
STATUTORY INSTRUMENTS

2007 No. 2297

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

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 (power to deviate), 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 on the land specified in column (1) and (2) of Schedule 2, the works specified in relation to that land in column (3) of that Schedule 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 engines, passenger lifts, machinery, apparatus and other works and facilities as DLRL thinks fit;
- (c) works to provide and extend all such approaches, bridges, subways, interchanges, roundabouts, turning places, passages, areas of access and staging as DLRL thinks fit;
- (d) 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 widen or alter 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 and pile 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 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 Schedule 2 in connection with authorised works specified in relation to that land in column (3) of that Schedule; and
 - (c) on land specified in columns (1) and (2) of Schedule 7 in connection with the authorised works specified in relation to that land in column (4) of that Schedule.
- (7) In constructing the scheduled works, DLRL may do either or both of the following—
 - (a) use such parts of the original viaducts as it may require for purposes of the scheduled works or for any purposes connected with or ancillary to its railway undertaking;
 - (b) take down and remove such parts of the original viaducts as DLRL does not require.
- (8) 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.
- (9) In this article—
 - (a) “the original viaducts” means—
 - (i) that part of the existing railway viaduct carrying the Bank to Canary Wharf Railway within the Order limits; and
 - (ii) that part of the existing railway viaduct carrying the Poplar to Canary Wharf Railway within the Order limits; and
 - (b) “watercourse” has the same meaning as in the Land Drainage Act 1991.

Power to deviate

- 6.—(1) In constructing or maintaining 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; and
 - (b) deviate vertically from the levels shown on the deposited sections to any extent not exceeding 0.5 metres upwards or 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 viaduct, gantry or other structure or apparatus above ground level, deviate from the design shown on the deposited sections as it thinks fit, including

(1) 1991 c. 57.

(2) 1991 c. 59.

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.

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⁽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

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.

(3) 1989 c. 29.

- (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.

Supplemental powers

Works in the Dock

- 14.—**(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 any vessel which is moored or left, whether that vessel has been moored or left 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 the period of closure referred to in paragraph (1)(b), all rights of navigation along, and all 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) DLRL shall pay compensation to any person entitled to compensation under the 1961 Act who suffers any loss or damage from the exercise of the powers conferred by paragraph 1(a) and (d).
- (5) Any dispute as to a person's entitlement to compensation under paragraph (4), or as to the amount of the compensation shall be determined under Part 1 of the 1961 Act.
- (6) In this article "designated area" means that part of the Dock within the Order limits.

Discharge of water

- 15.—**(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).
- (3) DLRL shall not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as he 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 person to whom 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 or any other polluting material.
- (7) 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(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

(4) 1991 c. 56.

(5) 1991 c. 57.

(6) 1964 c. 40.

- (c) other expressions used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

Protective works to buildings

16.—(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 buildings 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 in the vicinity of the building 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 (but not any building erected on it).

(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 47 (arbitration).

(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 in 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 46 (no double recovery), 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 1 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

17.—(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 3 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 the 1990 Act).

Power to survey and investigate land, etc.

18.—(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;

(7) S.I. 1969/17.
(8) S.I. 1975/148.
(9) S.I. 1999/1892.

- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or 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).
- (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 1 of the 1961 Act.
- (6) Nothing in this article shall obviate the need to obtain scheduled monument consent under the Ancient Monuments and Archaeological Areas Act 1979(10).

Obstruction of construction of authorised works

19. Any person who, without reasonable excuse—

- (a) obstructs any person acting under the authority of DLRL in setting out the lines of the scheduled works or in constructing any authorised work; or
- (b) interferes with, moves or removes any apparatus belonging to any person acting under the authority of DLRL,

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

(10) 1979 c. 46.