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STATUTORY INSTRUMENTS

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**2024 No. 174**

**The Net Zero Teesside Order 2024**

**PART 3**

**STREETS**

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

**10.**—(1) The undertaker may for the purposes of constructing, operating or maintaining the authorised development alter the layout of, or carry out any works in, a street specified in column (2) of Table 1 in Schedule 4 (streets subject to street works) in the manner specified in relation to that street in column (3) of that Table 1.

(2) Without prejudice to the specific powers conferred by paragraph (1), but subject to paragraph (3), the undertaker may, for the purposes of constructing, operating and maintaining the authorised development alter the layout of any street within the Order limits and, without limitation on the scope of this paragraph, the undertaker may—

- (a) alter the level or increase the width of any kerb, footway, cycle track or verge; and
- (b) make and maintain passing places.

(3) Subject to paragraph (4), the powers conferred by paragraph (2) must not be exercised without the consent of the street authority.

(4) Paragraph (3) does not apply where the undertaker is the street authority for a street in which the works are being carried out.

**Street works**

**11.**—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) drill, tunnel or bore under the street;
- (c) place and keep apparatus in the street;
- (d) maintain apparatus in 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) 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) Where the undertaker is not the street authority, the provisions of sections 54 (notice of certain works) to 106 (index of defined expressions) of the 1991 Act apply to any street works carried out under paragraph (1).

### **Construction and maintenance of new or altered means of access**

12.—(1) Those parts of each means of access specified in Part 1 of Schedule 5 (those parts of the accesses to be maintained by the highway authority) to be constructed under this Order must be completed to the reasonable satisfaction of the highway authority and, unless otherwise agreed by the highway authority, must 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 highway authority.

(2) Those parts of each means of access specified in Part 2 of Schedule 5 (those parts of the accesses to be maintained by the street authority) to be constructed under this Order and which are not intended to be a public highway must be completed to the reasonable satisfaction of the street authority and must 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.

(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), a court must 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.

### **Temporary stopping up of streets, public rights of way and access land**

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

- (a) divert the traffic or a class of traffic from the street or public right of way; and
- (b) subject to paragraph (2), prevent all persons from passing along the street or public right of way.

(2) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or public right of way affected by the temporary stopping up, prohibition, restriction, alteration or diversion of a street or public right of way under this article if there would otherwise be no such access.

(3) Without prejudice to the generality of paragraph (1), the undertaker may temporarily stop up, prohibit the use of, restrict the use of or, for the purposes of sub-paragraphs (a) or (b) of this paragraph (3), alter or divert—

- (a) the streets specified in column (2) of Table 4 in Part 1 of Schedule 6 (those parts of the street to be temporarily stopped up) to the extent specified in column (3) of that Table 4;
- (b) the public rights of way specified in column (2) of Table 5 in Part 2 of Schedule 6 (those public rights of way to be temporarily stopped up) to the extent specified in column (3) of that Table 5; and
- (c) the access land specified in column (2) of Table 6 in Part 3 of Schedule 6 (those parts of the access land where public access may be temporarily suspended) to the extent specified in column (3) of that Table 6.

(4) The undertaker must not temporarily stop up, prohibit the use of, restrict the use of, alter or divert—

- (a) any street or public right of way specified in paragraph (3) without first consulting the street authority;
- (b) any other street or public right of way without the consent of the street authority, and the street authority may attach reasonable conditions to any such consent; or
- (c) any access land without first consulting Natural England.

(5) 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 case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) Without prejudice to the scope of paragraph (1), the undertaker may use any street or public right of way or access land which has been temporarily stopped up under the powers conferred by this article and within the Order limits as a temporary working site.

(7) Without prejudice to the requirements of paragraph (4), the undertaker must not exercise the powers in paragraphs (1) and (3) in relation to a road unless it has—

- (a) given not less than four weeks' notice in writing of its intention to do so 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 seven days of its receipt of notice of the undertaker's intention under sub-paragraph (a).

(8) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (3) of this article in relation to a road has effect as if duly made by the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act, and the instrument by which it is effected is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the 2004 Act.

(9) The rights of access conferred by section 2 of the 2000 Act (rights of the public in relation to access land) are suspended in relation to the access land specified in column (2) of Table 6 in Part 3 of Schedule 6 (those parts of the access land where public access may be temporarily suspended) to the extent specified in column (3) of that Table 6.

(10) The period of suspension under paragraph (9) lasts for the period of the temporary stopping up.

(11) In this article—

- (a) subject to sub-paragraph (b) expressions used in this article and in the 1984 Act have the same meaning; and
- (b) a “road” means a road that is a public highway maintained by and at the expense of the traffic authority.

### Access to works

14. The undertaker may, for the purposes of the authorised development—
- (a) form and lay out the means of access, or improve existing means of access, in the locations specified in Schedule 4 (streets subject to street 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 the existing means of access as the undertaker reasonably requires for the purposes of the authorised development.

### Agreements with streets authorities

- 15.—(1) A street authority and the undertaker may enter into agreements with respect to—
- (a) construction of any new street including any structure carrying the street;
  - (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
  - (c) the maintenance of any street or of the structure of any bridge or tunnel carrying a street over or under the authorised development;
  - (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order;
  - (e) the execution in the street of any of the authorised development;
  - (f) the adoption by a street authority which is the highway authority of works—
    - (i) undertaken on a street which is existing publicly maintainable highway; and/or
    - (ii) which the undertaker and highway authority agree are to be adopted as publicly maintainable highway; and
  - (g) any 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) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and
  - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

### Traffic regulation

- 16.—(1) Subject to paragraphs (3) and (4) and the consent of the traffic authority in whose area the road concerned is situated, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with the construction of the authorised development, at any time prior to the date that is 12 months after the date of final commissioning—
- (a) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road; and
  - (b) make provision as to the direction or priority of vehicular traffic on 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 not exercise the powers under paragraph (1) of this article unless it has—
- (a) given not less than four weeks' notice in writing of its intention so to do 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 seven days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a).
- (3) Any prohibition, restriction or other provision made by the undertaker under article 13 (temporary stopping up of streets, public rights of way and access land) or paragraph (1) of this article has effect as if duly made by, as the case may be—
  - (a) the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act; or
  - (b) the local authority in whose area the road is situated as an order under section 32 (power of local authorities to provide parking places)(1) of the 1984 Act, and the instrument by which it is effected is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the 2004 Act.
- (4) In this article—
  - (a) subject to sub-paragraph (b), expressions used in it and in the 1984 Act have the same meaning; and
  - (b) a “road” means a road that is a public highway maintained by and at the expense of the traffic authority.

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(1) Relevant amendments to section 32 were made by the 1991 Act section 168(1) and Schedule 8, paragraph 39.