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STATUTORY INSTRUMENTS

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**2022 No. 853**

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

**PART 3**

**STREETS**

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

**13.**—(1) The undertaker may, subject to paragraph (3), for the purposes of constructing, operating and maintaining the authorised development, enter onto and alter the layout of, or carry out any works on, any street whether or not within the Order limits and, without limiting the scope of this paragraph, the undertaker may—

- (a) alter the level or increase the width of any kerb, street, footpath, footway, cycle track or verge or central reservation;
- (b) make and maintain passing place(s);
- (c) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track, verge, or central reservation within the street;
- (d) reduce the width of the carriageway of the street;
- (e) execute any works to widen or alter the alignment of pavements;
- (f) execute any works of surfacing or re-surfacing of the street; and
- (g) execute any works necessary to alter existing facilities for the management and protection of pedestrians.

(2) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(3) The powers conferred by paragraph (1) must not be exercised without the consent of the street authority.

**Street works**

**14.**—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in column (2) of Schedule 9 (Streets subject to street works) as is within the Order limits for the relevant site specified in column (1) of Schedule 9 and—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street or carry out works to strengthen or repair the carriageway;
- (c) place or keep apparatus in the street;
- (d) maintain, renew or alter apparatus in or on the street or change its position; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (d).

(2) Without limiting the scope of the powers conferred by paragraph (1) but subject to the consent of the street authority, which consent must not be unreasonably withheld, the undertaker may, for the

purposes of the authorised development, enter on so much of any other street whether or not within the Order limits, for the purposes of carrying out the works set out at paragraph (1) above.

(3) The authority given by paragraph (1) or (2) 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 (unless disapplied through the operation of article 15 (application of the 1991 Act)) apply to any street works carried out under paragraph (1) or (2).

### **Application of the 1991 Act**

**15.**—(1) Where the undertaker carries out works under this Order in relation to a highway which consists of or includes a carriageway and the works carried out are—

- (a) of a description mentioned in any of sub-paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of the 1991 Act (which defines what highway authority works are major highway works); or
- (b) works which, had they been executed by the highway authority, could have been carried out in exercise of the powers conferred by section 64 (dual carriageway and roundabouts) or section 184 (vehicle crossings over footways and verges) of the 1980 Act,

the works will be treated for the purposes of Part 3 of the 1991 Act (street works) as if they were major highway works and references in that Part to the highway authority concerned, in relation to such works, are to be construed as references to the undertaker.

(2) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers of this Order—

- (a) section 56 (power to give directions as to timing of street works);
- (b) section 56A (power to give directions as to placing of apparatus);
- (c) section 58 (restrictions on works following substantial road works);
- (d) section 58A (restriction on works following substantial street works);
- (e) section 73A (power to require undertaker to re-surface street);
- (f) section 73B (power to specify timing etc. of re-surfacing);
- (g) section 73C (materials, workmanship and standard of re-surfacing);
- (h) section 77 (liability for cost of use of alternative route);
- (i) section 78A (contributions to costs of re-surfacing by undertaker); and
- (j) Schedule 3A (restriction on works following substantial street works).

(3) The provisions of the 1991 Act mentioned in paragraph (4) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under those provisions apply (with all necessary modifications) in relation to any temporary closure under the powers conferred by article 19 (temporary closure of streets), whether or not the temporary closure constitutes street works within the meaning of that Act—

(4) The provisions of the 1991 Act referred to in paragraph (3) are—

- (a) section 54 (advance notice of certain works), subject to paragraph (6);
- (b) section 55 (notice of starting date of works), subject to paragraph (6);
- (c) section 57 (notice of emergency works);
- (d) section 59 (general duty of street authority to co-ordinate works);

- (e) section 60 (general duty of undertakers to co-operate);
- (f) section 68 (facilities to be afforded to street authority);
- (g) section 69 (works likely to affect other apparatus in the street);
- (h) section 75 (inspection fees);
- (i) section 76 (liability for cost of temporary traffic regulation); and
- (j) section 77 (liability for cost of use of alternative route),

and all such other provisions as apply for the purposes of the provisions mentioned above.

