



CROSSRAIL INFORMATION PAPER

B1 – DISAPPLICATION OF LEGISLATION

This paper sets out the various parts of existing legislation that the Crossrail Bill seeks to disapply or modify.

It will be of particular relevance to those interested in understanding how and why the Crossrail Bill seeks to disapply or modify existing legislation.

This is not intended to replace or alter the text of the paper itself and it is important that you read the paper in order to have a full understanding of the subject. If you have any queries about this paper, please contact either your regular Petition Negotiator at CLRL or the Crossrail helpdesk, who will be able to direct your query to the relevant person at CLRL. The helpdesk can be reached at:

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1. Introduction

1.1 The Crossrail project is a project of national and regional importance which the Promoter, Parliament and indeed many petitioners wish to see completed as soon as possible. There is a danger however in that if the numerous conditions, controls, assurances, undertakings and so on that are sought by some petitioners are acceded to, the shared underlying objective of getting the Crossrail system open sooner rather than later might be defeated. There have been a number of petitions which seek to reapply some of the detailed statutory controls that the Crossrail Bill (the Bill) disapplies. The Bill by contrast seeks to create a tailor-made regime, based on that successfully applied to the Channel Tunnel Rail Link (CTRL), which recognizes that the project is urgent and necessary, against the background that the whole scheme is under consideration by and would (if the Bill is enacted) be specifically approved by Parliament itself.

2. Legislation not Disapplied

2.1 No disapplication or modification is made of national health and safety legislation, either particularly as it applies to railways or generally. Accordingly, the Health and Safety Executive (which incorporates the Railways Inspectorate) retains all its usual powers in respect of the construction and operation of Crossrail. Similarly, environmental protection legislation continues to apply (for example, the Control of Pollution Act 1974 and the Environmental Protection Act 1990). This includes controls on the treatment and deposit of waste. Note, however, that this is subject to the modification contained in clauses 20 and 21 of the Bill (explained below). The requirement for consents where appropriate under the Planning (Hazardous Substances) Act 1990 continue to apply.

3. Special Regime

3.1 An outline of the special control regime which applies to Crossrail, and which gives a 'birds eye' view of the various controls which apply both outside and inside the Bill, is set out in Information Paper D2, Control of Environmental Impacts.

4. Planning Controls

4.1 By virtue of clause 10 of the Bill, planning permission is deemed to be granted for the development comprised in Crossrail. As a result, the nominated undertaker does not have to apply to the relevant local planning authority for planning permission, with the exception of any supplementary development relating to Crossrail (that is, development which does not comprise one of the specific "scheduled works" set out in Schedule 1 to the Bill), where that supplementary development is not fully assessed in the Crossrail Environmental Statement¹ (ES) submitted with the Bill and it would be likely to have significant effects on the environment. To require the nominated undertaker to apply for planning permission in respect of the scheduled works would be inappropriate, since upon

enactment of the Bill the project will have been authorized by Parliament. The fact that it will generally be inappropriate to require development authorized by an Act of Parliament to obtain express planning permission is reflected in Part 11 of Schedule 2 to the General Permitted Development Order 1995 (GPDO), which treats development authorized by a private Bill or certain orders as permitted development, subject to the approval of certain details.

