
STATUTORY INSTRUMENTS

2016 No. 863

The M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016

PART 6

MISCELLANEOUS AND GENERAL

Trees subject to tree preservation orders

36.—(1) The undertaker may fell or lop any tree described in Schedule 8 (trees subject to tree preservation orders), cut back its roots or undertake such other works described in column (2) of that Schedule if the undertaker 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)—

(a) the undertaker is to do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss of damage arising from such activity; and

(b) the duty contained in section 206(1) (replacement of trees) of the 1990 Act is not to apply.

(3) The authority given in 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, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.