
STATUTORY INSTRUMENTS

2014 No. 2384

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

PART 2

WORKS PROVISIONS

Streets and traffic regulations

Street works

10.—(1) The undertaker may, for the purposes of the authorised project, other than in respect of specified works subject to the LoPS as applied by the highway authority in whose area the undertaker seeks to carry out such works, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street, or carry out works to strengthen or repair the carriageway;
- (c) place and keep apparatus in or on the street;
- (d) maintain, renew or alter the position of apparatus in or on the street or change its position;
- (e) demolish, remove, replace and relocate any bus shelter and associated bus stop infrastructure;
- (f) execute any works to provide or improve sight lines required by the highway authority;
- (g) execute and maintain any works to provide hard and soft landscaping;
- (h) carry out re-lining and placement of new temporary markings; and
- (i) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (h) above.

(2) Without limiting the scope of the powers conferred by paragraph (1) but subject to the consent of the street authority, which consent shall not be unreasonably withheld, the undertaker may, for the purposes of the authorised project, other than in respect of specified works subject to the LoPS as applied by the highway authority in whose area the undertaker seeks to carry out such works, enter on so much of any other street whether or not within the Order limits, for the purposes set out at paragraph (1) (a) to (i) (street works) and article 51(2) (miscellaneous provisions relating to the 1990 Act) shall apply.

(3) The authority given by paragraph (1) or (2) 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 (1).

(4) The provisions of sections 54 to 106 (save insofar as disapplied through the operation of article 56 (*application, disapplication and modification of legislative provisions*)) and Schedule 19

(1) Section 51 is amended by section 40 of and Schedule 1 to the Traffic Management Act 2004 (c.18).

(*miscellaneous controls*) part 1 to this Order) of the 1991 Act (2) apply to any street works carried out under paragraph (1) or (2).

(5) In Part 3 of the 1991 Act, provisions relating to major highway works which refer to the highway authority concerned shall, in relation to works which are major highway works, be construed as references to the undertaker.

(6) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

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

Power to alter layout, etc., of streets

11.—(1) The undertaker may for the purposes of constructing the authorised project, other than in respect of specified works subject to the LoPS as applied by the highway authority in whose area the undertaker seeks to carry out such works, alter the layout of each of the streets specified in column (2) of Schedule 5 (streets subject to alteration of layout) (and carry out works ancillary to such alteration) in the manner specified in relation to that street in column (3).

(2) Without prejudice to the specific powers conferred by article 3 or paragraph (1) but subject to paragraph (3), the undertaker may, for the purposes of either constructing the authorised project or for works before completion of construction, other than in respect of specified works subject to the LoPS as applied by the highway authority in whose area the undertaker seeks to carry out such works, alter the layout of any other street (and carry out works ancillary to such alteration) whether or not within the Order limits and, without limiting the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track, verge, or central reservation within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, cycle track, verge, or central reservation;
- (c) reduce the width of the carriageway of the street;
- (d) execute any works to widen or alter the alignment of pavements;
- (e) execute any works of surfacing or re-surfacing of the highway; and
- (f) execute any works necessary to alter existing facilities for the management and protection of pedestrians.

(3) The powers conferred by paragraph (2)—

- (a) shall be exercisable on the giving of not less than 42 days’ notice to the street authority; and
- (b) shall not be exercised without the consent (such consent not to be unreasonably withheld) of the street authority but such consent may be granted subject to reasonable conditions relating to highway matters.

(4) In Part 3 of the 1991 Act, provisions relating to major highway works which refer to the highway authority concerned shall, in relation to works which are major highway works, be construed as references to the undertaker.

(5) The provisions of sections 54 to 106 (save insofar as disapplied through the operation of article 55 (application, disapplication and modification of legislative provisions) and Schedule 19 (*miscellaneous controls*) part 1 to this Order) of the 1991 Act apply to works carried out under paragraph (1) or (2) to the extent that those works involve the breaking up or opening of a street, or any sewer, drain, or tunnel under it, or tunnelling or boring under a street

(2) Sections 54 to 106 are amended by Schedule 7 to the Road Traffic Act 1991 (c.40), Schedule 1 to the Water Consolidation (Consequential Provisions) Act 1991 (c.60), sections 255 and 256 of the Transport Act 2000 (c.38), sections 40 to 64 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18), Schedule 3 to the Flood and Water Management Act 2010 (c.29), and regulation 17 of S.I. 2007/1951; there are other amendments that are not relevant to this Order.

