
STATUTORY INSTRUMENTS

2019 No. 1358

The Northampton Gateway Rail Freight Interchange Order 2019

PART 4

SUPPLEMENTAL POWERS

Discharge of water

21.—(1) Subject to paragraphs (3) to (6) the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) must be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991⁽¹⁾.

(3) The undertaker must not discharge any water into any public sewer or drain except with the consent of the person to whom it belongs, and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) No water may be discharged into a watercourse that flows into the highway drainage system without the consent of the relevant highway authority and such consent may be given subject to such terms and conditions as the relevant highway authority consider appropriate, but must not be unreasonably withheld or delayed.

(5) The undertaker must not do work on, over, under or near an ordinary watercourse (within nine metres of the landward toe of the bank), make changes to any structure that helps control water or discharge any water into any watercourse except with the approval of the lead local flood authority; and such approval may be given subject to such terms and conditions as the lead local flood authority may reasonably impose, but must not be unreasonably withheld.

(6) The undertaker must not make any opening into any public sewer or drain except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(7) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(8) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2016⁽²⁾.

(1) 1991 c. 56. Section 106 was amended by sections 35(1) and (8) and 43(2) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43) and sections 36(2) and 99 of the Water Act 2003 (c. 37) (subject to the transitional provisions contained in article 6 of, and Schedule 3 to, S.I. 2004/641) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(2) S.I. 2016/1154. There are amendments to regulation 12 which are not relevant to this Order.

(9) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Environment Agency, an internal drainage board, a local authority or a sewerage undertaker; and
- (b) other expressions excluding watercourse, which are used both in this article and in the Water Resources Act 1991(3) have the same meaning as in that Act.

(10) If a person who has received an application for consent under paragraph (3) or approval under paragraphs (4), (5) or (6)(a) fails to notify the undertaker of its decision within 42 days of receiving the application submitted with all relevant information, that person is deemed to have granted consent or given approval as the case may be.

Commencement Information

II Art. 21 in force at 30.10.2019, see [art. 1](#)

Authority to survey and investigate the land

22.—(1) The undertaker may, for the purposes of this Order, enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 28 days’ notice has been served on every owner, who is not the undertaker, and occupier of the land.

(3) Any person entering land under the powers conferred by this article on behalf of the undertaker—

- (a) must, if so required, produce written evidence of their authority to do so; and
- (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes may be made under this article—

- (a) in land located within the highway boundary without the consent of the relevant highway authority; or
- (b) in a private street without the consent of the relevant street authority,

but such consent must not be unreasonably withheld.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) If either a highway authority or a street authority which has received an application for consent under paragraph (4) that includes all relevant information fails to notify the undertaker of its decision within 42 days of receiving the application the authority is deemed to have granted the consent.

(3) [1991 c. 57.](#)

Changes to legislation: There are currently no known outstanding effects for the The Northampton Gateway Rail Freight Interchange Order 2019, PART 4. (See end of Document for details)

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Commencement Information

I2 Art. 22 in force at 30.10.2019, see [art. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Northampton Gateway Rail Freight Interchange Order 2019, PART 4.