

**The Network Rail
(East West Rail Bicester to Bedford Improvements) Order**

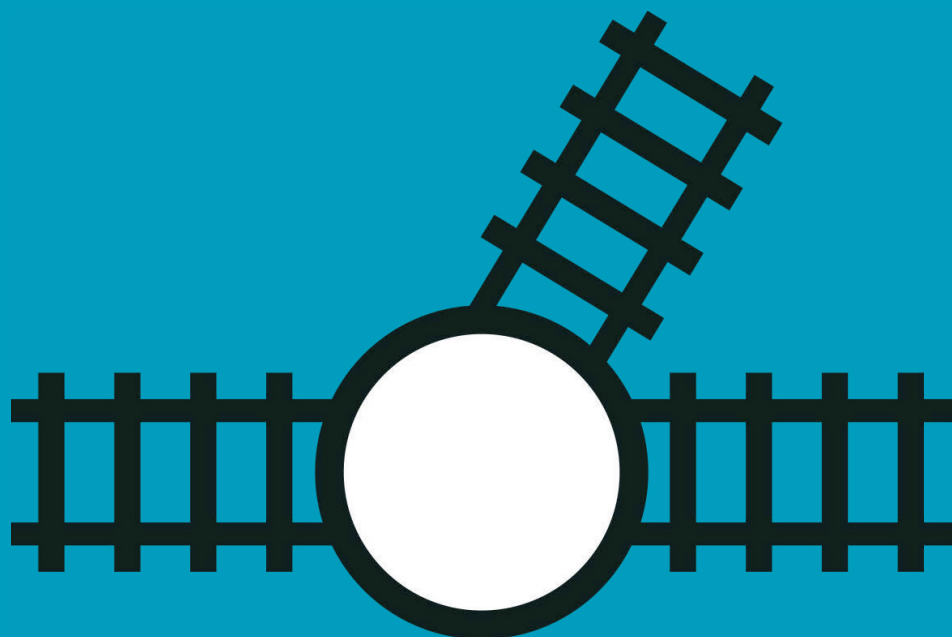
Transport and Works Act 1992

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

Explanatory Memorandum

Rule 10(2)(b)

July 2018





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TRANSPORT AND WORKS ACT 1992

TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS
PROCEDURE) (ENGLAND AND WALES) RULES 2006

THE NETWORK RAIL (EAST WEST RAIL BICESTER TO BEDFORD IMPROVEMENTS)
ORDER

EXPLANATORY MEMORANDUM

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 2006 (S.I. 2006 No.1466).

Application for the Order has been made by Network Rail Infrastructure Limited (“Network Rail”). The Order would confer powers to authorise the upgrade of the partially disused Bicester to Bletchley to Bedford and Aylesbury to Claydon Junction railways together with station works at Winslow, Bletchley, Apsley Vale Parkway, Woburn Sands and Ridgmont.

The Order authorises the temporary acquisition and temporary use of land for the purpose of the works and confers other powers in connection with the construction and operation of the railway.

This Order is based on the Transport and Works (Model Clauses for Railways and Tramways) Order 2006 (S.I. 2006 No.1954) (“the model clauses”). Where there is a material departure from the Model Clauses an explanation is provided.

PART 1

PRELIMINARY

Part 1 contains preliminary provisions

Article 1 (*Citation and commencement*) provides for the citation and the coming into force of the Order.

Article 2 (*Interpretation*) contains provisions for the interpretation of words and phrases used in the Order. Definitions additional to those set out in the model clauses have been included in the article to provide clarity, taking into account the specific provisions of the Order.

A new paragraph (3) explains that references to numbered plots are references to plot numbers on the land plans. This is intended to add clarity and has precedent in the Network Rail (Hitchin (Cambridge Junction)) Order 2011 (S.I. 2011 No. 1072) and Network Rail (Ordsall Chord) Order 2015 (S.I. 2015 No. 780).

