
STATUTORY INSTRUMENTS

2014 No. 3328

The Wellington C Gas Pipeline Order 2014

PART 6

MISCELLANEOUS AND GENERAL

Defence to proceedings in respect of statutory nuisance

30.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990⁽¹⁾ (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within section 79(1)(g) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance), no order may be made, and no fine may be imposed, under section 82(2) of that Act⁽²⁾ 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 or maintenance of the authorised development and is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site) of the Control of Pollution Act 1974⁽³⁾ or a consent given under section 61 (prior consent for work on construction site) or section 65 (noise exceeding registered level) of that Act; or
- (b) is a consequence of the use, construction or maintenance of the authorised development and cannot reasonably be avoided.

(2) Section 61(9) (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) of the Control of Pollution Act 1974 and section 65(8) (corresponding provision in relation to consent for registered noise level to be exceeded) of that Act do 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 development.

Operational land for purposes of 1990 Act

31. Development consent granted by this Order must 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 operational land for the purposes of that Act).

Felling or lopping of trees, etc.

32.—(1) The undertaker may at any time fell or lop any tree or shrub within or overhanging land within the works limits, or cut back its roots, if it reasonably believes it to be necessary to do so

(1) 1990 c.43. Section 82(1) was amended by paragraph 6 of Schedule 17 to the Environment Act 1995 (c.25).
(2) Section 82(2) was amended by section 5(2) of the Noise and Statutory Nuisance Act 1993 (c.40) and paragraph 6 of Schedule 17 to the Environment Act 1995.
(3) 1974 c.40. Section 61 was amended by Schedule 7 to the Building Act 1984 (c.55), paragraph 15 of Schedule 15 to the Environmental Protection Act 1990 and Schedule 24 to the Environment Act 1995. Section 65 was amended by paragraph 15 of Schedule 15 to the Environmental Protection Act 1990 and Schedule 24 to the Environment Act 1995.

to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) 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.

Certification of plans, etc.

33.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the book of reference submitted as document reference WCGP 013.3, version 3, June 2014, in the application for this Order;
- (b) the land plans submitted as document reference WCGP 011.1 version 3, June 2014, sheets 1 to 10 in the application for this Order;
- (c) the works plans submitted as document reference WCGP 012.1 version 3, June 2014, sheets 1 to 10 in the application for this Order;
- (d) the Yoxall AGI plan submitted as document reference WCGP 023.1 in the application for this Order and updated to version C, June 2014, drawing reference no. UK/PWLC0233/C;
- (e) the environmental statement submitted as documents reference WCGP 014.1 (chapters), WCGP 014.2 (appendices), WCGP 014.3 (figures), and WCGP 030.013 (addendum, version 2, April 2014) in the application for this Order; and
- (f) any other plans, drawings or documents referred to in this Order,

for certification that they are true copies of the plans, drawings and documents referred to in this Order.

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

Arbitration

34. Any difference under any provision of this Order (other than a difference that falls to be determined by the tribunal), unless otherwise provided for, must 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.

Protection of interests

35. Schedule 9 (protective provisions) has effect.

Service of notices

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

- (a) by post;
- (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 written consent of the recipient and subject to paragraphs (6) to (8), 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(4) 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 purpose of this Order a notice or other document is required or authorised to be served on a person as having any 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) Where a notice or other document required to be served or sent for the purpose of this Order is served or sent by electronic transmission, the requirement must be taken to be fulfilled only where—
- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
 - (b) the notice or other document is capable of being accessed by the recipient;
 - (c) the notice or other document is legible in all material respects; and
 - (d) the notice or other document is in a form sufficiently permanent to be used for subsequent reference.
- (6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document, the sender must provide such a copy as soon as reasonably practicable.
- (7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).
- (8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—
- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
 - (b) the revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.
- (9) This article is not to be taken to exclude the employment of any method of service not expressly provided for by it.
- (10) In this article, “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be served, given or supplied by means of a notice or document in printed form.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
