
STATUTORY INSTRUMENTS

2005 No. 3105

**The Docklands Light Railway
(Capacity Enhancement) Order 2005**

PART 2

WORKS PROVISIONS

Principal Powers

Power to construct and maintain works

5.—(1) DLRL may construct and maintain the scheduled works.

(2) Subject to article 6, the scheduled works shall be constructed in the lines or situations shown on the deposited plans and in accordance with the levels shown on the deposited sections.

(3) DLRL may carry out and maintain—

- (a) on the land specified in columns (1) and (2) of Part 2 of Schedule 2 to this Order, the works specified in relation to that land in column (3) of that Part of that Schedule;
- (b) at each of the stations specified in column (1) of Part 2 of Schedule 2 to this Order and on the land specified in relation to that station in column (2) of that part of that Schedule, the station works;

together with all necessary works and facilities in connection therewith.

(4) Subject to paragraph (6), and without prejudice to any other powers available to it under any other enactment, DLRL may from time to time carry out and maintain such of the following works as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the authorised works, namely—

- (a) works to alter the position of apparatus, including mains, sewers, drains, pipes, cables and street furniture;
- (b) works to erect and construct such stations, engines, machinery, apparatus, and other works and facilities as DLRL thinks fit;
- (c) making, providing, extending and maintaining all such, approaches, bridges, subways, interchanges, roundabouts, turning places, passages, areas of access and staging as DLRL thinks fit;
- (d) making junctions and communications (including the provision of steps or ramps for the use of persons on foot) with any highway or access way interfered with by, or contiguous with, any of those works, and widening or altering any highway or access way for the purposes of connecting it with any of those works or another highway, or of crossing under or over the highway or access way;
- (e) works to carry out viaduct strengthening, pile strengthening and bridge strengthening;

- (f) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
 - (g) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised works;
 - (h) works for the benefit or protection of land or premises affected by the authorised works, and
 - (i) works to alter, repair or discontinue the above mentioned works or any of them and substitute others in their place.
- (5) Subject to paragraph (6), DLRL may from time to time carry out and maintain such other works (of whatever nature) as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the authorised works.
- (6) The works specified in paragraphs (4) and (5) may only be carried out—
- (a) within the limits of deviation for the scheduled works shown on the deposited plans;
 - (b) on land specified in columns (1) and (2) of Parts 1 or 2 of Schedule 2 to this Order in connection with authorised works specified in relation to that land in column (3) of that part of that Schedule; and
 - (c) on land specified in columns (1) and (2) of Schedule 8 to this Order in connection with the authorised works specified in relation to that land in column (4) of that Schedule.
- (7) The following enactments shall not apply to anything done under or in pursuance of this Order—
- (a) section 109 of the Water Resources Act 1991(1);
 - (b) section 23 of the Land Drainage Act 1991(2);
 - (c) section 13 of the 1994 Act; and
 - (d) any byelaws made under the above Acts.

Power to deviate

- 6.—(1) In constructing or maintaining any of the scheduled works, DLRL 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;
 - (b) deviate vertically from the levels shown on the deposited sections—
 - (i) to any extent not exceeding 1.5 metres upwards in the case of Works Nos. 9 and 10;
 - (ii) to any extent not exceeding 1 metre upwards in the case of any other of the scheduled works; and
 - (iii) to any extent downwards.
- (2) Without prejudice to the generality of paragraph (1), in constructing or maintaining the scheduled works DLRL may, to the extent that it thinks fit—
- (a) deviate from their points of commencement and termination shown on the deposited plans; and
 - (b) in relation to any intended bridge, viaduct, gantry or other structure or apparatus above ground level, deviate from the design shown on the deposited sections as it thinks fit, including by varying the number of any supporting piers, columns or other structures, the distances between them and the height or clearance above the level of the ground.

(1) 1991 c. 57.

(2) 1991 c. 59.

Station works at Tower Gateway

7.—(1) DLRL may, in the construction of Work No. 1 and within the limits of deviation for that work—

- (a) alter and extend Tower Gateway station with all necessary works and conveniences connected therewith, including the construction of new platform extensions and canopy over DLRL’s platforms at that station; and
- (b) provide at the station new pedestrian access incorporating a lift and staircase.

