
STATUTORY INSTRUMENTS

2014 No. 2384

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

PART 3

ACQUISITION AND POSSESSION OF LAND

Temporary possession of land

Temporary use of land for carrying out the authorised project

- 35.**—(1) The undertaker may, in connection with the carrying out of the authorised project—
- (a) enter on and take temporary possession of—
 - (i) the land specified in columns (1) and (2) of Schedule 14 (*land of which temporary possession may be taken*) for the purpose specified in relation to that land in column (3) of that Schedule 14 relating to the part of the authorised project specified in column (4) of that Schedule 14;
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (*powers of entry*) (other than in connection with the requisition of rights only) and no declaration has been made under section 4 of the 1981 Act (*execution of declaration*);
 - (b) remove any buildings and vegetation from that land that reasonably need to be removed in connection with the carrying out of the authorised project;
 - (c) construct works (including the provision of means of access) and buildings on that land; and
 - (d) construct any works specified in relation to that land in column (3) of Schedule 14 (*land of which temporary possession may be taken*), or such other works which may be required in addition for mitigation.
- (2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker shall serve notice of the intended entry on the owners and occupiers of the land.
- (3) The undertaker may not, without the agreement of the owners or any lessee of the land, remain in possession of any land under this article—
- (a) in the case of land specified in paragraph (1)(a)(i) after the end of the period of one year beginning with the date of the end of construction work for that part of the authorised project specified in relation to that land in column (4) of Schedule 14 (*land of which temporary possession may be taken*); or
 - (b) in the case of land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of the end of construction work for which temporary possession of this land was taken unless the undertaker has, before 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 or has otherwise acquired the land subject to temporary possession.

(4) Before giving up possession of land of which temporary possession has been taken under paragraph 1(a)(i), unless otherwise agreed by the owners of the land, the undertaker shall remove all works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker shall not be required to—

- (a) replace a building removed under this article;
- (b) remove any ground-strengthening works (being either works listed in Schedule 11 of this order or other works to provide safe and stable ground conditions) which have been placed in that land to facilitate construction of the authorised development; or
- (c) remove or reposition any apparatus belonging to statutory undertakers.

(5) Before giving up possession of land of which temporary possession has been taken under paragraph 1(a)(ii), unless otherwise agreed by the owners of the land, the undertaker shall either acquire the land in accordance with the provisions of paragraph (3)(b) or remove all works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker shall not be required to—

- (a) replace a building removed under this article;
- (b) remove any ground-strengthening works (being either works listed in Schedule 11 of this order or other works to provide safe and stable ground conditions) which have been placed in that land to facilitate construction of the authorised development; or
- (c) remove or reposition any apparatus belonging to statutory undertakers.

(6) The undertaker shall 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 any power conferred by this article, and for the avoidance of doubt this shall include compensation in respect of any loss or damage further to any ground strengthening works within paragraphs (4)(b) or (5)(b) carried out by the undertaker in or on that land.

(7) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, shall be determined under Part 1 of the 1961 Act.

(8) Nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act (*further provisions as to compensation for injurious affection*) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised project, other than loss or damage for which compensation is payable under paragraph (6).

(9) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph 1(a)(i) except that the undertaker shall not be precluded from—

- (a) acquiring new rights over any part of that land under article 29 (*compulsory acquisition of rights*);
- (b) acquiring any part of the subsoil of (or rights in the subsoil of) of that land under article 30 (*acquisition of subsoil only*);
- (c) carrying out protective works under article 20 (*protective works to buildings and structures*) and remedial works under article 21 (*remedial works to buildings, or apparatus or equipment*); or
- (d) carrying out a survey of that land under article 22 (*authority to survey and investigate the land*).

(10) Where the undertaker takes possession of land under this article, the undertaker shall not be required to acquire the land or any interest in it. For the avoidance of doubt this provision shall

not affect the right of an owner or lessee of the Order land to make a claim pursuant to section 150 of the 1990 Act (*blight*).

(11) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(12) The undertaker may not exercise the powers under this article after completion of construction.

Temporary use of land for maintaining authorised project

36.—(1) Subject to paragraph (2) the undertaker may—

- (a) enter on and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised project;
- (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 project; 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) Paragraph (1) shall not authorise the undertaker 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.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker shall serve notice of the intended entry on the owners and occupiers of the land. Such notice shall include details of the proposed works.

(4) The undertaker 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 project for which possession of the land was taken.

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

(6) The undertaker shall 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.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, shall be determined under Part 1 of the 1961 Act.

(8) Nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act (*further provisions as to compensation for injurious affection*) or under any other enactment in respect of loss or damage arising from the maintenance of the authorised project, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker shall not be required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (*refusal to give possession to acquiring authority*) shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (*application of compulsory acquisition provisions*).