Article 3 (*Incorporation of the Railway Clauses Acts*) incorporates, subject to amendments, various provisions in the Railways Clauses Consolidation Act 1845 (c.20) and the Railways Clauses Consolidation Act 1863 (c. 92). The article omits those provisions referred to in the model clauses that are not relevant to this Order.

Article 4 (*Application of the 1991 Act*) provides for the application of various provisions of the New Roads and Street Works Act 1991 (c. 22) to the temporary stopping up of streets under article 14 (temporary stopping up of streets) and the carrying out of works under article 12 (power to execute street works), even if no street works (within the meaning of the 1991 Act) are being carried out. It also disapplies certain provisions of the 1991 Act which could impede the construction of the works. There is a precedent for this in the Network Rail (Hope Valley Capacity) Order 2018 (S.I. 2018 No.446).

Article 5 (*Disapplication of legislative provisions*) is not in the model clauses. Paragraph (a) provides for the disapplication of an additional consent which would otherwise be required from the Environment Agency under the Environmental Permitting (England and Wales) Regulations (S.I. 2016 No. 1154) for a consent to operate a regulated facility in relation to a flood risk activity. This is preceded in the High Speed Rail (London-West Midlands) Act 2017 (c. 7) in Schedule 21. This provision has replaced the consenting requirement under section 109 of the Water Resources Act to erect, construct or carry out works to any structure in a water course which is part of a main river. In order to provide certainty therefore that the project can proceed, the Order disapplies the requirements for the in-principle consent. Instead, the Order provides for approval of detailed plans of the works in the protective provisions for Drainage Authorities and the Environment Agency in Part 3 of Schedule 15. Disapplications of section 109 of the Water Resources Act were preceded in article 6 of the Network Rail (Ordsall Chord) Order 2015 (S.I. 2015 No. 780).

Paragraphs (1)(b) and (e) provide for the disapplication of additional consents which would otherwise be required from the drainage authorities under the Land Drainage Act 1991 (c.59). These are the requirements for consent to erect obstructions to the flow of an ordinary watercourse under section 23 of the Land Drainage Act 1991 and for approval under byelaws made or deemed to be made under section 66 of that Act. These are consents for activities which are a necessary part of the project. In order to provide certainty therefore that the project can proceed, the Order disapplies the requirements for in-principle consent. Instead, the Order provides for approval of detailed plans of the works in the protective provisions for the drainage authorities in Schedule 15. There is ample precedent for this provision, including the Network Rail (Buxton Sidings Extension) Order 2017 (S.I. 2017 No. 1150).

Paragraphs 1 (c) and (d) provide for the disapplication of requirements to obtain approvals under the Flood and Water Management Act 2010 (c.29). This is preceded in Schedule 21, paragraphs 5 and 7, to the High Speed Rail (London–West Midlands) Act 2017. These are consents for matters which are covered in the protective provisions in the Order. Paragraph 1(c) removes the restrictions on removing designated features in relation to works authorised under the Order. Paragraph 1 (d) disapplies the requirement to provide approval for the drainage systems constructed under the powers of the Order. The requirement to obtain this consent is not required in relation to

development consent orders under the Planning Act 2008 (Paragraph 7(3), Schedule 3, Flood and Water Management Act 2010).

PART 2

WORKS PROVISIONS

Principal Powers

Article 6 (*Power to construct and maintain works*) authorises the construction and maintenance of the principal works proposed in the Order, which are described in Schedule 1 (*scheduled works*) and shown on the deposited plans and sections. The scheduled works must be constructed within the limits of deviation for those works.

Article 6 also provides for the construction and maintenance of ancillary works necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the scheduled works which are described in general terms in paragraphs (3) and (4).

In an extension to the model clause, paragraph (3) includes descriptions of works and categories 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. Such variation to the model clause has precedent in the Network Rail (Nuneaton North Chord) Order 2010 (S.I. 2010 No. 1721) and Network Rail (Ordsall Chord) Order 2015 (S.I. 2015 No. 780).

