
STATUTORY INSTRUMENTS

2018 No. 574

The Silvertown Tunnel Order 2018

PART 1

PRELIMINARY

Citation and commencement

- 1.—(1) This Order may be cited as the Silvertown Tunnel Order 2018.
- (2) Subject to article 39 (application of Part 4), this Order comes into force on 31st May 2018.

Interpretation

- 2.—(1) In this Order, unless otherwise stated—
 - “the 1961 Act” means the Land Compensation Act 1961 ^{M1};
 - “the 1965 Act” means the Compulsory Purchase Act 1965 ^{M2};
 - “the 1968 Act” means the Port of London Act 1968 ^{M3};
 - “the 1980 Act” means the Highways Act 1980 ^{M4};
 - “the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981 ^{M5};
 - “the 1984 Act” means the Road Traffic Regulation Act 1984 ^{M6};
 - “the 1990 Act” means the Town and Country Planning Act 1990 ^{M7};
 - “the 1991 Act” means the New Roads and Street Works Act 1991 ^{M8};
 - “the 1999 Act” means the Greater London Authority Act 1999 ^{M9};
 - “the 2004 Act” means the Traffic Management Act 2004 ^{M10};
 - “the 2008 Act” means the Planning Act 2008 ^{M11};
 - “the 2009 Act” means the Marine and Coastal Access Act 2009 ^{M12};
 - “address” includes any number or address for the purposes of electronic transmission;
 - “apparatus” has the same meaning as in Part 3 of the 1991 Act;
 - “the authorised development” means the development described in Schedule 1 (authorised development);
 - “authorised person” means—
 - (a) a person acting in the course of that person's duties who—
 - (i) is an employee, agent, contractor or sub-contractor of TfL; or
 - (ii) is authorised by TfL to exercise one or more of its functions under this Order; or
 - (b) a constable, Police Community Support Officer, an officer of the Driver and Vehicle Standards Agency, an officer of the Health and Safety Executive, person authorised

for the purposes of section 44 (powers of fire-fighters etc in an emergency etc) of the Fire and Rescue Services Act 2004 ^{M13} or a person accredited by or under section 41 (accreditation under community safety accreditation schemes) of the Police Reform Act 2002 ^{M14}, acting in the execution of that person's duties within the tunnels;

“the Blackwall Tunnel” means the existing twin bore road tunnel under the river Thames between Blackwall and the Greenwich Peninsula and forming part of the A102 road, which is a GLA road, as shown by solid green lines on the tunnels location and operational boundaries plans;

“the Blackwall Tunnel approaches” means the northern and southern approaches to the Blackwall Tunnel, the linear extent of which is shown by dashed green lines on the tunnels location and operational boundaries plans;

“the Blackwall Tunnel area” means the extent of the public highway comprised in and along the Blackwall Tunnel and the Blackwall Tunnel approaches;

“the book of reference” means the document of that description set out in Schedule 14 (documents to be certified) certified by the Secretary of State as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“business day” means a day other than a Saturday or Sunday, which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971 ^{M15};

“carriageway” has the same meaning as in the 1980 Act;

“the charging policy” means the document described as the charging policies and procedures set out in Schedule 14 certified by the Secretary of State as the charging policies and procedures for the purposes of this Order, or any revision of that document approved by the Mayor of London under article 53 (the charging policy);

“the classification of roads (classification) plans” means the plans of that description set out in Schedule 14 certified by the Secretary of State as the classification of roads (classification) plans for the purposes of this Order;

“the classification of roads (designation) plans” means the plans of that description set out in Schedule 14 certified by the Secretary of State as the classification of roads (designation) plans for the purposes of this Order;

“commence” means beginning to carry out any material operation (as defined in section 56(4) ^{M16} of the 1990 Act) forming part of the authorised development other than operations consisting of environmental surveys and monitoring, investigations for the purpose of assessing ground conditions, receipt and erection of construction plant and equipment, erection of any temporary means of enclosure, the temporary display of site notices or advertisements, and “commencement” is to be construed accordingly;

“construct” includes execution, placing, altering, replacing, relaying and removal, and “construction” is to be construed accordingly;

“cycle track” has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act ^{M17};

“dangerous goods” means a substance or article of which the international carriage by road is prohibited, or authorised on certain conditions, by Annex A of the European Agreement Concerning the International Carriage of Dangerous Goods by Road as from time to time amended;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“the engineering section drawings and plans” means the documents of that description set out in Schedule 14 certified by the Secretary of State as the engineering section drawings and plans for the purposes of this Order;

“the environmental statement” means the documents of that description set out in Schedule 14 certified by the Secretary of State as the environmental statement for the purposes of this Order;

“flood risk activity” has the same meaning as in the Environmental Permitting (England and Wales) Regulations 2016 ^{M18};

“footpath” and “footway” have the same meaning as in the 1980 Act;

“the general arrangement plans” means the plans of that description set out in Schedule 14 certified by the Secretary of State as the general arrangement plans for the purposes of this Order;

“the GLA” means the Greater London Authority;

“GLA Road” has the same meaning as in the 1980 Act ^{M19};

“highway”, “highway authority” and “local highway authority” have the same meaning as in the 1980 Act;

“Highways England” means Highways England Company Limited (Company No. 9346363);

“the land plans” means the plans of that description set out in Schedule 14 certified by the Secretary of State as the land plans for the purposes of this Order;

“the limits of deviation” means the limits of deviation referred to in article 5 (limits of deviation);

“maintain” includes inspect, repair, adjust, alter, remove or reconstruct, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement, and any derivative of “maintain” is to be construed accordingly;

“Mayoral development corporation” means a corporation established under section 198 of the Localism Act 2011 ^{M20};

“the MMO” means the Marine Management Organisation;

“the monitoring and mitigation strategy” means the document of that description set out in Schedule 14 certified by the Secretary of State as the monitoring and mitigation strategy for the purposes of this Order and which in particular contains commitments in respect of—

- (a) traffic monitoring;
- (b) air quality monitoring;
- (c) noise monitoring;
- (d) socio-economic monitoring; and
- (e) the implementation of mitigation;

“motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads and a vehicle (including a horse box) designed or adapted to be towed by a motor vehicle;

“the Order land” means the land shown coloured pink and the land shown coloured blue on the land plans and described in the book of reference;

“the Order limits” means the Order limits shown on the works plans;

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981 ^{M21};

“the PLA” means the Port of London Authority;

“the relevant planning authority” means the local planning authority for the land in question, being the Council of the Royal Borough of Greenwich or the Council of the London Borough of Newham, as the case may be, or any successor to either of those councils as planning authority;

“registered keeper” means the person in whose name a vehicle is registered under the Vehicle Excise and Registration Act 1994 ^{M22};

“the rights of way and access plans” means the plans of that description set out in Schedule 14 certified by the Secretary of State as the rights of way and access plans for the purposes of this Order;

“the Silvertown Tunnel” means the twin bore road tunnel to be constructed as Work No. 1, and as shown by solid blue lines on the tunnels location and operational boundaries plans;

“the Silvertown Tunnel approaches” means the northern and southern approaches to the Silvertown Tunnel, the linear extent of which is shown by dashed blue lines on the tunnels location and operational boundaries plans;

“the Silvertown Tunnel area” means the extent of the public highway to be comprised in and along the Silvertown Tunnel and the Silvertown Tunnel approaches;

“the special category land plan” means the plan of that description set out in Schedule 14 certified by the Secretary of State as the special category land plan for the purposes of this Order;

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8) (statutory undertakers' land) of the 2008 Act;

“STIG” means the Silvertown Tunnel Implementation Group, the consultative body established by article 66 (Silvertown Tunnel Implementation Group);

“street” means a street within the meaning of section 48 ^{M23} (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“TfL” means Transport for London, the body corporate established under section 154 of the 1999 Act, of [F155 Broadway, London, SW1H 0BL];

“traffic authority” has the same meaning as in section 121A ^{M24} of the 1984 Act;

“the traffic regulation measures (speed limits and restricted roads) plans” means the plans of that description set out in Schedule 14 certified by the Secretary of State as the traffic regulation measures (speed limits and restricted roads) plans for the purposes of this Order;

“the traffic regulation measures (clearways and prohibitions) plans” means the plans of that description set out in Schedule 14 certified by the Secretary of State as the traffic regulation measures (clearways and prohibitions) plans for the purposes of this Order;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“tunnel services building” means a building constructed for the purpose of housing any plant and equipment, office, control centre or welfare facilities associated with the operation of the Silvertown Tunnel;

“the tunnels areas” means the Blackwall Tunnel area and the Silvertown Tunnel area;

“the tunnels” means the Blackwall Tunnel and the Silvertown Tunnel;

“the tunnels location and operational boundaries plans” means the plans of that description set out in Schedule 14 certified by the Secretary of State as the tunnels location and operational boundaries plans for the purposes of this Order;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plans” means the plans of that description set out in Schedule 14 certified by the Secretary of State as the works plans for the purposes of this Order.

(2) References in this Order to TfL include any wholly-owned subsidiary (as defined in section 1159 of the Companies Act 2006 ^{M25}) of TfL.

(3) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the enjoyment of interests or rights and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

(4) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(5) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(6) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the plan to which the reference applies.

(7) References in this Order to numbered works are references to the works as numbered in Schedule 1 (authorised development).

Textual Amendments

- F1** Words in art. 2(1) substituted (22.2.2019) by [The Silvertown Tunnel \(Correction\) Order 2019 \(S.I. 2019/413\)](#), arts. 1, **2(2)**

Marginal Citations

- M1** 1961 c. 33.
M2 1965 c. 56.
M3 1968 c. xxxii.
M4 1980 c. 66.
M5 1981 c. 66.
M6 1984 c. 27.
M7 1990 c. 8.
M8 1991 c. 22.
M9 1999 c. 29.
M10 2004 c. 18.
M11 2008 c. 29.
M12 2009 c. 23.
M13 2004 c. 21.
M14 2002 c. 30.
M15 1971 c. 80.
M16 Section 56(4) was amended by paragraph 10(2) of Schedule 7 to the [Planning and Compensation Act 1991 \(c. 34\)](#).
M17 The definition of “cycle track” was amended by section 1 of the [Cycle Tracks Act 1984 \(c. 38\)](#) and paragraph 21(2) of Schedule 3 to the [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54\)](#).
M18 [S.I. 2016/1154](#).
M19 As inserted by section 263 of the 1999 Act.
M20 2011 c. 20.
M21 1981 c. 67.
M22 1994 c. 22.
M23 There are amendments to section 48 which are not relevant to this Order.

M24 As inserted by paragraph 70 of Schedule 8 to the 1991 Act, and subsequently amended by section 271 of the 1999 Act; paragraphs 70 and 95 of Schedule 1 to the [Infrastructure Act 2015 \(c. 7\)](#); S.I. 1999/1820 and S.I. 2001/1400.

M25 2006 c. 46.

