
STATUTORY INSTRUMENTS

2014 No. 3331

The Hornsea One Offshore Wind Farm Order 2014

PART 7

Miscellaneous and general

Operational land for purposes of the 1990 Act

29. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

Commencement Information

11 Art. 29 in force at 31.12.2014, see [art. 1](#)

Disapplication of legislative provisions

30. The following provisions do not apply in relation to the construction of works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised project—

- (a) section 109 of the Water Resources Act 1991(1);
- (b) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991, which require consent or approval for the carrying out of the works;
- (c) section 23 of the Land Drainage Act 1991(2);
- (d) the provisions of any byelaws made under section 66 of the Land Drainage Act 1991 which require consent or approval for the carrying out of the works.

Commencement Information

12 Art. 30 in force at 31.12.2014, see [art. 1](#)

Defence to proceedings in respect of statutory nuisance

31.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(3) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be

(1) 1991 c.57.

(2) 1991 c.59.

(3) 1990 c.43. There are amendments to this Act which are not relevant to this Order.

prejudicial to health or a nuisance) no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project and that the nuisance is attributable to the carrying out of the authorised project in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974⁽⁴⁾; or
 - (ii) is a consequence of the construction or maintenance of the authorised project and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised project and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), do not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project.

Commencement Information

I3 Art. 31 in force at 31.12.2014, see [art. 1](#)

Procedure in relation to approvals etc under requirements

32. Where an application is made to the relevant planning authority or authorities for any consent, agreement or approval required by a requirement, the following provisions apply, so far as they relate to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission as if the requirement was a condition imposed on the grant of planning permission—

- (a) sections 78 and 79 of the 1990 Act (right of appeal in relation to planning decisions);
- (b) any orders, rules or regulations which make provision in relation to appeals under section 78 of the 1990 Act,

insofar as those provisions are not inconsistent with the Infrastructure Planning (Environmental Impact Assessment Regulations) 2009⁽⁵⁾ and any orders, rules or regulations made under the 2008 Act.

Commencement Information

I4 Art. 32 in force at 31.12.2014, see [art. 1](#)

(4) [1974 c.40](#). Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the [Environmental Protection Act 1990, c.25](#). There are other amendments to the 1974 Act which are not relevant to this Order.

(5) [S.I. 2009/2263](#), as amended by [S.I. 20011/2741](#), [S.I. 2012/635](#), and [S.I. 2012/787](#).

Abatement of offshore works abandoned or decayed

33.—(1) Where the authorised development constructed seaward of MHWS or any part of it is abandoned or suffered to fall into decay the Secretary of State may, following consultation with the undertaker, by notice in writing require the undertaker at its own expense either to repair and restore the authorised development or any part, or to remove the authorised development and restore the site to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) In circumstances where the undertaker is required to remove the authorised development, without prejudice to any notice served under section 105(2) of the 2004 Act, the notice may also require the restoration of the site of the relevant part of the authorised development to a safe and proper condition within an area and to such an extent as may be specified in the notice.

(3) If the undertaker fails to comply in any respect with a notice served under this article within the period of 30 days beginning with the date of service of the notice, the Secretary of State may take whatever steps the Secretary of State considers appropriate to achieve the result required by the notice; and any expenditure incurred by the Secretary of State in doing so is recoverable from the undertaker.

Commencement Information

I5 Art. 33 in force at 31.12.2014, see [art. 1](#)

Transfer of benefit of Order

34.—(1) The undertaker with the consent of the Secretary of State may—

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

(2) Where the consent of the Secretary of State is required under paragraph (1), the Secretary of State must consult the MMO prior to granting consent if such transfer or grant relates to the exercise of powers within the MMO’s jurisdiction.

(3) Where a transfer or grant has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (4), includes references to the transferee or the lessee.

(4) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) 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 is not required for a transfer or grant for an agreed period of the benefit of any of the provisions (and any related statutory rights) relating to Works Nos. 1, 2 or 3 from one undertaker to another or of any of the provisions (and any related statutory rights) relating to Works Nos. 4 to 12 to another body licensed under section 6 of the 1989 Act.

(6) Prior to any transfer or grant under this article taking effect the undertaker must give notice in writing to the Secretary of State and to the MMO, and if such transfer or grant relates to the exercise of powers in their area, to the local planning authority, stating—

- (a) the name and contact details of the person to whom the benefit of the powers will be transferred or granted;
- (b) subject to paragraph (7), the date on which the transfer will take effect;

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Hornsea One Offshore Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (c) the powers to be transferred or granted;
 - (d) pursuant to paragraph (4), the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted;
 - (e) where relevant, a plan showing the works or areas to which the transfer or grant relates; and
 - (f) a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.
- (7) The date specified under (6)(b) must not be earlier than the expiry of five days from the date of the receipt of the notice.
- (8) The notice given under paragraph (6) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.

Commencement Information

I6 Art. 34 in force at 31.12.2014, see [art. 1](#)

Deemed marine licences under the Marine and Coastal Access Act 2009

35. The person who is the licence-holder for the purpose of each of Schedules 8 to 11 is deemed to be granted under Part 4 of the 2009 Act the deemed marine licence set out in the relevant Schedule, subject to the licence conditions set out in Part 2 of that Schedule.

Commencement Information

I7 Art. 35 in force at 31.12.2014, see [art. 1](#)

Disapplication of constraints on works in the Humber

- 36.** The following provisions do not apply to the authorised project—
- (a) section 25 of the Humber Conservancy Act 1852(6);
 - (b) section 9(ii) (licences for execution of works) of the Humber Conservancy Act 1899(7); and
 - (c) section 6(2) (no erections in the Humber below river lines or without licence above river lines) of the Humber Conservancy Act 1905(8).

Commencement Information

I8 Art. 36 in force at 31.12.2014, see [art. 1](#)

Saving for Trinity House

37. Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.

(6) 1852 c. xxx.
 (7) 1899 c. cci.
 (8) 1905 c. clxxix.

Commencement Information

I9 Art. 37 in force at 31.12.2014, see [art. 1](#)

Crown Rights

38.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee—

- (a) to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—
 - (i) belonging to Her Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
 - (ii) belonging to Her Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the Government Department having the management of that land; or
 - (iii) belonging to a Government Department or held in trust for Her Majesty for the purposes of a Government Department without the consent in writing of that Government Department; or
- (b) to exercise any right under this Order compulsorily to acquire an interest in any land which is Crown Land which is for the time being held otherwise than by or on behalf of the Crown without the consent in writing of the appropriate Crown authority.

(2) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions.

Commencement Information

I10 Art. 38 in force at 31.12.2014, see [art. 1](#)

Certification of plans etc

39.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the land plans;
- (b) the offshore works plans, intertidal works plans and the onshore works plans;
- (c) the book of reference;
- (d) the environmental statement; and
- (e) any other plans or documents referred to in this Order,

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Commencement Information

I11 Art. 39 in force at 31.12.2014, see [art. 1](#)

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Hornsea One Offshore Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Protection of Interests

40. Schedule 12 (Protective provisions) has effect.

Commencement Information

I12 Art. 40 in force at 31.12.2014, see [art. 1](#)

Arbitration

41. Any difference under any provision of this Order, unless otherwise provided for, is to be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on application of either party (after giving notice in writing to the other) by the Secretary of State.

Commencement Information

I13 Art. 41 in force at 31.12.2014, see [art. 1](#)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Hornsea One Offshore Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- Order modified by [S.I. 2016/471 art. 4Sch.](#)

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- art. 2(6) inserted by [S.I. 2015/1280 Sch.](#)