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STATUTORY INSTRUMENTS

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**2024 No. 436**

**The HyNet Carbon Dioxide Pipeline Order 2024**

**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 Part 1 (streets subject to permanent street works) and Part 2 (streets subject to temporary street works) of Schedule 3 as is within the Order limits and may without the consent of the street authority—

- (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) remove or use all earth and materials in or under the street;
- (d) place apparatus under the street;
- (e) maintain, alter or renew apparatus under the street or change its position;
- (f) demolish, remove, replace and relocate any street furniture within the street;
- (g) execute any works to provide or improve sight lines;
- (h) execute and maintain any works to provide hard and soft landscaping;
- (i) carry out re-lining and placement of road markings;
- (j) remove and install temporary and permanent signage; and
- (k) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (j).

(2) 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.

(3) Without limiting the scope of the powers conferred by paragraph (1) but subject to paragraph (4), the undertaker may, for the purposes of the authorised development, or for purposes ancillary to it, 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 in paragraph (1).

(4) The powers conferred by paragraph (3) must not be exercised without the consent of the street authority, which may attach reasonable conditions to any consent, but such consent is not to be unreasonably withheld or delayed.

(5) If a street authority that receives an application for consent under paragraph (4) fails to notify the undertaker of its decision within 42 days beginning with the date on which the application was received by that street authority, that authority will be deemed to have granted consent.

(6) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act save that “apparatus” includes pipelines, fibre optic or other telecommunication cables, aerial markers, cathodic protection test posts, field boundary markers, monitoring kiosks, and electricity cabinets.

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

**11.—(1)** The undertaker may for the purposes of carrying out the authorised development temporarily alter the layout of, or carry out any works in, a street specified in column (2) of Part 2 of Schedule 3 (streets subject to temporary street works) in the manner specified in relation to that street in column (3).

(2) Without limitation on the specific powers conferred by paragraph (1), but subject to paragraph (4), the undertaker may, for the purposes of constructing and maintaining the authorised development, permanently or temporarily alter the layout of any street (and carry out works ancillary to such alterations) whether or not 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 any footpath, footway, cycle track, central reservation or verge within the street;
- (b) alter the level or increase the width of any such street, footpath, footway, cycle track, central reservation or verge;
- (c) reduce the width of the carriageway of the street;
- (d) execute any works to widen or alter the alignment of pavements;
- (e) make and maintain crossovers and passing places;
- (f) execute any works of surfacing or resurfacing of the highway;
- (g) carry out works for the provision or alteration of parking places, loading bays and cycle tracks;
- (h) execute any works necessary to alter or provide facilities for the management and protection of pedestrians;
- (i) execute any works to provide or improve sight lines required by the highway authority;
- (j) execute and maintain any works to provide hard and soft landscaping;
- (k) carry out re-lining and placement of new temporary markings; and
- (l) remove and replace kerbs and flume ditches for the purposes of creating permanent and temporary accesses.

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

(4) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority, which may attach reasonable conditions to any consent, but such consent is not to be unreasonably withheld or delayed.

(5) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was received by that street authority, it is deemed to have granted consent.

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

**12.—(1)** The provisions of the 1991 Act mentioned in paragraph (2) that apply in relation to the carrying out of street works under that Act and any regulations made or code of practice issued or approved under those provisions apply (with all necessary modifications) in relation to—

- (a) the carrying out of works under articles 10 (street works) and 11 (power to alter layout etc. of streets);
- (b) the temporary restriction, temporary alteration or temporary diversion of a public right of way by the undertaker under article 13 (temporary restriction of public rights of way); and
- (c) the temporary restriction, temporary alteration or temporary diversion of a street by the undertaker under article 15 (temporary restriction of use of streets);

whether or not the carrying out of the works or the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(2) The provisions of the 1991 Act<sup>(1)</sup> are—

- (a) subject to paragraph (3), section 55 (notice of starting date of works);
- (b) section 57 (notice of emergency works);
- (c) section 60 (general duty of undertakers to co-operate);
- (d) section 68 (facilities to be afforded to street authority);
- (e) section 69 (works likely to affect other apparatus in the street);
- (f) section 76 (liability for cost of temporary traffic regulation);
- (g) section 77 (liability for cost of use of alternative route); and
- (h) all provisions of that Act that apply for the purposes of the provisions referred to in subparagraphs (a) to (g).

(3) Section 55 of the 1991 Act as applied by paragraph (2) has 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.

(4) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by 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 (restriction on works following substantial road works);
- (d) section 58A (restriction on works following substantial street works); and
- (e) schedule 3A (restriction on works following substantial street works).

### **Temporary restriction of public rights of way**

**13.**—(1) The undertaker may, in connection with the carrying out of the authorised development, temporarily restrict, prevent use of or close each of the public rights of way specified in column (2) of Part 1 of Schedule 6 (public rights of way to be temporarily restricted) to the extent specified in column (3), by reference to the numbered points shown on the access and rights of way plans.

(2) The public rights of way specified in Part 1 of Schedule 6 (public rights of way to be temporarily restricted) must not be temporarily closed under this article unless an alternative public right of way is first provided by the undertaker to the reasonable satisfaction of the relevant local highway authority.

