
STATUTORY INSTRUMENTS

2014 No. 1052

**The National Grid (North London
Reinforcement Project) Order 2014**

PART 4

SUPPLEMENTAL POWERS

Discharge of water

17.—(1) The undertaker may use any watercourse or any 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 the undertaker pursuant to paragraph (1) shall be determined as if it were a dispute under section 106 of the Water Industry Act 1991⁽¹⁾ (right to communicate with public sewers).

(3) The undertaker shall not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but shall not be unreasonably withheld.

(4) The undertaker shall 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, but such approval shall not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker shall not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The undertaker shall 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.

(7) This article does not authorise the entry into groundwaters or inland freshwaters of any matter whose entry or discharge into those waters is prohibited by regulation 12 of the Environmental Permitting (England and Wales) Regulations 2010⁽²⁾.

(8) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to notify the undertaker of a decision within 28 days of receiving an application that person shall be deemed to have granted consent or given approval, as the case may be.

(1) 1991 c. 56. Section 106 was amended by the Water Act 2003 (c. 37), sections 36(2) and 99, subject to the transitional provisions contained in article 6 of, and Schedule 3 to, S.I. 2004/641. There are other amendments to section 106 which are not relevant to this Order.

(2) S.I. 2010/675. Regulation 12 was amended by S.I. 2011/2043 and 2013/390. There are other amendments to these Regulations which are not relevant to this Order.

(9) The procedure set out in paragraphs 3, 4 and 5 of Schedule 3 (discharge of requirements) has effect in relation to any consent required under this article where such consent is granted subject to conditions to which the undertaker objects, or is refused.

(10) In this article—

- (a) “main river” has the same meaning as in the Water Resources Act 1991⁽³⁾;
- (b) “public sewer or drain” means a sewer or drain which belongs to the Homes and Communities Agency, the Environment Agency, a harbour authority within the meaning of section 57 of the Harbours Act 1964⁽⁴⁾, an internal drainage board, a joint planning board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and
- (c) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2010 have the same meaning as in those regulations.

Protective work to buildings

18.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits as the undertaker 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 used for the transmission of electricity at 400kV.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

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

- (a) enter the building and any land within 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 (but not any building erected on it).

(5) Before exercising—

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

the undertaker shall, 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), specify the protective works proposed to be carried out.

(3) 1991 c. 57.

(4) 1964 c. 40. Paragraph 9B was inserted into Schedule 2 by the Transport and Works Act 1992 (c. 42), section 63(1) and Schedule 3, paragraph 9(1) and (2).

(6) Where a notice is served under paragraph (5)(a), (c) or (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 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 46 (arbitration).

(7) The undertaker shall compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) 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 used for the transmission of electricity at 400kV 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,

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

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

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

(11) In this article “protective works” in relation to a building means—

- (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; and
- (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.

Authority to survey and investigate the land

19.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) 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 the undertaker—

- (a) shall, 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 shall be made under this article—
 - (a) in land located within the highway boundary without the consent of the relevant highway authority; or
 - (b) in a private street without the consent of the street authority,
 but such consent shall not be unreasonably withheld.
- (5) The undertaker shall 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 of the 1961 Act (determination of questions of disputed compensation).
- (6) If either a highway authority or street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—
 - (a) under paragraph (4)(a) in the case of a highway authority; or
 - (b) under paragraph (4)(b) in the case of a street authority,
 that authority shall be deemed to have granted consent.

Temporary closure of, and works in, the canal

- 20.**—(1) The undertaker may, in connection with the construction of the authorised works temporarily interfere with each part of the canal specified in columns (1) and (2) of Schedule 8 (temporary closure of, and works in, the canal) to the extent specified in column (3), and may also temporarily close and divert the towpath adjacent to that part of the canal temporarily interfered with.
- (2) Without prejudice to the specific powers conferred by paragraph (1) but subject to paragraphs (3), (4) and (5) the undertaker may, in connection with the construction of the authorised works—
- (a) temporarily interfere with the relevant part of the canal by constructing or maintaining caissons, cofferdams or other temporary works at any point within that part of the canal as the undertaker considers necessary or expedient;
 - (b) temporarily moor or anchor barges or other vessels or craft in the relevant part of the canal and may load or unload into and from such barges, other vessels or craft equipment, machinery, soil and any other materials in connection with the construction of the authorised works;
 - (c) on grounds of health and safety only, temporarily close to navigation the relevant part of the canal; and
 - (d) temporarily remove the water from the relevant part of the canal that is so interfered with or closed.
- (3) During the period of any closure referred to in paragraph (1)(c), all rights of navigation and other rights relating to, and any obligations of the Canal and River Trust⁽⁵⁾ to manage, the relevant part of the canal so closed shall be suspended and unenforceable against the Canal and River Trust.
- (4) The power conferred by paragraph (1) shall be exercised in such a way which secures—
- (a) that no more of the relevant part of the canal is closed to navigation at any time than is necessary in the circumstances; and
 - (b) that, if complete closure to navigation of the relevant part of the canal becomes necessary, all reasonable steps are taken to secure that the period of closure is kept to a minimum

(5) The functions of the British Waterways Board were transferred to Canal and River Trust by the British Waterways Board (Transfer of Functions) Order 2012.

and that the minimum obstruction, delay or interference is caused to vessels or craft which may be using or intending to use the part so closed.

(5) In exercising the powers conferred by paragraph (1) in relation to the relevant part of the canal the undertaker shall—

- (a) take such reasonable steps as are necessary to ensure that the functioning of any intake or discharge along the canal is unaffected; and
- (b) keep any interference with water levels or flow to the minimum reasonably necessary to construct the authorised works.

(6) In exercising the powers conferred by paragraph (1) in relation to the relevant part of the canal towpath the undertaker shall—

- (a) take such reasonable steps as are necessary to ensure that persons in control of barges or other vessels or craft in the canal are made aware of any temporary closure and diversion of the towpath; and
- (b) provide such emergency assistance as may reasonably be requested by persons in control of barges or other vessels or craft in the canal following an accident or mechanical failure, for the safety of persons on board and/or the recovery of the barge, vessel or craft to a location where it can safely be moored adjacent to and accessed from the towpath.

(7) Any person who suffers loss or damage as a result of—

- (a) the suspension of any private right of navigation or the suspension of any private right to use the towpath under this article; or
- (b) any effect of the exercise of the powers conferred by paragraph (1) on the functioning of any intake or discharge along the canal,

shall be entitled to be paid compensation for such loss and damage by the undertaker, to be determined, in case of dispute, under Part 1 of the 1961 Act.

Moorings

21.—(1) Without prejudice to the other powers conferred on the undertaker by this Order or otherwise available to it, and subject to paragraph (2), the undertaker may, along the canal area for the purposes of or in connection with the construction, operation or maintenance of the authorised works and notwithstanding any interference this may have with any public or private rights, temporarily suspend any right to moor in such manner and to such extent as may appear to the undertaker to be necessary or convenient.

(2) Subject to any closure of the canal required under article 20 (temporary closure of, and works in, the canal) the undertaker shall permit vessels to moor temporarily along the canal area for such periods and in such locations as may appear to the undertaker to be reasonably necessary to permit the use of the lock.

(3) In this article—

- (a) “canal area” means so much of the eastern bank of the canal between MR1 and MR2 as shown on sheets 7 and 8 of the access/rights of way plans; and
- (b) “the lock” means the lock known as Pickett’s Lock used for the raising and lowering of boats between stretches of the canal.