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STATUTORY INSTRUMENTS

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**2014 No. 2384**

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

PART 2

WORKS PROVISIONS

*Principal powers*

**Development consent etc. granted by the Order**

3. Subject to the provisions of this Order and to Schedule 3 (requirements) and Schedule 16 (protective provisions) to this Order the undertaker is granted—

- (a) development consent for the authorised development; and
- (b) consent for the ancillary works;

to be carried out within the Order limits and in accordance with the approved plans.

**Authorisation of use**

4. Subject to the provisions of this Order and to the requirements the undertaker may operate and use the authorised project for the purposes for which it was designed.

**Maintenance of authorised project**

5. The undertaker may at any time maintain the authorised project, except to the extent that this Order provides otherwise, and for the avoidance of doubt the power of maintenance provided by this article does not constitute the grant of development consent for any development not authorised by article 3 (development consent etc. granted by this order).

**Limits of Deviation**

6.—(1) In constructing or maintaining works 1a to 1d, 3b, 4b, 5b, 7, 10b, 11b, 12b, 14b, 15b, 16b and 20, the undertaker may deviate—

- (a) laterally from the lines, situations or positioning of the authorised development shown or indicated on the works plans to the extent of the limits of deviation shown on the works plans; and
- (b) vertically from the levels of the authorised development shown on the sections to any extent—
  - (i) not exceeding 3 metres upwards; or
  - (ii) downwards as may be found to be necessary or convenient.

### **Defence to proceedings in respect of statutory nuisance**

7.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990<sup>(1)</sup> (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of Section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order shall be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance—

- (a) relates to premises used by the undertaker for the purposes of or in connection with the construction of the authorised project and associated activities up to completion of construction and that the nuisance is attributable to the carrying out of the authorised project in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974; or
- (b) is a consequence of complying with a requirement of this Order and that it cannot reasonably be avoided; or
- (c) is a consequence of the construction of the authorised project before completion of construction and that it cannot reasonably be avoided.

(2) Section 61(9) of the Control of Pollution Act 1974 (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), shall not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project.

(3) The defence in this article shall not have effect after completion of construction.

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(1) 1990 c.43. section 82 is amended by section 5 of the Noise and Statutory Nuisance Act 1993 (c.40), section 106 of and Schedule 17 to the Environment Act 1995 (c.25) and section 103 of the Clean Neighbourhoods and Environment Act 2005 (c.16). There are other amendments to this section which are not relevant to this Order.