- 4.2 The Bill includes a series of provisions requiring the nominated undertaker to submit details of the project to the relevant local planning authority for approval. These provisions are modelled on the GPDO. They give non-qualifying authorities controls similar to those contained in Part 11 of Schedule 2 to the GPDO; qualifying authorities are given greater powers, based on those available to qualifying authorities for the purposes of the construction of the Channel Tunnel Rail Link. In general terms, the procedures under the planning regime established by the Bill can be likened to that in respect of 'ordinary' development (that is, which does not have statutory approval), under which a local planning authority approves the details of the development, the principles of which have been established by the grant of outline planning permission.
- 4.3 Local planning authorities which choose to subscribe to the Planning and Heritage Memorandum, and thus become qualifying authorities, will need to sign the Memorandum on or before the day on which the Bill is reported from the Select Committee in the House of Lords. This is set out in paragraph 1(1)(a) of Schedule 7 to the Bill.
- 4.4 The Planning and Heritage Memorandum will comprise the entirety of the undertakings referred to in that paragraph of Schedule 7 to the Bill. Those local authorities who undertake to abide by its terms will therefore be included by the Secretary of State in the relevant order specifying those authorities which have been granted qualifying status.
- 4.5 The operation of the special planning regime established by Schedule 7 to the Bill and an explanation of qualifying and non-qualifying authorities is set out Information Paper B5, Main Provisions of the Planning Regime.
- 4.6 The draft Planning and Heritage Memorandum recognises that Crossrail is an infrastructure project of national and regional importance, and a qualifying authority accordingly undertakes that it will not seek to impose any unreasonably stringent requirements upon requests for approval of construction arrangements or plans and specifications which might frustrate and delay the project. It also undertakes in recognition of the tight construction programme to use its best endeavours to determine any request for approval within eight weeks or, whenever possible, a lesser period.
- 4.7 By virtue of clause 15 of the Bill, the published Crossrail environmental assessments will be taken into account in determining whether utility companies and similar bodies may carry out works to their apparatus made necessary in consequence of Crossrail in reliance on their permitted development rights under the GPDO. If the environmental impacts of those associated works have been assessed, then under clause 15 those permitted development rights would

generally be available to the utilities, subject to the terms of any direction by the Secretary of State under Schedule 8 to the Bill. The Secretary of State is given power by Schedule 8 to give directions to a utility having effect as conditions of the permitted development for the purpose of avoiding a breach of any undertaking given to the Select Committee in the House of Commons or the House of Lords or securing that the environmental effects of carrying out the permitted development are not materially different from those assessed. Under Schedule 8 the Secretary of State is also given power to determine whether in any given case the development concerned has been so assessed.

5. Heritage Provisions

5.1 It was earlier the practice in railway Bills promoted by British Rail or London Underground Limited to contain blanket clauses which disappplied the usual statutory controls over demolition and alteration of listed buildings and the demolition of buildings in conservation areas. The reason for this disapplication was to prevent railway projects approved by Parliament being frustrated or delayed because of difficulties in obtaining the heritage consents which would otherwise be necessary. However, the practice caused concern in Parliament and elsewhere. Thus, clause 19 of the King's Cross Railways Bill was struck out in Committee, while the Committee which considered the London Underground (Safety Measures) Bill produced a Special Report because it was concerned about clause 28; both clause 19 and clause 28 were blanket disapplication clauses of the old type.

5.2 Against this background, in March 1991 the Government announced for most works projects approved by private Bill it would expect a listed building consent to be obtained through the local planning authority. The Government recognized however that for strategically important developments promoted in pursuance of Government policy objectives, a requirement to seek listed building consents separately could result in a decision at variance with the decision of Parliament on a proposal as a whole; and that this might cause unreasonable delay or even put the development at risk. As regards such strategically important developments, the Government stated that it would expect that:

- i) the Bill will contain details of buildings which would be affected by disapplying listed building controls;
- ii) the ES deposited with the Bill will contain an account of the effect of the scheme on the built heritage;
- iii) the Promoter would consult English Heritage during the preparation of the Bill;
- iv) English Heritage would have the right to appear before the select committee on the Bill on matters within its competence.

5.3 In the light of this policy, the Bills for the Lewisham extension of the Docklands Light Railway and the Jubilee line extension met these requirements. The committee which considered those Bills, having satisfied themselves of the detail

of what was proposed in respect of the listed buildings which were specifically identified in the Bills, required no further provision to be made.

