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STATUTORY INSTRUMENTS

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**2019 No. 1315**

**The Drax Power (Generating Stations) Order 2019**

**PART 2**

**PRINCIPAL POWERS**

**Development consent etc. granted by the 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.

(2) Each numbered work maybe situated only within the corresponding numbered area shown on the works plans and within the limits of deviation.

**Maintenance of authorised development**

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

(2) This article authorises the carrying out of maintenance works only within the Order limits.

**Operation of authorised development**

**5.—**(1) The undertaker is authorised to use and operate the generating stations comprised in the authorised development.

(2) This article does not relieve the undertaker of any other requirement to obtain any permit or licence or any obligation under any legislation that may be required to authorise the operation of a generating station.

**Benefit of the Order**

**6.** Subject to article 7 (consent to transfer the benefit of the Order), the provisions of this Order have effect solely for the benefit of Drax Power Limited save for—

- (a) Work No. 6A in relation to which the provisions of this Order have effect for the benefit of Drax Power Limited and NGG; and
- (b) Work No 8 in relation to which the provisions of this Order have effect for the benefit of Drax Power Limited and NGET.

**Consent to transfer benefit of the Order**

**7.—**(1) Subject to paragraph (4), the undertaker may—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order which resides for the time being in the undertaker (including any of the numbered works) and such related statutory rights as may be agreed in writing 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 which resides for the time being in the undertaker (including any of the numbered works) and such related statutory rights as may be so agreed.
- (2) Where a transfer or grant has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), include references to the transferee or the lessee.
- (3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) 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.
- (4) The consent of the Secretary of State is required for the exercise of the powers of paragraph (1) except where—
- (a) the transferee or lessee is—
    - (i) the holder of a licence under section 6 of the Electricity Act 1989(1);
    - (ii) in relation only to a transfer or lease of Work No. 6 or Work No. 7, the holder of a licence under section 7 of the Gas Act 1986(2); or
    - (iii) in relation to a transfer or lease of any works within a highway, a highway authority responsible for the highways within the Order land; or
  - (b) the time limits for all 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 claims that have been made have all been compromised or withdrawn;
    - (iii) compensation has been paid in final settlement of all such claims;
    - (iv) payment of compensation into court in lieu of settlement of all such claims has taken place; or
    - (v) it has been determined by a tribunal or court of competent jurisdiction in respect of all such claims that no compensation is payable.
- (5) Where the consent of the Secretary of State is not required under paragraph (4), the undertaker must notify the Secretary of State in writing before transferring or granting a benefit referred to in paragraph (1).
- (6) The notification referred to in paragraph (5) must state—
- (a) the name and contact details of the person to whom the benefit of the powers will be transferred or granted;
  - (b) subject to paragraph (7), the date on which the transfer will take effect;
  - (c) the powers to be transferred or granted;
  - (d) pursuant to paragraph (3), the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and
  - (e) where relevant, a plan showing the works or areas to which the transfer or grant relates.
- (7) The date specified under paragraph (6)(b) must not be earlier than the expiry of five working days from the date of the receipt of the notice.
- (8) The notice given under paragraph (6) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.

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(1) 1989 c. 29.

(2) 1986 c.44.

### **Application and modification of statutory provisions**

8.—(1) The provisions of the Neighbourhood Planning Act 2017<sup>(3)</sup> insofar as they relate to temporary possession of land under articles 28 (temporary use of land for carrying out the authorised development) and 29 (temporary use of land for maintaining the authorised development) do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction, operation or maintenance of any part of the authorised development.

(2) As from the date on which the authorised development (including the permitted preliminary works) is commenced any approval, grant, permission, authorisation or agreement made under the Planning Acts or Electricity Acts prior to that date will cease to have effect but only insofar as such approval, grant, permission, authorisation or agreement is inconsistent with the authorised development or anything approved under the Requirements to be carried out within the Order limits.

(3) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction, operation or maintenance of the authorised development—

- (a) section 23 (prohibition of obstructions, etc. in watercourses) of the Land Drainage Act 1991<sup>(4)</sup>; and
- (b) any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991.

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<sup>(3)</sup> 2017 c.20.

<sup>(4)</sup> 1991 c.59.