(3) The relevant diversion route provided under paragraph (2) will be subsequently maintained by the undertaker until the re-opening of the relevant public right of way specified in paragraph (1).

(4) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

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(1) Sections 55, 57, 60, 68 and 69 were amended by the Traffic Management Act 2004 (c. 18).

(5) If a street authority which receives an application for confirmation that an alternative public right of way is satisfactory under paragraph (2) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was received by that street authority, it is deemed to have granted consent.

### **Stopping up of public rights of way**

**14.**—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of public rights of way specified in columns (1) and (2) of Part 2 of Schedule 6 (public rights of way to be stopped up) to the extent specified in column (3).

(2) No public right of way may be stopped up under this article until a temporary alternative route for the passage of such traffic as could have used the public right of way has been provided and subsequently maintained by the undertaker until a permanent alternative has been provided and open to public use, which temporary alternative route must be provided to the reasonable satisfaction of the local highway authority, between the points specified in column (4) of Part 2 of schedule 6.

(3) No later than 3 months from the completion of the authorised development, the undertaker must provide a permanent alternative route for any route stopped up under this article, which permanent alternative route must be provided between the points specified in column (4) of Part 2 of schedule 6 to the reasonable satisfaction of the local highway authority.

### **Temporary restriction of use of streets**

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

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

(2) Without limiting paragraph (1), the undertaker may use any street temporarily closed under the powers conferred by this article within the Order limits as a temporary working site.

(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 limiting paragraph (1), the undertaker may temporarily close, alter or divert the streets set out in column (2) of Schedule 5 (streets to be temporarily closed or restricted) to the extent specified, by reference to the letters and numbers shown on the access and rights of way plans, in column (3) of that Schedule.

(5) The undertaker must not temporarily stop up, alter, divert or use as a temporary working site, any street other than those referred to in Schedules 5 (streets to be temporarily stopped up or restricted); and 6 (public rights of way to be temporarily restricted) without the consent of the street authority, which may attach reasonable conditions to the consent but such consent is not to be unreasonably withheld or delayed.

(6) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) If a street authority which receives an application for consent under paragraph (5) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was received by that street authority, it is deemed to have granted consent.

### **Access to works**

16.—(1) Subject to paragraph (2), the undertaker may, for the purposes of the authorised development, form and lay out 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.

(2) Subject to paragraph (3), the power set out in paragraph (1) may not be exercised without the undertaker having first obtained the consent of the street authority which may attach reasonable conditions to any consent, but such consent is not to be unreasonably withheld or delayed, following consultation by the street authority with the relevant planning authority. If the street authority which has received an application for consent under this paragraph fails to notify the undertaker of its decision before the end of the 42 day period beginning with the date on which the application was received by that street authority, it is deemed to have granted consent.

(3) The consent of the street authority is not required for the formulation, laying out or improvement of a new or existing means of access as described in Part 1 of Schedule 1 (authorised development) and Schedule 4 (new means of access).

### **Agreements with street authorities**

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

- (a) the construction of any new street including any structure carrying the street over or under any part of the authorised development;
- (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
- (c) any stopping up, alteration or diversion of a street authorised by this Order; or
- (d) the carrying out in the street of any of the works referred to in article 10 (street works).

(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) include an agreement between the undertaker and street authority specifying a reasonable time for completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

### **Use of private roads**

18.—(1) Subject to paragraphs (2), (3) and (4), 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 and maintenance 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 (determination of questions of disputed compensation) of the 1961 Act.

(4) The undertaker may only use a private road under paragraph (1) for such time as the power to take temporary possession of the land upon which it is located under either article 34 (temporary use of land for carrying out the authorised development) and article 35 (temporary use of land for

maintaining the authorised development) is capable of being exercised under those articles in relation to that land.

### **Traffic regulation**

**19.**—(1) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which may attach reasonable conditions to any consent but which consent must not be unreasonably withheld or delayed, the undertaker may at any time, for the purposes of, or in connection with, the construction of 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;
- (b) permit, prohibit or restrict the stopping, 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; and
- (e) permit or prohibit vehicular access to any road,
  - either at all times or at times, on days or during such periods as may be specified by the undertaker.

(2) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (3).

(3) The undertaker must not exercise the powers conferred by paragraph (1) unless it has—

- (a) given not less than 42 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 road 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 subparagraph (a).

(4) Any prohibition, restriction or other provision made by the undertaker under paragraph (1)—

- (a) has effect as if duly made by, as the case may be—
  - (i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or
  - (ii) the local authority in whose area the road is situated, as an order under section 32 (power of local authorities to provide parking spaces) of the 1984 Act, and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and
- (b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(2).

(5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers of paragraph (1) within a period of 24 months from the commencement of operation of the authorised development.

(6) Before exercising the powers conferred by paragraph (1), the undertaker must consult such persons as it considers necessary and appropriate and must take into consideration any representations made to it by any such person.

(7) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(8) If the traffic authority fails to notify the undertaker of its decision within 42 days of receiving an application for consent under paragraph (1) the traffic authority is deemed to have granted consent.

(9) The power conferred by paragraph (1) may be exercised at any time prior to the expiry of 12 months from the commencement of operation of the authorised development but subject to paragraph (5) any prohibition, restriction or other provision made under paragraph (1) may have effect both before and after the expiry of that period.