
STATUTORY INSTRUMENTS

2014 No. 310

**The Crossrail (Paddington Station
Bakerloo Line Connection) Order 2014**

PART 4

MISCELLANEOUS AND GENERAL

Application of the principal Act to authorised works

18.—(1) Schedule 6 (application of provisions of the principal Act) has effect.

(2) So far as consistent with the provisions of this Order and the Transport and Works Act 1992⁽¹⁾ Act and so far as any person exercising the powers conferred by this Order is a nominated undertaker for the purposes of any provision of the principal Act, this Order and the principal Act are construed as one.

(3) Without limitation on the scope of paragraph (2), in determining any application or request by the promoter to any body for an approval or consent under the provisions of the principal Act (including those provisions as applied by this Order), that body must have regard (so far as relevant) to the combined effect of the works authorised by this Order and the works authorised by the principal Act for the purposes of the construction of which the promoter is the nominated undertaker.

Modification of provisions in an agreement relating to the protection of Network Rail

19.—(1) The promoter is bound by the obligations of the Secretary of State for Transport under the relevant agreement as if it had been a party to that agreement.

(2) The modifications specified in paragraph (2) have effect with respect to the relevant agreement.

(3) The modifications referred to in paragraph (1) are—

- (a) references to “Crossrail Works” in the relevant agreement include the authorised works; and
- (b) references to “the powers in sections 5 to 9 of the Act” in the relevant agreement include reference to the powers conferred by Part 3 of this Order.

(4) The promoter is the alternative nominated undertaker for the purposes of clause 11.2 of the relevant agreement and must perform the obligations of the relevant agreement in so far as they relate to the authorised works.

(5) In this article “the relevant agreement” means the agreement dated 9th October 2006 between the Secretary of State for Transport and Network Rail relating to protective provisions in respect of the Crossrail Project.

Compliance with Environmental Minimum Requirements

20.—(1) Any provisions of any development agreement requiring compliance with Crossrail Environmental Minimum Requirements apply to the promoter as if the authorised works were included in the works authorised by the principal Act.

(2) In this article—

- (i) “development agreement” means an agreement to which the Secretary of State for Transport and the promoter are a party and under which the promoter has responsibilities in relation to the design, construction, financing or maintenance of Crossrail; and
- (ii) “Environmental Minimum Requirements” means the undertakings and assurances given to Parliament and petitioners by the Secretary of State for Transport during the passage of the Crossrail Bill specified in the Crossrail Register of Undertakings and Assurances published by the Department for Transport together with the Crossrail Planning and Heritage Memorandum, Construction Code and Environmental Memorandum.

Obstruction of construction of authorised works

21. Any person who, without reasonable excuse—

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

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

Traffic signs

22.—(1) The promoter may, for the purposes of, or in connection with the construction or operation of, the authorised works, place or maintain traffic signs of a type prescribed by regulations made under section 64(1)(a) (general provisions as to traffic signs) of the 1984 Act or of a character authorised by the Secretary of State on any street in connection with any instrument made under article 23 (traffic regulation) or any other street as reasonably required for conveying information to traffic.

(2) The promoter—

- (a) must consult with the traffic authority as to the placing of signs; and
- (b) unless the traffic authority is unwilling to do so and subject to any directions given under section 65 (powers and duties of highway authorities as to placing of traffic signs) of the 1984 Act, must enter into arrangements with the traffic authority for the signs to be placed and maintained by the traffic authority.

(3) Any power conferred by section 65 of the 1984 Act to give directions to a traffic authority or local traffic authority as to traffic signs includes a power to give directions to the promoter as to traffic signs under this article; and the powers conferred by paragraph (1) are exercisable subject to and in conformity with any directions given under that section.

(4) A traffic authority or other authority having power under the 1984 Act to place and maintain, or cause to be placed and maintained, traffic signs on any street referred to in paragraph (1) must consult with the promoter as to the placing of any traffic signs which may affect the authorised works.

(5) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

Traffic regulation

23.—(1) Subject to the provisions of this article the promoter may, for the purposes and during the construction of the authorised works and with the consent of the traffic authority in whose area the relevant street is situated (such consent not to be unreasonably withheld)—

- (a) prohibit or restrict the parking, stopping, waiting or the loading or unloading of vehicles, at any time, in the relevant streets;
- (b) suspend temporarily the use of any parking place within a relevant street; and
- (c) revoke any traffic regulation order in so far as it is inconsistent with any prohibition or restriction made by the promoter under this paragraph.

(2) The promoter must consult the chief officer of police and the traffic authority in whose area the street is situated before complying with the provisions of paragraph (3).

(3) The promoter must not exercise the powers of this article unless it has—

- (a) given not less than 6 weeks’ notice in writing of its intention to do so to the chief officer of police and the traffic authority in whose area the relevant streets are situated; and
- (b) not less than 7 days before exercising any power under this article, given notice of the intention to exercise the powers conferred by this article by publishing a notice in a local newspaper circulating in the area.

(4) Any prohibition, restriction or other provision made by the promoter under sub-paragraph (1) (a), (b) or (c) has effect as if duly made by the traffic authority in whose area the street is situated as a traffic regulation order under the 1984 Act and the instrument by which it is effected may specify savings to which the prohibition, restriction or other provision is subject.

