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STATUTORY INSTRUMENTS

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**2000 No. 428**

**Knowsley Industrial Park (Rail Terminal) Order 1999**

**PART I**  
**PRELIMINARY**

**Citation and commencement**

1. This Order may be cited as the Knowsley Industrial Park (Rail Terminal) Order 1999 and shall come into force on 24th December 1999.

**Interpretation**

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961<sup>(1)</sup>;

“the 1965 Act” means the Compulsory Purchase Act 1965<sup>(2)</sup>;

“the 1990 Act” means the Town and Country Planning Act 1990<sup>(3)</sup>;

“the 1991 Act” means the New Roads and Street Works Act 1991<sup>(4)</sup>;

“the 1992 Act” means the Transport and Works Act 1992;

“the Applications Rules” means the Transport and Works (Applications and Objections Procedure) Rules 1992;

“authorised works” means the scheduled works and any other works authorised by this Order;

“the book of reference” means the book of reference described in rule 7(5) of the Applications Rules certified by the Secretary of State as the book of reference for the purposes of this Order;

“the Council” means Knowsley Metropolitan Borough Council;

“the deposited plans” means the composite plans prepared in pursuance of rule 7(1) and (3) of the Applications Rules certified by the Secretary of State as the deposited plans for the purposes of this Order and references to land shown on those plans are references to land so shown in pursuance of rule 7(3);

“the deposited sections” means the sections described in rule 7(2) of the Applications Rules certified by the Secretary of State as the deposited sections for the purposes of this Order;

“the limits of deviation” means the limits of lateral deviation for the scheduled works mentioned in article 4(a) below;

“the Liverpool Bolton and Bury Line” means so much of that part of the railway of Railtrack PLC known as the Liverpool Bolton and Bury Line as runs between Wigan Wallgate station and Kirkby station;

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(1) 1961 c. 33.  
(2) 1965 c. 56.  
(3) 1990 c. 8.  
(4) 1991 c. 22.

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace and “maintenance” shall be construed accordingly;

“owner”, in relation to land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of land (whether in possession or reversion) and includes a person holding, or entitled to the rents and profits of, the land under a lease or tenancy having an unexpired term exceeding 3 years;

“the public open space and exchange land plans” means the two plans so headed and attached to the deposited plans;

“the scheduled works” means the works specified in Schedule 1 to this Order or any part of them;

“the telecommunications code” means Schedule 2 to the Telecommunications Act 1984(5); and

“the tribunal” means the Lands Tribunal.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in or on land or in the air-space over its surface.

(3) Any reference in this Order to a work identified by the number of the work shall be construed as a reference to the work of that number authorised by this Order.

(4) References in this Order to points identified by letters, with or without numbers, shall be construed as references to the points so lettered on the deposited plans.

(5) All distances, directions and lengths stated in the description of the scheduled works or in any description of powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance, direction and length, and distances between points on a scheduled work shall be taken to be measured along that scheduled work.

## PART II

### WORKS PROVISIONS

#### *Principal powers*

#### **Power to construct and maintain works**

3.—(1) The Council may construct and maintain the scheduled works.

(2) Subject to article 4 below, the scheduled works may only be constructed in the lines or situations shown on the deposited plans and in accordance with the levels shown on the deposited sections.

(3) Subject to paragraph (5) below, the Council may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the scheduled works, namely—

- (a) works for the strengthening, alteration or demolition of any building or structure;
- (b) works to alter the position of any apparatus, including mains, sewers, drains and cables;
- (c) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (d) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised works; and

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(5) 1984 c. 12.

(e) facilities and works for the benefit or protection of land or premises affected by the authorised works.

(4) Subject to paragraph (5) below, the Council may carry out and maintain such other works (of whatever nature) as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the scheduled works.

(5) Paragraphs (3) and (4) above shall only authorise the carrying out or maintenance of works within the limits of deviation shown on the deposited plans for the scheduled works.

#### **Power to deviate**

4. In constructing or maintaining any of the scheduled works, the Council may—
- (a) deviate laterally from the lines or situations shown on the deposited plans within the limits of deviation relating to that work shown on those plans; and
  - (b) deviate vertically from the levels shown on the deposited sections—
    - (i) to any extent not exceeding 3 metres upwards; and
    - (ii) to any extent downwards.

#### *Streets and footpaths*

#### **Stopping up of footpath**

5.—(1) The Council may, in connection with the construction of the authorised works, stop up the footpath specified in columns (1) and (2) of Schedule 2 to this Order to the extent specified, by reference to the letters and numbers shown on the deposited plans, in column (3) of that Schedule.