PART 2

WORKS PROVISIONS

Principal powers

Disapplication of legislation, etc.

3.—(1) The following enactments do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development and, within any maintenance period defined in article 30(14), any maintenance of any part of the authorised development—

- (a) Metropolis Management (Thames River Prevention of Floods) Amendment Act 1879 ^{M26}, subject to paragraph (3);
- (b) Metropolitan Board of Works (Various Powers) Act 1882 ^{M27};
- (c) London County Council (General Powers) Act 1907 ^{M28};
- (d) London Overground Wires &c. Act 1933 ^{M29};
- (e) London County Council (General Powers) Act 1957 ^{M30};
- (f) London County Council (General Powers) Act 1961 ^{M31};
- (g) London County Council (General Powers) Act 1962 ^{M32};
- (h) sections 66 to 75 of the 1968 Act;
- (i) Greater London Council (General Powers) Act 1970 ^{M33};
- (j) Thames Barrier and Flood Prevention Act 1972 ^{M34};
- (k) Thames Water Authority Land Drainage Byelaws 1981;
- (l) Greater London Council (General Powers) Act 1986 ^{M35};
- (m) section 24 (restrictions on abstraction) of the Water Resources Act 1991 ^{M36};
- (n) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991;
- (o) regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016 ^{M37} in respect of a flood risk activity only; and
- (p) the provisions of the Neighbourhood Planning Act 2017 ^{M38} in so far as they relate to temporary possession of land under articles 29 and 30 of this Order.

(2) Despite the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 of the Community Infrastructure Levy Regulations 2010 ^{M39} any building comprised in the authorised development is deemed to be—

- (a) a building into which people do not normally go; or
- (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

(3) The disapplication of the Metropolis Management (Thames River Prevention of Floods) Amendment Act 1879 by paragraph (1)(a) does not affect the Environment Agency's ability to use the powers vested in it under that Act against any person, other than TfL and any other person exercising a power under this Order, provided that the use of those powers vested in the Agency does not interfere with the construction of the authorised development [^{F2}and, within any maintenance period referred to in paragraph (1), any maintenance of any part of the authorised development].

(4) Following the expiry of any maintenance period defined in article 30(14), the requirement under section 70 ^{M40} (works not to be constructed, etc., without works licence) of the 1968 Act to obtain a works licence under section 66 (licensing of works) of that Act does not apply to anything done within any structure forming part of the authorised development in connection with its operation or maintenance or any other function of TfL.

Textual Amendments

F2 Words in art. 3(3) inserted (22.2.2019) by [The Silvertown Tunnel \(Correction\) Order 2019 \(S.I. 2019/413\)](#), arts. 1, 2(3)

Marginal Citations

M26 1879 c. cxcvii.
M27 1882 c. lvi.
M28 1907 c. clxxv.
M29 1933 c. xliv.
M30 1957 c. xxxv.
M31 1961 c. xliii.
M32 1962 c. xlv.
M33 1970 c. lxxvi.
M34 1972 c. xl.
M35 1986 c. iv.
M36 1991 c. 57.
M37 [S.I. 2016/1154](#).
M38 2017 c. 20.
M39 [S.I. 2010/948](#), amended by [S.I. 2011/987](#); there are other amending instruments but none is relevant.
M40 As amended by section 46 of the [Criminal Justice Act 1982 \(c. 48\)](#).

Development consent granted by the Order

4.—(1) Subject to the provisions of this Order, including the requirements in Schedule 2 (requirements), TfL is granted development consent for the authorised development.

(2) Any enactment applying to land within, adjoining or sharing a common boundary with the Order limits (other than land comprising part of the river Thames outside of the Order limits) has effect subject to the provisions of this Order.

Limits of deviation

5.—(1) Subject to paragraph (2), TfL must construct the authorised development within the Order limits and, so far as all non-linear works comprised in the authorised development are concerned, within the limits of deviation for those works shown on the works plans.

(2) In constructing or maintaining the authorised development, TfL may deviate—

(a) laterally within the Order limits in the case of any linear work comprised in the authorised development, so that the centre line of that work may be situated up to 3 metres either side of the centre line of that work shown on the works plans; and

- (b) vertically from the levels shown on the engineering section drawings and plans—
- (i) to any extent upwards not exceeding 0.5 metres except in relation to the parts of the authorised development referred to in column (1) of the table below, where the extent of permitted deviation for each such part is set out in column (2) of that table; and
 - (ii) to any extent downwards as may be found to be necessary or convenient.

<i>(1) Part of authorised development</i>	<i>(2) Upwards vertical deviation limit</i>
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| Work Nos. 1(a), 1(b), 1(c) and 1(e) | <p>(1) Where any part of the authorised development referred to in column (1) is located below the bed of the river Thames, to any extent not exceeding 1.5 metres provided that the deviation would not result in the level of the bed within the navigable channel of the river Thames being above 5.80 metres below chart datum.</p> <p>(2) Where any part of the authorised development referred to in column (1) is located elsewhere, to any extent not exceeding 3 metres.</p> |
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- (3) Without limitation on the scope of paragraph (1), in constructing or maintaining the authorised development TfL may—
- (a) deviate by up to 3 metres from the points of commencement and termination of any linear work comprised in the authorised development shown on the works plans; and
 - (b) deviate from the design of any tunnel or tunnel structure and vary the number of tunnel cross-passages shown on the engineering section drawings and plans.
- (4) In this article, reference to—
- (a) a “linear work” is a reference to any work shown on the works plans by way of a centre line; and
 - (b) a “non-linear work” is a reference to any other work shown on the works plans.

Streets

Street works

6.—(1) TfL may, for the purposes of the authorised development, enter on so much of any street and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus in the street;
- (d) maintain apparatus in the street or change its position; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c) and (d).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) TfL must not carry out works to any street under paragraph (1) for which it is not the street authority without the consent of the street authority, which may attach reasonable conditions to any consent.

Application of the 1991 Act

7.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (which defines what highway authority works are major highway works) of that Act; or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64^{M41} (dual carriageways and roundabouts) of the 1980 Act or section 184^{M42} (vehicle crossings) of that Act.

(2) In Part 3 of the 1991 Act references, in relation to major highway works, to the highway authority concerned are, in relation to works which are major highway works by virtue of paragraph (1), to be construed as references to TfL.

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers of this Order—

- section 56 (directions as to timing);
- section 56A (power to give directions as to placing of apparatus);
- section 58 (restrictions following substantial road works);
- section 58A (restriction on works following substantial street works);
- section 73A (power to require undertaker to re-surface street);
- section 73B (power to specify timing etc. of re-surfacing);
- section 73C (materials, workmanship and standard of re-surfacing);
- section 78A (contributions to costs of re-surfacing by undertaker); and
- Schedule 3A (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by TfL under the powers conferred by article 10 (temporary stopping up and restriction of use of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act^{M43} referred to in paragraph (4) are—

- section 54^{M44} (advance notice of certain works), subject to paragraph (6);
- section 55^{M45} (notice of starting date of works), subject to paragraph (6);
- section 57^{M46} (notice of emergency works);
- section 59^{M47} (general duty of street authority to co-ordinate works);
- section 60 (general duty of undertakers to co-operate);
- section 68 (facilities to be afforded to street authority);
- section 69 (works likely to affect other apparatus in the street);
- section 75 (inspection fees);
- section 76 (liability for cost of temporary traffic regulation); and
- section 77 (liability for cost of use of alternative route),

and all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 8 (construction and maintenance of new, altered or diverted streets)—

- (a) affects the operation of section 87 (prospectively maintainable highways) of the 1991 Act, and TfL is not by reason of any duty under that article to maintain a street to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) has effect in relation to street works as respects which the provisions of Part 3 of the 1991 Act apply.

Marginal Citations

- M41** As amended by section 102 of, and Schedule 17 to, the [Local Government Act 1985 \(c. 51\)](#) and section 168(2) of, and Schedule 9 to, the [New Roads and Street Works Act 1991 \(c. 22\)](#).
- M42** As amended by sections 35, 37, 38 and 46 of the [Criminal Justice Act 1982 \(c. 48\)](#); paragraph 45(11) of Schedule 2 to the [Planning \(Consequential Provisions\) Act 1990 \(c. 11\)](#) and section 168 of, paragraph 9 of Schedule 8 and Schedule 9 to, the 1991 Act.
- M43** [Sections 54, 55, 57, 60, 68](#) and 69 were amended by section 40(1) and (2) of, and Schedule 1 to, the [Traffic Management Act 2004 \(c. 18\)](#).
- M44** As also amended by section 49(1) of the Traffic Management Act 2004.
- M45** As also amended by section 49(2) and 51(9) of the Traffic Management Act 2004.
- M46** As also amended by section 52(3) of the Traffic Management Act 2004.
- M47** As amended by section 42 of the Traffic Management Act 2004.

Construction and maintenance of new, altered or diverted streets

8.—(1) Any street (other than a GLA Road) constructed under this Order must be completed to the reasonable satisfaction of the street authority and, unless otherwise agreed in writing with the street authority, must be maintained by and at the expense of TfL for a period of 12 months from its completion and thereafter by the street authority.

(2) Where a street (other than a GLA Road) is altered or diverted under this Order, the altered or diverted part of the street must be completed to the reasonable satisfaction of the street authority and, unless otherwise agreed in writing with the street authority, that part of the street must be maintained by and at the expense of TfL for a period of 12 months from its completion and thereafter by the street authority.

(3) Where land not previously part of the public highway comes to form part of the public highway by virtue of the construction, diversion or alteration of a street under this Order, unless otherwise agreed with the street authority the land is deemed to have been dedicated as public highway on the expiry of a period of 12 months from completion of the street that has been constructed, altered or diverted.

(4) In any action against TfL in respect of loss or damage resulting from any failure by TfL to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that TfL had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(5) For the purposes of a defence under paragraph (4), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;

- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether TfL knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where TfL could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that TfL had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that TfL had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

(6) The date of completion of any works referred to in paragraphs (1) and (2) is to be agreed between TfL and the street authority, acting reasonably.

Permanent stopping up of streets and private means of access

9.—(1) Subject to the provisions of this article, TfL may, in connection with the carrying out of the authorised development, stop up each of the streets and private means of access specified in columns (1) and (2) of Parts 1, 2, 3 and 4 of Schedule 3 (permanent stopping up of highways and private means of access) to the extent specified and described in column (3) of those Parts of that Schedule.

(2) No street or private means of access specified in columns (1) and (2) of Parts 1 and 3 of Schedule 3 (being a street or private means of access to be stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

- (a) the new street or private means of access to be constructed and substituted for it, which is specified in column (4) of that Part of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street or private means of access to be stopped up is first provided and subsequently maintained by TfL, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street or private means of access until the completion and opening of the new street or private means of access in accordance with sub-paragraph (a).

