

CROSSRAIL ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SCHEDULES

Schedule 17 - Protective provisions

Part 6 – Protection of Port of London Authority

384. *Paragraph 1* provides that the arrangements set out in this Part of the Schedule are to apply unless the nominated undertaker and the Port of London Authority (“the PLA”) agree to vary them. The PLA is the statutory harbour authority for the Port of London under the Port of London Act 1968. The nominated undertaker’s works to which the provisions apply are any “specified works” defined as works on, in, under or over the surface of land below the river (defined as the level of mean high water springs forming part of waters within the PLA’s jurisdiction) or any land owned, occupied or used by the PLA for operational purposes.
385. *Paragraph 2* provides for the PLA to approve plans of the specified works, and in approving the plans to be able to make reasonable requirements in relation to the protection of the river or the use of its operational land for the purpose of performing its statutory functions. PLA’s approval is not to be unreasonably withheld, and the paragraph also makes clear that the requirement for approval of plans does not reintroduce the controls under Part 5 of the Port of London Act 1968 (relating to works and dredging in the Thames) which are disapplied by Schedule 14 to the Act.
386. *Paragraph 3* deals with the construction of the specified works. It provides in particular for these to be constructed with all reasonable dispatch and to the PLA’s reasonable satisfaction and with minimum interference to navigation in the river and the PLA’s statutory functions. The PLA is entitled, on notice to the nominated undertaker, to inspect and survey the construction of the specified works.
387. *Paragraph 4* deals with the deposit of gravel, soil or other material into the river, including allowing any such material to fall, or be washed into the river. Any such deposit will require the PLA’s consent (which is not to be unreasonably withheld). The exercise of the powers of paragraph 8 of Schedule 2 to the Act to discharge water into watercourses is made subject, in relation to the river, to the terms of any consent given under these provisions. This paragraph also spells out that it is not to be taken as authorising anything which would be an offence under the legislation dealing with the pollution of water.
388. *Paragraphs 5, 6 and 7* contain miscellaneous protection in relation to construction of the specified works including requirements for removing obstructions to navigation which are exposed in the course of the works, provision for reimbursement of costs incurred by the PLA in addressing impacts on existing moorings and a requirement to provide lights or buoys or take other steps as may be required by the PLA for the prevention of danger to navigation.

*These notes refer to the Crossrail Act 2008 (c.18)
which received Royal Assent on 22 July 2008*

389. *Paragraph 8* is intended to secure navigational safety in a case where a specified work is abandoned or falls into disrepair. The PLA is entitled to require the nominated undertaker to remove the work, or repair it, and restore the site to its former condition.
390. *Paragraph 9* applies the prohibition in paragraph 8(4) of Schedule 2 against the damage of the bed or banks of watercourses forming parts of a main river to any discharge of any water in connection with a specified work and affecting part of the river that is not a main river.
391. *Paragraph 10* provides that the powers under the Act to navigate or moor barges, vessels or craft are subject to such directions as the PLA's harbour master may make.
392. *Paragraphs 11 and 12* make provision for the indemnity of the PLA, by the nominated undertaker, for damage caused to the bed or banks of the river. This liability is limited where the damage is attributable to the PLA.
393. *Paragraph 13* addresses disputes arising under this Part. Matters affecting the amount of compensation payable are referred to arbitration (which would then be governed by the provisions of section 54 of the Act). In any other case, unless the parties agree to arbitration, the dispute is determined by a person appointed by the Secretary of State who must have regard to any matters specified by the Secretary of State on making the appointment. The reason for this distinction is that it is considered that disputes as to compensation will not relate to matters of policy and there is no need for the Secretary of State to be involved in the resolution of such disputes.