

Transport and Works Act 1992

**Transport and Works (Applications and Objections Procedure)
(England and Wales) Rules 2006**

THE LONDON UNDERGROUND (BANK STATION CAPACITY UPGRADE) ORDER

Explanatory Memorandum

1. This memorandum explains the purpose and effect of each article and schedule in the draft Order, as required by Rule 10(2)(b) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006¹.
2. Application for the Order has been made by London Underground Limited ("the Company"). The Order would confer powers on the Company to construct and operate works at Bank station in the City of London for the purposes of creating additional passenger access capacity to the Company's Northern line underground railway at that station.
3. The works include a new southbound running tunnel to carry a diversion of the Northern line together with a new passenger platform and passenger concourse at Bank station to serve the diverted line. The Order also authorises cross passages from the proposed new platform to the existing Northern line southbound platform (which will become a new underground passenger concourse serving the Northern line) as well as other works and conveniences to improve passenger access between the Northern line, Central Line and Docklands Light Railway including new step free passenger access at street level within a proposed new station entrance in Cannon Street. The Order also authorises works to improve emergency, fire and evacuation protection measures currently in place. The Order authorises works to protect and divert utility apparatus together with works to protect buildings including listed buildings. The Order also authorises the placing of monitoring equipment on buildings and the carrying out of investigatory surveys.
4. The Order also authorises the compulsory acquisition and use of land for the purposes of the works and confers powers in connection with the construction and operation of the works.

¹ S.I. 2006/1466.

5. The draft Order is based on the Transport and Works (Model Clauses for Railways and Tramways) Order 2006² (“the model clauses”), but on occasion it departs from them. Where there is a significant departure from the model clauses, an explanation is provided below.

PART 1

PRELIMINARY

Preliminary provisions

6. **Article 1** (*Citation and commencement*) provides for the commencement and citation of the Order.
7. **Article 2** (*Interpretation*) contains provisions for the interpretation of words and phrases used in the Order.
8. **Article 3** (*Incorporation of Railways Clauses Acts*) incorporate, subject to amendments, various provisions in the Railways Clauses Consolidation Act 1845³ and the Railways Clauses Consolidation Act 1863⁴.
9. **Article 4** (*Application, modification and exclusion of legislative provisions relating to street works*) provides for the application and disapplication certain provisions of the New Roads and Street Works Act 1991⁵. Article 3(2) is not a Model Clause but is well precedented e.g. the Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007⁶. The effect of the provision is to increase the number of provisions contained in the New Road and Street Works Act 1991 which are not to have effect in relation to the powers exercisable under the terms of this Order. In particular article 4(7) removes Part 3 (permit schemes) of the Traffic Management Act 2004⁷. The effect of this amendment is to exclude any works proposed to be constructed under the Order from the scope of any permitting scheme that a local Highway Authority might grant under that part of the Act. The disapplication of the London Permit Scheme (“LoPS”) is consistent with the objective of article 3 is intended to achieve i.e. disapply provisions which might frustrate the implementation of an infrastructure project authorised under the Transport and Works Act 1992⁸ the timing and location of street works. Whilst an authority cannot refuse legitimate activities, it can refuse a permit application if the relevant requirements for an application

² S.I. 2006/1954.

³ 1845 c.20

⁴ 1863 c.92

⁵ 1991 c.22

⁶ S.I. 2007/2297

⁷ 2004 c.18

⁸ 1992 c.42

have not been complied with or elements of the proposed activity, such as timing, location or conditions, are not acceptable and do not accord with the authorities duties to co-ordinate and manage the network and objectives of the scheme. The Project will require the construction of significant civil engineering works in a heavily built up area of London and it is important that the execution of the works can be carried out in accordance with a detailed construction programme which depends upon the careful planning of delivery vehicles to and from the construction site at Cannon Street and the associated Arthur Street work site. Therefore it is not appropriate for the timing and location of street works carried out in connection with a major scheme with specific statutory authorisation to be subject to control through LoPS.