The carrying out or maintenance of ancillary works outside the limits of deviation may be done only on land specified in columns (1) and (2) of Schedule 2 (*acquisition of certain land for ancillary works*), land specified in columns (1) and (2) of Schedule 4 (*land of which temporary possession may be taken*) for the purpose specified in relation to that land in column 3 of that Schedule or on land specified in columns (1) and (2) of Schedule 3 (*land in which only new rights etc. may be acquired*) for the purposes described in those Schedules.

Paragraph (6) provides that Network Rail may carry out and maintain (within the Order limits) landscaping and other works to mitigate the effect of construction, maintenance or operation of the authorised works and works for the benefit of land affected by the authorised works. Such provision is commonly included in Orders authorising railways, including the Network Rail (Ordsall Chord) Order 2015, the Crossrail (Plumstead Sidings) Order 2015 (S.I. 2015 No. 781) and the Blackpool Tramway (Blackpool North Extension) Order (S.I. 2017 No. 1214).

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

Article 8 (*closure or road level crossings*) This and articles 9 and 10 dealing with level crossings are not found in the model clauses but are preceded in the Chiltern Railways (Bicester to Oxford Improvements) Order 2012 (S.I. 2012 No. 2679). This authorises the permanent stopping up of the level crossings specified in Schedule 5 (*replacement and closure of road level crossings*) to

the Order and the extinguishment of all rights over those crossings, including any public right of way. These are crossings which are highways used by vehicular traffic. Network Rail may only exercise the powers in relation to crossings listed in Part 1 of Schedule 5 once it has provided the new substituted road (as identified in Schedule 5) for the road to be stopped up.

- Article 9* (*replacement and closure of footpath level crossings*) authorises the stopping up of the footpaths which cross the railway on the level specified which are specified in Schedule 6 (*replacement and closure of footpath level crossings*). Network Rail may only exercise the powers in relation to a footpath listed in Part I of Schedule 6 once it has provided the new substituted right of way (as identified in column 4) for the footpath to be stopped up. Once provided the substituted right of way becomes a public right of way and the provisions of the Highways Act 1980 relating to compensation apply.
- Article 10* (*accommodation crossings*) The purpose of the provision is to extinguish any existing public or private rights over the accommodation crossings which are specified in Schedule 7 (subject in relation to the crossings listed in Part I to the provision of the alternative accommodation facilities specified in column 4). Provision is made in paragraph 3 for payment of compensation under Part 1 of the 1961 Act.
- Article 11* (*Power to alter layout etc. of streets*) is not found in the model clauses but permits Network Rail to alter the layout of streets in order to accommodate the authorised works, with the consent of the street authority (such consent not to be unreasonably withheld) or, in the case of alterations specified in Schedule 8 (*streets subject to alteration of layout*), without such consent. Alterations in street layout are required for a number of purposes set out in paragraph (2). A street authority which fails to notify Network Rail of its decision in respect of an application for consent within 28 days of the application being made is deemed to have given its consent. This provision for deemed consent avoids unnecessary delays to the authorised project. A similar time limit has been inserted in the approval processes elsewhere in this Order. This article has precedent in the Network Rail (Hitchin (Cambridge Junction)) Order 2011 (S.I. 2011 No. 1072) Network Rail (Ordsall Chord) Order 2015 (S.I. 2015 No. 780).
- Article 12* (*Power to execute street works*) authorises Network Rail to break up streets specified in Schedule 9 (*streets subject to street works*) and to carry out work in connection with the placing, maintaining or moving of apparatus.
- Article 13* (*Stopping up of streets*) provides for Network Rail permanently to stop up the streets specified in of Schedule 10 (*streets to be stopped up*). No street mentioned in Part 1 of Schedule 10 is to be stopped up unless Network Rail has provided either an alternative road or a suitable alternative route. In accordance with the model clause, the streets specified in Part 2 of Schedule 8 may only be stopped up if one of the conditions set out in paragraph 4 has been met. Paragraph (5) provides for all rights of way along any street stopped up to be extinguished, and allows Network Rail to use the stopped up street for the purposes of its railway undertaking, whilst paragraph (6) provides for payment of compensation to any person suffering loss of any private right of way under this article.
- Article 14* (*Temporary stopping up of streets*) provides for the temporary stopping up of streets. In an extension to the model clause, a new paragraph (2) confers a power on Network Rail to use any street temporarily stopped up under this

