
WELSH STATUTORY INSTRUMENTS

2021 No. 1478

The Morlais Demonstration Zone Order 2021

PART 2

Works Provisions

Supplemental powers

Power to survey and investigate land

14.—(1) The undertaker may for the purposes of this Order—

- (a) survey or investigate any land shown within the onshore Order limits or which may be affected by the authorised works;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions as the undertaker thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without prejudice to the generality of paragraph (a), carry out ecological or archaeological investigations on such land;
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes; and
- (e) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (d).

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1), unless at least 7 days' notice has been served on every owner and occupier of the land such notice to include notice of the recipient's right to compensation under paragraph (13).

(3) If the undertaker proposes to do any of the following, the notice must include details of what is proposed—

- (a) searching, boring or excavating;
- (b) leaving apparatus on land;
- (c) taking samples;
- (d) an aerial survey; and
- (e) carrying out any other activities that may be required to facilitate compliance with the instruments mentioned in paragraph (4).

(4) The instruments referred to in paragraph (3)(e) are—

- (a) The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017;
- (b) The Conservation of Habitats and Species Regulations 2017.

(5) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required, before or after entering the land produce written evidence of his authority to do so including any warrant issued under paragraph (6); and
 - (b) may not use force unless a justice of the peace has issued a warrant under paragraph (6).
- (6) A justice of the peace may issue a warrant authorising a person to use force in the exercise of the power conferred by this article if satisfied—
- (a) that another person has prevented or is likely to prevent the exercise of that power; and
 - (b) that it is reasonable to use force in the exercise of that power.
- (7) The force that may be authorised by a warrant is limited to that which is reasonably necessary.
- (8) A warrant authorising the person to use force must specify the number of occasions on which the undertaker can rely on the warrant when entering and surveying or valuing land.
- (9) The number specified must be the number which the justice of the peace considers appropriate to achieve the purpose for which the entry and survey or valuation are required.
- (10) Any evidence in proceedings for a warrant under this article must be given on oath.
- (11) No trial holes may be made under this article—
- (a) in a carriageway or footway without the consent of the highway authority; or
 - (b) in a private street without the consent of the street authority,
- but such consent may not be unreasonably withheld.
- (12) If either a highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 56 days of receiving the application for consent—
- (a) under paragraph (11)(a) in the case of a highway authority; or
 - (b) under paragraph (11)(b) in the case of a street authority,
- that authority is deemed to have granted consent.
- (13) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.
- (14) Paragraphs (1) to (13) apply in relation to Crown land, however a person may only exercise the power conferred by paragraph (1) in relation to Crown land if the person has the permission of the appropriate authority.