
STATUTORY INSTRUMENTS

2013 No. 680

The Rookery South (Resource Recovery Facility) Order 2011

Benefit of the Order

7.—(1) Except as provided for by this article, section 156(1) of the 2008 Act applies to the grant of development consent by this Order.

(2) The undertaker may—

- (a) transfer to another person (the “transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed in writing between the undertaker and the transferee; or
- (b) grant to another person (the “lessee”) for a period agreed in writing between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(3) Where an agreement has been made in accordance with paragraph (2) references in this Order to the undertaker, except in paragraph (4), include references to the transferee or lessee.

(4) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (2) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(5) The consent of the Secretary of State, being the Secretary of State who would be responsible for determining an application for development consent with the subject matter of this Order, is required for the exercise of the powers of paragraph (2) except where—

(a) the transferee or lessee is—

- (i) a statutory undertaker;
- (ii) a principal council, a joint authority or a joint waste authority in England as defined in the Local Government Act 1972(1);
- (iii) an authority designated under the Waste Regulation and Disposal (Authorities) Order 1985(2); or
- (iv) a person having security over any part of the undertaking of the undertaker in respect of Work No. 1 in relation to contractual arrangements relating to a contract between the undertaker and a person referred to in sub-paragraphs (i) to (iii);

(b) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—

- (i) no such claims have been made;
- (ii) any such claim has been made and has been compromised or withdrawn;
- (iii) compensation has been paid in final settlement of any such claim;
- (iv) payment of compensation into court in lieu of settlement of any such claim has taken place; or

(1) 1972 c.70.

(2) S.I. 1985/1884.

- (v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation shall be payable; or
 - (c) the transfer or lease relates to any part of the authorised development except Work No. 1.
- (6) The provisions of articles 9 to 12, 14 to 25 and 30 have effect only for the benefit of Covanta Rookery South Limited and a person who is a transferee or lessee as referred to in paragraph (2) and is also—
- (a) the transferee or lessee of the land occupied by Work No. 1;
 - (b) in respect of Works No. 6A to 6H, a person who holds a licence under section 6(1) of the Electricity Act 1989, or who is not required to hold such a licence by virtue of an exemption order under section 5 of that Act;
 - (c) in respect of articles 15 and 18, the transferee or lessee of the land occupied by Work No. 2; or
 - (d) in respect of functions under article 10 relating to a street, a street authority.
- (7) Where a person who is the transferee or lessee as referred to in paragraph (2)—
- (a) is liable to pay compensation by virtue of any provision of this Order; and
 - (b) fails to discharge that liability,
- the liability is enforceable against the undertaker in respect of Work No. 1.