10. **Article 5** (*Disapplication and modification of legislative provisions*) provides for disapplication of section 6 of the Ecclesiastical Jurisdiction and Measure 1963⁹, section 7 of the Faculty and Jurisdiction Measure 1964¹⁰ and Part 3 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991¹¹ in connection with protective works that may be required to be carried out to Saint Mary Abchurch in Abchurch Lane. The Company intends to make applications for listed building consent in relation to a number of buildings pursuant to the Planning (Listed Buildings and Conservation Area) Act 1990¹², the Planning (Listed Buildings Conservation Area) Regulations 1990¹³ and the Transport and Works Application (Listed Buildings, Conservation Areas and Ancient Monuments Procedure) Regulations 1992¹⁴. Those applications will be made to coincide with the date of the application for the Order and, in accordance with the 1992 Regulations will be called in to be determined by the Secretary of State. St Mary Abchurch is subject to an ecclesiastical exemption under the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) (England) Order 2010¹⁵. This means that an application for consent to carry out works to the church which would otherwise be called in by the Secretary of State may only be determined pursuant to a faculty licence application pursuant to the 1963, 1964 and 1991 measures. It is intended that the Company will make an application for a faculty licence under the 1963, 1964 and 1991 Measures but in the event that a licence is not granted on the date of coming into force of the Order, the Company wishes to ensure that if the Order is confirmed the works would not be delayed. Accordingly, the effect of article 5 is to remove the requirement to obtain such a faculty licence in the event of the Order being confirmed by the Secretary of State.

⁹ 1963 No.1

¹⁰ 1964 No.1

¹¹ 1991 No.1

¹² 1990 c.9

¹³ S.I. 1990/1519

¹⁴ S.I. 1992/3138

¹⁵ S.I. 2010/1806

PART 2

WORKS PROVISIONS

Principal Powers

11.

11.1 **Article 6** (*Power to construct and maintain works*) authorises the construction and maintenance of the principal works proposed (“the scheduled works”) which are described in Schedule 1 to the Order and shown on the works plans and sections deposited in connection with the application. Article 6 also provides for the construction and maintenance of works necessary or expedient for the purposes of the authorised works. These ancillary works are specified in paragraph (3) and include, in an extension to the model clauses, descriptions of types of works which it is envisaged are likely to be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the scheduled works. Article 6(6) also authorises the execution of pile interception works to address the interface between the station tunnels and the foundations of the buildings above the line of route.

11.2 Article 6 enables the Company to carry out and maintain within specified land, landscaping and other works to mitigate the effects of construction, maintenance or operation as well as works which are for the benefit or protection of land.

12. **Article 7** (*Power to deviate*) provides for limits within which the Company can deviate in the construction and maintenance of the proposed works.

13. **Article 8** (*Station works at Bank*) specifically authorises the Company to carry out, alter and extend works at Bank Station. The principal works are set out in Schedule 1 to the Order to include the construction of a new section of railway tunnel to realign the existing southbound tunnel. Article 8 specifies in relation to the existing Bank Station, the further works that are being authorised to be constructed.

Streets

14. **Article 9** (*Power to alter layout, etc, of streets*) would permit the Company to alter the layout of streets in order to accommodate the authorised works. This article provides for (i) the altering of the width of any carriageway, kerb, footway or verge within the relevant streets and (ii) the carrying out of works for, the provision, alteration or removal of parking places, loading bays, bus lanes, bus clearways and bus laybys. These provisions are required in order adequately to carry out required works in specified streets and is preceded in article 7 of the Leeds Railway Station (Southern Entrance) Order 2013¹⁶. Alterations

¹⁶ S.I. 2013/1933

proposed to be carried out under article 9(1) do not require the consent of the street authority save where the alterations relate to a street abutting the Order limits. Article 9(3) makes provision for the temporary removal or relocation of bollards, gates or other obstructions preventing the passage of vehicular traffic along roads specified in article 9(3)(a) and (b). Article 9(3)(c) also makes provision for a controlled pedestrian crossing to be provided in Cannon Street. The consent of the street authority is required for the potential removal or relocation of bollards in the streets specified in article 9(3)(b) in order to maintain the integrity of the City of London Corporation's Traffic and Environment Zone in the City of London. The consent of the street authority is also required for the location of the proposed controlled pedestrian crossing in Cannon Street authorised under article 9(3)(c).