Station works at Poplar

8. DLRL may, in the construction of Works Nos. 3 and 4, and within the limits of deviation for those works alter and extend Poplar station with all necessary works and conveniences connected therewith, including the construction of new platform extensions and a canopy over DLRL’s platforms at that station.

Station works at Mudchute

9. DLRL may, in the construction of Works Nos. 7 and 8 and within the limits of deviation for those works alter and extend Mudchute station with all necessary works and conveniences connected therewith, including the construction of new platform extensions and a canopy over DLRL’s platforms at that station.

Streets

Power to keep apparatus in streets

10.—(1) DLRL may, for the purposes of or in connection with the construction, maintenance and use of the authorised works, place and maintain in any street within the Order limits and in any street having a junction with such a street any work, equipment or apparatus including, without prejudice to the generality of the foregoing, foundations, road islands, substations, electric lines and any electrical or other apparatus.

(2) In this article—

- (a) “apparatus” has the same meaning as in Part III of the 1991 Act;
- (b) “electric line” has the meaning given by section 64(1) of the Electricity Act 1989(3); and
- (c) the reference to any work, equipment, apparatus or other thing in a street includes a reference to any work, equipment, apparatus or other thing under, over, along or upon the street.

Power to execute street works

11.—(1) DLRL may, for the purposes of the authorised works, enter upon so much of any of the streets specified in Schedule 3 to this Order as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it, or tunnel or bore under the street;
- (b) place apparatus in the street;
- (c) maintain apparatus in the street or change its position; and

(3) 1989 c. 29.

- (d) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b) and (c).

(2) In this article “apparatus” has the same meaning as in Part III of the 1991 Act and includes a sewer, drain or tunnel and any structure for the lodging within that structure of apparatus or any structure required for gaining access to apparatus.

Stopping up of streets

12.—(1) Subject to the provisions of this article DLRL may, in connection with the construction of the authorised works, stop up each of the streets specified in columns (1) and (2) of Part 1 and Part 2 of Schedule 4 to this Order to the extent specified, by reference to the letters and numbers shown on the deposited plans, in column (3) of Parts 1 and 2 of that Schedule.

(2) No street specified in columns (1) and (2) of Part 1 of Schedule 4 to this Order (being a street to be stopped up for which a substitute is to be provided) shall be wholly or partly stopped up under this article unless either—

- (a) the new street to be substituted for it, and which is specified in relation to it by reference to one of the scheduled works mentioned in column (4) of that Part of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route is first provided and thereafter maintained by DLRL to the reasonable satisfaction of the street authority between the commencement and termination points of the street to be stopped up until completion of the new street in accordance with sub-paragraph (a).

(3) No street specified in columns (1) to (3) of Part 2 of Schedule 4 to this Order (being a street to be stopped up for which no substitute is to be provided) shall be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the relevant land; and for this purpose “relevant land” means any land which abuts on either side of the street to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) DLRL is in possession of the land; or
- (b) there is no right of access to the land from the street concerned; or
- (c) there is reasonably convenient access to the land otherwise than from the street concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

(5) DLRL may for the purposes of, in connection with or in consequence of the authorised works in the London borough of Tower Hamlets, install columns in any part of—

- (a) Branch Road which lies between points N1, N2, N3 and N4;
- (b) Westferry Road which lies between points N5, N6 and N7 and between points N8 and N9;
- (c) Aspen Way which lies between points P1, P2, P3 and P4;

and stop up those streets to the extent occupied by those works.

(6) Where a street has been stopped up under this article—

- (a) all rights of way over or along it shall be extinguished; and
- (b) DLRL may appropriate and use for the purposes of its undertaking so much of the site of the street as is bounded on both sides by land owned by DLRL.

(7) 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.

(8) This article is subject to paragraph 1 of Schedule 9 to this Order.

Temporary stopping up of streets

13.—(1) DLRL may, during and for the purposes of the execution of the authorised works temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street, and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without prejudice to the generality of paragraph (1), DLRL may use South Quay Station Plaza and any street stopped up under the powers of this article as a temporary working site.

(3) DLRL shall provide at all times reasonable access for pedestrians going to or from premises abutting a street affected by the exercise of the powers conferred by this article if there would otherwise be no such access.