- 5.4 The Bill for CTRL built on this experience. As well as meeting the requirements set out in paragraph 5.2, there was also a heritage agreement establishing new consultation and agreement procedures in place of the general statutory procedures, entered into by the nominated undertaker with the relevant local planning authorities and, where appropriate, English Heritage.
- 5.5 The CTRL model is being adopted in the case of Crossrail. The listed buildings or buildings in conservation areas principally affected by the Crossrail works are those set out in the table in paragraph 1 of Schedule 9 to the Bill. In addition, there is a longer table of listed buildings set out in paragraph 2 of Schedule 9 to the Bill, but the latter are ones in relation to which protective works (such as works to remedy or mitigate settlement) may be carried out for the purpose of maintaining or restoring the character of the building concerned as a building of special architectural or historical interest. It is proposed that relevant heritage agreements will be entered into setting out the detail of the works and requiring relevant consultations and approvals of detail and of mitigation arrangements.
- 5.6 Paragraph 4 of Schedule 9 to the Bill disapplies certain sections of the Ancient Monuments and Archaeological Areas Act 1979, most notably those relating to powers of entry and the requirement to secure consent for any works affecting a scheduled monument.
- 5.7 Paragraph 5 of Schedule 9 to the Bill modifies the powers of entry (to obtain information about ancient monuments and historic buildings of records kept by English Heritage) under section 36 of the National Heritage Act 1983. In its place, new rights of entry are conferred by Schedule 10 to the Bill which are specifically tailored to the circumstances of Crossrail.

6. Building Act 1984 and London Building Acts (Amendment) Act 1939

- 6.1 Paragraph 8 of Schedule 14 to the Bill disapplies Part 1 of the Building Act 1984 in relation to a building held by the Secretary of State or the nominated undertaker and used, or intended for use, by the nominated undertaker for the purposes of the Crossrail undertaking. Paragraph 4 of Schedule 14 does the same in relation to relevant provisions of the London Building Acts (Amendment) Act 1939.
- 6.2 The need for these disapplications follows from the manner in which it is proposed that the nominated undertaker should construct Crossrail under the development agreement which will in due course be entered into between him and the Secretary of State. By virtue of section 4(1)(b) of the Building Act 1984, statutory undertakers such as railway undertakers have an exemption from Part 1 of that Act in relation to any building belonging to them and held or used by them for the purposes of their undertaking, unless it is a building used as offices or showrooms and not forming part of a railway station or a house. Sections 149(i) and 150(d) of the London Building Acts and Amendments Act 1939 contains

similar (though not identical exemptions) in relation to certain premises belonging to a railway company.

6.3 Under the proposed development agreement mentioned above, the nominated undertaker may not obtain ownership of or a lease in the railway until after it has been built and a permit to use it has been issued. Until then the nominated undertaker may only have a license. Accordingly it is necessary to extend the exemptions to cover these circumstances, and Schedule 14 to the Bill does this.

7. Party Wall etc Act 1996

7.1 Paragraph 17 of Schedule 14 disapplies parts of sections 1 and 2 of the Party Wall etc Act 1996. These provisions relate to party walls, and amongst other matters, enable an owner to put footings and foundations on neighbouring land, and to carry out strengthening and repair work and certain other work to party or boundary structures. It is inappropriate that adjoining owners should have such a right to carry out work to, or enter on, boundary structures provided for the new railway system.

7.2 Paragraph 17 of Schedule 14 also disapplies section 6 of the Party Wall etc Act 1996. That section gives a person proposing to excavate for and erect a building, or otherwise to make an excavation, certain rights to underpin adjacent buildings, and also requires approval of the plans of a new building or excavation by an adjacent owner in certain cases. The provisions are of uncertain effect in relation to underground tunnelling, and in any event the right of the nominated undertaker to underpin is unnecessary in the case of Crossrail because of the express provisions of the Bill dealing with underpinning (paragraphs 5 to 7 of Schedule 2). The interests of petitioners affected by settlement from underground works and similar matters are intended to be dealt with by means of undertakings to be given by the nominated undertaker, which are specifically designed for the purpose (for further information see Information Paper D12, Ground Settlement).

8. Ecclesiastical Law and Burial Grounds

8.1 Clause 49 of the Bill and paragraph 1 of Schedule 14 disapply enactments relating to burial grounds and restrictions applying under ecclesiastical law.

8.2 In their place, in the case of burial grounds, where human remains require to be moved for the purpose of constructing Crossrail, specific provision is set out in Schedule 15 to the Bill dealing with how this is to be done. It is modelled on the regime applying to CTRL. In the case of any ecclesiastical buildings affected by the Crossrail works arising from settlement, these will be catered for in the proposed undertaking relating to the making good of settlement referred to in paragraph 7.2 above (for further information see Information Paper D12, Ground Settlement).

