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STATUTORY INSTRUMENTS

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**2022 No. 853**

**The Sizewell C (Nuclear Generating Station) Order 2022**

**PART 8**

**MISCELLANEOUS AND GENERAL**

**Removal of human remains**

**78.**—(1) In this article “the specified land” means the land within the Order limits.

(2) Before the undertaker carries out any development or works within the Order limits which will or may disturb any human remains in the specified land it must remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(3) Before any such remains are removed from the specified land the undertaker must give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised development; and
- (b) displaying a notice in a conspicuous place on or near to the specified land.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (3) the undertaker must send a copy of the notice to the relevant local planning authority.

(5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person’s intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,

and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).

(7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who must remove the remains and as to the payment of the costs of the application.

(8) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land; or
- (b) such notice is given and no application is made under paragraph (7) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (10) the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves must be reinterred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(11) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation is to be sent by the undertaker to the Registrar General giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) is to be sent by the undertaker to the relevant local planning authority mentioned in paragraph (4).

(12) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.

(13) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(14) Section 25 of the Burial Act 1857 (Offence of removal of body from burial grounds)<sup>(1)</sup> does not apply to a removal carried out in accordance with this article.

### **Application of landlord and tenant law**

**79.**—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants is to prejudice the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

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(1) 1857 c. 81.

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

### **Operational land for purposes of the 1990 Act**

**80.** Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (Cases in which land is to be treated as not being operational land for the purposes of that Act) in respect of—

- (a) the permanent development site; and
- (b) land in respect of which Work No. 1D and Work No. 1E are authorised.

### **Felling or lopping of trees and removal of hedgerows**

**81.—**(1) The undertaker may fell or lop any tree or shrub near, within or overhanging any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from—

- (a) obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not cause unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) The approval of East Suffolk Council (not to be unreasonably withheld or delayed) must be obtained before the undertaker may exercise the power in paragraph (1) in respect of any tree outside the Order limits.

(4) The undertaker may, for the purposes of the authorised development—

- (a) subject to paragraph (2), remove any hedgerows within the Order limits that may be required for the purposes of carrying out the authorised development; and
- (b) only remove important hedgerows identified in Schedule 22 (Removal of important hedgerows) to the extent shown on the plans identified in Schedule 22.

(5) The powers conferred by paragraphs (1) and (3) remove any obligation upon the undertaker to secure any consent under the Hedgerow Regulations 1997(2) in undertaking works pursuant to paragraphs 1(a) or (b) or 4(a) or (b).

(6) Nothing in this article authorises any works to any tree subject to a tree preservation order.

(7) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

(8) In this article “hedgerow” and “important hedgerow” have the meaning given in the Hedgerow Regulations 1997.

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(2) [S.I. 1997/1160](#), amended by section 73(2) of the Countryside and Rights of Way Act 2000 (c. 37)[S.I. 2003/2155](#), [S.I. 2006/1177](#), [S.I. 2009/1307](#), [S.I. 2013/755](#) and [S.I. 2015/377](#).

### **Certification of plans, etc.**

**82.**—(1) The undertaker must, as soon as practicable after the date on which this Order is made, submit to the Secretary of State copies of the documents and plans identified in Schedule 23 (Certified Documents) to this Order for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(3) Where a plan or document certified under paragraph (1)—

- (a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and
- (b) identifies the provision by number or combination of numbers and letters, which is different from the number or combination of numbers or letters by which the corresponding provision of this Order is identified in the Order as made;

the reference in the plan or document concerned must be construed for the purposes of this Order as referring to the provisions (if any) corresponding to that provision in the Order as made.

### **Service of notices**

**83.**—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post; or
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (9), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978<sup>(3)</sup> (References to service by post) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner” or, as the case may be, “occupier” of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Paragraphs (6) to (9) apply where a person (“A”) is required or authorised to serve or send a notice or other document for the purposes of this Order on or to another person (“B”).

(6) A may serve or send the notice or other document by electronic transmission if—

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(3) 1978 c. 30. There are amendments to this Act which are not relevant to this Order.