- (2) Upon that footpath being stopped up—
- (a) all rights of way over or along it shall be extinguished; and
  - (b) the Council may, without making any payment, appropriate and use for the purposes of its undertaking authorised by this Order so much of the footpath that is stopped up.

#### **Access to works**

6. The Council may, for the purposes of the construction or operation of the scheduled works, form and lay out such means of access, within the limits of deviation, as may be approved by the highway authority, but such approval shall not be unreasonably withheld.

#### *Supplemental*

#### **Discharge of water**

7.—(1) The Council may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction, operation or maintenance of the authorised works and for that purpose may lay down, take up and alter pipes and may, on any land within the limits of deviation, make openings into, and connections with, the watercourse, sewer or drain.

(2) The Council shall not discharge any water into any watercourse, public sewer or drain except with the consent of the authority to which it belongs; and such consent may be given subject to such terms and conditions as the authority may reasonably impose but shall not be unreasonably withheld.

(3) The Council shall not make any opening into any public sewer or drain except in accordance with plans approved by, and under the superintendence (if provided) of, the authority to which the sewer or drain belongs, but such approval shall not be unreasonably withheld.

(4) The Council shall not, in the exercise of the powers conferred by this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(5) The Council shall take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance or oil or matter in suspension.

(6) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by section 85(1), (2) or (3) of the Water Resources Act 1991(6).

(7) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board or a local authority;
- (b) “watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and
- (c) other expressions used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

#### **Power to survey and investigate land, etc.**

8.—(1) The Council may for the purposes of this Order—

- (a) survey or investigate any land within the limits of deviation;
- (b) without prejudice to the generality of sub-paragraph (a) above, make trial holes in such positions as the Council thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) place on, leave on and remove from the land apparatus for use in connection with the exercise of any of the powers conferred by sub-paragraphs (a) and (b) above; and
- (d) enter on the land for the purpose of exercising any of the powers conferred by sub-paragraphs (a) to (c) above.

(2) No land may be entered, or equipment placed or left on or removed from the land under paragraph (1) above, unless at least 7 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the Council—

- (a) shall, if so required, before or after entering the land produce written evidence of his authority to do so; and
- (b) may take with him such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) The Council shall make compensation for any damage occasioned, by the exercise of the powers conferred by this article, to the owners and occupiers of the land, such compensation to be determined, in case of dispute, under Part I of the 1961 Act.

#### **Obstruction of construction of authorised works**

9. Any person who, without reasonable excuse, obstructs another person from constructing any of the authorised works under the powers conferred by this Order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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(6) 1991 c. 57.

## PART III

### ACQUISITION AND POSSESSION OF LAND

#### *Powers of acquisition*

#### **Power to acquire land**

**10.** The Council may acquire compulsorily so much of the land shown on the deposited plans within the limits of deviation for the scheduled works shown on those plans and described in the book of reference as may be required for or in connection with the authorised works, and may use any land so acquired for those purposes or for any other purposes connected with or ancillary to its undertaking authorised by this Order.

#### **Application of Part I of Compulsory Purchase Act 1965**

**11.—**(1) Part I of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, shall apply to the acquisition of land under this Order—

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(7) applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part I of the 1965 Act, as so applied, shall have effect as if section 4 (which provides a time limit for compulsory purchase of land) and paragraph 3(3) of Schedule 3 (which makes provision as to the giving of bonds) were omitted.

#### **Vesting Declarations**

**12.—**(1) The Compulsory Purchase (Vesting Declarations) Act 1981(8) shall apply as if this Order were a compulsory purchase order.

(2) In its application by virtue of paragraph (1) above, the Compulsory Purchase (Vesting Declarations) Act 1981 shall have effect with the following modifications.

(3) In section 3 (preliminary notices) for subsection (1) there shall be substituted—

“(1) Before making a declaration under section 4 below with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in subsection (3) below in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in the London Gazette and in a local newspaper circulating in the area in which the land is situated.”.

(4) In that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)” and after “given” there shall be inserted “and published”.

(5) In that section, subsections (5) and (6) shall be omitted and at the end there shall be substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) he is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion; or

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(7) 1981 c. 67.

(8) 1981 c. 66.

(b) he holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(6) In section 5 (earliest date for execution of declaration)—

(a) in subsection (1), after “publication” there shall be inserted “in the London Gazette or in a local newspaper circulating in the area in which the land is situated”; and

(b) subsection (2) shall be omitted.

