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STATUTORY INSTRUMENTS

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**2017 No. 433**

**The Keuper Underground Gas Storage Facility Order 2017**

**PART 3**

**STREETS**

**Street works**

**10.**—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 3 (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) execute any works to provide or improve sight lines required by the highway authority; and
- (f) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c), (d) and (e);

(2) The powers conferred by paragraph (1) must not be exercised without the consent of the street authority but such consent must not be unreasonably withheld.

(3) 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.

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

(5) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

**Power to alter layout, etc., of streets**

**11.**—(1) The undertaker may for the purposes of carrying out the authorised development within the Order limits alter the layout of or carry out works in the street specified in column (2) of Schedule 4 (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 paragraph (1) and subject to paragraph (3), the undertaker may for the purposes of carrying out or maintenance of 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 the kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any kerb, footway, cycle track or verge; and

(c) reduce the width of the carriageway of the street.

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

(4) Where it seeks the consent of the street authority under sub-paragraph (3) the undertaker must provide to the street authority such details of the proposed works as the street authority may reasonably require.

(5) The alteration of any street pursuant to this article must be completed to the reasonable satisfaction of the street authority.

### **Maintenance of altered streets**

**12.**—(1) Where a street is altered or diverted under this Order, the altered or diverted part of the street, unless otherwise agreed with the street authority, will be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the street authority.

(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 is 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 may, 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; and
- (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 that person proper instructions with regard to the maintenance of the street and that those instructions had been carried out.

### **Temporary prohibition or restriction of use of streets**

**13.**—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily alter, divert, prohibit the use of or restrict any street or any other right of way and may for any reasonable time—

- (a) divert the traffic from the street or right of way; and
- (b) subject to paragraph (3), prevent all persons from passing along the street or right of way.

(2) Without prejudice to paragraph (1), the undertaker may temporarily alter or divert the streets specified in columns (1) and (2) of Schedule 5 (streets and rights of way to be temporarily stopped up) to the extent specified, by reference to the numbers shown on the street works and access plan, and in column (3) of that Schedule.

(3) The undertaker must 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.

(4) The undertaker must restore to the reasonable satisfaction of the street authority any street that has been temporarily stopped up, altered or diverted under this article.

(5) The undertaker may not temporarily prohibit the use of, alter or divert—

- (a) any street or right of way specified in paragraph (2) without first consulting the street authority; and
- (b) any other street without the consent of the street authority which may attach reasonable conditions to any consent.

(6) The undertaker, during and for the purposes of carrying out the authorised development, may for any reasonable time temporarily prohibit the use of, alter or divert the section of the public right of way (being a restricted byway) shown between points 1 and 2 on the street works and access plan and specified in Schedule 5 (streets and rights of way to be temporarily stopped up).

(7) Without prejudice to paragraph (6), the undertaker may not temporarily alter or divert a public right of way without first consulting the local highway authority, whose consent may be subject to conditions and must not be unreasonably withheld.

(8) Any person who suffers loss by the suspension of any private right of way under this article will be entitled to compensation to be determined, in the case of dispute, under Part 1 of the 1961 Act.

#### **Access to works**

14. The undertaker may, for the purposes 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 6 (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**

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

- (a) the construction of any new street authorised by this Order;
- (b) any stopping up, alteration or diversion of a street authorised by this Order; or
- (c) the carrying out in the street of any of the works referred to in article 10(1) (street works).

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

- (a) make provision for the relevant authority to carry out any function under this Order which relates to the street in question;
- (b) include an agreement between the undertaker and the relevant authority for specifying a reasonable time for completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.