
STATUTORY INSTRUMENTS

2018 No. 574

The Silvertown Tunnel Order 2018

PART 2

WORKS PROVISIONS

Supplemental powers

Discharge of water

14.—(1) Subject to paragraphs (3) and (4), TfL may use any watercourse, public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by TfL under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991 ^{M1}.

(3) TfL must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs, whose consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld or delayed.

(4) TfL must not make any opening into any public sewer or drain except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) TfL must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(6) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016 ^{M2}.

(7) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the GLA, the Homes and Communities Agency, the Environment Agency, an internal drainage board, a joint planning board, a local authority, a sewerage undertaker, a Mayoral development corporation or an urban development corporation; and
- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991 ^{M3}, have the same meaning as in that Act.

Status: Point in time view as at 31/05/2018.

Changes to legislation: There are currently no known outstanding effects for the The Silvertown Tunnel Order 2018, Cross Heading: Supplemental powers. (See end of Document for details)

Marginal Citations

- M1** 1991 c. 56. Section 106 was amended by sections 35(1), 35(8) and 43(2) of, and Schedule 2 to, the [Competition and Service \(Utilities\) Act 1992 \(c. 43\)](#), [sections 36\(2\)](#) and 99 of the [Water Act 2003 \(c. 37\)](#) and paragraph 16(1) of Schedule 3 to the [Flood and Water Management Act 2010 \(c. 29\)](#).
- M2** [S.I. 2016/1154](#).
- M3** 1991 c. 57.

Protective works to buildings

15.—(1) Subject to the following provisions of this article, TfL may at its own expense and from time to time carry out such protective works to any building lying within the Order limits as TfL considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for public use.

(3) Subject to paragraph (5), for the purpose of determining how the functions under this article are to be exercised TfL may enter and survey—

- (a) any building falling within paragraph (1) and any land within its curtilage; and
- (b) where necessary or expedient, land which is adjacent to the building falling within paragraph (1) but outside its curtilage (whether or not such adjacent land is inside or outside the Order limits),

and place on, leave on and remove from the land monitoring apparatus.

(4) For the purpose of carrying out protective works to a building under this article TfL may (subject to paragraphs (5) and (6))—

- (a) enter the building (and any land within its curtilage); and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (whether or not such adjacent land is inside or outside the Order limits) but not any building erected on it,

and in either case TfL may take exclusive possession of the building and land if this is reasonably required for the purpose of carrying out the protective works.

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building (and land within its curtilage) or land;
- (c) a right under paragraph (4)(a) to enter and take possession of a building (and land within its curtilage); or
- (d) a right under paragraph (4)(b) to enter and take possession of land,

TfL must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (5)(c) or (5)(d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning

with the day on which the notice was served, require the question of whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 68 (arbitration).

(7) TfL must compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first opened for public use it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

TfL must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Without affecting article 38 (no double recovery), nothing in this article relieves TfL from any liability to pay compensation under section 152^{M4} (compensation in case where no right to claim in nuisance) of the 2008 Act.

(10) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) Subject to paragraph (6), section 13^{M5} (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125^{M6} (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article “protective works” in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development;
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development; and
- (c) any works the purpose of which is to secure the safe operation of the authorised development or to prevent or minimise the risk of such operation being disrupted.

Marginal Citations

M4 As amended by [S.I. 2009/1307](#).

M5 As amended by sections 62(3) and 139(4)-(9) of, paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 223 to, the [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#).

M6 As amended by section 190 of, and paragraph 17 of Schedule 16 to, the [Housing and Planning Act 2016 \(c. 22\)](#).

Authority to survey and investigate land

16.—(1) TfL may for the purposes of this Order enter on—

- (a) any land within the Order limits; and
- (b) where reasonably necessary, any land which is adjacent to but outside the Order limits,

and—

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Changes to legislation: There are currently no known outstanding effects for the The Silvertown Tunnel Order 2018, Cross Heading: Supplemental powers. (See end of Document for details)

- (i) survey or investigate the land;
 - (ii) without limitation to the scope of sub-paragraph (i), make trial holes in such positions on the land as TfL thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
 - (iii) without limitation to the scope of sub-paragraph (i), carry out ecological or archaeological investigations on such land, including making any excavations or trial holes on the land for such purposes; and
 - (iv) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.
- (2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.
- (3) Any person entering land under this article on behalf of TfL—
- (a) must, if so required, before or after entering the land, produce written evidence of their authority to do so; and
 - (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.
- (4) No trial holes are to be made under this article—
- (a) in land located within the highway boundary without the consent of the highway authority; or
 - (b) in a private street without the consent of the street authority.
- (5) TfL must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.
- (6) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

