

## SCHEDULES

### SCHEDULE 16

Article 84

#### APPLICATION TO LINE ONE

1. On the coming into force of this Order, article 55 (powers of disposal, agreements for operation, etc.) shall apply to Line One to the same extent as it applies to the authorised works and the authorised tramway, subject to the provisions of this Schedule, but with the addition of the words “or under section 71 of the 1994 Act” at the end of paragraph (1)(c) of that article.

#### 2

- (a) From the beginning of the day on which, pursuant to article 83(2) (repeals of the 1994 Act), the enactments within the 1994 Act specified in Part 2 of Schedule 15 are repealed, the provisions of this Order mentioned in paragraph 3 shall apply to Line One except to the specified works, to the same extent as they apply to the authorised tramway and the authorised works, subject to the provisions of this Schedule.
- (b) From the beginning of the day on which, pursuant to article 83(3) (repeals of the 1994 Act), the enactments within the 1994 Act specified in Part 2 of Schedule 15 and applying to the specified works are repealed, the provisions of this Order mentioned in paragraph 3 shall apply to those works to the same extent as they apply to the authorised tramway and the authorised works, subject to the provisions of this Schedule.
- (c) In sub-paragraphs (a) and (b) “the specified works” means the following works authorised by the 1994 Act—
  - (i) Work Nos. 3A and 3B;
  - (ii) Work No.6;
  - (iii) Work No.6B; and
  - (iv) Work No.7,

together with all necessary works and conveniences connected with those works.

3. The provisions of this Order referred to in paragraph 2 are—

- (a) articles 3 and 4;
- (b) articles 5(1) to (9), 6(1) to (6) and (7)(b), and 7(2);
- (c) articles 8(2) and (3), 9, 10 and 13;
- (d) paragraphs (2) to (5) of article 14, so far as they relate to any street altered by the promoter under article 8(2) as applied by sub-paragraph (c);
- (e) articles 16 and 17;
- (f) subject to paragraphs 5 to 7, article 19;
- (g) article 21;
- (h) article 23;
- (i) article 25, so far as it applies to streets;
- (j) article 26;
- (k) Part 4, except articles 50 and 55;

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- (l) subject to paragraph 8, Part 5;
  - (m) article 70;
  - (n) article 71, so far as it relates to alteration, reconstruction or operation;
  - (o) articles 77, 78, 80 to 82 and (subject to paragraph 9) 88;
  - (p) subject to paragraph 10, Schedule 12, except for sub-paragraphs 47(a) and (b), so far as it relates to altering, replacing, relaying and removal;
  - (q) Schedule 13; and
  - (r) Schedule 14, so far as it relates to the alteration, reconstruction, operation or, in respect of paragraphs 12, 14 and 15(1)(a), maintenance of a specified work.
4. In the application to Line One of any of the provisions of this Order mentioned in paragraphs 1 to 3, so far as the context permits—
- (a) references to the authorised street tramway, the authorised tramroad and the authorised tramway shall be treated, respectively, as references to—
    - (i) that part of the railway authorised by the 1994 Act which is designated by that Act as a tramway;
    - (ii) that part of the railway authorised by the 1994 Act which is not designated by that Act as a tramway; and
    - (iii) the railway, or any part of the railway, authorised by the 1994 Act, whether or not designated by that Act as a tramway;
  - (b) references to the scheduled works and to the authorised works shall be treated, respectively, as references to the works specified in Part 1 of Schedule 1 to the 1994 Act and references to all of the works authorised by the 1994 Act;
  - (c) references to the Order limits shall be treated as references to the limits of deviation shown on the deposited plans referred to in the 1994 Act; and
  - (d) references to the works and land plans, the sections and the book of reference shall be treated, respectively, as references to the deposited plans, the deposited sections and the deposited book of reference referred to in the 1994 Act, as the same may have been corrected under section 35 of that Act.
5. The reference in article 19 (attachment of equipment to buildings) to any land specified in Schedule 6 (land not to be acquired compulsorily) or Schedule 8 (acquisition of new rights only) shall be omitted and the following additional provisions shall apply to the promoter's exercise of the powers conferred by article 19 in respect of any building for the time being constructed on any land within the limits of deviation shown on the deposited plans referred to in the 1994 Act, as applied by paragraph 2—
- (a) the promoter shall not affix any apparatus to a building without the written consent of the relevant owner of the building; and such consent may be given subject to reasonable conditions (including, where appropriate, the payment of rent) but shall not be unreasonably withheld;
  - (b) where—
    - (i) the promoter serves on the relevant owner of a building a notice requesting the owner's consent to the affixing of specified apparatus to the building; and
    - (ii) the relevant owner does not within the period of 56 days beginning with the date upon which the notice is served give consent unconditionally or give it subject to conditions or refuse it,

the consent shall be deemed to have been withheld;