(3) No street or private means of access specified in columns (1) and (2) of Parts 2 and 4 of Schedule 3 (being a street or private access to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all of the land which abuts on either side of the street or private means of access to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) TfL is in possession of the land;
- (b) there is no right of access to the land from the street or private means of access concerned;
- (c) there is reasonably convenient access to the land otherwise than from the street or private means of access concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

(5) Not less than 28 days prior to the stopping up of each section of highway identified in columns 1 to 3 of Parts 1 and 2 of Schedule 3 TfL must erect a notice upon the highway at, or as close as reasonably practicable to, each point of stopping up, specifying the date and extent of the stopping

up and, in the case of a highway mentioned in Part 1 of Schedule 3, giving details of the substitute or new highway to be provided.

- (6) Where a street or private means of access has been stopped up under this article—
- (a) all rights of way over or along the street or private means of access so stopped up are extinguished; and
 - (b) TfL may appropriate and use for the purposes of the authorised development so much of the site of the street or private means of access as is bounded on both sides by land owned by TfL.

(7) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) This article is subject to article 32 (apparatus and rights of statutory undertakers in stopped up streets).

Temporary stopping up and restriction of use of streets

10.—(1) TfL may, during and for the purposes of carrying out the authorised development, temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limitation on the scope of paragraph (1), TfL may use any street temporarily stopped up under the powers conferred by this article and lying within the Order limits as a temporary working site.

(3) TfL must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) TfL must not temporarily stop up, alter or divert any street for which it is not the street authority without the consent of the street authority, which may attach reasonable conditions to any consent.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Access to works

11. TfL may, for the purposes of the authorised development and with the consent of the street authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as TfL reasonably requires for the purposes of the authorised development.

Agreements with street authorities

- 12.**—(1) A street authority and TfL may enter into agreements with respect to—
- (a) the construction of any new street including any structure carrying the street, whether or not over or under any part of the authorised development;
 - (b) the strengthening or improvement of any street under the powers conferred by this Order;
 - (c) the maintenance of any street or of the structure of any bridge or tunnel carrying a street over or under the authorised development;

- (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order;
 - (e) the execution in the street of any of the authorised development; or
 - (f) any such works as the parties may agree.
- (2) Such an agreement may, without limitation on the scope of paragraph (1)—
- (a) provide for the street authority to carry out any function under this Order which relates to the street in question;
 - (b) include an agreement between TfL and the street authority specifying a reasonable time for completion of the works;
 - (c) provide for the dedication of any new street as public highway further to section 38 ^{M48} (power of highway authorities to adopt by agreement) of the 1980 Act; and
 - (d) contain such terms as to payment and otherwise as the parties consider appropriate.

Marginal Citations

M48 As amended by section 102 of, and Schedule 17 to, the [Local Government Act 1985 \(c. 51\)](#); [section 22\(1\)](#) of the 1991 Act and paragraphs 1 and 19 of Schedule 1 to the [Infrastructure Act 2015 \(c. 7\)](#).

Use of private roads for construction

13.—(1) TfL may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction of the authorised development.

(2) TfL must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

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

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 ^{M49}.

(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 ^{M50}.

(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 ^{M51}, have the same meaning as in that Act.

Marginal Citations

M49 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 \(c. 29\)](#).

M50 S.I. 2016/1154.

M51 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 ^{M52} (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 ^{M53} (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 ^{M54} (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

- M52** As amended by [S.I. 2009/1307](#).
- M53** 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 \(c. 15\)](#).
- M54** 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—
- (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.

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.

PART 3

POWERS OF ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Compulsory acquisition of land

19.—(1) TfL may acquire compulsorily so much of the Order land as is required for the authorised development, or to facilitate it, or as is incidental to it.

(2) This article is subject to article 22(2) (compulsory acquisition of rights), article 27(2) (acquisition of subsoil, etc., only) and article 29 (temporary use of land for carrying out the authorised development).

Compulsory acquisition of land – incorporation of the minerals code

20. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981 are incorporated into this Order subject to the modifications that—

- (a) paragraph 8(3) is not incorporated; and
- (b) for “the acquiring authority” substitute “ TfL ”.

Time limit for exercise of powers to possess land temporarily or to acquire land compulsorily

21.—(1) After the end of the period of 5 years beginning with the day on which this Order comes into force—

- (a) no notice to treat is to be served under Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act; and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 26 (application of the 1981 Act),

in relation to any part of the Order land.

(2) The authority conferred by article 29 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents TfL from remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights

22.—(1) Subject to paragraphs (2), (3) and (5), TfL may acquire such rights over the Order land or impose restrictive covenants affecting the land as may be required for any purpose for which that land may be acquired under article 19 (compulsory acquisition of land), by creating them as well as acquiring rights already in existence.

(2) In the case of the Order land specified in columns (1) and (2) of Schedule 4 (land in which only new rights etc., may be acquired) TfL's powers of compulsory acquisition are limited to the acquisition of such wayleaves, easements, new rights in the land or the imposition of restrictive covenants as TfL may require for or in connection with the authorised development.

(3) Subject to Schedule 2A ^{M55} (counter-notice requiring purchase of land) to the 1965 Act (as substituted by [^{F3}paragraph 5(8)] of Schedule 5 (modification of compensation and compulsory purchase enactments for creation of new rights), where TfL acquires a right over land or the benefit of a restrictive covenant , TfL is not required to acquire a greater interest in that land.

(4) Schedule 5 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(5) TfL may not under paragraph (1) impose restrictive covenants affecting the land situated within any of the Regions mentioned in article 52.

Textual Amendments

F3 Words in art. 22(3) substituted (22.2.2019) by [The Silvertown Tunnel \(Correction\) Order 2019 \(S.I. 2019/413\)](#), arts. 1, 2(4)

Marginal Citations

M55 As inserted by paragraphs 1 and 3 of Schedule 17 to the [Housing and Planning Act 2016 \(c. 22\)](#).

Private rights over land

23.—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under this Order are extinguished—

- (a) from the date of acquisition of the land by TfL, whether compulsorily or by agreement; or
- (b) on the date of entry onto the land by TfL under section 11(1) (powers of entry) of the 1965 Act,

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right or burden of the restrictive covenant—

- (a) from the date of the acquisition of the right or the benefit of the restrictive covenant by TfL, whether compulsorily or by agreement; or
- (b) on the date of entry onto the land by TfL under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over any part of the Order land that is vested in or acquired by TfL are extinguished on commencement of any activity authorised by this Order which interferes with or breaches those rights.

(4) Subject to the provisions of this article, all private rights over land of which TfL takes temporary possession under this Order are suspended and unenforceable for as long as TfL remains in lawful possession of the land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right or by the imposition of any restrictive covenant under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 31 (statutory undertakers) applies.

(7) Paragraphs (1) to (4) have effect subject to—

- (a) any notice given by TfL before—
 - (i) the completion of the acquisition of the land or the acquisition of the rights or the imposition of restrictive covenants over or affecting the land;
 - (ii) TfL's appropriation of it;
 - (iii) TfL's entry onto it; or
 - (iv) TfL's taking temporary possession of it,

that any or all of those paragraphs do not apply to any right specified in the notice; and

- (b) any agreement made at any time between TfL and the person in or to whom the right in question is vested or belongs.

(8) If any such agreement as is referred to in paragraph (7)(b)—

- (a) is made with a person in or to whom the right is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) References in this article to private rights over land include any right of way, trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Power to override easements and other rights

24.—(1) Any authorised activity which takes place on land within the Order limits (whether the activity is undertaken by TfL or by any person deriving title from TfL or by any contractors, servants or agents of TfL) is authorised by this Order if it is done in accordance with the terms of this Order, notwithstanding that it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) In this article “authorised activity” means—

- (a) the erection, construction or maintenance of any part of the authorised development;
- (b) the exercise of any power authorised by this Order; or
- (c) the use of any land (including the temporary use of land).

(3) The interests and rights to which this article applies include any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by the virtue of a contract.

(4) Where an interest, right or restriction is overridden by paragraph (1), compensation—

- (a) is payable under section 7 (measure of compensation in case of severance) or section 10 (further provision as to compensation for injurious affection) of the 1965 Act; and
- (b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—
 - (i) the compensation is to be estimated in connection with a purchase under that Act; or
 - (ii) the injury arises from the execution of works on or use of land acquired under that Act.

(5) Where a person deriving title under TfL by whom the land in question was acquired—

- (a) is liable to pay compensation by virtue of paragraph (4); and
- (b) fails to discharge that liability,

the liability is enforceable against TfL.

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1) of this article.

Modification of Part 1 of the 1965 Act

25.—(1) Part 1 of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1)^{M56} (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent), the five year period mentioned in article 21 (time limit for exercise of powers to possess land temporarily or to acquire land compulsorily) of the Silvertown Tunnel Order 2018^{M57}”.

- (3) In section 11A ^{M58} (powers of entry: further notice of entry)—
- (a) in subsection (1)(a), after “land” insert “ under that provision ”;
 - (b) in subsection (2), after “land” insert “ under that provision ”.
- (4) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “ article 21 of the Silvertown Tunnel Order 2018 ”.
- (5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—
- (a) for paragraphs 1(2) and 14(2) substitute—
 - “(2) But see article 27(4) (acquisition of subsoil, etc., only) of the Silvertown Tunnel Order 2018, which excludes the acquisition of subsoil or airspace only from this Schedule”; and
 - (b) after paragraph 29, ^{F4}... insert—

“PART 4 INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 15 (protective works to buildings), 29 (temporary use of land for carrying out the authorised development) or 30 (temporary use of land for maintaining the authorised development) of the Silvertown Tunnel Order 2018.”

Textual Amendments

F4 Word in [art. 25\(5\)\(b\)](#) omitted (22.2.2019) by virtue of [The Silvertown Tunnel \(Correction\) Order 2019 \(S.I. 2019/413\)](#), [arts. 1, 2\(5\)](#)

Marginal Citations

M56 As inserted by section 202(1) of the [Housing and Planning Act 2016 \(c. 22\)](#).

M57 [S.I. 2018/574](#).

M58 As inserted by section 186(3) of the [Housing and Planning Act 2016 \(c. 22\)](#).

Application of the 1981 Act

- 26.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.
- (2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.
- (3) In section 1 (application of Act) for subsection (2) substitute—
- “(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”
- (4) In section 5 (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.
- (5) Omit section 5A ^{M59} (time limit for general vesting declaration).
- (6) In section 5B ^{M60} (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “ section 118 ^{M61} (legal challenges relating to applications

for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 21 of the Silvertown Tunnel Order 2018 ”.

(7) In section 6 ^{M62} (notices after execution of declaration), in subsection (1)(b), for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “ section 134 ^{M63} (notice of authorisation of compulsory acquisition) of the Planning Act 2008 ”.

(8) In section 7 (constructive notice to treat) in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(9) In Schedule A1 ^{M64} (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute—

“(2) But see article 27(4) (acquisition of subsoil, etc., only) of the Silvertown Tunnel Order 2018 ^{M65}, which excludes the acquisition of subsoil or airspace only from this Schedule.”