9. Greater London (Restriction of Goods Vehicles) Traffic Order 1985

- 9.1 The Promoter seeks a consistent and realistic regime for lorry movements, and one which recognizes the need in some potential cases — particularly associated with tunnelling — for night time movements.
- 9.2 Under the Planning Regime established in Schedule 7 to the Bill, lorry routing is subject to approval of the local planning authority (in a non-unitary area, the county planning authority) with respect to the routes by which anything is to be transported on a highway by a large goods vehicle to a work or storage site, a site where it would be reused or a waste disposal site, except in the case of transportation on a motorway or a trunk road, or transportation to a site where the number of large goods vehicle movements to or from the site does not exceed 24 in any day.
- 9.3 Paragraph 10 of Schedule 14 to the Bill provides that a permit under the 1985 Traffic Order is to be granted if reasonably required for the purpose of enabling the Crossrail works to be carried out in accordance with lorry routing arrangements approved under Schedule 7, or for the purpose of enabling the Crossrail works to be carried out in a timely and efficient manner. Paragraph 11 also makes provision for appeals on this to be determined by the Secretary of State. Paragraphs 11 and 12 make provision for how applications for emergency permits under the 1985 Traffic Order are to be dealt with in a way which does not unnecessarily hinder the carrying out of the Crossrail works. These provisions are modelled on those successfully operated in relation to CTRL.

10. Modifications of Section 60 and 61 of the Control of Pollution Act 1994 and Section 82 of the Environmental Protection Act 1990 by Clauses 20 and 21 of the Bill

- 10.1 Clause 20 of the Bill modifies subsection (7) of sections 60 and 61 of the Control of Pollution Act 1994 so that appeals against a construction noise notice under section 60, or a refusal or conditioning of a consent to construction arrangements under section 61 is determined by the Secretary of State instead of by the magistrates' court. Crossrail will be a significant linear work, passing through the areas of many petty sessional divisions. Whilst magistrates' courts comprise an appropriate forum for the resolution of disputes in relation to schemes and activities which have discrete local effects, the Promoter is of the view that the use of such courts and appellate bodies is not likely to secure the kind of co-ordinated and unified approach to construction activities which will be desirable for the effective management of a project of the size of Crossrail.
- 10.2 As regards clause 21 of the Bill, the Environmental Protection Act 1990 provides that where construction activities are carried on in accordance with a notice issued by a local authority under section 60 of the 1974 Act or a consent under section 61 or 65 of that Act, the notice or consent has effect as a defence in any proceedings for failure to comply with a noise abatement notice issued by a local authority under section 80(1)(a) of the Environmental

Protection Act 1990. The purpose of clause 21 is to provide that such a notice or consent also comprises a defence against proceedings brought by an individual alleging a noise nuisance under section 82 of the 1990 Act. This will enable the nominated undertaker to carry out his works, as approved by the local authority, with greater certainty.

11. Modification of section 8 of the Compulsory Purchase Act 1965

- 11.1 By virtue of section 8 of the Compulsory Purchase Act 1965, in certain circumstances an owner of land can require the whole of his land to be required even though the acquiring authority only want to acquire part of it. Thus for example, if a garden of a house is proposed to be acquired, the landowner can require the house to be acquired as well if taking only a part would be seriously detrimental to the remainder of the holding.
- 11.2 By virtue of paragraph 11 of Schedule 6 to the Bill, the Secretary of State is, in relation to most of the tunnelled sections of the Crossrail route, only empowered to acquire an interest in the subsoil of the relevant land, being land which is required for the running tunnels for the railway at a depth of more than nine metres below the surface. By virtue of paragraph 12 of Schedule 6, in respect of certain other land comprised in the tunnelled sections the Secretary of State is only empowered to acquire either subsoil more than nine metres below the surface, or a right of way at surface level for the passage of persons or vehicles. The Secretary of State also has powers in other areas to acquire subsoil only, but he would not expect to use that power for underground works if substantial physical effects were expected to be caused by the works concerned to the property above.
- 11.3 If the operation of section 8 to the Compulsory Purchase Act 1965 were not modified, it might be open to the owners of land above the tunnels to argue that the Secretary of State was obliged to acquire the whole of this land (that is the subsoil occupied by the tunnel and the land and buildings above the subsoil). Accordingly, in all recent Acts that authorize underground railways, it has been provided that on the acquisition of the subsoil, the acquiring authority cannot be required to acquire a greater interest. A similar effect is achieved by paragraph 11(3) of Schedule 6 to the Bill.
- 11.4 The construction of an underground railway would now generally proceed by way of an order made under the Transport and Works Act 1992, where the underground railway is not promoted by way of a hybrid Bill. The model clauses contained in the Transport and Works (Model Clauses for Railways and Tramways) Order 2006 made under that Act likewise provide that, on the acquisition of subsoil, the acquiring authority cannot be required to acquire a greater interest.

