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STATUTORY INSTRUMENTS

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**2018 No. 574**

**The Silvertown Tunnel Order 2018**

**PART 3**

**POWERS OF ACQUISITION AND POSSESSION OF LAND**

*Temporary possession of land*

**Temporary use of land for carrying out the authorised development**

**29.**—(1) TfL may, in connection with the carrying out of the authorised development but subject to article 21(1) (time limit for exercise of powers to possess land temporarily or to acquire land compulsorily)—

- (a) enter on and take temporary possession of—
  - (i) the land specified in columns (1) and (2) of Schedule 7 (land of which only temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule; and
  - (ii) any of the Order land in respect of which no notice of entry has been served under section 11(1)(powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4(2) (execution of declaration) of the 1981 Act;
- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on that land;
- (d) construct any works on that land as are mentioned in Schedule 1 (authorised development); and
- (e) provide any temporary car parking or storage facilities on that land for the benefit of landowners or occupiers temporarily displaced as a result of the carrying out of the authorised development.

(2) TfL's temporary possession of any part of the river Thames under paragraph (1) is limited to what is reasonably necessary for TfL safely to construct the authorised development but TfL is not permitted by this article to take temporary possession of the entire width of the river Thames within the Order limits except in an emergency.

(3) At times and places where TfL has taken temporary possession of any part of the river Thames under this article, on the coming into effect of a notice to mariners in accordance with article 17(7)

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(1) As amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and S.I. 2009/1307.

(2) As amended by section 184 and 185 of, and paragraphs 1 and 2 of Schedule 18 to, the Housing and Planning Act 2016 (c. 22).

(work in the river Thames: conditions), the public right of navigation over that part of the river Thames is suspended and unenforceable against the PLA.

(4) Any person who suffers loss as a result of the suspension of any private right of navigation under this article is entitled to be paid compensation for such loss by TfL, to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Not less than 14 days before entering on and taking temporary possession of land under this article TfL must serve notice of the intended entry on the owners and occupiers of the land and that notice must state the works, facilities or other purpose for which TfL intends to take possession of the land.

(6) TfL may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of any land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 7; or
- (b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the works, use of facilities or other purpose for which temporary possession of the land was taken unless TfL has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(7) Before giving up possession of land of which temporary possession has been taken under this article, TfL must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but TfL is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works have been constructed under paragraph (1)(d);
- (c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development; or
- (d) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.

(8) TfL must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(9) Any dispute as to a person's entitlement to compensation under paragraph (8), or as to the amount of the compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(10) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (8) and nothing in this article affects any liability to pay compensation to the PLA under paragraph 49 of Schedule 13 (protective provisions).

(11) Where TfL takes possession of land under this article, TfL is not required to acquire the land or any interest in it.

(12) Section 13(3) (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory

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(3) As amended by sections 62(3) and 139 of, and paragraph 27 and 28 of Schedule 13, and part 3 of Schedule 23, to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

### **Temporary use of land for maintaining the authorised development**

**30.**—(1) Subject to paragraph (5), at any time during the maintenance period relating to any of the authorised development, TfL may—

- (a) enter upon and take temporary possession of any land within the Order limits if possession is reasonably required for the purpose of maintaining the authorised development;
- (b) enter on any land within the Order limits for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and
- (c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) TfL's temporary possession of any part of the river Thames under paragraph (1) is limited to what is reasonably necessary for TfL safely to carry out any maintenance of the authorised development but TfL is not permitted by this article to take temporary possession of the entire width of the river Thames within the Order limits except in an emergency.

(3) At times and places where TfL has taken temporary possession of any part of the river Thames under this article, on the coming into effect of a notice to mariners in accordance with article 17(7) (work in the river Thames: conditions) the public right of navigation over that part of the river Thames will be suspended and unenforceable against the PLA.

(4) Any person who suffers loss as a result of the suspension of any private right of navigation under this article is entitled to be paid compensation for such loss by TfL, to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Paragraph (1) does not authorise TfL to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(6) Not less than 28 days before entering upon and taking temporary possession of land under this article TfL must serve notice of the intended entry on the owners and occupiers of the land and that notice must state the purpose for which TfL intends to take possession of the land including the particulars of the part of the authorised development for which possession is to be taken.

(7) TfL may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(8) Before giving up possession of land of which temporary possession has been taken under this article, TfL must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(9) TfL must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(10) Any dispute as to a person's entitlement to compensation under paragraph (9), or as to the amount of the compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (9) and nothing in this article affects any liability to pay compensation to the PLA under paragraph 49 of Schedule 13 (protective provisions).

(12) Where TfL takes possession of land under this article, it is not required to acquire the land or any interest in it.

(13) Section 13 (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use 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 (application of compulsory acquisition provisions) of the 2008 Act.

(14) In this article “the maintenance period”, in relation to any part of the authorised development, means the period of 5 years beginning with the date on which—

- (a) that part of the authorised development is first opened for public use (where that part of the authorised development is intended to be used by the public); or
- (b) in respect of any other part of the authorised development, that part is first brought into operational use by TfL.