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STATUTORY INSTRUMENTS

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**2015 No. 1386**

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

**PART 6**

**Powers of acquisition**

**Power to override easements and other rights**

**25.**—(1) Any authorised activity that takes place within the Order limits (whether the activity is undertaken by the undertaker, by its successor pursuant to a transfer or lease under article 6 (benefit of Order), by any person deriving title under them or by any of their servants or agents) may be undertaken, notwithstanding that 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, carrying out or maintenance of any building, work or other thing on land or over, in or under tidal waters or tidal lands; or
- (b) the use of any land, tidal waters or tidal lands,

that is authorised under any other provision of this Order and done in accordance with its terms.

(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) Where any interest or right to which this article applies is interfered with, or any restriction as to the user of land arising by virtue of a contract breached, by any authorised activity in accordance with the terms of this article, the interest, right or restriction is abrogated or discharged at the time that the interference or breach in respect of the authorised activity in question commences, but only to the extent required for, or necessary or incidental to, the authorised development.

(5) In respect of any interference, breach, abrogation or discharge in pursuance of this article, compensation is payable in accordance with section 152 of the 2008 Act (compensation in case where no right to claim in nuisance), to be determined in case of dispute under Part 1 of the 1961 Act.

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

(7) This article does not apply—

- (a) in respect of any agreement, restriction, obligation or other provision contained in a deed made pursuant to section 106 of the 1990 Act or section 278 of the 1980 Act; or
- (b) where any agreement expressly excludes its application.

(8) This article does not apply in relation to a “relevant right” within the meaning of section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.).