
STATUTORY INSTRUMENTS

2015 No. 1984

The Port Talbot Steelworks Generating Station Order 2015

PART 2

PRINCIPAL POWERS

Development consent granted by Order

3.—(1) Subject to the provisions of this Order and to the Requirements, the undertaker is granted development consent for the authorised development to be carried out within the Order limits and in accordance with the works plans.

(2) In constructing or maintaining a Work, the undertaker may deviate laterally from the lines or situations shown on the works plans within the limits of deviation relating to that Work and shown on those plans.

(3) Schedule 2 (which contains the Requirements) has effect.

Power to maintain authorised development

4.—(1) The undertaker may at any time maintain the authorised development within the Order limits, except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) In maintaining the authorised development, the undertaker may remove or replace any constituent part, but not the whole, of a Work.

Operation of generating station

5.—(1) The undertaker is authorised to operate the generating station for which development consent is granted by this Order.

(2) Paragraph (1) does not relieve the undertaker of any requirement to obtain a permit or licence under any legislation that may be required from time to time to authorise the operation of a generating station.

Benefit of Order

6. Subject to article 7, the provisions of this Order have effect solely for the benefit of the undertaker.

Consent to transfer benefit of Order

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

- (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 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 the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the lessee.

(2) The requirement to obtain the consent of the Secretary of State under paragraph (1) does not apply to a transfer or grant to a licence holder within the meaning of Part 1 of the Electricity Act 1989⁽¹⁾ of the benefit of such provisions of this Order and related statutory rights as may be agreed between the undertaker and the licence holder as being reasonably necessary for the purposes of carrying out the substation works.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under this article 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 making the transfer or grant.

Defence to proceedings in respect of statutory nuisance

8.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990⁽²⁾ (summary proceedings by persons aggrieved by statutory nuisances) in relation to a nuisance falling within section 79(1)(g) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance), no order may be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance—

- (a) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and is attributable to the carrying out of the authorised development in accordance with the noise management plan approved by the relevant planning authority under Requirement 11 (approval and implementation of construction mitigation plans);
- (b) is a consequence of the construction or maintenance of the authorised development and cannot reasonably be avoided;
- (c) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and is attributable to the use of the authorised development in accordance with a noise management scheme approved by the relevant planning authority under Requirement 14 (control of noise during operational phase); or
- (d) is a consequence of the use of the authorised development and cannot reasonably be avoided.

(2) Section 61(9) of the Control of Pollution Act 1974⁽³⁾ (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) does 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 development.

(1) 1989 c.29. See section 64(1).

(2) 1990 c.43. Section 82(1) was amended by paragraph 6 of Schedule 17 to the Environment Act 1995 (c.25). Section 82(2) was amended by section 5(2) of the Noise and Statutory Nuisance Act 1993 (c.40) and paragraph 6 of Schedule 17 to the Environment Act 1995.

(3) 1974 c.40. Section 61(9) was amended by paragraph 15 of Schedule 15 to the Environmental Protection Act 1990 and Schedule 24 to the Environment Act 1995.