

SCHEDULES

SCHEDULE 15

PROTECTIVE PROVISIONS

PART VII

PROTECTION OF PORT OF LONDON AUTHORITY

- 1 (1) The provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the nominated undertaker and the Port Authority, have effect for the protection of the Port Authority and the users of the river.
- (2) In this Part of this Schedule—
- “construction” includes execution, placing, altering, replacing, relaying and removal and, in its application to works which include or comprise any operation, means the carrying out of that operation;
 - “operations” includes temporary works, dredging and mooring of vessels authorised by paragraph 11 of Schedule 2 to this Act;
 - “plans” includes sections, drawings, specifications and method statements;
 - “the Port Authority” means the Port of London Authority;
 - “the river” means the waters within the limits of the port of London as described in Schedule 1 to the Port of London Act 1968;
 - “specified work” means so much of any permanent or temporary work authorised by Part I of this Act (which includes, for the avoidance of doubt, any removal of gravel or other material, any dredging or similar work and any geotechnical investigations that may be undertaken) as is on, in, under or over—
 - (a) the surface of land below the level of mean high water springs forming part of the river; or
 - (b) any land owned, occupied or used by the Port Authority for operational purposes.
- 2 (1) Before beginning any operations for the construction of any specified work, the nominated undertaker shall submit to the Port Authority plans of the work and such further particulars available to it as the Port Authority may within 14 days of the submission of the plans reasonably require.
- (2) A specified work shall not be constructed except in accordance with such plans as may be approved by the Port Authority or determined under paragraph 10 below.
- (3) Any approval of the Port Authority required under this paragraph shall not be unreasonably withheld and—

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- (a) shall be deemed to be given if it is neither given nor refused (with an indication of the grounds for refusal) within 28 days of the submission of the plans; and
- (b) may be given subject to such reasonable requirements as the Port Authority may make for the protection of—
- (i) traffic in, or the flow or regime of, the river; or
 - (ii) the use of its operational land for the purposes of performing its statutory functions.
- (4) The requirement for approval under this paragraph does not constitute any specified work a work subject to any of the controls in Part V of the Port of London Act 1968.
- 3 The nominated undertaker shall carry out all operations for the construction of any specified work with all reasonable despatch to the reasonable satisfaction of the Port Authority so that river traffic and the exercise of the Port Authority's statutory functions shall not suffer more interference than is reasonably practicable and the Port Authority shall be entitled by its officer at all reasonable times, on giving such notice as may be reasonable in the circumstances, to inspect such operations other than any operation relating to Work No. 10.
- 4 (1) The nominated undertaker shall not, without the consent of the Port Authority, deposit in, or allow to fall or be washed into, the river any gravel, soil or other material.
- (2) Any consent of the Port Authority under this paragraph shall not be unreasonably withheld and—
- (a) shall be deemed to have been given if it is neither given nor refused within 28 days of the submission of the request therefor; and
 - (b) may be given subject to such reasonable requirements as the Port Authority may make for the protection of navigation in, or the flow or regime of, the river.
- (3) In its application to the discharge of water into the river, paragraph 9(5) of Schedule 2 to this Act shall have effect subject to the terms of any conditions attached to a consent given under this paragraph.
- (4) Nothing in this paragraph authorises the doing of anything prohibited by section 85(1), (2) or (3) of the Water Resources Act 1991 (offences of polluting controlled waters).
- (5) The requirement for consent under this paragraph does not constitute any specified work or any operation a work or operation subject to any of the controls in Part V of the Port of London Act 1968.
- 5 If any pile, stump or other obstruction to navigation becomes exposed in the course of constructing any specified work (other than a pile, stump or other obstruction on the site of any permanent work), the nominated undertaker shall, as soon as reasonably practicable after the receipt of notice in writing from the Port Authority requiring such action, remove it from the river or, if it is not reasonably practicable to remove it, cut it off at such level below the bed of the river (not being more than two metres below the bed of the river) as the Port Authority may reasonably direct.
- 6 If—
- (a) by reason of the construction of any specified work it is reasonably necessary for the Port Authority to incur costs in altering, removing,

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resiting or reinstating existing moorings owned by the Port Authority, or laying down and removing substituted moorings, or carrying out dredging operations for any such purpose, not being costs which it would have incurred for any other reason; and

- (b) the Port Authority gives to the nominated undertaker not less than 28 days' notice of its intention to incur such costs, and take into account any representations which the nominated undertaker may make in response to the notice within 14 days of the receipt of the notice;

the nominated undertaker shall pay the costs reasonably so incurred by the Port Authority.

7 The nominated undertaker shall, at or near every specified work, and any other work of which the nominated undertaker is in possession in exercise of any of the powers of Part I of this Act, being in either case a work which is below the level of mean high water springs, exhibit such lights, lay down such buoys and take such other steps for preventing danger to navigation as the Port Authority may from time to time reasonably require.

8 (1) If any specified work or any other work of which the nominated undertaker is in possession in exercise of any of the powers of Part I of this Act, being in either case a work which is below the level of mean high water springs is abandoned, the Port Authority may by notice in writing require the nominated undertaker to take such reasonable steps as may be specified in the notice to remove the work and (to such extent as the Port Authority reasonably requires) to restore the site to its former condition.

(2) If any specified work which is below the level of mean high water springs is in such condition that it is, or is likely to become, a danger to or to interfere with navigation in the river, the Port Authority may by notice in writing require the nominated undertaker to take such reasonable steps as may be specified in the notice—

- (a) to repair and restore the work or part of it, or
- (b) if the nominated undertaker so elects, to remove the work and (to such extent as the Port Authority reasonably requires) to restore the site to its former condition.

(3) If—

- (a) a specified work which consists of a tidal work and a non-tidal work is abandoned or falls into decay; and
- (b) the non-tidal work is in such a condition as to interfere with the right of navigation in the river;

the Port Authority may include the non-tidal work, or any part of it, in any notice under this paragraph.

(4) In sub-paragraph (3) above “tidal work” means so much of any specified work as is below the level of mean high water springs and “non-tidal work” means so much of any such work as is above that level.

(5) If after such reasonable period as may be specified in a notice under this paragraph the nominated undertaker has failed to begin taking steps to comply with the requirements of the notice or after beginning has failed to make reasonably expeditious progress towards their implementation, the Port Authority may carry out the works specified in the notice and any expenditure reasonably incurred by it in so doing shall be recoverable from the nominated undertaker.

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- 9 Paragraph 9(4) of Schedule 2 to this Act shall apply to any discharge of water under paragraph 9(1) of that Schedule in connection with the construction or maintenance of a specified work notwithstanding that the part of the river affected by the discharge is not a main river.
- 10 Any dispute arising between the nominated undertaker and the Port Authority under this Part of this Schedule shall, if the parties agree, be determined by arbitration but shall otherwise be determined by the Secretary of State.