
STATUTORY INSTRUMENTS

2014 No. 2935

**The Able Marine Energy Park
Development Consent Order 2014**

PART 5

POWERS OF ACQUISITION

Power to override easements and other rights

31.—(1) Any authorised activity undertaken by the undertaker which takes place on land within the Order limits (whether the activity is undertaken by the undertaker or by any person deriving title under it) is authorised by this Order if it is done in accordance with the terms of this Order, regardless of whether it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) In this article “authorised activity” means—

- (a) the erection, construction or carrying out, or maintenance of any building or work on land;
- (b) the erection, construction, or maintenance or anything in, on, over or under land; or
- (c) the use of any land.

(3) The interests and rights to which this article applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

(4) Nothing in this article authorises interference with any right of way or right of laying down, erecting, continuing or maintaining apparatus on, under or over land which is—

- (a) a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, or
- (b) a right conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network.

(5) Where any interest or right to which this article applies is interfered with or any restriction breached by any authorised activity in accordance with the terms of this article the interest or right is extinguished, abrogated or discharged at the time that the interference or breach in respect of the authorised activity in question commences.

(6) In respect of any interference, breach, extinguishment, abrogation or discharge under this article, compensation—

- (a) is payable under section 7 or 10 of the 1965 Act; and
- (b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections in respect of injurious affection where—
 - (i) the compensation is to be estimated in connection with a purchase under those acts;
 - or

(ii) the injury arises from the execution of works on or use of land acquired under those acts.

(7) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1) of this article.

(8) Nothing in this article is to be construed as restricting the entitlement of any person to compensation.

(9) Where a person deriving title under the undertaker by whom the land in question was acquired or appropriated—

(a) is liable to pay compensation: and

(b) fails to discharge that liability,

the liability is enforceable against the undertaker.