(10) References to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 25 (modification of Part 1 of the [^{F5}1965 Act])) to the compulsory acquisition of land under this Order.

Textual Amendments

F5 Words in art. 26(10) substituted (22.2.2019) by [The Silvertown Tunnel \(Correction\) Order 2019 \(S.I. 2019/413\)](#), arts. 1, **2(6)**

Marginal Citations

M59 As inserted by section 182(2) of the [Housing and Planning Act 2016 \(c. 22\)](#).

M60 As inserted by section 202(2) of the [Housing and Planning Act 2016 \(c. 22\)](#).

M61 As amended by paragraphs 1 and 59 of Schedule 13, and Part 20 of Schedule 25, to the [Localism Act 2011 \(c. 20\)](#) and section 92(4) of the [Criminal Justice and Courts Act 2015 \(c. 2\)](#).

M62 As amended by paragraph 52(2) of Schedule 2 to the [Planning \(Consequential Provisions\) Act 1990 \(c. 11\)](#) and paragraph 7 of Schedule 15 to the [Housing and Planning Act 2016 \(c. 22\)](#).

M63 As amended by section 142 of, and Part 21 of Schedule 25 to, the [Localism Act 2011 \(c. 20\)](#) and [S.I. 2017/16](#).

M64 As inserted by paragraph 6 of Schedule 18 to the [Housing and Planning Act 2016 \(c. 22\)](#).

M65 [S.I. 2018/574](#).

Acquisition of subsoil, etc., only

27.—(1) TfL may acquire compulsorily so much of, or such rights over, the subsoil of and airspace over the land referred to in paragraph (1) of article 19 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) In the case of the Order land specified in columns (1) and (2) of Schedule 6 (land in which only subsoil or new rights above subsoil and surface may be acquired) TfL's powers of compulsory acquisition under article 19 are limited to—

(a) the acquisition of such subsoil; and

(b) the acquisition of such easements or other new rights and the imposition of restrictive covenants in the remaining subsoil and the surface of the land,

as TfL may require for or in connection with the authorised development.

(3) Where TfL acquires any part of, or rights over, the subsoil or surface of or airspace over land referred to in paragraphs (1) or (2), TfL is not required to acquire an interest in any other part of the land.

(4) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the Town and Country Planning Act 1990.

(5) Paragraphs (3) and (4) are to be disregarded where TfL acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory or airspace above a house, building or manufactory.

(6) References in paragraph (2)(a) to subsoil are references to the subsoil lying at and below the depths specified in column (3) of Schedule 6 beneath the level of the surface of the land, and references to the remaining subsoil in paragraph (2)(b) are references to the part of the subsoil lying above the shallowest part of the subsoil acquired under paragraph (2)(a) but below the level of the surface of the land.

(7) For the purposes of paragraph (6) “the level of the surface of the land” means—

- (a) in the case of any land on which a building is erected, the level of the surface of the ground adjoining the building;
- (b) in the case of a river, dock, canal, navigation, watercourse or other water area, the level of the surface of the ground covered by water; or
- (c) in any other case, ground surface level,

at the time of this Order coming into force.

Rights over or under streets

28.—(1) TfL may enter on, appropriate and use so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development.

(2) Subject to paragraph (3), TfL may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without TfL acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

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^{M66}(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^{M67} (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) (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^{M68} (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 acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

Marginal Citations

- M66** 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](#).
- M67** As amended by section 184 and 185 of, and paragraphs 1 and 2 of Schedule 18 to, the [Housing and Planning Act 2016 \(c. 22\)](#).
- M68** 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 \(c. 15\)](#).

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.

Supplementary

Statutory undertakers

31.—(1) Subject to the provisions of article 22(2) (compulsory acquisition of rights), Schedule 13 (protective provisions) and paragraph (2), TfL may—

- (a) exercise the powers conferred by articles 19 (compulsory acquisition of land) and 22 (compulsory acquisition of rights) in relation to so much of the Order land as belongs to statutory undertakers; and
- (b) extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers over or within the Order land.

(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which the following provisions apply—

- (a) Part 3 (street works in England and Wales) of the 1991 Act; or
- (b) article 32 (apparatus and rights of statutory undertakers in stopped up streets).

Apparatus and rights of statutory undertakers in stopped up streets

32.—(1) Where a street is stopped up under article 9 (permanent stopping up of streets and private means of access), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 9 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by TfL must—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, TfL must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by TfL, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding

that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Paragraphs (3) to (6) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and
- (b) the allowable costs are to be borne by TfL and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

“relocation works” means work executed, or apparatus provided, under paragraph (2); and

“statutory utility” means a statutory undertaker for the purposes of the 1990 Act or a public communications provider as defined in section 151(1) (interpretation) of the Communications Act 2003 ^{M69}.

Marginal Citations

M69 2003 c. 21.

Recovery of costs of new connection

33.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 31 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from TfL compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 31, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from TfL compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which article 32 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 of the 1991 Act applies.

(4) In this article—

“public communications provider” has the same meaning as in section 151(1) (interpretation) of the Communications Act 2003; and

“public utility undertaker” means a gas, water, electricity or sewerage undertaker.

Special category land

34.—(1) On the exercise by TfL of the relevant Order powers, so much of the special category land as is required for the purposes of the exercise of those rights is discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconsistent with the exercise of the relevant Order powers.

(2) In this article—

“the relevant Order powers” means powers exercisable over the special category land by TfL under article 22 (compulsory acquisition of rights); and

“the special category land” means the land identified as forming open space and numbered 03-021, 03-029, 03-037, 03-037b and 03-037c in the book of reference and on the special category land plan.

Disposals by the Greater London Authority

35.—(1) The following are not to be regarded as a disposal by the GLA for the purposes of section 333ZC ^{M70} (disposal etc of land held for housing and regeneration purposes) of the 1999 Act—

- (a) the making of any agreement between TfL and the GLA before this Order comes into force in anticipation of the exercise of the powers of this Order by TfL;
- (b) the implementation of any such agreement; and
- (c) the exercise of the powers of this Order by TfL in accordance with that agreement.

(2) In this article the GLA includes a company or body through which the GLA exercises functions in relation to housing or regeneration.

(3) Paragraph (1)(a) does not apply to a subsequent variation of any agreement made between TfL and the GLA before this Order comes into force.

Marginal Citations

M70 As inserted by section 187(1) and (3) of the [Localism Act 2011 \(c. 20\)](#).

Compensation

Disregard of certain interests and improvements

36.—(1) In assessing the compensation payable to any person on the acquisition from that person of any land or right over any land under this Order, the tribunal must not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration as part of the authorised development was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made as part of the authorised development, directly or indirectly concerned.

Set-off for enhancement in value of retained land

37.—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the construction of the authorised development.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) under article 22 (compulsory acquisition of rights), the tribunal must set off against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are required; and
- (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,

which will accrue to that person by reason of the construction of the authorised development.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2), as if this Order were a local enactment for the purposes of that Act.

No double recovery

38. Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law, or under two or more different provisions of this Order.

PART 4

OPERATIONAL PROVISIONS

Application of Part 4

39.—(1) Articles 42 (power to operate and use the tunnels) and 43 (closing the tunnels) only apply and have effect from the date the Silvertown Tunnel is first opened for public use.

(2) Articles 44 (removal of motor vehicles) to 46 (dangerous goods), 48 (byelaws relating to the Silvertown Tunnel area and the Blackwall Tunnel area) and 49 (fixed penalty notices) only apply—

- (a) to the Blackwall Tunnel area from the date of the commencement of construction of the Silvertown Tunnel; and
- (b) to the Silvertown Tunnel area from the date the Silvertown Tunnel is first opened for public use.

(3) For the purposes of this Part the date of commencement of construction of the Silvertown Tunnel is the date specified in a notice published by TfL in the London Gazette.

Maintenance of the authorised development

40.—(1) TfL may at any time maintain the authorised development.

(2) Paragraph (1) does not extend to any maintenance works which would give rise to any materially new or materially different environmental effects to those assessed in the environmental statement.

(3) On the expiry of any maintenance period defined in article 30(14) (temporary use of land for maintaining the authorised development) in respect of any part of the authorised development, but subject to article 3(4) (disapplication of legislation, etc.), sections 66 (licensing of works) to 75 (lands above mean high water level) of the 1968 Act apply to the exercise of the powers of this article in relation to that part.

Local legislation relating to the Blackwall Tunnel

41. The provisions of the Thames Tunnel (Blackwall) Act 1887 ^{M71} and the London County Council (Tunnel and Improvements) Act 1938 ^{M72}, and any other local enactment relating to the Blackwall Tunnel area, have effect subject to the provisions of this Order.

Marginal Citations

M71 1887 c. clxxii.

M72 1938 c. lxxxii.

Power to operate and use the tunnels

42. TfL may operate and use the tunnels.

Closing the tunnels

43.—(1) TfL may, whenever in its opinion it is necessary to do so, close either or both of the tunnels, whether wholly or partially.

(2) Where TfL proposes to close either or both of the tunnels, it must except in an emergency—

- (a) give not less than 7 days' notice in such manner as TfL considers appropriate; and
- (b) throughout the period of such closure display signs at convenient situations on the roads communicating with the tunnels giving warning of the closure.

(3) In this article “emergency” means any circumstance existing or imminent which TfL considers is likely to cause danger to—

- (a) persons or property, including the tunnels or any person in or using the tunnels; or
- (b) the environment.

Removal of motor vehicles

44.—(1) If any obstruction is caused by a motor vehicle waiting, loading, unloading or breaking down in the tunnels areas, the person in charge of the motor vehicle must immediately remove it; and if that person fails to do so an authorised person may take all reasonable steps to remove the obstruction.

(2) An authorised person who removes a motor vehicle under paragraph (1) may do so by towing or driving the motor vehicle or in such other manner as the authorised person may think necessary and may take such measures in relation to the motor vehicle as the authorised person considers necessary to enable the motor vehicle to be removed.

(3) Where an authorised person requires a person to remove a motor vehicle which is causing an obstruction in the circumstances described under paragraph (1) and the authorised person determines that the manner of removal proposed by the person required to remove it may cause danger to other persons using the road, the authorised person may require the motor vehicle to be moved in such other manner as the authorised person considers safe or may remove or arrange for the removal of the motor vehicle if the person required to remove it refuses to remove it in the manner so required.

(4) A motor vehicle removed by an authorised person under this article—

- (a) may be returned immediately to the person in charge of that motor vehicle; or
- (b) where immediate return of that motor vehicle to the person in charge of it is not practicable or appropriate, must be delivered to TfL or to a person authorised by TfL to keep motor vehicles so removed (“the custodian” in either case).

(5) In a case where the owner of the motor vehicle has disclaimed all rights of ownership of the motor vehicle and its contents, the custodian may dispose of them in such manner as it sees fit at any time.