12. Modification of Powers in Relation to Trees

- 12.1 Clauses 18 and 19 make special provision in relation to trees. It is necessary that a nominated undertaker should have power to remove, top or lop any tree

overhanging land needed for the purposes of the nominated undertaker's undertaking, since otherwise the proposed construction or functioning of Crossrail could be jeopardised.

- 12.2 The circumstances in which clause 18 powers (concerning trees on land adjoining Crossrail property) may be used are circumscribed. They may be used only when necessary to enable the Crossrail works to be maintained, or for reasons connected with the safe operation of Crossrail. The power is not of itself a novel one; for example, telecommunications operators have powers to require the lopping of trees to prevent interference with their apparatus.
- 12.3 Clause 18 sets down a procedure, similar to that for telecommunication operators, before the powers can be used. After the nominated undertaker has served notice on the landowner concerned, the landowner may serve a counter notice objecting to the proposal, in which event the matter is referred to the county court. If the nominated undertaker causes damage in carrying out the work, the landowner will be entitled to compensation.
- 12.4 Clause 19 makes supplementary provision for the removal, topping or lopping of trees on land used for the construction or operation of Crossrail, or overhanging such land and which are protected by tree preservation order or which are in a conservation area, for the reasons mentioned below:
- clause 19(2)(a) is necessary because the exemption in the model forms for tree preservation orders relating to certain works of a statutory undertaker does not apply outside the operational land of the undertaker. The effect of clause 19(2)(a) is limited to the cases mentioned in clause 17(1), that is to cases where the tree works are necessary to be done to enable maintenance of Crossrail or to ensure safety in the running of Crossrail;
 - clause 19(2)(b) is necessary to ensure that the exemption in the model forms for tree preservation orders relating to tree works necessary to enable a planning permission to be implemented applies to the special Planning Regime for Crossrail established by the Bill; and
 - although there is a similar exemption in the model form of Tree Preservation Order to that appearing in clause 19(2)(c) for works on operational land of a statutory undertaker, it is desirable that all relevant exemptions should appear in a single provision rather than having to be deduced piecemeal from different enactments and instruments.

13. Coast Works

- 13.1 A licence from the Secretary of State for the Environment, Food and Rural Affairs is required in certain circumstances under section 5 and Environmental Protection Act 1985 for the deposit of substances (including construction materials and structures) in the sea or seabed and tidal waters. Consent is also required in certain circumstances from the Secretary of State under section 34 of the Coast Protection Act 1948 for works affecting coast protection

works or navigation. The construction of the Thames tunnel for Crossrail may involve activities requiring such consents.

13.2 Similarly, a licence may be required from the Port of London Authority under section 66 or 73 of the Port of London Act 1968 for the construction of the Crossrail tunnel under the Thames, and for any associated dredging work.

13.3 The purpose of paragraphs 5, 6 and 9 of Schedule 14 to the Bill is to remove the need for such licences and consents, having regard to the approval of Crossrail which would have been given by the Bill if enacted. As regards section 5 of the 1985 Act, the exemption is restricted in the case of excavated or dredged materials, to deposit in the course of use as a construction material (in particular, the requirement for a licence to dispose of dredged material at sea is maintained). In addition, in a case of the Port of London Authority, specific provision tailored to Crossrail is made in Part 6 of Schedule 17 for relevant matters to be approved by the Authority. Furthermore, these exemptions do not affect the requirement for planning approval of details under Schedule 7 to the Bill.