15. **Article 10** (*Power to keep apparatus in streets*) authorises the Company for the purposes of construction to place, relocate and maintain apparatus including CCTV equipment and bollards. The provision is not included in model clauses but a precedent is provided by article 7 of the Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007.¹⁷
16. **Article 11** (*Power to execute street works*) confers authority on the Company to interfere with, and execute works in or under, specified streets within the limits of deviation for the scheduled works and the limits of land to be acquired or used for the purposes of the other works proposed to be authorised by the Order.
17. **Article 12** (*Stopping up of streets*) provides for the permanent stopping up of certain streets identified in Schedule 3. Article 12(2) prevents any stopping up of those streets identified in Schedule 3 unless one of the conditions specified in article 12(2) applies. Article 12(3) provides for the payment of compensation.
18. **Article 13** (*Temporary stopping up and diversion of streets*) provides for the temporary stopping up of streets. Where the street is specified in Schedule 4, the Company must consult the relevant street authority. If the Company wishes temporarily to stop up streets which are not so specified in Schedule 4, it will need to obtain the consent of the relevant street authority. A street authority which fails to respond to an application for consent within 28 days of the application being made is deemed to have given its consent.
19. **Article 14** (*Access to works*) confers the power to form and lay out means of access or to improve means of access to streets within the limits of deviation for the scheduled works and the limits of land to be acquired or used at the points marked on the deposited plans. Such power may be exercised without the approval of the highway authority. In respect of locations within the limits of deviation, but which are not marked on the deposited plans, the Company's

¹⁷ S.I. 2007/2297

exercise of powers to provide or improve existing access must be approved by the highway authority, such approval not to be unreasonably withheld.

20. **Article 15** (*Construction and maintenance of new or altered streets*) makes provision for any new highway to be completed to the reasonable satisfaction of the highway authority and unless otherwise agreed, for its maintenance by the Company for a period of 12 months. It further provides that in relation to a street alteration or diversion, either of which must also be completed to the street authority's satisfaction, the altered or diverted part of the street only shall be maintained by the Company for a period of 12 months unless otherwise agreed.
21. **Article 16** (*Agreements with street authorities*) authorises the Company to enter into agreements with street authorities relating to the construction of new streets, works in or affecting streets and the stopping up, alteration and diversion of streets.

Supplemental Powers

22. **Article 17** (*Discharge of water*) enables the Company to discharge water into any watercourse, public sewer or drain in connection with the construction and maintenance of the proposed works with the approval and (if provided) superintendence of the authority to which the watercourse, public sewer or drain belongs (such approval not to be unreasonably withheld) and subject to other conditions. A relevant authority which fails to respond to an application for consent within 28 days of the application being made is deemed to have given its consent.
23. **Article 18** (*Protective works to buildings, roads or apparatus of a statutory undertaker*) permits the Company to carry out certain protective works before, during or after construction of the authorised works (up to a period of 5 years after that part of the authorised works is opened for use) to buildings, roads or apparatus of a statutory undertaker which is within the Order limits shown on the Land plan and which may be affected by the works. Provision is made for certain restrictions and the payment of compensation. This article is not in the same form as the model clause but is based upon article 20 of the Chiltern Railways (Bicester to Oxford Improvements) Order 2012¹⁸.
24. **Article 19** (*Power to survey and investigate land*) confers upon the Company power to survey and investigate land and to make trial holes after notifying the owners and occupiers of land. It includes provision for payment of compensation. Approval (which may not be unreasonably withheld) for the making of trial holes is required, in the case of a carriageway or footway from the highway authority, or in the case of a private street, from the street authority. A highway or street

¹⁸ S.I. 2012/2679

authority which fails to respond to an application for consent within 14 days of the application being made is deemed to have given its consent.