(7) In section 7 (constructive notice to treat) in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted.

(8) References to the 1965 Act shall be construed as references to that Act as applied to the acquisition of land under article 11 above.

### **Powers to acquire new rights**

**13.**—(1) The Council may compulsorily acquire such easements or other rights over any land referred to in article 10 above as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

(2) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 3 to this Order), where the Council acquires a right over land under paragraph (1) above it shall not be required to acquire a greater interest in it.

(3) Schedule 3 to this Order shall have effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right.

### **Powers to acquire subsoil only**

**14.**—(1) The Council may compulsorily acquire so much of the subsoil of the land referred to in article 10 above as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the Council acquires any part of the subsoil of land under paragraph (1) above it shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) above shall not prevent article 16 below from applying where the Council acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

## *Compensation*

### **Disregard of certain interests and improvements**

**15.**—(1) In assessing the compensation (if any) payable to any person on the acquisition from him of any land under this Order, the tribunal shall not take into account—

(a) any interest in land; or

(b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land;

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) above “relevant land” means the land acquired from the person concerned or any other land with which he is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

### *Supplementary*

#### **Acquisition of part of certain properties**

**16.**—(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 11 above) in any case where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or factory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the Council a counter-notice objecting to the sale of the land subject to the notice to treat and stating that he is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner shall be required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner shall be required to sell only the land subject to the notice to treat shall, unless the Council agrees to take the land subject to the counter-notice, be referred to the tribunal.

(5) If on such a reference the tribunal determine that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house;

the owner shall be required to sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determine that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house;

the notice to treat shall be deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determine that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
- (b) the material detriment is confined to a part of the land subject to the counter-notice;

the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the Council is authorised to acquire compulsorily under this Order.

(8) If the Council agrees to take the land subject to the counter-notice, or if the tribunal determine that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and

- (b) that the material detriment is not confined to a part of the land subject to the counter-notice;

the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the Council is authorised to acquire compulsorily under this Order.

(9) In any case where by virtue of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the Council may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, if it does so, shall pay to the owner compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or factory or of land consisting of a house with a park or garden, the Council shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of the interest acquired.

### **Extinction or suspension of private rights of way**

**17.—**(1) All private rights of way over land subject to compulsory acquisition under this Order shall be extinguished—

- (a) as from the acquisition of the land by the Council, whether compulsorily or by agreement; or

- (b) on the entry on the land by the Council under section 11(1) of the 1965 Act;

whichever is sooner.

(2) All private rights of way over land owned by the Council which is within the limits of land which may be acquired shown on the deposited plans and is required for the purposes of this Order, shall be extinguished on the appropriation of the land for any of those purposes by the Council.

(3) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part I of the 1961 Act.

(4) This article does not apply in relation to any right of way to which section 271 or 272 of the 1990 Act (extinguishment of rights of statutory undertakers etc.) applies.

### **Time limit for exercise of powers of acquisition**

**18.** No notice to treat shall be served under Part I of the 1965 Act, as applied to the acquisition of land under article 11 above after the end of the period of 5 years beginning with the day on which this Order comes into force.

### **Public Open Space**

**19.—**(1) The Council shall not under the powers of this Order acquire compulsorily any interest in the public open space comprised in the lands numbered 10 and 13 in the book of reference and coloured red on the public open space and exchange land plans until the Council has acquired the land coloured green on those plans and numbered 12 in the book of reference.

(2) The land so shown coloured green shall vest in the Council subject to the like rights, trusts and incidents as attached to the land shown coloured red and upon its acquisition by the Council



the land shown coloured red shall be discharged from all rights, trusts and incidents to which it was previously subject.

(3) The Council shall lay the land shown coloured green on the public open space and exchange land plans out as replacement public open space before the authorised works are first brought into public use pursuant to the powers of article 20 below.

## PART IV

### OPERATION OF AUTHORISED WORKS

#### **Power to operate and use authorised works**

**20.** The Council may operate and use the authorised works as a system, or part of a system, of transport for the carriage of goods.

#### **Maintenance of approved works, etc.**

**21.—**(1) Where pursuant to regulations made under section 41 of the 1992 Act (approval of works, plant and equipment) approval has been obtained from the Health and Safety Executive with respect to any works, plant or equipment (including vehicles) forming part of the authorised works, such works, plant and equipment shall not be used in a state or condition other than that in which they were at the time that the approval was given unless any change thereto does not materially impair the safe operation of the authorised works.