14. Electricity Act 1989

14.1 Under section 37 of the Electricity Act 1989, subject to certain exemptions, consent is required from the Secretary of State in order to install or keep an overhead electric line. The construction of Crossrail will require a few diversions of overhead lines, most of which are specified in the table in paragraph 3 of Schedule 2 to the Bill. The purpose of clause 4 is to remove the need for approval under section 37 of the 1989 Act, and instead to substitute the consent regime set out in Schedule 4 to the Bill more specifically tailored to Crossrail.

15. London Overhead Wires etc. Act 1933

15.1 Section 17(b) of this Act contains relevant exemptions for railway companies which are of uncertain application in relation to Crossrail because of the circumstances described above in relation to the London Building Acts (Amendment) Act 1939 in paragraph 6.3 above. The purpose of paragraph 2 of Schedule 14 to the Bill is to remove this uncertainty.

16. London Squares Preservation Act 1931

16.1 The construction of Crossrail requires the use at surface level of certain land comprised in London squares protected by the London Squares Preservation Act 1931. Section 3 of the 1931 Act restricts the things which may be done in the London squares specified in the Act. As Crossrail will, if the Bill is enacted, be a scheme approved by Parliament, the purpose of paragraph 3 of Schedule 14 to the Bill is to remove the restrictions in the 1931 Act with respect to the carrying out of the Crossrail works. Crossrail will not result in any permanent taking of land at surface level comprised in protected London squares, but

Finsbury Circus and Hanover Square will be used temporarily for worksites and for the sinking of shafts for the construction of below ground stations.

- 16.2 This exclusion does not affect the requirement to obtain approvals of details under the planning Schedule to the Bill (Schedule 7).

17. New Roads and Street Works Act 1991

- 17.1 Part 3 of the New Roads and Street Works Act 1991 includes various provisions allowing the street authority to make directions about the timing of proposed or subsisting street works, and about the placing of apparatus in a street, the imposing of restrictions on the execution of works following completion of substantial road works or substantial street works, the placing of apparatus in a protected street or a street having special engineering difficulties and the resurfacing of streets.

- 17.2 Paragraph 14 of Schedule 14 to the Bill excludes these provisions of the 1991 Act. In part this is because the special regime for Crossrail established by the Bill already makes provision for the approval of the highway authority where appropriate to works affecting highways and the reinstatement of highways (in particular under paragraphs 9 and 10 of Schedule 2 and Part 1 of Schedule 17 to the Bill). The controls in the 1991 Act with respect to the timing of street works are also inappropriate to Crossrail. Crossrail is a large linear project crossing many different traffic authority boundaries and it is necessary that the Crossrail works be carried out as a single co-ordinated exercise.

18. Water Abstraction

- 18.1 Under section 24 of the Water Resources Act 1991, a licence is required from the Environment Agency in order to abstract water. The construction of Crossrail will require some temporary abstraction to be carried out, amongst other matters for dewatering purposes during construction. As matters concerning the protection of water resources are dealt with by detailed provisions in Part 3 of Schedule 17, which will require amongst other matters the approval of the Environment Agency to things done under the powers of the Bill affecting water resources, it is unnecessary to duplicate this with a separate requirement for an abstraction licence under the 1991 Act, and that requirement is therefore disappplied by paragraph 15 of Schedule 14 to the Bill.
- 18.2 Under section 48A of the 1991 Act, things may not normally be done by one abstractor which adversely affect another licensed abstractor. As mentioned above, some temporary abstraction may be required for Crossrail and this may affect some existing abstractors. Clause 55 of the Bill would allow the nominated undertaker to carry out the works concerned, but provides in consequence a right to compensation for an existing licensed abstractor who suffers loss or damage in consequence.