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

25. Part 3 of the Order contains provisions for the compulsory acquisition of land and rights in land and for the temporary possession of land for the purposes of, or in connection with, the authorised works. It further provides for the payment of compensation.
26. **Article 20** (*Power to acquire land*) confers on the Company powers of compulsory acquisition of the land specified in Schedule 7 to the Order which is within the Order limits of identified on the lands plans and described in the book of reference, for or in connection with the authorised works. It also provides for any land so acquired to be used for other purposes connected with or ancillary to the Company's statutory undertaking.
27. **Article 21** (*Application of Part 1 of the Compulsory Purchase Act 1965*) applies, with modifications, the provisions of Part 1 of the Compulsory Purchase Act 1965¹⁹.
28. **Article 22** (*Application of the Compulsory Purchase (Vesting Declarations) Act 1981*) provides for the Order to apply as if it were a compulsory purchase order for the purposes of the Compulsory Purchase (Vesting Declarations) Act 1981²⁰ and provides for that Act to have effect subject to certain modifications. It gives the Company the option to acquire land by this method rather than through the notice to treat procedure.
29. **Article 23** (*Power to acquire subsoil only*) provides that the Company may acquire only the subsoil of land lying more than 9 metres below the surface of the land which is specified in the table in Part 2 of Schedule 7 to the Order which may be acquired under article 20 instead of the whole of the land.
30. **Article 24** (*Power to acquire new rights*) makes ancillary provision where rights over land are required. Article 24 authorises the acquisition of rights and easements required in connection with the Project. In an extension to the model clauses, article 25 enables the Company to impose restrictive covenants over land the land specified in the table in Part 3 of Schedule 7 to the Order rather than acquiring it. The provision is made because the Company may need to impose restrictions for the protection of the scheduled works in respect of

¹⁹ 1965 c.56.

²⁰ 1981 c.66.

development that may be carried out on land near to the scheduled works. Schedule 6, which is introduced by article 24, makes modifications of relevant enactments concerning compensation and compulsory powers in relation to such acquisitions.

31. **Article 25** (*Rights under or over streets*) permits the Company to appropriate and use a street within the limits of deviation for the scheduled works and the limits of land to be acquired or used without being required to acquire any part of the street or any easement or right in it. Provision is made for the payment of compensation.

Temporary possession of land

32. **Article 26** (*Temporary use of land for construction of works*) enables the Company, in connection with the carrying out of the authorised works, to take temporary possession of the land specified in the article. In respect of certain specified plots of land the power of temporary occupation and use is limited to the airspace above the buildings located on the land to allow for crane oversailing, required in connection with the construction of the new station entrance hall. This is provided for in article 26(1)(d) of the Order.

Compensation

33. **Article 27** (*Disregard of certain interests and improvements*) provides that in assessing the compensation payable in respect of compulsory acquisition the Lands Chamber of the Upper Tribunal shall disregard any interest in land or any enhancement of an interest in land caused by improvements which they are satisfied were created or undertaken with a view to obtaining compensation or increased compensation.
34. **Article 28** (*Set-off for enhancement in value of retained land*) provides that, in assessing the compensation payable to any person in respect of the acquisition of any land or new rights over land, the Lands Chamber Upper Tribunal shall set off against the value of the land any increase in value of any contiguous or adjacent land belonging to that person arising out of the construction of the authorised works.