(6) In any case not falling within paragraph (5), a motor vehicle or its contents must not be disposed of before the end of the period of five weeks beginning with the date on which the motor vehicle was removed and until the custodian has, for the purpose of ascertaining the owner of the motor vehicle, taken such steps as are specified in paragraph (7) and either—

- (a) the custodian has failed to ascertain the name and address of the owner; or
- (b) the owner has failed to comply with a notice complying with paragraph (8) served on the owner by post.

(7) The steps referred to in paragraph (6) are—

- (a) if the motor vehicle carries a United Kingdom registration mark, the custodian must ascertain from the records kept by the Secretary of State under the Vehicle Excise and Registration Act 1994 ^{M73} the name and address of the person by whom the motor vehicle is kept; and
- (b) if the motor vehicle does not carry such a registration mark, the custodian must make such inquiries as appear to the custodian reasonably practicable to ascertain the owner of the motor vehicle.

(8) A notice under paragraph (6)(b) must be addressed to the owner which—

- (a) states—
 - (i) reasons for the removal of the motor vehicle;
 - (ii) the place to which the motor vehicle has been removed;
 - (iii) the registration mark and make of the motor vehicle;
 - (iv) the steps to be taken to obtain possession of the motor vehicle;
 - (v) the outstanding penalty charges payable in respect of the motor vehicle; and
 - (vi) that unless the motor vehicle is removed by the owner on or before the date specified in sub-paragraph (b), the custodian intends to dispose of it; and
- (b) requires the owner to remove the motor vehicle from the custody of the custodian within 21 days of the date on which the notice was served.

(9) The custodian is entitled to treat the registered keeper of the motor vehicle as the person entitled to its contents unless and to the extent that some other person satisfies the custodian of their claim to all or part of them.

(10) Where it appears to the custodian that more than one person is the owner of the motor vehicle—

- (a) the notice under paragraph (6)(b) must be sent to all persons appearing to be the owner of the motor vehicle; and
- (b) the motor vehicle may not be disposed of in accordance with paragraph (5) unless all persons appearing to be the owners have disclaimed all rights of ownership.

(11) Where a motor vehicle has been removed and delivered into the custody of a custodian in accordance with paragraph (4), the custodian may (whether or not any claim is made under this article) recover from the person who was the owner of the motor vehicle when the motor vehicle was removed the charges applied by paragraph (16) for—

- (a) its removal and storage; and
- (b) if the motor vehicle has been disposed of, its disposal.

(12) Where, by virtue of paragraph (11)(a), any sum is recoverable in respect of a motor vehicle by a custodian, the custodian is entitled to retain custody of it until that sum is paid.

(13) Where—

- (a) it appears to the custodian that more than one person is the owner of the motor vehicle; and
- (b) one of those owners, or a person authorised by one of those owners, has gained possession of the motor vehicle under paragraph (19),

then the owner who gained possession of the motor vehicle under paragraph (19) must be treated as the owner from whom the sum is recoverable.

(14) Where—

- (a) it appears to the custodian that more than one person is the owner; and
- (b) one of those owners has made a claim under paragraph (23) that satisfies the conditions in paragraph (24),

then the owner who made the claim under paragraph (23) must be treated as the owner from whom the sum is recoverable.

(15) Where—

- (a) it appears to the custodian that more than one person is the owner of the motor vehicle; and
- (b) neither paragraph (13) nor paragraph (14) applies,

then those persons must be treated as jointly and severally [^{F6}liable] for the prescribed charges.

(16) Penalty charges in respect of the removal, storage and disposal of vehicles imposed by a statement of charges published under article 54(5) (power to charge for use of the tunnels) apply to the removal, storage and disposal of motor vehicles under this article.

(17) A person (“the claimant”) may take possession of a motor vehicle (with its contents) which has been removed and delivered to a custodian and has not been disposed of under this article, if the conditions specified in paragraph (18) are satisfied.

(18) The conditions are that—

- (a) the claimant satisfies the custodian that the claimant is the owner of the motor vehicle or that the claimant is authorised by the owner to take possession of the motor vehicle; and
- (b) all outstanding penalty charges applied by paragraph (16) are paid to TfL.

(19) On giving the claimant possession of a motor vehicle pursuant to this article, the custodian must give the claimant a statement of the right of the owner (or the person in charge of the motor vehicle when the motor vehicle was removed) to appeal, of the steps to be taken in order to appeal and of the address to which representations should be sent.

(20) Where it appears to the custodian that more than one person is the owner of the motor vehicle, or person authorised by the owner, the custodian must give possession of the motor vehicle to the first claimant who satisfied the conditions set out in paragraph (18).

(21) Schedule 8 (removal of motor vehicles and recovery of penalty charges) has effect in relation to appeals against the imposition of penalty charges and the service of penalty charge notices.

(22) An adjudicator appointed by the Lord Chancellor under regulation 3 of the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001^{M74} is an adjudicator for the purposes of hearing appeals under Schedule 8.

(23) If, after a motor vehicle has been disposed of by a custodian pursuant to this article, a person claims to have been the owner of the motor vehicle at the time when it was disposed of and the conditions specified in paragraph (24) are fulfilled, a sum calculated in accordance with paragraph (25) is payable by the custodian to the owner.

(24) The conditions are that—

- (a) the person claiming satisfies the custodian that the person so claiming was the owner of the motor vehicle at the time it was disposed of;
- (b) the claim is made before the end of the period of one year beginning with the date on which the motor vehicle was disposed of; and
- (c) no previous claim in respect of the motor vehicle has been made.

(25) The sum payable under paragraph (23) is calculated by deducting from the proceeds of sale the sums that would have been payable under paragraph (18)(b) had the motor vehicle been claimed by the owner immediately before its disposal together with such penalty charge as may be imposed in respect of the disposal of a motor vehicle.

(26) Where it appears to the custodian of a motor vehicle that more than one person is the owner, the custodian must treat the first person who makes a claim that satisfies the conditions set out in paragraph (24) as the owner for the purposes of this article.

(27) For the purposes of this article the owner of a motor vehicle is taken to be the person by whom the motor vehicle is kept; and in determining for those purposes who was the owner of the motor vehicle at any time, it is presumed (unless the contrary appears) that the owner was the person in whose name the motor vehicle was at that time registered under the Vehicle Excise and Registration Act 1994^{M75}.

(28) For the purposes of this article “breaking down” includes by way of a mechanical defect, lack of fuel, oil, water or power required for the motor vehicle or any other circumstances in which a person in charge of the motor vehicle could not immediately, safely and without damage to the motor vehicle or its accessories drive it under its own power away from the tunnels areas.

Textual Amendments

F6 Word in [art. 44\(15\)](#) substituted (22.2.2019) by [The Silvertown Tunnel \(Correction\) Order 2019 \(S.I. 2019/413\)](#), arts. 1, 2(7)

Marginal Citations

M73 1994 c. 22.

M74 [S.I. 2001/2313](#), as amended by [S.I. 2003/108](#), [S.I. 2008/1956](#) and [S.I. 2008/2683](#).

M75 1994 c. 22.

Removal of other obstructions

45.—(1) Where an obstruction or hazard is caused in the tunnels areas by a load falling from a motor vehicle and the person in charge of the motor vehicle fails to remove it, an authorised person may take all reasonable steps to remove the load.

(2) An authorised person—

- (a) may return a load which the authorised person has removed immediately to the person in charge of the motor vehicle from which it has fallen; or
- (b) where a return of the load which the authorised person has removed to the person in charge of the motor vehicle from which it has fallen is not practicable or appropriate, must deliver the load to TfL or to a person authorised by TfL to keep loads so removed (“the custodian” in either case).

(3) The custodian must take reasonable steps to ascertain the identity of the owner of the load.

(4) Where the custodian has been unable to ascertain contact details for the owner of the load, the custodian may dispose of or sell the load as the custodian thinks fit.

(5) Where the custodian has been able to ascertain contact details for the owner of the load, the custodian must notify such person that—

- (a) the load is in the possession of the custodian;
- (b) the owner must take possession of the load within five weeks of the date of the notice;
- (c) the owner may only take possession of the load on the payment of the custodian's expenses in removing and storing the load; and
- (d) if the owner fails to act in accordance with the requirements in the notice, title in the load vests in the custodian.

(6) The custodian may recover any expenses reasonably incurred in the removal and storage of a load from the owner of the load.

(7) Unless the owner of the load acts in accordance with the notice requirements, title in the load vests in the custodian on the date specified in the notice.

(8) Where a load consists of, or includes, liquids or semi-liquids or items which are loose or an aggregate, or noxious, perishable or otherwise hazardous or difficult to collect-up or remove, and the driver of the motor vehicle fails to remove it or the fallen load poses a hazard, paragraphs (2) to (7) do not apply and an authorised person or custodian (as the case may be) may, as it sees fit, immediately wash, clean or clear away or remove the fallen load or otherwise dispose of it or sell it.

Dangerous goods

46.—(1) Charges imposed under article 54 (power to charge for use of the tunnels) may include provision for charges to be imposed for—

- (a) escorting motor vehicles carrying dangerous goods through the tunnels; and
- (b) the recovery of TfL's reasonable administrative costs incurred in granting applications for consent to taking such goods into the tunnels to the extent required by byelaws made under article 48 (byelaws relating to the Silvertown Tunnel area and the Blackwall tunnel area).

(2) TfL is to be treated as having in the tunnels areas the same enforcement powers as any body mentioned in regulation 32 (enforcement) of the Carriage of Dangerous Goods and the Use of Transportable Pressure Equipment Regulations 2009 ^{M76} in relation to roads and to the extent permitted by regulation 32.

(3) The exercise of the enforcement powers mentioned in paragraph (2) is subject to any limitation which applies to the Health and Safety Executive under the regulations.

(4) Nothing in this article prejudices or prevents a body mentioned in regulation 32 of the Carriage of Dangerous Goods and the Use of Transportable Pressure Equipment Regulations 2009 from exercising any power conferred on it by those regulations.

Marginal Citations

M76 S.I. 2009/1348, **regulation 32** was substituted by S.I. 2014/469 and subsequently amended by S.I. 2015/1682.

No apparatus in the Silvertown Tunnel area without consent

47.—(1) Regardless of anything contained in any enactment, no person is to enter upon, break up or interfere with the Silvertown Tunnel area, or any part of it, for the purpose of placing or doing anything in or in relation to any sewer, drain, main, pipe, wire or other apparatus or executing any work except with the written consent of TfL and in accordance with such terms and conditions as TfL may determine, including as to payment, such consent not to be unreasonably withheld and any disputes as to failure to consent or over terms and conditions to be subject to the arbitration provisions in article [F768] (arbitration).

(2) This article is subject to paragraph 50 of Schedule 13 (protective provisions).