(5) Any prohibition or restriction made by the promoter under paragraph (1) does not apply to any vehicle of a statutory utility for so long as it is engaged in connection with the laying, erection, alteration, repair or inspection of any apparatus of that utility.

(6) In this article—

“the relevant streets” means London Street, Winsland Street, Praed Street and Winsland Mews in the City of Westminster;

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003(2);

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider; and

“traffic authority” has the same meaning as in the 1984 Act.

Agreements with the Company

24.—(1) The promoter and the Company may enter into and carry into effect agreements with respect to the construction, maintenance, use and operation of—

- (a) any of the authorised works, or any part of those works; and
- (b) any works required for the purposes of or in connection with the authorised works by the Company, or by the promoter, or by the promoter and the Company jointly.

(2) Any agreement made under the powers conferred by this article may contain such incidental, consequential or supplementary provisions as may be so agreed, including (but without limitation on the scope of) paragraph (1)—

- (a) with respect to the defraying of, or the making of contributions towards, the cost of such works or alternation or adaptation or the costs of such construction, maintenance, use and

(2) 2003 c.21.

operation as are referred to in paragraph (1) by the promoter, or by the Company, or by the promoter and the Company jointly; and

- (b) for the exercise by the Company, or by the promoter, or by the Company and the promoter jointly, of all or any of the powers and rights of the promoter or the Company (as the case may be) in respect of any of the authorised works and any works required for the purposes of or in connection with the authorised works.

(3) The exercise by the promoter, or the Company, or by the promoter and the Company jointly, of any powers and rights under any enactment or contract under any such agreement as is authorised by paragraph (2) is subject to all statutory and contractual provisions relating to those powers and rights as would apply if such powers and rights were exercised by the promoter or the Company (as the case may be) alone, and accordingly such provisions apply, with any necessary modifications, to the exercise of such powers and rights by the promoter or the Company or by the promoter and the Company jointly, as the case may be.

(4) The promoter and the Company may enter into, and carry into effect, agreements for the transfer to and vesting in the promoter, or the Company, or the promoter and the Company jointly, of—

- (a) any of the authorised works or any part of any of those works; or
- (b) any works, lands or other property required for the purposes of the authorised works or in connection with such works.

together with any rights and obligations (whether or not statutory) of the Company or the promoter relating to the works, lands or property referred to in sub-paragraphs (a) or (b).

Defence to proceedings in respect of statutory nuisance

25.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990⁽³⁾ (summary proceedings by person aggrieved by statutory nuisances) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows—

- (a) that the nuisance relates to premises used by the promoter for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to authorised works and that the nuisance is attributable to the carrying out of authorised works which are being carried out in accordance with a notice served under section 60, or a consent given under section 61 or 65, of the Control of Pollution Act 1974⁽⁴⁾; or
- (b) that the nuisance is a consequence of the operation of the authorised works and that it cannot reasonably be avoided.

(2) The following provisions of the Control of Pollution Act 1974, namely—

- (a) section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990); and
- (b) section 65(8) (corresponding provision in relation to consent for registered noise level to be exceeded),

do not apply where the consent relates to the use of premises by the promoter for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to works.

(3) 1990 c.43.

(4) 1974 c.40.

(3) The provisions of this article do not affect the application to the authorised works of section 122 of the Railways Act 1993⁽⁵⁾ (statutory authority as a defence to actions in nuisance, etc.) or any rule of common law having similar effect.

Trespass

26.—(1) Any person who trespasses on any part of the land occupied by the promoter for the purposes of constructing the scheduled work is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) No person is to be convicted of an offence under this article unless it is shown that a notice warning the public not to trespass on such land was clearly exhibited and maintained in close proximity to all such land occupied by the promoter.

Disclosure of confidential information

27. A person who—

- (a) enters a factory, workshop or workplace under article 7 (protective works to buildings, roads or apparatus of a statutory undertaker) or paragraph 9 of Schedule 2 (entry for preparatory purposes) to the principal Act as applied by article 19 (application of the principal Act to authorised works); and
- (b) discloses to any person any information obtained under sub-paragraph (a) and relating to any manufacturing process or trade secret,

is 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 that person's performance of a duty in connection with the purposes for which the person was authorised to enter the land.

Certification of plans etc.

28. The promoter must, as soon as practicable after the making of this Order, submit copies of the book of reference and the works and land plan to the Secretary of State for certification that they are, respectively, true copies of the book of reference and the works and land plan referred to in this Order; and a document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

29.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post; or
- (b) with the consent of the recipient and subject to paragraphs (6) to (8) by electronic transmission.

(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 (service by post) of the Interpretation Act 1978⁽⁶⁾ as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

⁽⁵⁾ 1993 c.43 as amended by the Transport Act 2000 (c.38) and the Railways Act 2005 (c.14).

⁽⁶⁾ 1978 c.30.

- (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, the last known address of that person 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 the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—
- (a) addressing it to that person 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) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is taken to be fulfilled where the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission either in writing or by electronic transmission.
- (6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.
- (7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).
- (8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—
- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
 - (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.
- (9) This article does not exclude the employment of any method of service not expressly provided for by it.

No double recovery

30. Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law.

Arbitration

31. Any difference under any provision of this Order, unless otherwise provided for, must 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 giving notice in writing to the other) by the President of the Institution of Civil Engineers.