- (c) where, in the opinion of the promoter, a consent required under this paragraph for the affixing of specified apparatus is unreasonably withheld or given subject to unreasonable conditions, it may apply to the magistrates' court, who may either allow the apparatus to be affixed subject to such conditions, if any, as it thinks fit or may disallow the application;
- (d) where apparatus is affixed to a building under this paragraph—
  - (i) any owner for the time being of the building may serve on the promoter not less than 56 days' notice requiring the promoter at its own expense temporarily to remove the apparatus during any reconstruction, demolition or repair of the building if such removal is reasonably necessary for that purpose; and
  - (ii) the promoter shall have the right as against any person having an interest in the building to use and maintain the apparatus;
- (e) where, in the opinion of the promoter, a requirement temporarily to remove any apparatus affixed to a building under this paragraph during any demolition or maintenance of the building is not reasonably necessary for that purpose, the promoter may refer the matter to an arbitrator under article 82 (arbitration), who may either allow the apparatus to be temporarily removed or may order that it shall not be temporarily removed; and
- (f) the promoter shall pay compensation to the owners and occupiers of the building for any loss or damage sustained by them by reason of the exercise of the powers conferred by article 19 and sub-paragraph (d)(ii); and any dispute as to a person's entitlement to compensation, or as to the amount of the compensation, shall be determined under Part 1 of the 1961 Act.

**6.** In paragraph 5 “the relevant owner” means—

- (a) in relation to a building occupied under a lease or tenancy having an unexpired term exceeding 5 years, that occupier of the building; or
- (b) in relation to any other building, the person for the time being receiving the rack rent of the building whether on that person's own account or as agent or trustee for any other person, or who would so receive it if the building were let at a rack rent.

**7.** Sub-paragraphs (d), (e) and (f) of paragraph 5 shall apply to any apparatus affixed to a building in exercise of the powers conferred by the 1994 Act to the same extent as they apply to any apparatus affixed to a building in exercise of the powers conferred by article 19 (attachment of equipment to buildings) as applied to Line One by paragraph 2.

**8.** In respect of the application of Part 5 of this Order to Line One, the Secretary of State shall be deemed to have specified for the purpose of article 60(1) (operation of Part 5) the day on which Line One first begins to be operated pursuant to an agreement made under article 55 (powers of disposal, agreements for operation, etc.) as the day on and after which the provisions of Part 5 shall have effect in relation to Line One.

**9.** In respect of the application of article 88 (existing local railway legislation) to Line One in accordance with the provisions of paragraph 4(c), the local enactments by which any existing railway within or adjacent to the limits of deviation shown on the deposited plans referred to in the 1994 Act was authorised and which shall have effect subject to the provisions of this Order shall include the—

- (a) Midland Railways, Nottingham and Mansfield, Act 1846**(1)**;
- (b) the Midland Railway, Ripley Branches, Act 1848**(2)**; and
- (c) the London Midland and Scottish Railway Act 1947**(3)**.

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(1) 9 & 10 Vict. c. clxiii.

(2) 11 & 12 Vict. c. lxxxviii.

(3) 10 & 11 Geo. 6 c. xxxv.

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**10.** In their application to Line One, in sub-paragraphs 47(c) to (h) of Schedule 12 (for protection of electricity, gas, water and sewerage undertakers), references to—

- (a) “accommodation or other facilities” shall be taken to refer to accommodation or other facilities for the laying of apparatus that were provided by the promoter pursuant to section 45(16)(a) and (b) of the 1994 Act to a licence holder within the meaning of Part 1 of the Electricity Act 1989<sup>(4)</sup>, a gas transporter within the meaning of the Gas Act 1986<sup>(5)</sup> or a water undertaker; and
- (b) “National Grid Gas Plc” and “National Grid Electricity Transmission Plc” shall be taken to refer to such a licence holder, gas transporter or water undertaker.

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(4) 1989 c. 29.  
(5) 1986 c. 44.