
STATUTORY INSTRUMENTS

2014 No. 2384

The Thames Water Utilities Limited
(Thames Tideway Tunnel) Order 2014

PART 2

WORKS PROVISIONS

Supplemental powers

Protective works to buildings and structures

20.—(1) Save as otherwise agreed pursuant to article 20 (13), subject to the following provisions of this article, the undertaker may at its own expense carry out the protective works to any building listed in Schedule 11 (*Protective works*) to this Order which the undertaker considers necessary or expedient.

(2) The protective works may be carried out further to paragraph (1) at any time before or during the carrying out in the vicinity of the building of any part of the authorised project.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey—

- (a) any building to which the power in paragraph (1) applies and any land within the Order limits; and
- (b) where reasonably necessary, any land which is adjacent to the building but outside the Order limits.

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

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

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3)(a) to enter a building and land within the Order limits;
- (c) a right under paragraph 3(b) to enter land;
- (d) a right under paragraph (4)(a) to enter a building and land within the Order limits; or
- (e) a right under paragraph (4)(b) to enter land,

the undertaker shall 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), (d) or (e), specifying the planned protective works proposed to be carried out, as listed in Schedule 11

(*Protective works*) to this Order. Such notice must contain a statement which notifies the recipient of his right under paragraph (6) to make a referral to arbitration.

(6) Where a notice is served under paragraph (5)(a), (d) or (e), the owner and or occupier of the building or land concerned may, by serving a counter-notice within the period of 14 days beginning with the day on which the notice was served, require any issue as to whether the protective works proposed by the undertaker are sufficient to fulfil their purpose, or 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 63 (*arbitration*).

(7) The undertaker shall 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) Without prejudice to the power to undertake remedial works, under article 21 (*remedial works to buildings, or apparatus or equipment*), 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 authorised project carried out in the vicinity of the building first comes into 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 project,

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

(9) Nothing in this article shall relieve the undertaker from any liability to pay compensation under section 10(2) of the 1965 Act (compensation for injurious affection).

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

(11) In this article “protective works” in relation to a building means those works listed in Schedule 11 (*protective works*) and any other works the purpose of which is to prevent damage which may be caused to the building listed, which may include monitoring, underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused by the carrying out, maintenance or use of the authorised project.

(12) Without prejudice to the definition in article 2 (*interpretation*) the definition of “building” shall for the purposes of this article include those buildings, structures, apparatus and equipment listed in Schedule 11 (*protective works*).

(13) The undertaker may enter into an agreement or agreements in respect of protective works with any owner or occupier (with the requisite consent of the owner) of a building to which this article applies or of any other building likely to be affected by the authorised project and such agreement shall have the effect (as between those parties only) of regulating the powers in this article, insofar as they incorporate, add to, omit or modify the provisions of this article or any of them.