(5) Sections 54 and 55 of the 1991 Act have effect as if references in section 57 of that Act to emergency works included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

- (6) Nothing in article 22 (construction and maintenance of new, altered or diverted streets)—
- (a) affects the operation of section 87 (prospectively maintainable highways) of the 1991 Act;
  - (b) means that the undertaker is by reason of any duty under that article to maintain a street or to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or
  - (c) has effect in relation to maintenance works which are street works within the meaning of the 1991 Act, as respects which the provisions of Part 3 of the 1991 Act apply

### **Permanent stopping up of streets, change of status, and extinguishment of private means of access**

**16.**—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development:

- (a) stop up each of the streets and extinguish each private means of access specified in column (2) of Parts 1 and 2 of Schedule 10 (streets to be permanently stopped up, changed in status or private means of access extinguished) to the extent specified, by reference to the letters and numbers shown on the rights of way plans, in column (3) of those Parts of that Schedule, and
- (b) change the status of each of the streets specified in column (2) of Part 3 of Schedule 10 to the extent specified, by reference to the letters and numbers shown on the rights of way plans, in column (3) of that Part of that Schedule, to the new status specified in column (4) of that Part of that Schedule.

(2) No street or private means of access specified in column (2) of Part 1 of Schedule 10 will be wholly or partly stopped up or extinguished under paragraph (1)(a) unless—

- (a) the new street or private means of access to be substituted for it, which is specified in column (4) of that Part of that Schedule is open for use and, in the case of a street, has been completed to the reasonable satisfaction of the street authority or, in the case of a footpath created pursuant to article 17 (status of public rights of way created or improved), to the standard specified in a public rights of way implementation plan; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street or private means of access to be stopped up between the commencement and termination points for the stopping up of the street or extinguishment of the private means of access is first provided and, in the case of a street, is subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) No street specified in column (2) of Part 3 of Schedule 10 may be changed in status unless—

- (a) it has been completed to the reasonable satisfaction of the street authority and is open for use with its new status specified in column (4) of Part 3 of that Schedule; or
- (b) a temporary alternative route for the passage of pedestrian users between the commencement and termination points specified in column (3) of Part 3 of that Schedule is first provided and is subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, until the completion and opening of the street with its new status in accordance with sub-paragraph (a).

(4) Where the undertaker provides a substitution under paragraph (2), or the status of the highway is changed under paragraph (3), the new or temporary alternative street or private means of access is not required to be of a higher standard than the stopped up street or extinguished private means of access in column (2) of Part 1 of Schedule 10 or the highway prior to its change of status provided for in Part 3 of Schedule 10.

(5) No street specified in column (2) of Part 2 of Schedule 10 will be wholly or partly stopped up under this article unless at least one of the conditions specified in paragraph (6) is satisfied in relation to all the land which abuts on either side of the street to be stopped up or private means of access to be extinguished.

(6) The conditions referred to in paragraph (5) are that—

- (a) the undertaker is in possession of the land; or
- (b) there is no right of access to the land from the street concerned; or
- (c) there is reasonably convenient access to the land otherwise than from the street concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

(7) Where a street has been stopped up under this article—

- (a) all rights of way over or along the street or private means of access are extinguished; and
- (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the street or private means of access as is bounded on both sides by land owned by the undertaker.

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

(9) This article is subject to article 43 (apparatus and rights of statutory undertakers in stopped up streets).

### **Status of public rights of way created or improved**

17. With effect from the date on which the highway authority has confirmed that the public rights of way specified in column (2) of Schedule 11 (Status of public rights of way created or improved) have been created or improved to the standard specified in a public rights of way implementation plan, the public rights of way in question will be deemed to have the status specified in column (3) of that Schedule.

### **Benefit of permanent private means of access and private rights of way created**

18.—(1) Where the undertaker extinguishes a private means of access or private rights of way by virtue of article 16 (permanent stopping up of streets, change of status, and extinguishment of private means of access) or article 33 (private rights of way), or where the undertaker considers it necessary in order to facilitate access to land by land owners who would otherwise be prejudiced by the authorised development, the undertaker may create private means of access or private rights of way over land within the permanent limits without acquiring such land.

(2) Paragraph (1) is without prejudice to the requirement under article 21(1)(b) for the approval of the street authority after consultation with the highway authority under article 21 (access to works) to form and lay out means of access or improve means of access in certain cases.

(3) A new private means of access or private right of way will be created by virtue of this article 28 days after service of notice by the undertaker on all owners and occupiers of the affected land, specifying—

- (a) the location of the new private means of access or private right of way; and
- (b) the benefitted land

and the undertaker will as soon as possible following the creation of such private means of access or private right of way inform all owners and occupiers of the benefitted land.

(4) Unless otherwise specified by the undertaker in the notice served pursuant to paragraph (3), the new private means of access or private right of way created will include the right to pass and re-pass on foot, with livestock, with vehicles, and with plant and machinery.