article, which is within Order limits, as a temporary working site. Such provision has precedent in the Network Rail (Nuneaton North Chord) Order 2010 (S.I. 2010 No. 1721) and Network Rail (Ordsall Chord) Order 2015. Where the street is specified in Schedule 11 (streets to be temporarily stopped up), Network Rail is obliged merely to consult the relevant street authority. This is on the basis that such stoppings up will have already been considered in the application for this Order. If Network Rail wishes temporarily to stop up streets which are not specified in Schedule 11, paragraph (5)(b) provides that it requires the consent of the relevant street authority, which may attach reasonable conditions to any such consent but may not unreasonably withhold it. In an extension to the model clause, a time limit of 28 days is given, after which a street authority which fails to respond to an application for consent is deemed to have given its consent. This has precedent in recent TWA Orders including article 9 of the Network Rail (Nuneaton North Chord) Order 2010 and Network Rail (Ordsall Chord) Order 2015. The provision for deemed consent after 28 days avoids unnecessary delays to the authorised project.

Article 15 (*Construction and maintenance of new or altered highways*) makes provision for new streets and street alterations or diversions to be completed to the reasonable satisfaction of the highway authority (or street authority in the case of alterations and diversions) and for their maintenance by Network Rail for a period of 12 months, and thereafter by the relevant authority. Paragraph (1), which is not in the model clauses, clarifies that this article applies to streets which are not a byway open to all traffic, restricted byway, bridleway or footpath because the creation of these is covered separately in article 15 (creation and maintenance of new highway). Paragraph (4) of this article excludes from its scope the structure of any bridge or tunnel carrying a street over or under Network Rail's railway as Network Rail will be responsible for maintaining the structure of any railway bridges or tunnels beyond the initial period of 12 months identified in this article. Paragraph (4) does not affect Network Rail's responsibility to maintain the surface of any highway under or over which the scheduled works are constructed, which will be governed by the provisions of paragraphs (1) and (2). This addition has precedent in the Network Rail (Hitchin (Cambridge Junction)) Order 2011 and Network Rail (Ordsall Chord) Order 2015.

Article 16 (*Access to works*) gives Network Rail the power to provide or improve means of access at locations given in Schedule 12 (access to works). In addition, Network Rail may, with the approval of the highway authority, provide or improve means of access at any additional locations within the Order limits as Network Rail may reasonably require. For the reasons given above, an additional paragraph (2) has been inserted providing that if the highway authority does not respond within 28 days, it shall be deemed to have granted approval.

Article 17 (*Agreements with street authorities*) allows Network Rail to enter into agreements with street authorities regarding any street created or affected under the Order. These would allow Network Rail and the street authority to agree points such as who was responsible for undertaking certain works affecting streets under this Order, a time period for completion of the works and setting out the terms of any payment which may be made. The model clause is extended so as to include agreements relating to the strengthening, improvement, repair or construction of any street.

Article 18 (*Construction of bridges*) provides that plans and specifications for a bridge carrying a highway over or under a railway must be approved by the highway authority and constructed in accordance with such approved plans. The model clause does not provide for approval not to be unreasonably withheld but the addition of this requirement allows a refusal to be referred to arbitration under article 46. An additional paragraph has been inserted providing that if the highway authority does not respond within 28 days, or does not give any reasons for a lack of consent, approval is deemed to have been given. This is preceded in the Network Rail (Ordsall Chord) Order 2015.