19. Section 106 of the Water Industry Act 1991

- 19.1 Under section 106 of the Water Industry Act 1991 (as amended by the Competition and Service (Utilities) Act 1992 and the Water Act 2003), an owner or occupier of premises has a right to connect private drains and sewers serving the premises to the public sewer belonging to the sewerage undertaker so as to discharge foul water and surface water from the premises.
- 19.2 Outside Greater London the sewerage undertaker may only refuse to permit the connection if it appears to the undertaker that the drain or sewer does not satisfy standards reasonably required by the undertaker, or that the making of the connection would be prejudicial to the undertaker's sewerage system. By virtue of subsection (8) of section 106, within Greater London the sewerage undertaker may refuse to permit a connection on any grounds it wishes and there is no right to have a dispute referred to Director of Water Services as to whether the connection should be allowed.
- 19.3 Paragraph 16 of Schedule 14 to the Bill applies the national rule to all of the Crossrail works, not just those falling outside Greater London. The right of the sewerage undertaker to refuse a connection, on the grounds that standards are not satisfied or that it would prejudice the undertaker's sewerage system, remains.

20. Works Under Streets in Greater London

- 20.1 Section 5 of the Greater London Council (General Powers) Act 1986 requires the consent of the relevant borough council to the demolition of any vault, arch or cellar or other part of a building under a street, and section 6 requires a similar consent to the erection of any structure which would prevent access to such a vault, arch or cellar or other part of a building. Section 7 requires a consent to the filling in of a vault, cellar or underground room under a street.
- 20.2 The construction of the works authorised by the Bill may involve works which would require consent under these provisions. There is an exemption in the 1986 Act from the requirement for consent in respect of "code regulated works" (which will cover most statutory undertakers' works in a street) and highway works undertaken by a highway authority. The purpose of paragraph 13 of Schedule 14 is to extend this exemption to meet the particular circumstances of Crossrail.
- 20.3 In place of consent provisions such as these, the Bill provides other control mechanisms intended to strike a proper balance between the approval (if given) of Parliament to the project on the one hand and the later approval of details of the scheme in a timely manner by relevant regulatory bodies on the other hand. In the context of sections 5 to 7 of the 1986 Act, these control mechanisms include the requirement in paragraph 4 of Part 1 of Schedule 17 to the Bill for the approval of the highway authority to works undertaken within 8 metres of the surface of any highway comprising a carriageway, and the Planning Regime in Schedule 7.

21. Miscellaneous Highway Matters

21.1 Paragraph 7 of Schedule 14 to the Bill makes provision for certain other exemptions from highway legislation, as follows—

- Section 15(1) of the Greater London Council (General Powers) Act 1970 and section 169(1) of the Highways Act 1980 (Scaffolding, etc, in highway): similar provisions have effect under the duty to consult or obtain consent in paragraph 5 of Schedule 3 to the Crossrail Bill read with the duty to minimise disruption in paragraph 3 of Part 1 of Schedule 17 to the Bill and in paragraphs 12 and 13 of Part 1 of that Schedule.
- Section 141 of the Highways Act 1980 (planting of trees and shrubs): similar powers are provided by paragraph 4 of Schedule 3 to the Crossrail Bill.
- Section 167 of the Highways Act 1980 and sections 8(2) and (5) of the Greater London Council (General Powers) Act 1986 (retaining walls): railway undertakers have generally been exempt from these provisions, but the exemption is of uncertain application in relation to Crossrail because of the circumstances described in relation to the Building Acts mentioned in paragraph 6.3 above. The intention is to remove this uncertainty.

22. Landlord and Tenant Law

22.1 Clause 51 of the Bill excludes any enactment or rule of law regulating the rights and obligations of landlords and tenants from having certain effects on the rights and obligations between parties to a lease granted by the Secretary of State in pursuance of a development agreement.

23. Railway Regulatory Provisions

23.1 This Information Paper does not deal with the railway regulatory regime provided in the Bill with respect to Crossrail (clauses 22 to 45 of the Bill). For further information on those see Information Paper H4, Railway Powers in the Crossrail Bill).

¹ The term 'Environmental Statement' refers to the Environmental Statement deposited with the Crossrail Bill in February 2005, the four Environmental Statements accompanying the Additional Provisions, the four Supplementary Environmental Statements submitted during the passage of the Bill, and their Non-Technical Summaries and errata, which together comprise the Crossrail Environmental Statement. The term 'the Main ES' refers specifically to the

Environmental Statement produced (with its Non-Technical Summary) in February 2005. See <http://billdocuments.crossrail.co.uk/>.