

CROSSRAIL ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SCHEDULES

Schedule 3 – Highways

149. *Paragraph 1* grants the nominated undertaker the power to stop up permanently certain specified highways. Some of the highways may be stopped up without providing a substitute, and some may be stopped up upon the provision of a substitute.
150. *Paragraph 2* grants the nominated undertaker the power to stop up any other bridleway or footpath situated within the Act limits, subject to confirmation by the Secretary of State for Transport and the Secretary of State for the Environment, Food and Rural Affairs, acting jointly.
151. *Paragraph 3* provides that for any highway, bridleway or footpath stopped up under paragraphs 1 and 2, all rights of way over or along it shall be extinguished. Compensation may be payable to anyone who suffers loss as a result of the extinguishment of a private right of way.
152. *Paragraph 4* provides that the power to carry out associated works conferred by paragraphs 1 and 4 of Schedule 2 may be exercised in a way that permanently obstructs the highway, but only with the consent of the local highway authority. Such consent is not to be unreasonably withheld, and a request for consent is deemed to have been given if it has not been given or refused within 28 days. Any disputes over the granting of consent are to be determined by the Secretary of State unless the parties agree that the matter should be referred to arbitration.
153. *Paragraph 5* allows the nominated undertaker, for the purposes of constructing or maintaining Crossrail, temporarily to stop up, alter or divert any highway, to break up and interfere with the highway and to divert traffic from it. In respect of the highways listed in the paragraph, there is a requirement to consult the local highway authority with a view to ensuring public safety and, so far as reasonably practicable, to reduce public inconvenience. For highways not listed, there is a requirement to obtain the consent of the local highway authority, such consent not to be unreasonably withheld, but consent may be given subject to reasonable conditions in the interest of public safety or convenience. A request for consent is deemed to have been given if it has not been given or refused within 28 days, or within 42 days in respect of certain important roads. Any disputes over the granting of consent are to be determined by the Secretary of State unless the parties agree that the matter should be referred to arbitration.
154. *Paragraph 6* authorises the nominated undertaker to use any highway which is temporarily stopped up as a working site, provided that the part of the highway concerned is situated within the Act limits.
155. *Paragraph 7* allows the nominated undertaker to place, maintain, reposition and remove apparatus from any highway within the Act limits.
156. *Paragraph 8* deems certain highway works carried out under the Act to be major transport works for the purposes of the New Roads and Street Works Act 1991. The

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

effect of this is to apply, to highway works carried out by the nominated undertaker under the Act, the same procedures and code for settling how changes to apparatus in a street are dealt with (and costs apportioned) where changes to the apparatus are necessitated by the highway works as applies to highway works carried out by the highway authority.

157. *Paragraph 9* requires any new or altered highway to be completed to the reasonable satisfaction of the highway authority, and for that to be certified by the highway authority, and *paragraph 10* requires any realigned or new highway to be constructed in accordance with specifications approved by the highway authority.
158. *Paragraph 11* provides for a 12 month period after practical completion of any new or altered highway and it being open for public use during which the nominated undertaker is responsible for maintenance (following which the highway authority is responsible for maintenance), and for the issue of certificates. Disputes under those paragraphs are determined by the Secretary of State unless the parties agree to arbitration.
159. *Paragraph 12* provides that nothing in section 46 of the Railways Clauses Consolidation Act 1845 shall require the nominated undertaker to maintain the surface of a highway under or over which the schedule works are constructed, or the immediate approach to any such highway. That responsibility will continue to rest with the highway authority.
160. *Paragraph 13* applies sections 116 to 117 of the Transport Act 1968, which sets out duties in respect of bridges carrying highways over railways.
161. *Paragraph 14* allows the nominated undertaker to enter into agreements concerning the construction of a new highway, the alteration of an existing highway and related matters with those having the charge, management or control of that highway. This allows the nominated undertaker to enter into agreement with, for example, local highway authorities, so that they may, for example, carry out some of the works themselves.
162. *Paragraph 15* allows the nominated undertaker to enter upon, take and use for Crossrail the subsoil of any highway where the subsoil concerned is subject to compulsory purchase under the Act, without being required to acquire that subsoil or any right in it, except in respect of the areas listed in the table in the paragraph.