Supplemental powers

Article 19 (*Discharge of water*) enables Network Rail to discharge water into any watercourse, public sewer or drain, in connection with the construction, operation and maintenance of the authorised works with the approval and (if provided) superintendence of the person to whom it belongs (such approval may be subject to reasonable terms and conditions but must not be unreasonably withheld). The extension of this provision to cover operation is preceded in the recent Midland Metro (Wolverhampton City Centre Extension) Order 2016 (S.I. 2016 No. 684). The model clauses are extended so as to provide that any relevant person who fails to respond to an application for consent within 28 days of the application being made is deemed to have given consent. This has precedent in recent TWA Orders including the Network Rail (Nuneaton North Chord) Order 2010 (S.I. 2010 No. 1721) and Network Rail (Ordsall Chord) Order 2015. In paragraph (7) the wording of the model provision has been updated to refer to the environmental permitting regime under the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016 No. 1154)

Article 20 (*Protective work to buildings*) permits Network Rail to carry out such protective works (as defined in paragraph (11) which has been expanded to clarify that the purpose of protective works extends to protect apparatus or equipment in the building) to buildings within the area specified in that article as it considers necessary or expedient before, during and after construction of the authorised works (up to a period of 5 years after that part of the authorised project is first opened for use). This will allow Network Rail to carry out any protective works that may be required as a result of the proposed works. Provision is made for surveys and notice, and for the payment of compensation.

Article 21 (*Power to survey and investigate land*) confers upon Network Rail power (upon notice to every owner and occupier of that land) to survey and investigate land within the Order limits and to make trial holes, carry out ecological or archaeological investigations and place on, leave on and remove apparatus. It includes provision for payment of compensation. Approval for the making of trial holes (which may not be unreasonably withheld) is, in the case of land located within the highway boundary, to be obtained from the highway authority, or, in the case of a private street, from the street authority. In a departure from the model clause a highway authority or street authority that fails to respond to an application for consent within 28 days of the application being made is deemed to have given consent. Such provision has precedent in the same context in article 15 of the Network Rail (Hitchin (Cambridge Junction)) Order 2011 (S.I. 2011 No. 1072) Network Rail (Ordsall Chord) Order 2015.

New paragraphs (3) to (8) are not in the model clauses but are adapted from the provisions recently enacted in and now in force under the Housing and Planning Act 2016 (c. 67) under sections 173 to 177 to allow for use of a warrant to enforce the powers in this article. This brings the surveying arrangements in relation to works authorised by Transport and Works Act Order in line with recent changes in the general law.

PART 3

ACQUISITION AND POSSESSION OF LAND

Article 22 (*Power to acquire land*) confers on Network Rail powers of compulsory acquisition of land within the limits of deviation and identified on the Order plans and described in the book of reference, for the purposes of the authorised works or for any other purposes that are ancillary to the Company's railway undertaking. It also authorises the compulsory acquisition of land specified in Schedule 2 (*acquisition of certain lands for ancillary works*) for the purpose specified in relation to that land in that Schedule and the compulsory acquisition of land at Winslow Station for works which are not included in the Order but for which planning permission has been granted by the local planning authority.

Article 23 (*Application of Part 1 of the 1965 Act*) applies, with modifications, the provisions of Part 1 of the Compulsory Purchase Act 1965 (c.56). This provision is altered from the model clause to reflect changes made to the 1965 Act by the Housing and Planning Act 2016 (c. 22) as applied in the recent Network Rail (Buxton Sidings Extension) Order 2017.

Article 24 (*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 1981 (c.66) 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. This provision is altered from the model clause to reflect changes made to the Compulsory Purchase (Vesting Declarations) Act by the Housing and Planning Act 2016 (c. 22) as applied in the recent Network Rail (Buxton Sidings Extension) Order 2017.

