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STATUTORY INSTRUMENTS

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**2015 No. 1386**

**The Swansea Bay Tidal Generating Station Order 2015**

**PART 7**

Miscellaneous and general

**Application of Energy Act 2004 in relation to decommissioning**

**42.**—(1) The undertaker must submit to the Secretary of State a programme for decommissioning the parts of the authorised development below the mean low water mark (a “decommissioning programme”).

(2) The decommissioning programme—

- (a) must set out measures to be taken for decommissioning the parts of the authorised development below the mean low water mark;
- (b) must contain an estimate of the expenditure likely to be incurred in carrying out those measures;
- (c) must make provision for the determination of the times at which, or the periods within which, those measures will have to be taken;
- (d) if it proposes that the authorised development will be wholly or partly removed from a place below the mean low water mark, must include provision about restoring that place to the condition that it was in before the construction of the authorised development; and
- (e) if it proposes that the authorised development will be left in position at a place below the mean low water mark or will not be wholly removed, must include provision about whatever continuing monitoring and maintenance will be necessary.

(3) The authorised development must not be commenced until the Secretary of State has approved the decommissioning programme.

(4) The provisions of the 2004 Act referred to in paragraph (5) apply as if those provisions were contained in this Order and as if—

- (a) the authorised development were a “relevant object” within the meaning of Chapter 3 (decommissioning of offshore installations) of Part 2 of that Act;
- (b) references in the provisions of that Act referred to in paragraph (5) to a decommissioning programme submitted to or approved by the Secretary of State under that Chapter included references to a decommissioning programme submitted to or approved by the Secretary of State under this article; and
- (c) the reference in section 112A(2)(a) of that Act to a person who has been, or may be, given a notice under section 105(2)(a) of that Act in relation to a relevant object included a reference to the undertaker.

(5) The provisions are—

- (a) section 106 (approval of decommissioning programmes);
- (b) section 108 (reviews and revisions of decommissioning programmes);

- (c) section 109(1) (carrying out of decommissioning programmes);
  - (d) section 110 (default in carrying out decommissioning programmes), except for subsections (3) and (4);
  - (e) section 110A (protection of funds held for purposes of decommissioning);
  - (f) section 110B (section 110A: supplemental);
  - (g) section 112 (duty to inform Secretary of State), except for subsections (2)(a) and (7);
  - (h) section 112A (power of Secretary of State to require information and documents), except for subsections (8) and (9).
- (6) A person must not disclose information obtained by virtue of a notice under section 112A(1) of the 2004 Act (as applied by paragraph (4)) unless the disclosure—
- (a) is made with the consent of the person by or on behalf of whom the information was provided;
  - (b) is for the purpose of the exercise of the Secretary of State’s functions under this Order, the Electricity Act 1989(1) or Part 4 of the Petroleum Act 1998(2); or
  - (c) is required by or under an enactment.

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(1) 1989 c. 29.  
(2) 1998 c. 17.