Supplementary

35. **Article 29** (*Acquisition of part of certain properties*) provides an alternative procedure where the Company acquire compulsorily part only of certain types of properties subject to the right of the owner to require the whole of the property to be acquired, if part cannot be taken without material detriment to the remainder. This replaces section 8(1) of the Compulsory Purchase Act 1965.
36. **Article 30** (*Extinction or suspension of private rights of way*) provides for the extinguishment of private rights of way over land compulsorily acquired, and the

suspension of private rights of way in respect of land temporarily occupied and for payment of compensation.

37. **Article 31** (*Time limit for exercise of powers of acquisition*) imposes a time limit of five years from the coming into force of this Order for the exercise of powers of compulsory acquisition of land and the temporary occupation of land under article 26 (temporary use of land for construction of works).

PART 4

MISCELLANEOUS AND GENERAL

38. **Article 32** (*Traffic regulation*) authorises the Company to prohibit, restrict the parking or waiting of vehicles in those parts of those streets specified in Schedule 9 to the Order and to introduce other controls on specified streets. The article also authorises the revocation of any traffic regulation order in force in so far as it is inconsistent with any such prohibition or restriction. The power is subject to the consent of the relevant traffic authority and the giving of notice prior to exercising the powers in accordance with paragraph (5). This article is based upon a precedented provision contained in article 39 of the Leeds Railway Station (Southern Entrance) Order 2013.
39. **Article 33** (*Traffic signs*) authorises the Company to place and maintain traffic signs for the purposes of the authorised works and makes provision requiring the Company to consult with and to enter into arrangements with the traffic authority for this purpose. It also modifies the Road Traffic Regulation Act 1984 to have application to the authorised works. This article is based upon a precedented provision contained in article 38 of the Leeds Railway Station (Southern Entrance) Order 2013.
40. **Article 34** (*Defence to proceedings in respect of statutory nuisance*) provides the Company with a defence to a claim in statutory nuisance brought under section 82(1) of the Environmental Protection Act 1990²¹ if it can show that works 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 1974²² or that the nuisance complained of is a consequence of the operation of the works authorised by the Order and that it cannot reasonable be avoided. Article 31 of the Croxley Rail Link Order 2013²³ is a precedent.
41. **Article 35** (*Removal of human remains*) requires the Company, before it carries out any development or works which will or may disturb any human remains, to remove those remains. Before removing any human remains, the Company is required to publish notice of its intention to do so. Notice is also required to be

²¹ 1990 c.43

²² 1974 c.40

²³ S.I. 2013/1967

displayed near the site and a copy of the notice sent to the City of London Corporation. Any relative or personal representative of any deceased person whose remains are proposed to be removed may undertake the removal of the remains themselves and arrange for those remains to be re-interred or cremated, the Company being responsible for the reasonable costs in doing so. In the event that such relative or personal representative does not remove the remains, the Company is required to comply with any reasonable request the relative or personal representative may make in relation to the removal and re-interment or cremation of the remains. Any dispute which may arise as to whether a person is the relative or personal representative of the person whose remains are proposed to be removed or as to the identity of the remains in question is to be determined in the county court. The Company is required to certify to the Registrar General the date of re-interment or cremation and the place from which the remains were removed and the place where the remains were re-interred or cremated. A copy of the certificate is required to be sent to the City of London. The removal of any remains by the Company is required to be carried out in accordance with any directions which may be given by the Secretary of State.

42. **Article 36** (*Water abstraction*) disapplies the provisions of the Water Resources Act 1991²⁴ so that he Company may abstract water for the purpose of, or in connection with the construction of the works authorised under the Order. Article 35 also disapplies the provisions of the 1991 Act which impose a duty not to cause loss or damage to another by the abstraction of water in relation to the abstraction of water authorised under the Order. Provision is made for the payment of compensation and for the disapplication of the prohibition of claims in relation to loss or damage under the 1991 Act.
43. **Article 37** (*Planning permission*) modifies planning legislation in relation to the treatment of land as operational land which is subject to a direction as to deemed planning permission pursuant to section 90(2A) of the Town and Country Planning Act 1990²⁵.
44. **Article 38** (*Powers of disposal, agreements for operation, etc.*) enables the Company with the consent of the Mayor of London to sell, lease or otherwise dispose of the works authorised under the Order and to enter into agreements with respect to the construction, maintenance and use of the works.
45. **Article 39** (*Application of landlord and tenant law*) overrides the application of landlord and tenant law insofar as it may prejudice agreements for the operation etc, of the authorised works.