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

Construction and maintenance of altered streets

12.—(1) Any street (other than any private streets) to be constructed under this Order shall be completed to the reasonable satisfaction of the street authority and shall, unless otherwise agreed with the street authority, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(2) Where a street is altered under this Order, the altered part of the street shall be completed to the reasonable satisfaction of the street authority and shall, unless otherwise agreed with the street authority, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(3) Where new land not previously part of the public highway is to form part of the public highway further to the provisions of this Order it shall, unless otherwise agreed with the street authority, be deemed as dedicated as part of the public highway on the expiry of a period of 12 months from its completion.

(4) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it shall be a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker 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 shall 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 the undertaker 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 the undertaker 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 the undertaker 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 the undertaker 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) In determining who is the street authority in relation to a street for the purposes of Part III of the New Roads and Street Works Act 1991, any obligation of the undertaker to maintain the street under paragraph (1) or (2) shall be disregarded.

Stopping up of streets

13.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised project, stop up each of the streets specified in column (2) of Schedule 6 (*streets to be stopped up*) to the extent specified in column (3) of that Schedule and shown on the relevant access plan.

(2) No street specified in column (2) of Schedule 6 (being a street to be stopped up) shall be wholly or partly stopped up under this article unless the condition specified in paragraph (3) is satisfied in relation to all the land which abuts on either side of the street to be stopped up.

(3) The condition referred to in paragraph (2) is that—

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

(4) Where a street has been stopped up under this article—

- (a) all rights of way over or along the street so stopped up shall be extinguished; and
- (b) the undertaker may use for the purposes of the authorised project so much of the street as is stopped up under paragraph (1).

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

(6) This article is subject to article 43 (*apparatus and rights of statutory undertakers in stopped up streets*).

Public rights of way and permissive paths

14.—(1) The public rights of way and permissive paths listed in column (2) of Schedule 7 (*public rights of way and permissive paths to be extinguished*) shown marked on the relevant access plans shall be extinguished—

- (a) once the undertaker has provided the alternative way or path as indicated on the access plans; and
- (b) as at the expiry of the notice given further to paragraph (2) of this article.

(2) No less than 28 days prior to the extinguishment of each of the public rights of way and permissive paths listed in column (2) of Schedule 7 shown marked on the relevant access plans the undertaker shall erect a site notice at each end of the section to be extinguished (as set out in column (3) of Schedule 7).

(3) Subject to the consent of the owner and occupier of any affected land, the undertaker and the local highway authority may agree that the alternative way or path to be provided under this article shall take a different route or have a different legal status than that indicated on the access plans; and a way or path provided in accordance with such agreement shall be taken to have been provided in accordance with the access plans for the purposes of paragraph (2).

(4) For the purposes of paragraph (1), the undertaker shall be taken to have provided the alternative way or path when –

- (a) the way or path has been completed:
 - (i) in accordance with any obligation under article 12 to complete the way or path to the reasonable satisfaction of the street authority, or
 - (ii) if no such obligation arises, to the reasonable satisfaction of the local highway authority.

Temporary stopping up

15.—(1) The undertaker, during and for the purposes of carrying out the authorised project, may temporarily stop up, alter or divert any street, any other public right of way, any city walkway, or permissive path whether or not within the Order limits and may for any reasonable time—

- (a) divert the traffic or a class of traffic from the street, public right of way, city walkway, or permissive path; and
- (b) subject to paragraph (2), prevent all persons from passing along the street, public right of way, city walkway, or permissive path.

(2) The undertaker shall provide reasonable access for pedestrians going to or from premises abutting a street, public right of way, city walkway, or permissive path affected by the temporary stopping up, alteration or diversion of a street, public right of way, city walkway, or permissive path under this article if there would otherwise be no such access.