Work in the river Thames: conditions

- 17.—(1) Construction of the authorised development must be carried out so that—
- (a) at any time, the suspension of the public right of navigation under articles 29(3) (temporary use of land for carrying out the authorised development) or 30(3) (temporary use of land for maintaining the authorised development) applies to no more of the river than is necessary in the circumstances; and
 - (b) if it becomes necessary for such suspension to relate to the whole width of the river within the Order limits, all reasonable steps are taken to secure that the period of suspension is kept to a minimum and that the minimum obstruction, delay or interference is caused to vessels or craft which may be using or intending to use the part where the public right of navigation is so suspended.
- (2) Not later than 40 business days prior to the proposed commencement date of any suspension of the public right of navigation under article 29(3) or 30(3), TfL must give notice to the PLA, except in the case of an emergency when TfL must give such notice as is reasonably practicable.
- (3) A notice given under paragraph (2) must provide details of the proposed suspension, including particulars of—
- (a) commencement date;
 - (b) duration; and

(c) the affected area,
and must include an explanation of the need for the proposed suspension.

(4) Any suspension of the public right of navigation under article 29(3) or 30(3) must not take place except in accordance with the approval in writing given by the PLA and any conditions imposed by the PLA under this article or determined in accordance with article 68 (arbitration).

(5) The PLA may in relation to any application for approval under this paragraph (4) impose reasonable conditions for any purpose described in paragraph (6).

(6) Conditions imposed under paragraph (5) may include conditions as to—

- (a) the limits of any area subject to a temporary suspension of the public right of navigation;
- (b) the duration of any temporary suspension;
- (c) the means of marking or otherwise providing warning in the river Thames of any area affected by a temporary suspension of the public right of navigation; and
- (d) the use by TfL of the area subject to any temporary suspension so as not to interfere with any other part of the river Thames or affect its use.

(7) Following an approval of any such suspension given by the PLA under paragraph (4) or determined in accordance with article 68, the PLA must issue a notice to mariners within 10 business days of the approval, giving the commencement date and other particulars of the suspension to which the approval relates, and that suspension will take effect on the date specified and as otherwise described in the notice.

(8) Subject to paragraph (9), an application for approval under this article is deemed to have been refused if it is neither given nor refused within 30 business days of the PLA receiving the notice under paragraph (2).

(9) An approval of the PLA under this article is not deemed to have been unreasonably withheld, and approval is not deemed to have been refused, if approval within the time limited by paragraph (8) has not been given pending the outcome of any consultation on the approval in question that the PLA is obliged to carry out in the proper exercise of its functions.

(10) Except in the case of an emergency, TfL must notify the owner of any mooring and the owner or master of any vessel or structure likely to be materially affected by any proposal to exercise the powers conferred by this Order at least 35 days before the exercise of those powers.

(11) If—

- (a) by reason of the exercise of the powers conferred by this Order it is reasonably necessary for the owner of any mooring to incur costs in temporarily or permanently altering, removing, re-siting, repositioning or reinstating that mooring, or laying down and removing substituted moorings or buoys, or carrying out dredging operations for any such purpose, not being costs which it would have incurred for any other reason; and
- (b) the owner of the mooring in question gives to TfL not less than 28 days' notice of its intention to incur such costs, and acting reasonably takes into account any representations which TfL may make in response to the notice within 14 days of the receipt of the notice,

TfL must pay the costs reasonably so incurred by the owner of that mooring.

(12) A person may not without the consent in writing of TfL (which may be given subject to conditions)—

- (a) use, for the purpose of landing or embarking persons or landing or loading goods from or into any vessel, any work constructed or used in connection with the authorised development; or
- (b) remove, move or otherwise interfere with any work, machinery, apparatus, tools or other things in use or intended for use in constructing the authorised development.

Status: Point in time view as at 31/05/2018.

Changes to legislation: There are currently no known outstanding effects for the The Silvertown Tunnel Order 2018, Cross Heading: Supplemental powers. (See end of Document for details)

Felling or lopping of trees

18.—(1) TfL may fell or lop any tree or shrub within or overhanging land within the Order limits, or cut back its roots, if TfL reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), TfL must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Status:

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Changes to legislation:

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