²⁴ 1991 c.57

²⁵ 1990 c.8

46. **Article 40** (*Obstruction of construction of authorised works*) makes it a criminal offence without reasonable cause to obstruct the construction of the authorised works and to interfere with the Company's apparatus.
47. **Article 41** (*Trespass*) makes it a criminal offence for anyone to trespass on any land being occupied by the Company for the purpose of constructing the new station entrance. This article does not follow the corresponding model clause which extends the offence to the authorised railway. Once constructed the station building will be subject to Transport for London's byelaws. Accordingly, the article can be confined to the land used for the construction of the scheduled works.
48. **Article 42** (*Disclosure of confidential information*) makes disclosure of certain confidential information obtained upon entry to certain premises under article 18 or article 19 a criminal offence.
49. **Article 43** (*Statutory undertakers etc.*) introduces Schedule 10 to the Order which contains specific safeguards for statutory undertakers.
50. **Article 44** (*For protection of specified undertakers*) introduces Schedule 11 to the Order which provides protection for electricity, gas, water and sewerage undertakers in the exercise by the Company of the powers conferred under the Order.
51. **Article 45** (*For the protection of the Environment Agency*) introduces Schedule 12 to the Order which provides protection for Environment Agency in the exercise by the Company of the powers conferred under the Order.
52. **Article 46** (*For the protection of operators of electronic communications apparatus*) introduces Schedule 13 to the Order which provides protection for operators of an electronic communications code network in the exercise by the Company of the powers conferred under the Order.
53. **Article 47** (*Certification of plans etc.*) requires the Company to submit the book of reference, the sections, the land plans and the works plans to the Secretary of State for certification after the making of this Order.
54. **Article 48** (*Service of notices*) makes provision as to the service of notices or other documents for the purposes of the Order.
55. **Article 49** (*No double recovery*) prevents compensation being payable in respect of the same matter both under the Order and under any other enactment, contract or rule of law.
56. **Article 50** (*Arbitration*) makes provision for differences arising under any provision of this Order to be determined by arbitration.

SCHEDULES

57. **Schedule 1** (*Scheduled works*) provides a description of the scheduled works to be constructed as authorised by the Order.
58. **Schedule 2** (*Streets subject to street works*) provides a table of the streets which are subject to street works under the Order.
59. **Schedule 3** (*Streets to be stopped up*) provides a table of the streets which are to be stopped up under the Order and where no substitute is to be provided.
60. **Schedule 4** (*Streets to be temporarily stopped up*) provides a table of the streets to be temporarily stopped up under the Order.
61. **Schedule 5** (*Access to works*) provides a table of streets which are required for access routes to works under the Order.
62. **Schedule 6** (*Modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants*) overrides the application of enactments regarding the compulsory purchase of land and makes necessary modifications in their application in relation to the compulsory acquisition under Part 3 of the Order.
63. **Schedule 7** (*Acquisition of land and of subsoil of land only and power to impose restrictive covenants*) identifies land within the limits of deviation to be acquired, land of which only the subsoil is to be acquired and land of which restrictive covenants may be imposed under the Order.
64. **Schedule 8** (*Land of which temporary possession may be taken*) identifies land which temporary possession may be taken under the Order.
65. **Schedule 9** (*Traffic regulation*) identifies by reference to tables the grouping of road traffic regulations measures proposed to be specified in this Order. The measures include the removal of specified parking places, the suspension of bus lanes and alterations to the flow of traffic in specified streets..
66. **Schedule 10** (*Provisions relating to statutory undertakers etc*) confers protection upon statutory undertakers.
- 67.
- 67.1 **Schedule 11** (*Protection for electricity, gas, water and sewerage undertakers*) provides the gas, water and sewerage undertakers with protective provisions under the Order. The Company must provide 28 days notice in writing to stop up any streets and the Company must not acquire any apparatus other than by agreement.

