49. *Section 12(1)* allows the Secretary of State for Transport and the Secretary of State for Communities and Local Government, acting jointly, to make regulations about the fees to be charged by local planning authorities for the requests for approval of details under Schedule 7 to the Act to be submitted for Crossrail.
50. *Section 12(2)* and *(3)* set out what those regulations may cover.
51. *Section 12(4)* provides for the regulations to be made in the form of a statutory instrument subject to negative resolution procedure.
52. *Section 12(5)* disapplies any regulations made under section 303 of the Town and Country Planning Act 1990, which set out the fees normally charged for planning applications, in respect of any supplementary request for approval arising from a planning application deemed granted by section 10(1) of the Act. Special provision for Crossrail planning fees reflects the special planning regime applying to Crossrail provided by Section 10.

***Section 13: Power to disapply section 10(1)***

53. *Section 13(1)* allows the Secretary of State, by means of an order, to disapply the deemed planning permission granted by section 10(1) in respect of development consisting of operations for the maintenance or alteration of the Crossrail works, from the date specified in the order. In essence, this provision allows the Secretary of State to switch off the deemed planning permission granted by the Act in respect of future Crossrail works, should he decide to do so (this is most likely to be used in the case of the electrification and signalling work done on sections of the existing railway network, and would ensure that a single planning regime covered works in relation to existing track after the Crossrail construction phase has been completed).
54. *Section 13(2)* provides that, in the event of such a disapplication, any such development would be subject to the normal provisions of the Town and Country Planning (General Permitted Development) Order 1995 applying to development authorised by a local Act.
55. *Section 13(3), (4)* and *(5)* provide for the order to make different provisions in different cases, and for it to be made by means of a statutory instrument.

***Section 14: EIA regulations: replacement development***

56. *Section 14(1), (2)* and *(3)* provide that where a building is demolished or substantially demolished for the purposes of the Crossrail works, any later planning application for its replacement (for example, for building over a Crossrail station) must be accompanied by an environmental assessment if the building demolished or substantially demolished is listed in the table in the section or it is not so listed but the provision of the replacement would be likely to have significant effects on the environment. This provision is intended to ensure that all the direct and indirect environmental effects of the development authorised by the Act are properly assessed at the appropriate stage.

***Section 15: Extension of permitted development rights***

57. *Section 15* allows certain statutory undertakers (such as sewerage and electricity undertakers) to rely on their own permitted development rights for work which they carry out in relation to Crossrail, provided that the significant impacts of such diversions have been environmentally assessed for the purposes of the project as a whole. Such assessment would be found within the various statements containing environmental information which the Department has produced at the introduction of the Act and subsequently where significant project changes have emerged. As with section 14, this provision is intended to ensure that the direct and indirect environmental effects of the development authorised by the Act are properly assessed at the appropriate stage.

*These notes refer to the Crossrail Act 2008 (c.18)  
which received Royal Assent on 22 July 2008*

58. [Section 15](#) also brings into effect Schedule 8, which enables the Secretary of State to intervene in the process of statutory undertakers carrying out work in relation to Crossrail but under their own permitted development rights. The Secretary of State may intervene under Schedule 8 for the purposes of avoiding a breach of a relevant Parliamentary undertaking or for securing that the environmental effects of carrying out development are not materially different from those assessed.