
STATUTORY INSTRUMENTS

2007 No. 2297

**The Docklands Light Railway (Capacity Enhancement
and 2012 Games Preparation) Order 2007**

PART 2

WORKS PROVISIONS

Streets

Power to keep apparatus in streets

7.—(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 3 of the 1991 Act;
- (b) “electric line” has the meaning given by section 64(1) of the Electricity Act 1989(1); 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

8.—(1) DLRL may, for the purposes of the authorised works, enter upon so much of any of the streets specified in Schedule 3 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
- (d) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b) and (c).

(2) This article is subject to paragraph 3 of Schedule 8.

(3) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

Stopping up of streets and extinguishment of rights

9.—(1) Subject to the provisions of this article, DLRL may, in connection with the construction of the authorised works, stop up the designated footpath and the designated highway.

(2) The designated footpath shall not be wholly or partly stopped up under this article unless either—

- (a) the replacement footpath has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary replacement footpath is first provided and thereafter maintained by DLRL between points T1 and T2 at Royal Albert Station to the reasonable satisfaction of the street authority until completion and opening of the replacement footpath in accordance with sub-paragraph (a).

(3) The designated highway shall not 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 designated highway.

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

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

(5) Where the designated footpath and the designated highway have been stopped up under this article—

- (a) all rights of way over or along the designated footpath and in the designated highway so stopped up shall be extinguished; and
- (b) DLRL may appropriate and use for the purposes of the authorised works so much of the site of the designated footpath and so much of the designated highway owned by DLRL as is bounded on both sides by land owned by DLRL.

(6) 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 1 of the 1961 Act.

(7) This article is subject to paragraph 2 of Schedule 8 and paragraph 3 of Schedule 12.

(8) In this article—

“designated highway” means so much of Hertsmere Road in the London Borough of Tower Hamlets as is comprised in the airspace directly beneath the underside of the railway viaduct but not below a point 5.3 metres above the level of the surface of Hertsmere Road at the date of the coming into effect of this Order;

“designated footpath” means the footpath in the London Borough of Newham at Royal Albert Station between points P1, P2 and P3;

“railway viaduct” means that part of the scheduled works proposed to carry the Bank to Canary Wharf Railway over Hertsmere Road in the London Borough of Tower Hamlets;

“replacement footpath” means the footpath in the London Borough of Newham at Royal Albert Station between points P3 and P4.

“temporary replacement footpath” means a temporary alternative route for pedestrians who could have used the designated footpath between a point as close as reasonably practicable to the commencement and termination points of the designated footpath.

Temporary stopping up of streets

10.—(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) Subject to paragraph (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.

(3) DLRL shall not be obliged to provide access for pedestrians going to or from premises abutting the footpath between Hertsmere Road and Aspen Way, in the London Borough of Tower Hamlets and shown between points T1 and T2 for the duration of that part of the construction of the authorised works which requires the temporary stopping up of that footpath.

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

- (5) DLRL shall not exercise the powers conferred by 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 (such consent not to be unreasonably withheld).

(6) Any person who suffers loss by the suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Access to works

- 11.** 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 5 at or about the point marked “A” on the deposited plans; 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

12.—(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 3 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.

(5) In any action against DLRL in respect of loss or damage resulting from any failure by it to maintain a street under this article, it shall be a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that DLRL had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(6) For the purposes of a defence under paragraph (5), the court shall in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether DLRL knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street;
- (e) where DLRL could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that DLRL had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that DLRL had given him proper instructions with regard to the maintenance of the street and that he had carried out those instructions.

Agreements with street authorities

13.—(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 works) 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 the authorised works;
- (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 8 (power to execute street works).

(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.