- 67.2 If the Company acquires interest in land which apparatus is placed, the apparatus cannot be removed and right of the undertaker extinguished until alternative apparatus is constructed to the satisfaction of the undertaker. Notice in writing must be provided to the undertaker with a plan of the proposed works to remove apparatus. If any alternative apparatus is to be constructed outside the Company's land, the undertaker must use its best endeavours to obtain the necessary rights in land which the alternative apparatus is to be constructed.
- 67.3 Once alternative apparatus has been constructed it is to be brought into operation as soon as possible. If the Company wishes to complete the works themselves, notice in writing is to be provide to the undertaker. The Company is to place apparatus within 300 millimetres of the existing apparatus.
- 67.4 Where the Company grants the undertaker rights for construction and maintenance in land belonging to the Company, those rights must be carried out in accordance with the terms and conditions agreed. In the event of default the agreement shall be settled by arbitration.
- 67.5 The Company must provide the undertaker with a plan and description of works 28 days prior construction and the works must be executed only in accordance with the plan and description. Any requirements of the undertaker must be provided to the Company within 21 days of submitting the plan.
- 67.6 The Company must pay to the undertaker reasonable expenses incurred in connection with removal, alteration or protection of any apparatus. If apparatus is replaced with apparatus of a better type and involves additional costs exceeding replacement on a like for like basis then the Company will reduce the compensation payable to the statutory undertaker by the difference.
- 67.7 If any damage is caused to apparatus the Company shall bear and pay the costs incurred to make the necessary repairs and indemnify the operator against any claims which may arise from the damage or interruption.
- 68.
- 68.1 **Schedule 12** (*For the protection of the Environment Agency*) provides the Environment Agency with protective provisions under the Order. Before constructing any works the Company must submit plans to the Environment Agency for its approval in writing. The Environment Agency must not unreasonably withhold its approval. Approval is deemed to have been given if no confirmation is provided within 2 months of submission. The Environment Agency is entitled to make reasonable requirements to the Company in order to protect the Environment Agency's interest.
- 68.2 Protective works to be carried out by the Company in respect of the Environment Agency will be at the Company's expense. All works must be constructed without

unreasonable delay, in accordance with the approved plans and to the satisfaction to the Environment Agency.

68.3 The protective provisions provide the notification requirements to the Company's intention to commence works.

68.4 From commencement of the works the Company is responsible to keep the works in a good state of repair. If Environment Agency may notify the Company in writing to repair or remove works. If the Company has not complied with the Environment Agency's requirements, the Environment Agency may carry out the repair or removal to the Company's expense.

68.5 The Company is to indemnify the Environment Agency in respect of all costs and expenses in relation to the approval of the plans and claims, demands and proceedings arising from damage to drains, increased flooding and inadequate water quality.

69.

69.1 **Schedule 13** (*For the protection of operators of Electronic Communications Code Network*) provides the operators of Electronic Communications Code Network with protective provisions under the Order. Temporary stopping up of any street does not affect the right of the operator to maintain any apparatus within the street to be stopped up.

69.2 If any damage is caused to electronic communications apparatus or if there is any interruption to the supply of service then the Company shall bear and pay the costs incurred to make the necessary repairs and indemnify the operator against any claims which may arise from the damage or interruption to service.

DEPARTMENT FOR TRANSPORT

2014

Rule 10(2)(b)

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STATION CAPACITY UPGRADE) ORDER**

Explanatory Memorandum

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Solicitors and Parliamentary Agents