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STATUTORY INSTRUMENTS

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**2013 No. 648**

**The Hinkley Point C (Nuclear Generating Station) Order 2013**

**PART 1**

**General provisions**

*Streets*

**Street works**

**13.**—(1) The undertaker may, for the purposes of the authorised project, enter on so much of any of the streets specified in columns (1) and (2) of Schedule 4 (streets subject to street works) as is within the Order limits for the relevant site specified in column (3) of Schedule 4 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; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c) and (d).

(2) In this article “apparatus” has the meaning given in section 105(1) of the 1991 Act.

**Stopping up of footpaths on HPC development site**

**14.**—(1) Subject to paragraphs (2) and (3), the undertaker may, in connection with the carrying out of the authorised project—

- (a) stop up each of the footpaths specified in columns (1) and (2) of Part 1 of Schedule 5 (footpaths to be permanently stopped up on HPC development site) 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; and
- (b) temporarily stop up each of the footpaths specified in columns (1) and (2) of Part 2 of Schedule 5 (footpaths to be temporarily stopped up on HPC development site) 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.

(2) No footpath specified in columns (1) and (2) of Part 1 or columns (1) and (2) of Part 2 of Schedule 5 shall be wholly or partly stopped up under this article unless the diversion route specified on the rights of way plans between points DR1/1 and DR1/2, and between points DR1/4, DR1/5, DR1/6, DR1/7, DR1/8, DR1/9 and DR1/10, DR1/11 and DR1/12, and between points DR1/5 and DR1/13 is first provided by the undertaker, to the reasonable satisfaction of the highway authority.

(3) The diversion route provided under paragraph (2), or such alternative diversion route connecting the points listed in paragraph (2) as may from time to time be agreed by the highway authority, shall be subsequently maintained by the undertaker until the completion and opening of

the footpaths on the HPC development site specified in columns (1), (2) and (3) of Schedule 7 (status of footpaths created or improved) in accordance with any relevant footpath implementation plan.

### **Permanent stopping up of streets**

**15.**—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised project, stop up each of the streets specified in columns (1) and (2) of Parts 1 and 2 of Schedule 6 (streets to be permanently stopped up) 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.

(2) Except for footpath BW5/8 between points X1/1 and X1/2, no street specified in columns (1) and (2) of Part 1 of Schedule 6 (being a street to be stopped up for which a substitute is to be provided) shall be wholly or partly stopped up under this article unless—

- (a) the new street to be substituted for it, which is specified in column (4) of that Part of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up between the commencement and termination points for the stopping up of the street 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 new street in accordance with sub-paragraph (a).

(3) No street specified in columns (1) and (2) of Part 2 of Schedule 6 (being a street to be stopped up for which no substitute is to be provided) shall be wholly or partly stopped up under this article unless at least one of the conditions specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the street to be stopped up.

(4) The conditions referred to in paragraph (3) 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.

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

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

(6) Where the section of Wick Moor Drove between points S1/1 and S1/2 has been stopped up under this article, all interests and rights in the land on which that section of street is situated shall be extinguished.

(7) The interests and rights to which this section applies are any easement, restriction, restrictive covenant, liberty, privilege, right or advantage annexed to land, including any natural right to support.

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

(9) This article is subject to article 36 (apparatus etc. of statutory undertakers).

(10) Where the section of Wick Moor Drove between points S1/1 and S1/2 is to be stopped-up under this article, then in addition to any of the conditions mentioned in paragraph (4)(a) to (d), the consent of the owner of Hinkley Point A (being all that freehold land and the buildings and structures

erected on it at Hinkley Point, Somerset, which comprises the whole of the land registered under title number ST264472) to such stopping-up must first be obtained but such consent shall be deemed given if, prior to such stopping-up, an agreement has been completed providing for the grant of rights of way to the owner of Hinkley Point A immediately following the stopping-up, substantially in the form of the draft deed of easement relating to Wick Moor Drove, Hinkley Point, Somerset between EDF Energy Nuclear Generation Limited (1) Nuclear Decommissioning Authority (2) National Grid Electricity Transmission Plc (3) and EDF Development Company Limited (4).

### **Status of footpaths created or improved**

**16.** With effect from the date on which the highway authority is satisfied that the footpaths specified in columns (1) and (2) of Schedule 7 (status of footpaths created or improved) have been created or improved to the standard specified in the footpath implementation plan, the footpaths in question shall be deemed to have the status specified in column (3) of that Schedule.

### **Temporary stopping up of streets**

**17.—**(1) The undertaker, during and for the purposes of carrying out the authorised project, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (2), prevent all persons from passing along the street.

(2) The undertaker shall 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.

(3) Without prejudice to the generality of paragraph (1), the undertaker may temporarily stop up, alter or divert the streets specified in columns (1) and (2) of Schedule 8 (streets to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the rights of way plans, in column (3) of that Schedule.

(4) The undertaker shall not temporarily stop up, alter or divert—

- (a) any street specified as mentioned in paragraph (3) 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.

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

### **Access to works**

**18.** The undertaker may, for the purposes of the authorised project—

- (a) form and lay out means of access, or improve existing means of access, as specified in columns (1) and (2) of Schedule 9 (access to works) by reference to the rights of way plans whose titles refer to the relevant sites specified in column (3) of that Schedule; 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 project.

**Construction and maintenance of new, altered or diverted streets**

**19.—**(1) Any street to be constructed under this Order shall be completed to the reasonable satisfaction of the highway authority and shall, 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 or diverted part of the street shall, 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 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), the court shall 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**

**20.—**(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 13(1) (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 the completion of the works; and
- (c) contain such terms as to payment and other matters as the parties consider appropriate.