
STATUTORY INSTRUMENTS

2017 No. 826

The East Anglia THREE Offshore Wind Farm Order 2017

PART 2

Principal powers

Benefit of the Order

5.—(1) Subject to paragraphs (2) and (3), the undertaker may with the written 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 (excluding the deemed marine licences) and such related statutory rights as may be agreed between the undertaker and the transferee;
- (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 (excluding the deemed marine licences) and such related statutory rights as may be so agreed.

(2) Subject to paragraph (3), the undertaker may with the written consent of the Secretary of State—

- (a) where an agreement has been made in accordance with paragraph (1)(a), transfer to the transferee the whole of any of the deemed marine licences and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) where an agreement has been made in accordance with paragraph (1)(b), grant to the lessee, for the duration of the period mentioned in paragraph (1)(b), the whole of any of the deemed marine licences and such related statutory rights as may be so agreed.

(3) The Secretary of State must consult the MMO before giving consent to the transfer or grant to another person of the whole of the benefit of the provisions of any of the deemed marine licences.

(4) Where paragraph (8) applies no consent of the Secretary of State is required.

(5) Where an agreement has been made in accordance with paragraph (1) or (2) references in this Order to the undertaker, except in paragraph (6), (7) or (9), include references to the transferee or lessee.

(6) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) or (2) are subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(7) Where an agreement has been made in accordance with paragraph (1) or (2)—

- (a) the benefit (“the transferred benefit”) includes any rights that are conferred, and any obligations that are imposed by virtue of the provisions to which the benefit relates;
- (b) the transferred benefit resides exclusively with the transferee or, as the case may be, the lessee and the transferred benefit is not enforceable against the undertaker save in the case of a deemed marine licence transferred or granted in respect of any breach of an obligation by the undertaker which occurs prior to such transfer or grant or which occurs as a result of any activity carried out by the undertaker on behalf of the transferee.

(8) This paragraph applies where—

- (a) the transferee or lessee is a person who holds a licence under the 1989 Act; or
- (b) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—
 - (i) no such claims have been made,
 - (ii) any such claim has been made and has been compromised or withdrawn,
 - (iii) compensation has been paid in final settlement of any such claim,
 - (iv) payment of compensation into court has taken place in lieu of settlement of any such claim; or
 - (v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation is payable.

(9) The provisions of article 8 (street works), article 10 (temporary stopping up of streets), article 15 (compulsory acquisition of land), article 17 (compulsory acquisition of rights), article 23 (temporary use of land for carrying out the authorised project) and article 24 (temporary use of land for maintaining the authorised project) have effect only for the benefit of the named undertaker and a person who is a transferee or lessee and is also—

- (a) in respect of Works Nos. 5B to 69 a person who holds a licence under the 1989 Act; or
- (b) in respect of functions under article 8 (street works) relating to a street, a street authority.

(10) Where paragraph (8) applies, the undertaker must provide written notification to the Secretary of State, the MMO, and the relevant planning authority at least 14 days prior to transferring and/or granting any benefit under paragraph (1) or (2).