
STATUTORY INSTRUMENTS

2016 No. 779

The Meaford Gas Fired Generating Station Order 2016

PART 5

POWERS OF ACQUISITION

Private rights

23.—(1) Subject to the provisions of this article, all private rights and restrictive covenants over land subject to the compulsory creation and acquisition of rights or the imposition of restrictions under this Order are suspended and are unenforceable or, where so notified by the undertaker to the person with the benefit of such private rights or restrictive covenants, extinguished insofar as in either case their continuance would be inconsistent with the exercise by the undertaker of the right acquired or the burden of the restriction imposed—

- (a) as from the date of the creation and acquisition of the right or the benefit of the restriction by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry) in pursuance of the right,

whichever is earliest.

(2) Subject to the provisions of this article, all private rights and restrictive covenants over the Order land and which is either—

- (a) leased by the undertaker pursuant to the lease; or
- (b) subject to rights by agreement for the benefit of the undertaker,

are suspended and are unenforceable in so far as their continuance would be inconsistent with any activity authorised by this Order.

(3) Subject to the provisions of this article, all private rights and restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for so long as the undertaker remains in lawful possession of the land and so far as their continuance would be inconsistent with the exercise of the temporary possession of that land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this Order is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) This article does not apply in relation to any right to which article 26 (statutory undertakers) applies.

(6) Paragraphs (1), (2) and (4) shall have effect subject to—

- (a) any notice given by the undertaker before—
 - (i) the completion of the creation and acquisition of rights or the imposition of restrictions over or affecting the land;
 - (ii) the undertaker's appropriation of it;
 - (iii) the undertaker's entry onto it; or

- (iv) the undertaker's temporary possession of it,
that any or all of those paragraphs shall not apply to any right specified in the notice; and
 - (b) any agreement made, in so far it relates to the authorised development, at any time between the undertaker and the person in or to whom the right or restrictive covenant in question is vested, belongs or benefits.
- (7) If any such agreement as is referred to in paragraph (6)(b)—
- (a) is made with a person in or to whom the right or restrictive covenant is vested, belongs or benefits; and
 - (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(8) References in this article to private rights and restrictive covenants over land includes any trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

(9) In this article—

“the lease” means the lease to be entered into by the undertaker pursuant to an option agreement dated 31 March 2015 made between (1) St Modwen Properties I Sarl; and (2) Meaford Land Limited as for a term of no less than seventy five years certain or such other lease as may be entered into from time to time for the benefit of the undertaker to construct, operate and maintain the authorised development.