(4) Without prejudice to the generality of paragraph (1), DLRL may exercise the powers of this article in relation to the streets specified in columns (1) and (2) of Schedule 5 to this Order.

(5) DLRL shall not exercise the powers of this article—

- (a) in relation to any street specified as mentioned in paragraph (4), without first consulting the street authority; and
- (b) in relation to any other street, without the consent of the street authority, but such consent shall not be unreasonably withheld.

(6) In this article “South Quay Station Plaza” means the lands delineated on the deposited plans and shown numbered 532, 537, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576 and 577 in the London borough of Tower Hamlets.

Access to works

14. DLRL may, for the purposes of the authorised works—

- (a) form and lay out such means of access or improve such existing means of access, in the locations specified in columns (1) and (2) of Schedule 6 to this Order at or about the point marked “A”; and
- (b) with the approval of the highway authority (such approval not to be unreasonably withheld) form and lay out such other means of access or improve existing means of access at such locations within the Order limits as DLRL reasonably requires for the purposes of the authorised works.

Construction and maintenance of new or altered streets

15.—(1) Subject to paragraph (4), any street to be constructed under this Order shall be completed to the reasonable satisfaction of the highway authority and shall, unless otherwise agreed, be maintained by and at the expense of DLRL for a period of 12 months from its completion and at the expiry of that period by and at the expense of the highway authority.

(2) Subject to paragraph (4), where a street is altered or diverted under this Order, the altered or diverted part of the street shall when completed to the reasonable satisfaction of the street authority, unless otherwise agreed, be maintained by and at the expense of DLRL for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(3) Nothing in this Order shall have effect in relation to street works as respects which the provisions of Part III of the 1991 Act apply.

(4) Paragraphs (1) and (2) shall not apply in relation to the structure of any bridge or tunnel carrying a street over or under any railway of DLRL.

Agreements with street authorities

- 16.**—(1) A street authority and DLRL may enter into agreements with respect to—
- (a) the construction of any new street (including any structure carrying the street over or under the authorised railway) under the powers conferred by this Order;
 - (b) the strengthening or improvement of any street under the powers conferred by this Order;
 - (c) the maintenance of any street or of the structure of any bridge or tunnel carrying a street over or under an authorised railway;
 - (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
 - (e) the execution in the street of any of the works referred to in article 11.
- (2) Such an agreement may, without prejudice to the generality of paragraph (1)—
- (a) provide for the street authority to carry out any function under this Order which relates to the street in question; and
 - (b) contain such terms as to payment and otherwise as the parties consider appropriate.
- (3) In this article—
- (a) “an authorised railway” means the Tower Gateway to Westferry Railway, the Poplar to Stratford and Beckton Railway and the Canary Wharf to Lewisham Railway; and
 - (b) “the Tower Gateway to Westferry Railway”, “the Poplar to Stratford and Beckton Railway” and “the Canary Wharf to Lewisham Railway” have the same meanings as in Schedule 1 to this Order.

Construction of bridges

17. Any bridge to be constructed or reconstructed under this Order for carrying a highway over or under a railway shall be constructed or reconstructed in accordance with plans and specifications approved by the relevant highway authority, but such approval shall not be unreasonably withheld.

Works in the Docks

- 18.**—(1) Without prejudice to the other powers conferred by this Order or otherwise available to it, DLRL may within the designated area, for the purposes of or in connection with the construction, operation or maintenance of the authorised works and notwithstanding any interference thereby with any public or private rights—
- (a) construct, place, alter, relocate or replace any work or structure whether temporary or permanent;
 - (b) close and de-water any part of the designated area and divert vessels and other craft from any part of the designated area;
 - (c) use, appropriate and dispose of any materials obtained by it in carrying out any such operations;
 - (d) remove or relocate any mooring;
 - (e) remove and relocate any vessel or structure sunk, stranded or abandoned or moored or left (whether lawfully or not);
 - (f) temporarily moor or anchor vessels and structures and load and unload into and from such vessels or structures equipment, machinery, soil and any other materials in connection with the authorised works; and
 - (g) temporarily interfere with, occupy and use the bed, waters and dock walls within the designated area;

in such manner and to such extent as may appear to DLRL to be necessary or convenient.

(2) Except in the case of emergency, DLRL will use its reasonable endeavours to notify the owner of any mooring and the owner or master of any vessel or structure affected by the proposal to exercise the powers of paragraph (1)(d) or (e) before the exercise of that power.