Textual Amendments

F7 Word in art. 47(1) substituted (22.2.2019) by [The Silvertown Tunnel \(Correction\) Order 2019 \(S.I. 2019/413\)](#), arts. 1, **2(8)**

Byelaws relating to the Silvertown Tunnel area and the Blackwall Tunnel area

48.—(1) TfL may make byelaws regulating—

- (a) the efficient management and operation of the tunnels areas;
- (b) travel in the tunnels areas;
- (c) the maintenance of order in the tunnels areas; and
- (d) the conduct of persons in the tunnels areas.

(2) The byelaws contained in Schedule 9 (Blackwall and Silvertown Tunnels byelaws)—

- (a) are to be treated as byelaws made by TfL under paragraph (1) and subsequently confirmed by the Secretary of State on the date this Order comes into force;
- (b) take effect on the date this article applies to the Blackwall Tunnel area or the Silvertown Tunnel area, as the case may be, by virtue of article 39 (application of Part 4); and
- (c) continue to have effect in relation to the Blackwall Tunnel area and the Silvertown Tunnel area until such time as they are amended or revoked by further byelaws made under paragraph (1).

(3) Subject to paragraph (4), the provisions of subsections 236(3) to (8), (10C) and (11) of the Local Government Act 1972^{M77} (procedure etc., for byelaws) apply in relation to byelaws made by TfL under paragraph (1), except that the application of section 236(10C) only requires TfL to send a copy of any byelaws made by it and subsequently confirmed to—

- (a) the Mayor of London;
- (b) the Council of the London Borough of Newham;
- (c) the Council of the London Borough of Tower Hamlets; and

(d) the Council of the Royal Borough of Greenwich.

(4) TfL may make byelaws under paragraph (1) in accordance with the procedure in the Byelaws (Alternative Procedure) (England) Regulations 2016^{M78} as if those regulations applied to the making and revoking of byelaws under this article.

(5) Byelaws made under this article are enforceable by TfL and any authorised person.

(6) A person who breaches any byelaw made under this article commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) The Blackwall Tunnel By-laws 1968 are revoked as from the date of the commencement of construction of the Silvertown Tunnel.

Marginal Citations

M77 1972 c. 70. Section 236 was amended by section 76 and 166 of the 1999 Act and [S.I. 2001/3719](#); there are other amendments to section 236 but none are relevant

M78 [S.I. 2016/165](#).

Fixed penalty notices

49.—(1) This article applies where it appears to an authorised person that a person has committed an offence under byelaws made under article 48 (byelaws relating to the Silvertown Tunnel area and the Blackwall Tunnel area).

(2) The authorised person may serve on that person a fixed penalty notice in respect of the offence.

(3) Where a person is given a fixed penalty notice under this article in respect of an offence—

- (a) no proceedings may be instituted for that offence before the expiration of 14 days after the date of the notice; and
- (b) that person may not be convicted of the offence if the fixed penalty is paid before the expiration of 14 days after the date of the notice.

(4) A fixed penalty notice must state—

- (a) the amount of the fixed penalty;
- (b) particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence;
- (c) the time by which and the manner (including the number to be used for payments by credit or debit card) in which the fixed penalty must be paid; and
- (d) that proceedings may be instituted if payment is not made within the time specified in the fixed penalty notice.

(5) The amount of the fixed penalty is—

- (a) one fifth of the maximum amount of the fine to which the person to whom the fixed penalty notice is issued would be liable on summary conviction provided that person pays the fixed penalty in full within 7 days of issue of the fixed penalty notice; or
- (b) one half of the maximum amount of the fine to which the person to whom the fixed penalty notice is issued would be liable on summary conviction.

(6) An authorised person may require a person to whom this article applies to pay a deposit of one tenth of the maximum amount of the fine to which a person may be liable under level 3 on the standard scale on accepting a fixed penalty notice if that person fails to provide, when requested, a residential address in the United Kingdom.

(7) Payment of the deposit must be made—

- (a) in person to the authorised person by cash, credit or debit card, if the authorised person has the necessary means to accept payment in that manner;
 - (b) by telephone by credit or debit card to the number stipulated in the fixed penalty notice for making payments; or
 - (c) by App.
- (8) TfL must apply the deposit towards payment of the fixed penalty.
- (9) In any proceedings a certificate which—
- (a) purports to be signed on behalf of the chief finance officer of TfL; and
 - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,
- is evidence of the facts stated.

(10) In this article—

“App” means a software application for use on an electronic device which provides for payment by credit or debit card and which is provided by TfL for that purpose;

“credit card” means a card or similar thing issued to any person, use of which enables the holder to defer payment of the deposit;

“debit card” means a card or similar thing issued by any person, use of which causes the deposit to be paid by the electronic transfer of funds from any current account of the holder at a bank or other institution providing banking facilities; and

“fixed penalty notice” means a notice offering the opportunity of the discharge of liability to conviction of an offence under byelaws made under article 48.

Classification of roads, etc.

50.—(1) The roads described in paragraphs 1 to 3 and 19 to 22 of Part 1 of Schedule 10 (classification of roads, etc.) are to be classified as the A12 from such day as TfL may determine, as if such classification had been made under section 12(3) (general provision as to principal and classified roads) of the 1980 Act.

(2) The roads described in paragraphs 6 to 18 of Part 1 of Schedule 10 are to be classified as the A102 from such day as TfL may determine, as if such classification had been made under section 12(3) of the 1980 Act.

(3) The roads described in paragraphs 4 to 18 of Part 1 of Schedule 10 are to become GLA roads on such day as TfL may determine, as if from that day they were the subject of an order directing the same under section 14B^{M79} (orders of the authority changing what are GLA roads) of the 1980 Act.

(4) The road described in Part 2 of Schedule 10 is to cease to be a GLA road on such day as TfL may determine, as if from that day it was the subject of an order directing the same under section 14B of the 1980 Act.

(5) TfL must publish a notice in the London Gazette of any determination it makes under this article specifying the details of the determination and the date on which it takes effect.

Marginal Citations

M79 As inserted by section 261 of the 1999 Act.

Operational land for purposes of the 1990 Act

51. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as operational land for the purposes of that Act) of the 1990 Act.

Restrictions on other works in the river Thames

52.—(1) For the purposes of ensuring the protection of the Silvertown Tunnel, the PLA must not carry out the following activities within the part of the river Thames that is situated within the Order limits without the consent of TfL, which must not be unreasonably withheld or delayed—

- (a) in Regions 1, 3 and 4 (subject to paragraph (2))—
 - (i) any dredging below the lines shown on the river restrictions section;
 - (ii) the installation of a mooring or other structure where its foundation would be at a depth exceeding 1 metre below the bed of the river Thames;
 - (iii) any piling activities; or
 - (iv) any designation of any anchorage; and
- (b) in Region 2—
 - (i) any dredging which would result (either during the course of the dredging or on completion of the dredging) in the surface of the bed of the river Thames lying at a depth exceeding 5.80 metres below chart datum; or
 - (ii) any other activity which might reasonably be expected to result in any part of the surface of the bed of the river Thames lying at a depth exceeding 5.80 metres below chart datum,

subject, in relation to dredging (sub-paragraphs (a)(i) and (b)(i)) or any activity within sub-paragraph (b)(ii), to the addition of any ‘over-dredge’ of 0.5 metres where this occurs in the course of a standard dredging methodology being employed.

(2) In the event that the navigable channel of the river Thames has moved such that any part of it lies within Region 4, the PLA must give notice in writing to TfL as soon as reasonably practicable, and in any event before carrying out any dredging or other activity which as the result of the move requires TfL's consent under paragraph (1).

(3) A notice given under paragraph (2) has the effect that the restrictions applicable to Region 2 apply to that part of Region 4 within which any part of the navigable channel of the river Thames lies.

(4) Subject to paragraph (5), the PLA must not grant a river works licence under section 66 (licensing of works) of the 1968 Act or a dredging licence under section 73^{M80} (licensing of dredging, etc) of that Act—

- (a) in respect of any Region, licensing any activity mentioned in paragraph (1)(a) or (1)(b); or
- (b) within any new part of the river Thames, licensing any activity,

without the consent of TfL, which must not be unreasonably withheld or delayed.

(5) Paragraph (4) does not have effect until TfL has notified the PLA of a designation under paragraph (9)(a)(ii).

(6) If TfL receives an application for consent under paragraph (4) and fails to notify the PLA of its decision before the end of the period of 28 days beginning on the day on which the application was received, TfL is deemed to have refused its consent.

(7) If the PLA contravenes the provisions of paragraph (1), or if any activity is carried out by any other person but the provisions of paragraph (4) have not been complied with in relation to the activity, TfL may by notice in writing require the PLA, or the person who is carrying out or has

carried out the activity concerned, to remove or abate any works to which the contravention relates (in accordance with the reasonable requirements of TfL) within a reasonable time specified in the notice and to restore the part of the river Thames concerned to its former condition. If the person to whom the notice is given fails to comply with the notice, TfL may carry out the work required by the notice and recover the reasonable costs of so doing from that person.

(8) After receiving from TfL as built drawings under paragraph 36 of Schedule 13 (protective provisions), the PLA must as soon as reasonably practicable update its navigation charts to illustrate the position of the Silvertown Tunnel.

(9) TfL must—

(a) designate—

(i) the person to whom notice should be given under paragraph (2); and

(ii) the person to whom an application for consent should be made under paragraph (4),

(and may from time to time alter any such designation); and

(b) give the PLA written notification of any such designation.

(10) For the purposes of this article any reference to a Region is a reference to the corresponding Region shown on the river restrictions plan and the grid coordinates of each Region are set out below and also shown on the river restrictions plan—

	<i>Point reference</i>	<i>Easting</i>	<i>Northing</i>
<i>Region 1</i>	1	539864.6015	180232.1903
	2	539847.9342	180191.5763
	3	539824.5778	180151.609
	4	539803.7353	180122.9387
	34	539861.0333	180050.4348
	35	539866.7186	180056.4268
	36	539902.0684	180100.2796
	37	539929.491	180145.2861
<i>Region 2</i>	5	539795.0307	180110.7227
	6	539763.774	180079.5465
	7	539726.8623	180046.611
	8	539693.5971	180012.3733
	9	539661.4484	179985.9174
	10	539660.3067	179984.9779
	26	539715.2125	179913.7872
	27	539721.437	179922.604
	28	539734.3574	179934.3838
	29	539747.3322	179946.2132
	30	539760.2525	179957.6318
	31	539789.1704	179980.5417
	32	539828.1578	180015.7859

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

	33	539850.7088	180039.5534
<i>Region 3</i>	11	539648.3561	179975.9124
	12	539614.2705	179951.6187
	13	539610.4355	179951.6816
	14	539592.3566	179937.4617
	15	539578.0493	179928.2188
	16	539571.9822	179924.3817
	17	539568.9903	179922.7014
	18	539559.0454	179917.192
	19	539550.5843	179913.8412
	20	539548.9716	179914.0205
	21	539541.4966	179912.8632
	22	539604.3438	179829.269
	23	539673.1334	179877.5185
	24	539704.0919	179903.7208
<i>Region 4 north</i>	4	539803.7353	180122.9387
	5	539795.0307	180110.7227
	33	539850.7088	180039.5534
	34	539861.0333	180050.4348
<i>Region 4 south</i>	10	539660.3067	179984.9779
	11	539648.3561	179975.9124
	24	539704.0919	179903.7208
	25	539714.0652	179912.162
	26	539715.2125	179913.7872

(11) In this article—

“new part of the river Thames” means any part of the river Thames within the Order limits (not shown on the river restrictions plan and the river restrictions section) that is created as a result of the river walls shown on that plan and section being repaired or replaced so that the width of the river Thames is increased;

“the river restrictions section” means the document of that description listed in Schedule 14 (documents to be certified) certified by the Secretary of State as the river restrictions section for the purposes of this Order;

“the river restrictions plan” means the document of that description listed in Schedule 14 certified by the Secretary of State as the river restrictions plan for the purposes of this Order; and

“the river Thames” means so much of the river Thames including streams, creeks and watercourses as is below mean high water level.

