
STATUTORY INSTRUMENTS

2015 No. 1561

The Preesall Underground Gas Storage Facility Order 2015

PART 2

WORKS PROVISIONS

CHAPTER 3

Streets

Street works

9.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 2 (streets subject to street works) as are 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;
- (c) place apparatus in the street;
- (d) maintain apparatus in 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; and
- (g) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c), (d), (e) and (f).

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

(3) The provisions of sections 54 to 106 of the 1991⁽²⁾ Act apply to any street works carried out under paragraph (1).

(4) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act save that it shall further include a bus shelter and associated bus stop infrastructure.

(1) Section 48 is amended by the Local Transport Act 2008 (c. 26) section 124(2); section 51 is amended by Schedule 1 to the Traffic Management Act 2004 (c. 18).

(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.

Power to alter layout, etc., of streets

10.—(1) The undertaker may alter the layout of or carry out any ancillary works in the street specified in column (2) of Schedule 3 (streets subject to alteration of layout) 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 constructing and maintaining the authorised development, alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; 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 or verge within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, cycle track or verge; and
- (c) reduce the width of the carriageway of the street.

(3) The powers conferred by paragraph (2) shall not be exercised without the consent of the street authority but such consent shall not be unreasonably withheld.

(4) The alteration of the layout of any street carried out pursuant to paragraph (1) or (2) shall be completed to the reasonable satisfaction of the street authority.

Maintenance of altered streets

11.—(1) Where a street is altered or diverted under this Order, the altered or diverted part of the street shall, unless otherwise agreed with the street authority, be maintained by and at the expense of the undertaker.

(2) 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.

(3) For the purposes of a defence under paragraph (2), 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;
- (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.

Temporary stopping up of streets and rights of way

12.—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter or divert any street or any other right of way and may for any reasonable time—

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

(2) The undertaker shall provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street 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 or rights of way specified in columns (1) and (2) of Schedule 4 (streets and rights of way to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the access and temporary stopping up plans, in column (3) of that Schedule.

(4) The undertaker shall restore to the reasonable satisfaction of the highway authority any street that has been temporarily stopped up, altered or diverted under paragraph (1) or (3).

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

- (a) any street or right of way specified as mentioned in paragraph (3) without first consulting the highway authority; and
- (b) any other street without the consent of the highway authority which may attach reasonable conditions to any consent.

(6) 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.

Access to works

13. The undertaker may, for the purposes of the construction or the maintenance of the authorised development—

- (a) form and lay out means of access, or improve existing means of access, in the locations specified in columns (1) and (2) of Schedule 5 (access to works); 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 development.

Agreements with street authorities

14.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street including any structure carrying the street over or under any part of the authorised development;
- (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
- (c) any stopping up, alteration or diversion of a street authorised by this Order; or
- (d) the carrying out in the street of any of the works referred to in article 9(1) (street works).

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;

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- (b) include an agreement between the undertaker and street authority specifying a reasonable time for completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.