

# CROSSRAIL ACT 2008

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## EXPLANATORY NOTES

### COMMENTARY ON SCHEDULES

#### *Schedule 9 – Heritage: disapplication and modification of controls*

227. *Schedule 9* essentially disapplies the normal heritage protections provided in respect of listed buildings, buildings in conservation areas, and ancient monuments, that might be affected by the Crossrail works. Notwithstanding these disapplications, detailed arrangements were agreed with English Heritage during the passage of the Bill in respect of the relatively small number of such buildings etc likely to be significantly affected.
228. *Paragraph 1* lists in a table the buildings affected, and provides that in relation to the Crossrail works, if a listed building had been listed immediately before 15<sup>th</sup> December 2004 and is specified in the table:
- section 7 of the Planning (Listed Buildings and Conservation Areas) Act 1990 should not apply;
  - to the extent that a notice issued in relation to the building under section 38(1) of that Act requires the taking of steps which would be rendered ineffective or substantially ineffective by works proposed to be carried out in exercise of the powers conferred by the Act, it should not have effect or cease to have effect;
  - no steps may be taken under section 42(1) of that Act which would be rendered ineffective or substantially ineffective by such works and;
  - no works may be executed for the preservation of the building under section 54 of that Act which will be rendered ineffective or substantially ineffective by such works.
229. The same disapplications apply to any building which was not a listed building before 15<sup>th</sup> December 2004 but is listed on or after that date.
230. The table also lists buildings which are situated in a conservation area but are not listed buildings. In relation to these buildings, section 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is disapplied with respect to their demolition if the demolition is in exercise of the powers conferred by the Act. A similar disapplication applies in relation to a building within an area which becomes a conservation area on or after 15<sup>th</sup> December 2004.
231. *Paragraph 2* deals with listed buildings which may be affected by settlement. In relation to these buildings similar disapplications as those above apply, save that the disapplication of section 7 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would only apply to works for the alteration or extension of the building which are carried out in exercise of powers conferred by the Act for the purpose of maintaining or restoring its character as a building of special architectural or historical interest.

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

232. *Paragraph 3* provides that section 59 of the Planning (Listed Buildings and Conservation Areas) Act 1990 does not apply to anything done in exercise of the powers conferred by the Act with respect to works.
233. *Paragraph 4* modifies the application of the Ancient Monuments and Archaeological Areas Act 1979 (“the 1979 Act”) in respect of Crossrail works:
- section 2 of the 1979 Act does not apply to any works authorised by the Act ;
  - the powers of entry conferred by sections 6(1), 6A(1) and 26 are not to be exercisable in relation to land used for or in connection with the carrying out of such works;
  - the provisions of the 1979 Act with respect to functions of a person as a guardian, and the provisions of any agreement under section 17, are to have effect subject to the powers conferred by the Act with respect to works;
  - section 19 is not to apply in relation to a monument which is closed by the nominated undertaker for the purposes of, in connection with, or in consequence of the carrying out of any of the Crossrail works;
  - regulations under subsection (3) or (4A) of that section are not to apply to the Crossrail works, and the power conferred by subsection (6) of that section is not to be exercisable so as to prevent or restrict the exercise of such powers;
  - in section 25 of the 1979 Act, subsection (2) is not to authorise the superintendence of the carrying out of any of the Crossrail works, and subsection (3) is not to apply in relation to advice given in connection with the carrying out of any of those works;
  - section 28 is not to apply to anything done in exercise of the powers conferred by the Act with respect of works.
  - section 35 is likewise not to apply to operations carried out in the exercise of those powers.
  - section 39(1) is to have effect as if operations carried out in exercise of those powers were exempt operations; and
  - subsection (1) of section 42 is not to apply to the use of a metal detector for the purposes of or in connection with the Crossrail works, and subsection (3) of that section is likewise not to apply to the removal of objects discovered by the use of a metal detector for those purposes.
234. *Paragraph 5* modifies the application of the National Heritage Act 1983 to the Crossrail works. The power of entry conferred by section 36(1) of the 1983 Act is only to be exercisable in relation to land used, or intended for use, for or in connection with the Crossrail works with the consent of a nominated undertaker, such consent not to be unreasonably withheld. Such consent may be given subject to compliance with any reasonable requirements or conditions imposed for reasons of safety or for the purpose of preventing interference with or delay to the works. Any disputes about this are to be determined by the appropriate Ministers unless the parties agree to arbitration. For this purpose the appropriate Ministers means the Secretary of State for Transport and the Secretary of State for Culture, Media and Sport, acting jointly. And subsection (6) of section 36 of the 1983 Act, which regulates the right to enter land for the purposes of record keeping, is not to apply to land on which works authorised by the Act are being carried out.