Article 25 (*Power to acquire new rights*) authorises the creation of easements or other rights over land and makes ancillary provision where rights are acquired. Paragraph (2) confers, in relation to the land parcels listed in Schedule 3, limited powers to acquire only rights in that land, and paragraph (3) authorises such rights to be acquired on behalf of owners of land affected by the exercise of the powers of the Order. The purpose of acquiring such rights on behalf of third parties is to maintain access to land which has been obstructed by the works.

Paragraph (5) introduces Schedule 13 for the purpose of modifying legislation relating to compensation and the 1965 and 1981 Acts so as to apply to the compulsory acquisition of new rights under this Order. These are consequential modifications which, as regards compensation legislation and

the 1965 Act, have precedent in the Network Rail (Buxton Sidings Extension) Order 2017.

The modifications as regards the 1981 Act are a recent innovation introduced in Schedule 14 to the High Speed Rail (London-West Midlands) Act 2017 (c.7) and followed in the Network Rail (Closure of Abbots Ripton Level Crossing) Order 2017 (S.I.2017 No. 1074). They provide clarification of how the general vesting declaration procedure is used in the acquisition of easements (which had not been spelled out in previous orders). The use of GVDs for such purposes is considered a desirable option for the purpose of speeding the process and ensuring consistency over different servient tenements of the terms of the easement.

Paragraph (6) is based on precedent found in the Network Rail (Ipswich Chord) Order 2012 (S.I. 2012/2284. It provides for the acquisition of rights by statutory undertakers (rather Network Rail) in circumstances where the relevant land is required for the diversion or relocation of their apparatus and the Secretary of State gives consent. Such provision is appropriate because the dominant tenement to be benefitted by such rights is the statutory undertaking of the undertaker rather than Network Rail's land and it is therefore necessary for the relevant statutory undertaker to acquire the rights.

Article 26 (*Power to acquire subsoil or airspace only*) is adapted from the model clause (power to acquire subsoil only) and enables Network Rail to acquire airspace or subsoil where it needs to do so rather than being obliged to acquire any greater interest in that land

Article 27 (*Rights under or over streets*) permits Network Rail to use a street within the Order limits without being required to acquire any part of the street or any easement or right in the street. Provision is made for the payment of compensation.

Temporary possession of land

Article 28 (*Temporary use of land for construction of works*) enables Network Rail, in connection with the carrying out of the authorised works, to take temporary possession of (i) land listed in columns (1) and (2) of Schedule 4 (land of which temporary possession may be taken) and (ii) any other Order land which is subject to compulsory acquisition under the Order provided the compulsory acquisition process has not begun in relation to it. This is an extension of the model clause but follows the approach adopted in a number of TWA Orders (e.g. the Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (S.I. 2005 No. 927). It allows greater flexibility in the event that following further detailed design of the works it is decided that only temporary occupation rather than permanent acquisition of land is required. This sub-paragraph is expressly subject to a new paragraph (11) which identifies parcels of land within the Order limits where no powers of temporary possession are exercisable.

The article also departs from the model clause in allowing (as well as temporary works), mitigation works which have been placed in that land to facilitate construction of the authorised works to be constructed and left on the land, without a requirement for these to be removed. This would apply, for example, where mitigation is provided on behalf of a local flood authority but

Network Rail does not need to retain a permanent interest or rights in the land. The notice period for entry onto the land in paragraph (2) has been extended from 14 to 28 days.

Article 29 (*Temporary use of land for maintenance of works*) empowers Network Rail to take temporary possession of any land within the Order limits for the purpose of maintaining the new railway at any time within the period of five years beginning with the date on which the new railway is opened for use. Provision is made for notice and compensation. This power does not apply with respect to houses, gardens or occupied buildings or land required only for the purpose of access or the acquisition of rights over land.