(3) Without prejudice to the generality of paragraph (1), the undertaker may temporarily stop up, alter or divert the streets, public rights of way, city walkways and permissive paths specified in column (2) of Schedule 8 (*streets and rights of way etc. to be temporarily stopped up*) to the extent specified in column (3) of that Schedule.

(4) The undertaker shall not temporarily stop up, alter or divert—

- (a) any street, public right of way, city walkway or permissive path specified as mentioned in paragraph (3) without first consulting either the street authority or (in the case of a city walkway) the city walkway authority; or
- (b) any other street, public right of way, city walkway or permissive path without the consent of either the street authority or (in the case of a city walkway) the city walkway authority, which may attach reasonable conditions to any consent, but which consent shall not be unreasonably withheld.

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

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

Access to works

16.—(1) The undertaker may, for the purposes of the construction, use and or maintenance of the authorised project, other than in respect of specified works subject to the LoPS as applied by the highway authority in whose area the undertaker seeks to carry out such works—

- (a) form and lay out means of access, or improve existing means of access, in the location specified in column (2) of Schedule 9 (*access to works*) for the purposes specified in column (3) of Schedule 9; and
- (b) with the approval of the relevant planning authority after consultation with the highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised project.

(2) The relevant planning authority may attach any reasonable conditions to any approval given under paragraph (1)(b).

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

Agreements with street authorities

17.—(1) The undertaker may enter into agreements with a street authority or (in the case of a city walkway) the city walkway authority with respect to—

- (a) the construction of any new street or city walkway including any structure carrying the street or city walkway whether or not over or under any part of the authorised project;
 - (b) the strengthening, improvement, repair or reconstruction of any street or city walkway under the powers conferred by this Order;
 - (c) any stopping up, alteration or diversion of a street or city walkway authorised by this Order;
 - (d) the carrying out in the street of any of the works referred to in article 10(1) (*street works*) or their maintenance;
 - (e) the alteration of any street further to article 11(1) or (2) (*power to alter the layout etc of streets*); or
 - (f) such other works as the parties may agree.
- (2) Such an agreement may, without prejudice to the generality of paragraph (1)—
- (a) make provision for the street authority or the city walkway authority to carry out any function under this Order which relates to the street in question;
 - (b) include an agreement between the undertaker and street authority or the city walkway 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 of the 1980 Act;
 - (d) provide for any new way to be declared as city walkway in accordance with the City of London (Various Powers) Act 1967;
 - (e) contain such terms as to payment as the parties consider appropriate; and
 - (f) contain such other terms as the parties may agree between them.

Traffic regulation

18.—(1) Subject to the provisions of this article, the undertaker may at any time for the purposes of the—

- (a) construction of the authorised project temporarily regulate traffic further to part 1 of Schedule 10 (*traffic regulation*), and
- (b) construction, operation or maintenance of the authorised project permanently regulate traffic further to part 2 of Schedule 10 (*traffic regulation*),

in the manner specified in column (4) on those roads specified in column (2) and along the lengths and between the points specified, or to the extent otherwise described in column (3) of that Schedule.

(2) Without limiting the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the consent (such consent not to be unreasonably withheld) of the traffic authority in whose area the road concerned is situated, which consent may be subject to reasonable conditions, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with the construction, operation, or maintenance of the authorised project —

- (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, parking, 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 the undertaker.
- (3) The undertaker shall not exercise the powers in paragraphs (1) and (2) unless it has—
 - (a) given not less than 4 weeks’ notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
 - (b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of the traffic authority’s receipt of notice of the undertaker’s intention under sub-paragraph (a).
 - (4) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (2) shall—
 - (a) have 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 of the 1984 Act; and
 - (b) be deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004 (road traffic contraventions subject to civil enforcement).
 - (5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (2) at any time.
 - (6) Before complying with the provisions of paragraph (3) the undertaker shall consult the chief officer of police and the traffic authority in whose area the road is situated.
 - (7) Expressions used in this article and in the 1984 Act shall have the same meaning in this article as in that Act.
 - (8) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (2) the traffic authority shall (unless the parties agree otherwise) be deemed to have refused consent.
 - (9) The undertaker may not exercise the power in paragraph 18(1)(a) or 18(2) after completion of construction.