(3) During any period of closure in accordance with paragraph (1)(b), all rights of navigation along, and obligations of the Board to maintain for navigation any waters within the designated area or part thereof so closed shall be suspended and unenforceable against the Board.

(4) In this article—

“designated area” means that part of the Docks within the Order limits.

Supplemental

Discharge of water

19.—(1) DLRL 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 Order limits, make openings into, and connections with, the watercourse, sewer or drain.

(2) Any dispute arising from the exercise of the powers in paragraph (1) to connect to or use a public sewer or drain shall be determined as if it were a dispute under section 106 of the Water Industry Act 1991(4).x

(3) DLRL 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.

(4) DLRL 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.

(5) DLRL 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.

(6) DLRL 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.

(7) The 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(5).

(8) 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, a local authority, or a harbour authority within the meaning of the Harbours Act 1964(6);

(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.

(4) 1991 c. 56.

(5) 1991 c. 57.

(6) 1964 c. 40.

Protective works to buildings

20.—(1) Subject to the following provisions of this article, DLRL may at its own expense and from time to time carry out such protective works to any building lying within the Order limits as DLRL considers to be necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the construction, in the vicinity of the building, of any part of the authorised works; or
- (b) after the completion of the construction of that part of the authorised works, at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised works is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised DLRL may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building DLRL may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land.

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land;

DLRL shall, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 54.

(7) DLRL shall compensate the owners and occupiers of any building or land in relation to which the powers of this article have been exercised for any loss or damage arising to them by reason of the exercise of those powers.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised works constructed within the vicinity of the building is first opened for use, it appears that the protective works are inadequate to protect the building against damage caused by the construction or operation of that part of the works;

DLRL shall compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Without prejudice to article 53, nothing in this article shall relieve DLRL from any liability to pay compensation under section 10(2) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) shall be determined, in case of dispute, under Part I of the 1961 Act.

(11) In this article—

- (a) “building” includes any structure or erection or any part of a building, structure or erection; and
- (b) “protective works”, in relation to a building, means—
 - (i) underpinning, strengthening and any other external or internal works the purpose of which is to prevent damage which may be caused to the building by the construction, maintenance or operation of the authorised works;
 - (ii) any external or internal works the purpose of which is to remedy any damage which has been caused to the building by the construction, maintenance or operation of the authorised works; and
 - (iii) any external or internal works the purpose of which is to secure the safe operation of the authorised works or to prevent or minimise the risk of such operation being disrupted.

Town and country planning

21.—(1) In relation to the application of paragraph (3)(c) of the Second Schedule of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Tree Preservation Order) Regulations 1969(7) (including that paragraph as applied by regulation 3(ii) of the Town and Country Planning (Tree Preservation Order) (Amendment) and (Trees in Conservation Areas) (Exempted Cases) Regulations 1975(8), or as incorporated in any tree preservation order), any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to works authorised by this Order shall be treated as deeming the permission to have been granted on application made under Part III of that Act for the purposes of that Part.

(2) In relation to the application of article 5(1)(d) of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Trees) Regulations 1999(9) as incorporated in any tree preservation order or as having effect by virtue of regulation 10(1)(a) of those Regulations, any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to the works authorised by this Order shall not be treated as an outline planning permission.

(3) Planning permission which is deemed by a direction under section 90(2A) of the 1990 Act to be granted in relation to works authorised by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of that Act (cases in which land is to be treated as operational land for the purposes of that Act).

Power to survey and investigate land, etc.

22.—(1) DLRL may for the purposes of this Order—

- (a) survey or investigate any land within the Order limits;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions as DLRL thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out archaeological investigations on any such land;
- (d) 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) to (c); and
- (e) enter on the land for the purpose of exercising any of the powers conferred by sub-paragraphs (a) to (d).

(7) S.I.1969/17.

(8) S.I. 1975/148.

(9) S.I. 1999/1892.

(2) No land may be entered, or equipment placed or left on or removed from the land under paragraph (1), 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 DLRL—

(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) No trial holes shall be made under this article in a carriageway or footway without the consent of the street authority, but such consent shall not be unreasonably withheld.

(5) DLRL 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

23. 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.