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STATUTORY INSTRUMENTS

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**2024 No. 436**

**The HyNet Carbon Dioxide Pipeline Order 2024**

**PART 6**

Miscellaneous and general

**Application of landlord and tenant law**

**38.**—(1) This article applies to any agreement entered into by the undertaker under article 7 (benefit of the Order) so far as it relates to the terms on which any land is subject to a lease granted by or under that agreement.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) No enactment or rule of law to which paragraph (2) applies is to 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.

**Felling or lopping of trees and removal of hedgerows**

**39.**—(1) Subject to paragraph (3) and article 40 (trees subject to tree preservation orders) the undertaker may fell, lop or prune any tree or shrub, or cut back its roots, within or overhanging land within the Order limits 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 must—

- (a) do no unnecessary damage to any tree or shrub; and
- (b) 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, is to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow within the Order limits including those specified in Schedule 11.

In this article “hedgerow” has the same meaning as in the Hedgerows Regulations 1997(1).

### **Trees subject to Tree Preservation Orders**

**40.**—(1) Subject to paragraph (2), the undertaker may fell, lop or prune any part of any tree which is within, over or under land within the Order limits or cut back its roots, if it reasonably believes it to be necessary in order to prevent the tree—

- (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)—

- (a) the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any damage arising from such activity; and
- (b) the duty in section 206(1) of the 1990 Act (replacement of trees) must not apply.

(3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(4) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined as if it were a dispute under Part 1 of the 1961 Act.

(5) In this article “tree preservation order” has the same meaning as in section 198 (power to make tree preservation orders) of the 1990 Act.

### **Crown rights**

**41.**—(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 or any lessee or licensee to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to His Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to His Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

## **Protective provisions**

42. Schedule 10 (protective provisions) has effect.

## **Operational land for the purposes of the 1990 Act**

43. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land) of the 1990 Act.

## **Certification of plans, etc.**

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

- (a) the access and rights of way plans (consisting of a key plan and sheets 1 to 37 inclusive) (document number D.2.5)
- (b) the land plans (consisting of a key plan and sheets 1 to 37 inclusive) (document number D.2.2);
- (c) the crown land plans (consisting of a key plan and 8 sheets) (document number D.2.3);
- (d) the special category land plans (consisting of a key plan and 10 sheets) (document number D.2.6);
- (e) the works plans (consisting of a key plan and sheets 1 to 37 inclusive) (document number D.2.4);
- (f) the general arrangement plans comprising the Block Valve Stations Planning Arrangement, (document number D 2.9); Block Valve Stations Elevations (document number D.2.8); Above Ground Installation Planning Arrangement (document number D.2.12), and Above Ground Installation Elevations (document number D.2.11);
- (g) the book of reference (document number D.4.3);
- (h) the environmental statement (consisting of 4 volumes) (document numbers D.6.1 to D.6.4.19.1);
- (i) the outline construction environment management plan (document number D.6.5.2);
- (j) the outline landscape and ecology mitigation plan (document number D.6.5.10) (Annex D.6.5.10.1 Environmental Report – Appendix A – Landscape and Ecological Mitigation Plan);
- (k) the outline construction traffic management plan (document number D.6.5.3);
- (l) the outline surface water drainage strategy report and appendices (document number D.6.5.13);
- (m) the outline archaeological written scheme of investigation, (document number D.6.5.2);
- (n) outline operational and maintenance environment management plan (document number D.7.15); and

any other plans or documents referred to in this Order as requiring certification, for certification that they are true copies of the documents referred to in this Order.

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

## Service of notices

45.—(1) A notice or other document required or authorised to be served for the purposes 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 consent of the recipient and subject to paragraphs (5) 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 (references to service by post) of the Interpretation Act 1978(2) 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 (2) 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 purposes 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 purposes of this Order is served or sent by electronic transmission the requirement is to 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 document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or 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) such 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 does not 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 if served, given or supplied by means of a notice or document in printed form.

#### **No double recovery**

**46.** Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law, or under two or more different provisions of this Order.

#### **Arbitration**

**47.—(1)** Any difference under any provision of this Order, unless otherwise provided for, is referred to and settled in arbitration in accordance with the rules at Schedule 12 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State is required under any provision of this Order is not subject to arbitration.