(12) Any dispute arising between TfL and the PLA under this article is to be determined as provided in article 68 (arbitration).

Marginal Citations

M80 As amended by section 46 of the [Criminal Justice Act 1982 \(c. 48\)](#).

PART 5

USER CHARGING

The charging policy

53.—(1) TfL must exercise its functions under this Part in accordance with the policies and procedures set out in the charging policy.

(2) TfL may revise the charging policy but only after it has—

(a) consulted in relation to the proposed changes to the charging policy—

- (i) organisations it considers representative of regular users of the tunnels; and
- (ii) the members of STIG;

(b) had regard to the responses to the consultation carried out under sub-paragraph (a); and

(c) submitted the proposed revised charging policy to the Mayor of London for approval.

(3) Any revised charging policy proposed by TfL will only have effect if it is approved by the Mayor of London, who may approve it with or without modifications.

(4) If the Mayor of London intends to approve a revised charging policy with material modifications, the Mayor of London must consult—

(a) organisations the Mayor considers representative of regular users of the tunnels; and

(b) the members of STIG,

on the proposed modifications and must have regard to any responses to the consultation received when deciding whether to approve a revised charging policy.

Power to charge for use of the tunnels

54.—(1) Subject to and in accordance with the provisions of this Part, from the date when the Silvertown Tunnel is first opened for public use, TfL may levy charges in respect of motor vehicles using either of the tunnels.

(2) The charge payable to TfL for use of the tunnels by any motor vehicle is at such a level for that class of vehicle as TfL may from time to time determine.

(3) TfL may determine different charges (including a nil charge)—

(a) as between the tunnels;

(b) for different classes of motor vehicles;

(c) for different times of the day;

(d) for different days of the week;

(e) for different directions of travel; and

(f) for different methods or means of recording, administering, collecting or paying the charge.

(4) Any charge payable to TfL under this article may be waived, suspended, reduced, compounded or discounted by TfL at any time.

(5) TfL must publish the charges determined under paragraph (3) in a statement of charges in such manner as TfL considers appropriate not later than 56 days before the charges are intended to take effect.

(6) The statement of charges published under paragraph (5) must set out, amongst other things—

- (a) the tunnels in respect of which the charges apply;
- (b) the classification of motor vehicles for the purposes of determining the charge payable by any motor vehicle;
- (c) the times at and days on which the charges will be payable;
- (d) the amount of the charges payable;
- (e) exemptions from charges;
- (f) discounts from charges;
- (g) any documents or equipment specified by TfL under article 55(3) (payment and recovery of charges and penalty charges);
- (h) payment means or methods;
- (i) a summary of the applicable enforcement provisions; and
- (j) any matter related to the provisions applied by article 56(3) (penalty charges, examination of motor vehicles, etc.).

(7) Where any motor vehicle falls within the definition of more than one class of vehicles it is deemed to fall in the class of vehicle bearing the highest charge.

(8) References in this Part to classes of motor vehicles are references to the classes defined or described by reference to any characteristics of the motor vehicles or to any other circumstances.

Payment and recovery of charges and penalty charges

55.—(1) The person liable to pay any charge payable under this Part, and any penalty charge imposed in connection with this Part, is the registered keeper of the motor vehicle concerned.

(2) The charge, and any penalty charge, must be paid by such methods or means as may be specified in the statement of charges published under article 54(5) (power to charge for use of the tunnels).

(3) To enable the collection of charges by a particular method or means of payment TfL may specify in the statement of charges—

- (a) documents required to be displayed by; or
- (b) equipment required to be carried on board,

any motor vehicle in respect of which the charge is to be paid using that method or means of payment.

(4) TfL may enter into an agreement with any person (“an advance payment agreement”) under which, on such terms as may be provided by the agreement, charges for a motor vehicle to be used in the Blackwall Tunnel or the Silvertown Tunnel may be paid in advance.

(5) An advance payment agreement may relate to such use of the Blackwall Tunnel or the Silvertown Tunnel, on such number of occasions or during such period, as may be provided by it, may provide for a reduction in the charges payable and may make any other necessary provision including in relation to payment of an administration charge.

(6) Where any charge payable under this Part, and any penalty charge imposed in connection with this Part, remains unpaid after it has become due for payment, TfL may recover from the person liable to pay the charge the amount of the charge together with all other reasonable costs and expenses

including administrative expenses, enforcement expenses and interest arising out of any such failure to pay.

(7) TfL may appoint any person to collect as its agent any charge payable under this Part and any penalty charge imposed in connection with this Part.

Penalty charges, examination of motor vehicles, etc.

56.—(1) Regulations made under paragraph 12^{M81} (penalty charges) of Schedule 23 (road user charging) to the 1999 Act have effect in relation to the tunnels as if the statement of charges published under article 54(5) (power to charge for use of the tunnels) is a charging scheme made by order under that Schedule, TfL is the charging authority and the tunnels are the charging area.

(2) The following paragraphs of Schedule 23 to the 1999 Act, and any regulations made under them, have effect in relation to the tunnels as if the statement of charges published under article 54(5) is a charging scheme made by order under that Schedule, TfL is the charging authority and the tunnels are the charging area—

- (a) paragraph 14 (installation of equipment on roads or elsewhere);
- (b) paragraph 25 (offences);
- (c) paragraph 26 (examination of motor vehicles, etc.);
- (d) paragraph 27 (removal or immobilisation of motor vehicles); and
- (e) paragraph 30 (evidence).

(3) Sections 5 (contravention of requirement of TfL scheme), 6 (extension of power to include enforcement provisions in TfL scheme) and 8 (failure to notify changes in eligibility for exemptions etc.) of the Transport for London Act 2008^{M82} apply to the tunnels as if the statement of charges published under article 54(5) is a TfL scheme within the meaning of that Act.

Marginal Citations

M81 As amended by paragraphs 1, 6-8 and 10-12 of Schedule 13 and Part 1 of Schedule 31 to the [Transport Act 2000 \(c. 38\)](#) and section 115 of the [Local Transport Act 2008 \(c. 26\)](#).

M82 2008 c. i.

Application by TfL of charges levied

57. The charges payable under this Part, and any penalty charges imposed in connection with this Part, may be applied by TfL in—

- (a) paying the costs and expenses incurred in planning, consenting, designing, constructing, managing, operating and maintaining the Silvertown Tunnel (including in relation to the implementation of necessary mitigation) and any costs associated with financing any of the same;
- (b) paying the costs and expenses incurred in managing, operating and maintaining the Blackwall Tunnel and any costs associated with financing any of the same;
- (c) providing such funds as are, or are likely to be, necessary to discharge TfL's obligations contained in any agreement entered into by TfL under article 59 (transfer of benefit of Order, etc.);
- (d) making payment into any maintenance or reserve fund kept in respect of the Silvertown Tunnel or the Blackwall Tunnel; and
- (e) making payments to TfL's general fund.

PART 6

MISCELLANEOUS AND GENERAL

Benefit of Order

58.—(1) Subject to article 59 (transfer of benefit of Order, etc.) and paragraph (2), the provisions of this Order conferring functions on TfL have effect solely for the benefit of TfL.

(2) Paragraph (1) does not apply to the works for which the consent is granted by this Order for the express protection, benefit or accommodation of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

Transfer of benefit of Order, etc.

59.—(1) TfL may, regardless of any provision in any enactment, enter into agreements—

- (a) to transfer, charge or otherwise dispose of to another person (“the transferee”) any interest of TfL in the authorised development or TfL’s right to construct, maintain, use or operate the authorised development; or
- (b) to grant to another person (“the grantee”) for a period agreed between TfL and the grantee any interest of TfL in the authorised development or TfL’s right to construct, maintain, use or operate the authorised development; and
- (c) that are connected with or consequential on any agreement entered into under sub-paragraph (a) or (b),

and, with the consent of the Mayor of London, TfL may provide for the transferee, the grantee or another person to exercise or be responsible for any functions of TfL relevant to those agreements, including any of its functions under this Order, either exclusively or concurrently with TfL or any other person.

(2) Any agreement referred to in paragraph (1) may provide (to the extent TfL considers necessary in connection with the design, construction, financing, funding, maintenance, use or operation of the authorised development) for—

- (a) any matters that are connected with the matters referred to in that paragraph or are consequential on them;
- (b) the financing or defraying of, or the making of contributions by TfL or by any other person towards, the cost of designing, constructing, maintaining, using or operating the authorised development;
- (c) TfL to provide services and facilities to the transferee, grantee or any other person on such terms (including as to payment) as the parties think fit; and
- (d) TfL or the transferee, grantee or any other person to provide guarantees, indemnities or any other form of security.

(3) Where an agreement has been made under paragraph (1), references in this Order, or in any document certified under article 65 (certification of documents), to TfL are to be read as including references to the transferee, the grantee or any other person who may exercise, enjoy or be responsible for any functions of TfL pursuant to that agreement.

(4) Paragraph (3) does not apply to—

- (a) the code of construction practice mentioned in paragraph 5 of Schedule 2 (requirements); and
- (b) references to “the TfL Board” in Procedure 1 and Procedure 2 of the charging policy.

(5) The exercise by any person further to any agreement made under paragraph (1), of the functions conferred by or under this Order or any other enactment, is subject to the same restrictions, liabilities and obligations as would apply by or under this Order if those powers were exercised by TfL.

(6) Subject to paragraph (7), any consent given by the Mayor of London under paragraph (1) may be given subject to such reasonable terms and conditions as the Mayor considers appropriate in the circumstances.

(7) The Mayor of London must not give consent under paragraph (1) to any proposal for the transfer of any compulsory acquisition or temporary possession function unless the Secretary of State has certified in writing that the Secretary of State is satisfied that the person proposed to exercise or be responsible for that function has sufficient resources to discharge all associated compensation liabilities.