(2) If without reasonable cause the provisions of paragraph (1) above are contravened, the Council shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) No proceedings shall be instituted in England and Wales in respect of an offence under this article except by or with the consent of the Health and Safety Executive or the Director of Public Prosecutions.

#### **Trespass on authorised works**

**22.** Any person who—

- (a) trespasses on any authorised work; or
- (b) trespasses upon any land of the Council in dangerous proximity to the authorised works or to any electrical or other apparatus used for or in connection with the operation of the authorised works;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **Power of disposal, agreements for operation, etc.**

**23.—**(1) The Council may sell, lease, charge or otherwise dispose of, on such terms and conditions as it thinks fit, the whole or any part of the authorised works and any land held in connection therewith or the right to operate the works under this Order.

(2) Without prejudice to the generality of paragraph (1) above, the Council 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 authorised 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 the Council or any other person.

(3) Any agreement under subsection (2) above may provide (inter alia) for the exercise of the powers of the Council in respect of the authorised works or any part or parts thereof, and for the transfer to any person of the authorised works or any part or parts thereof together with the rights and obligations of the Council 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) above, or any agreement under paragraph (2) above, shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those powers were exercised by the Council.

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

**24.**—(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 the Council 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.

## **PART V**

### **PROTECTIVE PROVISIONS**

#### **For protection of Environment Agency**

**25.**—(1) For the protection of the Environment Agency (in this article referred to as “the Agency”) the following provisions of this article shall, unless otherwise agreed in writing between the Council and the Agency, have effect.

(2) Nothing in this Order or in any enactment incorporated with or applied by this Order shall prejudice or affect the operation of section 109 of the Water Resources Act 1991<sup>(9)</sup> or any byelaws made under that Act or the Land Drainage Act 1991<sup>(10)</sup> in relation to anything done under or in pursuance of this Order.

(3) Before carrying out any works under the powers of this Order involving the erection or raising of any obstruction to the flow of any watercourse which is not part of a main river within the meaning

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<sup>(9)</sup> 1991 c. 57.

<sup>(10)</sup> 1991 c. 59.

of section 113 of the Water Resources Act 1991 or the construction, alteration or replacement of any culvert or any structure designed to contain or divert the flow of any such watercourse in, under or through any land held for the purposes of or in connection with the authorised works, the Council shall furnish to the Agency proper and sufficient plans of such works for the approval of the Agency and shall not carry out such works until those plans have been approved in writing by the Agency.

(4) The approval of plans furnished under paragraph (3) above shall not be unreasonably withheld and if, within two months from the day that the plans are received by the Agency, the Agency does not indicate in writing its disapproval and the grounds of its disapproval, it shall be deemed to have approved the plans as received.

(5) For the purposes of paragraph (3) above, “plans” includes sections, drawings, specifications, calculations and descriptions.

(6) Any culvert or any structure designed to contain or divert the flow of any watercourse situated within any land held for purposes of or in connection with the authorised works, whether constructed under the powers of this Order or in existence prior to the making of this Order, shall be maintained by the Council in good repair and condition and free from obstruction.

(7) Nothing in paragraph (6) above shall have the effect of requiring the Council to carry out works of maintenance in respect of any culvert or structure which the Agency or any other person are liable to maintain.

(8) If any obstruction is erected or raised or any culvert is constructed, altered or replaced in contravention of this article the Council shall upon receiving notice from the Agency take such action as may be necessary to remedy the effect of the contravention to the Agency’s satisfaction and in default of such action by the Council the Agency may itself take such action as may be necessary and recover the expenses reasonably incurred by it in doing so from the Council as a debt due from them to the Agency.

#### **Statutory undertakers, etc.**

26. The provisions of Schedule 4 (provisions relating to statutory undertakers, etc.) to this Order shall have effect.

#### **For protection of Railtrack**

27. The provisions of Schedule 5 (for the protection of Railtrack) to this Order shall have effect.

## **PART VI**

### **MISCELLANEOUS AND GENERAL**

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

28. A person who—

- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 8 above; 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.**

**29.** The Council shall, as soon as practicable after the making of this Order, submit copies of the book of reference, the deposited plans, the deposited sections and the public open space and exchange land plans to the Secretary of State for certification that they are true copies of, respectively, the book of reference, sections and plans 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**

**30.—(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<sup>(11)</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) above 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**

**31.** 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.

### **Arbitration**

**32.** 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.

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(11) 1978 c. 30.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

3rd December 1999

*A. S. D. Whybrow*  
Head of Charging and Local Transport Division,  
Department of the Environment, Transport and  
the Regions