(5) Without prejudice to the generality of paragraph (1), the private means of access or private right of way specified in column (3) of Schedule 12 (Benefit of permanent private means of access and private rights of way created) affecting the Land Registry title specified in column (2) of that Schedule may be created for the benefit of the land with the Land Registry title specified in column (1) of Schedule 12 by service of notice under this article on all owners and occupiers of the land with the Land Registry title specified in column (2) of Schedule 12.

(6) Any person who suffers loss by the creation of a permanent private means of access or private right of way under this article will be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(7) In this article—

- (a) “affected land” means the land over which the route of the new private means of access or new private right of way will be situated; and
- (b) “benefitted land” means the land for whose benefit the new private means of access or new private right of way is created.

### **Temporary closure of streets and private means of access**

**19.—**(1) The undertaker, during and for the purposes of carrying out or operating the authorised development, may temporarily close, alter or divert any street or private means of access and may for any reasonable time—

- (a) divert the traffic from the street and prevent access via the private means of access; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limiting the scope of paragraph (1), the undertaker may use as a temporary working site any street or private means of access which has been temporarily closed, altered or diverted under the powers conferred by this article.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary closure, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) Without prejudice to the generality of paragraph (1), the undertaker may temporarily close, alter or divert the streets specified in column (2) Part 1 of Schedule 13 (Streets and private means of access to be temporarily closed) to the extent specified, by reference to the letters and numbers shown on the Rights of Way Plans, in column (3) of that Schedule, and may provide a temporary diversion.

(5) The undertaker must not temporarily close, alter or divert—

- (a) any street specified as mentioned in paragraph (4) 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, but such consent must not be unreasonably withheld.
- (6) No street or private means of access specified in column (2) of Part 2 of Schedule 13 (Streets and private means of access to be temporarily closed) may be wholly or partly closed under this article unless—
- (a) the new temporary street or temporary private means of access to be substituted for it, which is specified in column (4) of that Part of that Schedule, is open for use, and in the case of a street, has been completed to the reasonable satisfaction of the street authority; or
  - (b) an alternative temporary route for the passage of such traffic as could have used the street or private means of access to be temporarily closed between the commencement and termination points for the temporary closure of the street or private means of access is first provided and, in the case of a street, is subsequently maintained by the undertaker to the reasonable satisfaction of the street authority until the opening of the new temporary street in accordance with sub-paragraph (a) or the re-opening of the street temporarily closed.
- (7) Where the undertaker provides a temporary diversion under paragraph (4), the new or temporary alternative route is not required to be of a higher standard than the temporarily closed street or private means of access in column (2) of Part 1 or Part 2 of Schedule 13.
- (8) Prior to the reopening of any street or private means of access temporarily closed under paragraphs (4) or (6), the undertaker must remove all temporary works and restore the street or private means of access to its previous condition.
- (9) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in the case of dispute, under Part 1 of the 1961 Act.
- (10) If a street authority that receives an application for consent under paragraph (5)(b) fails to notify the undertaker of its decision within 56 days of receiving the application, that street authority will be deemed to have granted consent.

### **Use of private roads for construction**

- 20.**—(1) The undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction of the authorised development.
- (2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).
- (3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of such compensation, is to be determined under Part 1 of the 1961 Act.

### **Access to works**

- 21.**—(1) The undertaker may, for the purposes of the authorised development—
- (a) form and lay out means of access, or improve existing means of access identified on the Rights of Way Plans; and
  - (b) with the approval of the street authority after consultation with the highway authority (such approval not to be unreasonably withheld), form and lay out means of access or improve existing means of access at such other locations within the Order limits as the undertaker reasonably requires.

(2) If a street authority that receives an application for approval under paragraph (1)(b) fails to notify the undertaker of its decision within 56 days of receiving the application, that authority will be deemed to have granted approval.

### **Construction and maintenance of new and altered streets**

**22.—**(1) Any street to be constructed under this Order must be completed to the reasonable satisfaction of the highway authority and must, unless otherwise agreed between the undertaker and the highway authority, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the highway authority.

(2) Where a street is altered or diverted under this Order, the altered part of the street must, when completed to the reasonable satisfaction of the highway authority, unless otherwise agreed, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the highway authority.

(3) 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.

(4) For the purposes of a defence under paragraph (3), the court will in particular have regard to the following matters—

- (a) the character of the street including 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 that the undertaker had arranged for a competent person to carry out or supervise the maintenance of that 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.