(8) TfL must within 10 business days after entering into an agreement under paragraph (1) in relation to which any functions of TfL in respect of the deemed marine licence granted by article 62 are transferred to another party, notify the MMO in writing, and the notice must include particulars of the other party to the agreement under paragraph (1) and details of the extent, nature and scope of the functions transferred or otherwise dealt with which relate to the deemed marine licence granted under article 62.

(9) In this article—

- (a) “compulsory acquisition or temporary possession function” means any function of TfL under articles 19, 22, 23, 27, 28, 29 and 30;
- (b) “functions” means statutory and other powers, duties, rights, interests and obligations;
- (c) references to the authorised development include references to any land held in connection with the authorised development; and
- (d) references to the authorised development include references to the provisions of this Order relating to the use and operation of the Blackwall Tunnel.

Application of landlord and tenant law

60.—(1) This article applies to any agreement entered into by TfL under article 59 (transfer of benefit of Order, etc.) so far as it relates to the terms on which any land is subject to a lease granted by or under that agreement.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) No enactment or rule of law to which paragraph (2) applies is to apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Traffic regulation measures

61.—(1) Subject to the provisions of this article, TfL may, for the purposes of the authorised development—

- (a) make provision, in respect of those roads specified in column (2) of Part 1 of Schedule 11 (traffic regulation measures, etc.), as to the speed limit and restricted road status of those roads as specified in column (3) of that Part of that Schedule;
- (b) make provision, in respect of those roads specified in column (2) of Part 2 of Schedule 11, as to the clearway status of, and the application of other prohibitions to, those roads as specified in column (3) of that Part of that Schedule;
- (c) make provision, in respect of those roads specified in column (2) of Part 3 of Schedule 11, as to prescribed routes to apply to those roads as specified in column (3) of that Part of that Schedule;
- (d) in respect of those roads specified in column (2) of Part 4 of Schedule 11, revoke or vary the orders specified in column (3) of that Part of that Schedule in the manner specified in column (4) of that Part of that Schedule;
- (e) vary the orders specified in column (2) of Part 5 of Schedule 11 in the manner specified in column (3) of that Part of that Schedule; and
- (f) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act in so far as it is inconsistent with any prohibition, restriction or other provision made by TfL under this paragraph.

(2) No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) (regulations in relation to orders and notices under the 1984 Act) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011^{M83} when used in accordance with regulation 3(5) of those regulations.

(3) Without limiting the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the consent of the traffic authority in whose area the road concerned is situated, TfL may, in so far as necessary or expedient for the purposes of, in connection with, or in consequence of the construction, maintenance and operation of the authorised development—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by TfL.

(4) The power conferred by paragraph (3) may be exercised at any time prior to the expiry of 24 months from the opening of the Silvertown Tunnel for public use but subject to paragraph (7) any prohibition, restriction or other provision made under paragraph (3) may have effect both before and after the expiry of that period.

(5) TfL must not exercise the powers conferred by paragraph (1) or (3) unless TfL has—

- (a) given not less than—
 - (i) 12 weeks' notice in writing of TfL's intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or
 - (ii) 4 weeks' notice in writing of TfL's intention so to do in the case of a prohibition, restriction or other provision intended to have effect temporarily,

to the chief officer of police and to the traffic authority in whose area the road is situated and that notice must include the time periods within which the traffic authority may specify

- the manner in which, under sub-paragraph (b), TfL must advertise its intention to exercise the powers conferred by paragraph (1) or (3); and
- (b) advertised TfL's intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of TfL's intention in the case of sub-paragraph (a)(i), or within 7 days of its receipt of notice of TfL's intention in the case of sub-paragraph (a)(ii).
- (6) Any prohibition, restriction or other provision made by TfL under paragraph (1) or (3)—
- (a) has effect as if duly made by, as the case may be—
- (i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or
- (ii) the local authority in whose area the road is situated, as an order under section 32 (power of local authorities to provide parking spaces) of the 1984 Act, and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject;
- (b) is deemed to be a traffic order for the purposes of, as the case may be—
- (i) Schedule 7 (road traffic contraventions subject to civil enforcement) to the 2004 Act; or
- (ii) Part 2 (bus lanes) to the London Local Authorities Act 1996 ^{M84}; and
- (c) must be advertised in the same manner as TfL's intention to make the prohibition, restriction or other provision was under paragraph (5)(b).
- (7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by TfL from time to time by subsequent exercise of the powers conferred by paragraph (1) or (3) within a period of 24 months from the opening of the Silvertown Tunnel for public use.
- (8) Before exercising the powers conferred by paragraphs (1) or (3) TfL must consult such persons as TfL considers necessary and appropriate and have regard to the representations made to TfL by any such person.
- (9) In the case of Saffron Avenue as identified in Part 2 of Schedule 11 (traffic regulation measures, etc.) (and shown on sheet 4 of the traffic regulation measures (clearways and prohibitions) plans), the powers conferred by this article cannot be exercised by TfL without the consent of the owner of that road.
- (10) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

Marginal Citations

M83 S.I. 2011/935.

M84 1996 c. ix.

Deemed marine licence

62. The marine licence set out in Schedule 12 (deemed marine licence) is deemed to have been issued under Part 4 of the 2009 Act for the licensed activities set out in Part 1, and subject to the licence conditions set out in Part 2, of that licence.

Defence to proceedings in respect of statutory nuisance

63.—(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990 ^{M85} in relation to a nuisance falling within paragraph (g) of section 79(1) (noise emitted from premises so as to be prejudicial to health or a nuisance) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by TfL for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974 ^{M86};
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by TfL for the purposes of or in connection with the construction or maintenance of the authorised development.

Marginal Citations

M85 1990 c. 43; there are amendments that are not relevant to this Order.

M86 1974 c. 40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the [Environmental Protection Act 1990 \(c. 25\)](#). There are other amendments to the 1974 Act which are not relevant to this Order.

Protective provisions

64. Schedule 13 (protective provisions) has effect.

Certification of documents

65.—(1) As soon as practicable after the making of this Order, TfL must submit copies of each of the plans and documents set out in Schedule 14 (documents to be certified) to the Secretary of State for certification as true copies of those plans and documents.

(2) Where any plan or document set out in Schedule 14 requires to be amended to reflect the terms of the Secretary of State's decision to make this Order, that plan or document in the form amended to the Secretary of State's satisfaction is the version of the document required to be submitted for certification under paragraph (1).

(3) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(4) TfL must, following certification of the plans and documents in accordance with paragraph (1), make those plans and documents available in electronic form for inspection by members of the public.

Silvertown Tunnel Implementation Group

66.—(1) TfL must establish and fund the reasonable secretarial and administrative costs of a consultative body to be known as the Silvertown Tunnel Implementation Group (in this Order referred to as “STIG”).

(2) STIG will comprise one representative of each of the following bodies—

- (a) TfL;
- (b) the GLA;
- (c) the Council of the London Borough of Barking and Dagenham;
- (d) the Council of the London Borough of Bexley;
- (e) the Council of the London Borough of Bromley;
- (f) the City of London Corporation;
- (g) the Council of the Royal Borough of Greenwich;
- (h) the Council of the London Borough of Hackney;
- (i) the Council of the London Borough of Lewisham;
- (j) the Council of the London Borough of Newham;
- (k) the Council of the London Borough of Redbridge;
- (l) the Council of the London Borough of Southwark;
- (m) the Council of the London Borough of Tower Hamlets;
- (n) the Council of the London Borough of Waltham Forest; and
- (o) Highways England, or any other person which in place of Highways England—
 - (i) is for the time being the traffic authority for the Dartford river crossings between Dartford, Kent and Thurrock, Essex; or
 - (ii) is for the time being the traffic authority for the proposed new river crossing known as the Lower Thames Crossing east of Gravesend, Kent and Tilbury, Essex, if the crossing is granted development consent under the 2008 Act.

(3) Each body mentioned in paragraph (2)(b) to (2)(o) above must notify TfL of the identity of its nominated representative.

(4) If any person nominated under paragraph (3) cannot attend a STIG meeting, the nominating body may nominate a person (on an occasional or standing basis, as it determines) to act as the nominating body's substitute representative at the meeting.

(5) TfL must consult the other members of STIG on the following matters relating to implementation of the authorised development—

- (a) the extent, nature and duration of monitoring to be implemented in accordance with the monitoring and mitigation strategy;
- (b) the proposals for the initial bus services that will operate through the tunnels when the Silvertown Tunnel opens for public use;
- (c) the monitoring reports produced in accordance with the monitoring and mitigation strategy;
- (d) any proposed revisions to the charging policy under article 53 (the charging policy); and
- (e) the level of charges required to be paid for use of the tunnels under article 54 (power to charge for use of the tunnels) and any exemptions and discounts.

(6) In taking any decision in respect of any of the matters set out in paragraph (5), TfL must have regard to any recommendations or representations made by a member of STIG in response to the consultation carried out under that paragraph.

(7) Unless otherwise agreed by STIG, TfL must convene a meeting of STIG, chaired by a representative elected by the members of STIG, at least twice a year on a date to be determined by TfL, including on each occasion that TfL publishes a monitoring report in accordance with the monitoring and mitigation strategy.

(8) The first meeting of STIG must be held not less than three years before the date on which the Silvertown Tunnel is expected to open for public use.

(9) Part VA (access to meetings and documents of certain authorities, committees and sub-committees) of the Local Government Act 1972^{M87} and the Public Bodies (Admission to Meetings) Act 1960^{M88} do not apply to STIG or to its meetings or proceedings.

(10) TfL must publish on its website agendas, reports, minutes and other relevant documents relating to the operation of STIG as soon as reasonably practicable after they become available.

Marginal Citations

M87 1972 c. 70.

M88 1960 c. 67.

Service of notices

67.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978^{M89} as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article must not be taken to exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Marginal Citations

M89 1978 c. 30.

Arbitration

68. Except where otherwise expressly provided for in this Order and unless otherwise agreed in writing between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

Consents, agreements and approvals

69.—(1) Where any application is made to a relevant authority, the consent, agreement or approval concerned must, if given, be given in writing and is not to be unreasonably withheld or delayed.

(2) If a relevant authority which has received an application fails to notify TfL of its decision before the end of the period of 28 days beginning with the date on which the application was received, the relevant authority is deemed to have given its consent, agreement or approval, as the case may be.

(3) Any application to which this article applies must include a written statement that the provisions of paragraph (2) apply to that application.

(4) In this article—

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

“application” means an application or request for any consent, agreement or approval required or contemplated by articles 6 (street works), 8 (construction and maintenance of new, altered or diverted streets), 10 (temporary stopping up and restriction of use of streets), 11 (access to works), 16 (authority to survey and investigate land) and 61 (traffic regulation measures); and “relevant authority” means a planning authority, a traffic authority, a highway authority or a street authority.

Signed by authority of the Secretary of State for Transport

Department for Transport

Natasha Kopala
Head of the Transport and Works Act Orders
Unit

Changes to legislation:

There are currently no known outstanding effects for the The Silvertown Tunnel Order 2018.