Article 30 (*Temporary use of land for access*) authorises the use of land specified in Schedule 14 (*temporary use of land for access*) for the purpose of temporary access (rather than possession) in connection with the construction of the authorised works. 7 days' notice is required to be given to the landowner unless access is urgently required. Again this is not a model clause but the purpose of including a more limited power is to minimise the blight to the land in question where outright acquisition, the acquisition of permanent rights or temporary possession of the land is not required. The provision has precedent in the Network Rail (Reading) (Land Acquisition) Order 2009 (S.I. 2009 No. 2728).

Compensation

Article 31 (*Disregard of certain interests and improvements*) provides that in assessing the compensation payable in respect of compulsory acquisition the Upper Tribunal will 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.

Article 32 (*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. In an extension to the model clause, paragraph (6) of this article specifically excludes from its application any right of way to which the specific protective provisions in Schedule 15 (*provisions relating to statutory undertakers*) apply.

Article 33 (*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 powers to take temporary possession of land under article 29.

PART 4

MISCELLANEOUS AND GENERAL

Article 34 (*Power to transfer undertaking*) would confer powers to transfer or lease the undertaking authorised by the Order. This would require the consent of the Secretary of State except where the transfer or lease is to the East West Rail Company Limited.

Article 35 (*Defence to proceedings in respect of statutory nuisance*) provides Network Rail with a defence to a claim in statutory nuisance brought under section 82(1) of the Environmental Protection Act 1990 (c. 43) 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 of the Control of Pollution Act 1974 (c. 40), or that the nuisance complained of is a consequence of the operation of the works authorised by the Order and that it cannot reasonably be avoided. Although not one of the model clauses, this is a provision which has now become common, see for example article 34 of the Network Rail (Ordsall Chord) Order 2010 (S.I. 2010 No. 1721) and article 29 of the Network Rail (Buxton Sidings Extension) Order 2017 (S.I. 2017 No. 1150).

Following paragraph 2 of Schedule 27 to the High Speed Rail (London-West Midlands) Act 2017, paragraph 3 extends this provision to provide a defence against abatement proceedings brought by a local authority under section 80(4) of the 1990 Act.

Article 36 (*Power to lop trees overhanging the authorised works*) enables Network Rail to fell or lop trees and shrubs for the purposes of preventing obstruction or interference with the authorised works (or any apparatus used on the authorised works) and danger to passengers or persons using the authorised works. Provision is included for the payment of compensation.

Article 37 (*Power to operate and use railway*) allows Network Rail to operate the railway.

Article 38 (*certain land to be treated as operational land*) ensures that, once constructed the railway will enjoy permitted development rights under Part 8 of the Town and Country Planning (General Permitted Development) Order 2015 (S.I. 2015 No 596).

Article 39 (*Obstruction of construction of authorised works*) makes it a criminal offence for a person, without reasonable excuse, to obstruct anyone acting with proper authority to construct the works, or to interfere with apparatus belonging to such a person.

Article 40 (*disclosure of confidential information*) makes it a criminal offence to disclose certain confidential information obtained upon entry to certain premises under article 20 (*protective works to buildings*) or article 21 (*power to survey and investigate land*).

Article 41 (*Statutory undertakers, etc.*) introduces Schedule 15 to the Order (*provisions relating to statutory undertakers, etc.*) which contains specific safeguards for statutory undertakers with apparatus on land acquired under the Order.

Article 42 (*Certification of plans, etc.*) provides for Network Rail to submit to the Secretary of State for certification the book of reference and the land plans after the making of this Order.

Article 43 (*Service of notices*) makes provisions as to the service of notices or other documents for the purposes of this Order.

Article 44 (*Protection of interest*) introduces Schedule 16 (*protective provisions*) which contains detailed protection for specific bodies.

Article 45 (*No double recovery*) prevents compensation being payable in respect of the same matter both under the Order and under any other enactment, contract or any other rule of law.

Article 46 (*Arbitration*) makes provision for differences arising under any provision of this Order to be determined by arbitration.