- (a) B has sent A notice that B agrees to receive that notice or document (or notices and documents of a description including that notice or document) by electronic transmission;
- (b) B has not subsequently withdrawn that agreement in accordance with paragraph (8); and
- (c) A complies with any conditions as to addressing or mode of transmission that B has specified in agreeing to receive notices or other documents by electronic transmission.

(7) If B notifies A within 7 days of receiving a notice or other document by electronic transmission that B requires a paper copy of all or any part of the notice or other document, A must provide B with such a copy as soon as reasonably practicable.

(8) B may withdraw agreement to receive a notice or document (or notices or documents of a specified description) by electronic transmission by sending a notice to that effect to A.

(9) Notice under paragraph (8) is final and takes effect on a date specified by B in the notice but that date must not be less than 7 days after the date on which the notice is given.

(10) This article does not exclude the employment of any method of service not expressly provided for by it.

(11) In this article “electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form.

### **Arbitration**

**84.**—(1) – Any difference under any provision of this Order, unless otherwise provided for in this Order or unless otherwise agreed between the parties, and other than a difference which falls to be determined by the tribunal or is the subject of enforcement action under Part 8 of the 2008 Act, is to be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

(2) This article does not apply to the provisions of the 1847 Act incorporated in this Order by article 49 (incorporation of the Harbours, Docks and Piers Clauses Act 1847) or to Trinity House in the exercise of its statutory functions.

(3) This article is without prejudice to article 76 (saving for Trinity House).

(4) Any matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order shall not be subject to arbitration.

### **Procedure in relation to certain approvals etc.**

**85.**—(1) Schedule 24 (Procedure for approvals, consents and appeals) is to have effect in relation to all consents, agreement or approvals granted, refused or withheld in relation to the requirements unless otherwise agreed between the undertaker and the discharging authority.

(2) The procedure set out in paragraph (1) relating to the appeal process of Schedule 24 has effect in relation to any other consent, agreement or approval required under this Order (including the requirements in Schedule 2 of this Order) where such consent, agreement or approval is granted subject to any condition to which the undertaker objects, or is refused or is withheld.

(3) Any matter for which the consent or approval of the Marine Management Organisation is required under any provision of this Order shall not be subject to this procedure.

### **Application, exclusion and modification of legislative provisions**

**86.** Schedule 25 (Miscellaneous controls) to this Order, which makes provision applying, modifying and excluding statutory provisions which relate to matters for which provision may be made by this Order, has effect.

### **Crown rights**

**87.**—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any lessee or licensee to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to Her Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to Her Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in section 227 of the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions and is deemed to have been given in writing where it is sent electronically.

### **Security in respect of the payment of compensation etc.**

**88.**—(1) The undertaker must not exercise the powers in Part 5 (Powers of acquisition and possession of land) of this Order until—

- (a) a bond for £42 million pounds has been provided by a financial institution; or
- (b) an alternative form of security approved in writing by the Secretary of State has been provided for £42 million pounds,

in respect of the liabilities of the undertaker to pay compensation to landowners in connection with the acquisition of their land or of rights over their land or the temporary use of their land under Part 5 of this Order.

(2) The security referred to in paragraph (1)(b) may include, without limitation, any one or more of the following—

- (a) the deposit of a cash sum;
- (b) a payment into court;
- (c) an escrow account;
- (d) an insurance policy; or
- (e) a company guarantee.

(3) Security given in respect of any liability of the undertaker to pay compensation under this Order is to be treated as enforceable against the provider of that security by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.

(4) The undertaker is entitled to reduce the amount of security to be maintained under paragraph (1) where—

- (a) the undertaker has made a payment of compensation to a claimant under Part 5 of this Order (including payment under private treaty in lieu of the exercise of the powers under Part 5 of this Order) and provided evidence to the Secretary of State that such payment has been made; and
- (b) the Secretary of State is satisfied that the reduced amount of security proposed by the undertaker will cover the remaining liabilities to pay compensation in respect of the exercise of the powers in Part 5 of this Order.