
STATUTORY INSTRUMENTS

2015 No. 1561

The Preesall Underground Gas Storage Facility Order 2015

PART 4

MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

34.—(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 shall prejudice the operation of any agreement to which this article applies.

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

- (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.

Deemed licence for purposes of the 2009 Act

35. The undertaker is deemed to have been granted a licence under Part 4 of the 2009 Act⁽¹⁾ to carry out the works described in Schedule 7 (deemed licence under the Marine and Coastal Access Act 2009), subject to the provisions set out in that Schedule, which are deemed to have been attached to the licence by the Secretary of State under Part 4 of the 2009 Act.

Operational land for purposes of the 1990 Act

36. Development consent granted by this Order shall 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).

(1) 2009 c. 23; there are amendments that are not relevant to this Order.

Felling or lopping of trees or shrubs

37.—(1) The undertaker may fell or lop any tree or shrub near 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—

- (a) from 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) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker shall do no unnecessary damage to any tree or shrub and shall 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, shall be determined under Part 1 of the 1961 Act.

Protective provisions

38. Schedule 8 (protective provisions) has effect.

Certification of plans etc.

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

- (a) the access and temporary stopping up plans;
- (b) the approved development plans;
- (c) the book of reference;
- (d) the environmental statement;
- (e) Flints Caravan Park plan;
- (f) geology summary report;
- (g) Harbour Village plan;
- (h) Kneps Farm Holiday Park plan;
- (i) the land plans;
- (j) the landscape and ecological management strategy plan; and
- (k) Preesall site plan,

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

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

Service of notices

40.—(1) A notice or other document required or authorised to be served, given or supplied under this Order may be served, given or supplied in any of these ways—

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied;
- (b) by leaving it at the usual or last known place of abode of that person or, in a case where an address for service has been given by that person, at that address;

- (c) by sending it by post, addressed to that person at that person's usual or last known place of abode or, in a case where an address for service has been given by that person, at that address;
 - (d) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at that person's usual or last known place of abode or, in a case where an address for service has been given by that person, at that address;
 - (e) in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition set out in paragraph (2), to that person at that address;
 - (f) in the case of an incorporated company or body—
 - (i) by delivering it to the secretary or clerk of the company or body at their registered or principal office;
 - (ii) by sending it by post, addressed to the secretary or clerk of the company or body at that office; or
 - (iii) by sending it in a prepaid registered letter or, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.
- (2) The condition mentioned in paragraph (1)(e) is that the notice or other document must be—
- (a) capable of being accessed by the person mentioned in that provision;
 - (b) legible in all material respects; and
 - (c) in a form sufficiently permanent to be used for subsequent reference.
- (3) For the purposes of paragraph (2), “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 if served, given or supplied by means of a notice or document in printed form.

Arbitration

41. Any difference or dispute under any provision of this Order (other than a difference or dispute which falls to be determined by the tribunal) shall, unless otherwise provided for in this Order and unless otherwise agreed between the parties, 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 President of the Institution of Civil Engineers.

Requirements

- 42.**—(1) Schedule 9 (Requirements) has effect.
- (2) Save for paragraph 4(1) and (2) (detailed design approval) of Schedule 9 (Requirements), Schedule 9 shall not apply to—
- (a) Work Nos. 16J, 16K and 16L of Schedule 1 (authorised development) so far as these fall within the UK marine area; and
 - (b) the incorporation of filters into the existing water intake structure comprised in Work No. 15 of Schedule 1 (authorised development).

Appeals relating to decisions under Requirements

- 43.**—(1) Where the relevant planning authority—
- (a) refuses an application for any consent, agreement or approval of that authority required by a Requirement or grants that consent, agreement or approval subject to conditions; or

- (b) does not give notice to the undertaker of its decision on an application for any consent, agreement or approval of that authority required by a Requirement within 8 weeks beginning with the day immediately following that on which the application is received by that authority or within such extended period as may at any time be agreed upon in writing between the undertaker and that authority,

article 41 (arbitration) does not apply but the undertaker may by notice appeal to the Secretary of State.

(2) Any appeal to the Secretary of State under paragraph (1) shall be made under Part 3 (control over development) of the 1990 Act as if the Requirement which is the subject of the appeal were a condition under subsection 78(1)(b) of the 1990 Act.

Crown land

44.—(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 to take, use, enter upon or in any manner interfere with any land, hereditaments, or rights of whatsoever description (including any part of the shore or bed of the sea or any river, channel, creek, bay or estuary) belonging to—

- (a) Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those Commissioners; or
- (b) 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: or
- (c) Her Majesty in right of the Duchy of Lancaster, without the consent in writing of the Chancellor of the Duchy.

(2) No interest in Crown land may be acquired compulsorily under this Order unless the appropriate Crown authority consents to the acquisition.

(3) A consent under paragraph (1) or (2) may be given unconditionally or subject to such conditions or upon such terms as may be considered necessary or appropriate.