### **Agreements with street authorities**

**23.—**(1) A street authority may enter into agreements with the undertaker in 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;
- (c) the maintenance of the structure of any viaduct, underpass, overpass or bridge carrying a street over or under any part of the authorised development;
- (d) the carrying out in the street of any of the works referred to in articles 13 (power to alter layout, etc., of streets) or 14 (street works); and
- (e) such works as the parties may agree.

- (2) Such an agreement may, without prejudice to the generality of paragraph (1)—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
  - (b) specify a reasonable time for the completion of the works; and
  - (c) contain such terms as to payment and other matters as the parties consider appropriate, including such matters as may be included in agreements made pursuant to section 278 or section 38 of the 1980 Act.
- (3) The undertaker will not commence Work Nos. 1A(k), 1B, 1C, 9(b), 10(b), 11, 12, 13(b), 14, 15, 16 or 17, or the rail-related works to the extent they involve works to a highway, prior to entering into an agreement pursuant to paragraph (1) which provides details of the specification of the works which will reasonably satisfy the highway authority for the purpose of article 22(1) or article 22(2), and related provisions in relation to the maintenance and adoption of such works pursuant to that article.
- (4) In paragraph (3) “the rail-related works” means—
- (a) in relation to Work Nos. 4A and 4B, the installation and removal of Abbey Road Level Crossing, the installation and removal of Buckleswood Road Level Crossing, and the installation and removal of any diversion routes of public rights of way;
  - (b) in relation to Work No. 4C, highway works at Knodishall Lane Level Crossing, Westhouse Level Crossing, Saxmundham Road (Buckleswood Lane) Level Crossing, Buckles Wood Level Crossing, Summerhill Level Crossing and Station Road Level Crossing

### **Traffic regulation measures**

**24.**—(1) Subject to the consent of the traffic authority in whose area the road concerned is situated the undertaker may at any time, for the purposes of the authorised development make provision, in respect of those streets specified in columns (2) and (3) of Schedule 14 (Traffic regulation measures), as to the speed limit of those streets as specified in column (4) of that Schedule.

(2) Without limiting the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the consent (such consent not to be unreasonably withheld) of the traffic authority in whose area the street is situated, which consent may be subject to reasonable conditions, the undertaker may, for the purposes of or in connection with the authorised development—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act in so far as it is inconsistent with any prohibition, restriction or other provision made by the undertaker under this article;
- (b) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road;
- (e) permit or prohibit vehicular access to any road; and
- (f) place traffic signs on or near a street (including on private land), subject to and in conformity with the directions issued by the Secretary of State pursuant to powers conferred by sections 64, 65 and 85 of the 1984 Act, and in particular where such traffic signs are required for the safe design, management or operation of level crossings upgraded as part of Work Nos. 4B or 4C.

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) Before complying with the provisions of paragraph (4) the undertaker must consult the chief officer of police and the traffic authority in whose area the street is situated.



- (4) The undertaker must not exercise the powers in paragraphs (1) or (2) unless it has—
- (a) given not less than 28 days’ notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the street is situated; and
  - (b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker’s intention as provided for in sub-paragraph (a).
- (5) Any prohibition, restriction or other provision made by the undertaker under paragraphs (1) or (2) has effect as if duly made by—
- (a) the traffic authority in whose area the street is situated as—
    - (i) an order under section 84 of the 1984 Act, in the case of paragraph (1); or
    - (ii) a traffic regulation order under the 1984 Act in the case of paragraph (2) (except paragraph (2)(c)); or
  - (b) Suffolk County Council as an order under section 32 of the 1984 Act (power of local authorities to provide parking places) (1) in the case of paragraph (2)(c),
- and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject and (in the case of paragraph (2)) the instrument by which it is effected is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004 (Road traffic contraventions subject to civil enforcement)(2).
- (6) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.
- (7) Where the undertaker has exercised the power to impose a temporary traffic regulation order relating to speed limits on any of the specific sections of road specified in Schedule 14 (Traffic regulation measures) under the heading ‘Temporary traffic regulation measures’, the undertaker must change that speed limit back to the speed limit which applied immediately before the temporary traffic regulation order came into force after the relevant work associated with the temporary traffic regulation order has been decommissioned.

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(1) 1984 c. 27. Section 32 was amended by sections 1, 2 and 8(1) and paragraph 4(6)(d) of Schedule 5 to the Local Government Act 1985 (c. 51) and section 168(1) of, and paragraph 39 of Schedule 8 to, the 1991 Act.

(2) 2004 c. 18. Schedule 7 was amended by S.I. 2013/362 and S.I. 2018/488. There are other amendments made to the Traffic Management Act 2004 which are not relevant to this Order.