
STATUTORY INSTRUMENTS

2016 No. 880

The Triton Knoll Electrical System Order 2016

PART 6

Miscellaneous and general

Deemed marine licence under Marine and Coastal Access Act 2009

31. The marine licence set out in Schedule 9 is deemed to have been issued under Part 4 of the 2009 Act for the licensed marine activities specified in Part 1 of the licence and subject to the conditions specified in Part 2 of the licence.

Application of landlord and tenant law

32.—(1) This article applies to—

- (a) any agreement for leasing to a person the whole or any part of the authorised project or the right to operate it; and
- (b) any agreement entered into by the undertaker with a person for the construction, maintenance, use or operation of the authorised project, or any part of it,

so far as the agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for the person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of an agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under such an agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of the parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for purposes of Town and Country Planning Act 1990

33. Development consent granted by this Order must be treated as specific planning permission for the purposes of section 264(3) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

Felling or lopping of trees and removal of hedgerows

34.—(1) The undertaker may, for the purposes of the authorised project, remove any hedgerows within the Order limits, specified in Schedule 10 (removal of hedgerows) and identified on the hedgerow plans that may be required for the purposes of carrying out the authorised project.

(2) In paragraph (1), “hedgerow” has the same meaning as in the Hedgerows Regulations 1997⁽¹⁾.

(3) The undertaker may fell or lop any tree or shrub within or overhanging the Order limits, or cut back its roots if it reasonably believes it to be necessary to do so, in order to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

(4) In carrying out any activity authorised by paragraph (3)—

- (a) the undertaker must not do unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from the activity; and
- (b) the duty contained in section 206(1) of the 1990 Act (replacement of trees) does not apply⁽²⁾.

(5) The authority given by paragraph (3) constitutes a deemed consent under the relevant tree preservation order.

(6) Any dispute as to a person’s entitlement to compensation under paragraph (4), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

Certification of plans, etc.

35.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the works plans (rev. C);
- (b) the Order limits plans (rev. C);
- (c) the land plans (rev. C);
- (d) the book of reference (rev. D, dated 8th August 2016);
- (e) the environmental statement (rev. A);
- (f) the access to works and streets plans (rev. C);
- (g) the hedgerow plans (rev. C);
- (h) the public rights of way plans (rev. C);
- (i) the crossings schedule (rev. 4.0);
- (j) the design principles document (rev. A);
- (k) the outline code of construction practice (onshore) (rev. C) comprising—
 - (i) the outline construction method statement (rev. E);
 - (ii) the outline health and safety plan;
 - (iii) the outline noise and vibration management plan (rev. B);
 - (iv) the outline air quality management plan;
 - (v) the outline soil management plan (rev. E);
 - (vi) the outline artificial light emissions plan;
 - (vii) the outline site waste management plan;

(1) S.I. 1997/1160.

(2) Section 206(1) was amended by paragraph 11 of Schedule 8 to the Planning Act 2008.

- (viii) the outline pollution prevention and emergency incident response plan (rev. C);
- (ix) the outline construction environment management plan (rev. B);
- (x) the outline communications plan (rev. B);
- (l) the outline landscape strategy and ecological management plan (rev. D);
- (m) the outline traffic management plan (rev. B);
- (n) the outline onshore written scheme of investigation (rev. B);
- (o) the outline offshore written scheme of investigation (rev. A);
- (p) the outline access management plan (rev. B);
- (q) the outline offshore operations and maintenance plan (rev. A),

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in proceedings as evidence of the contents of the document of which it is a copy.

Arbitration

36. Any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties, or failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

Guarantees in respect of payment of compensation

37.—(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any land unless it has first put in place—

- (a) a guarantee approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land; or
- (b) an alternative form of security for that purpose approved by the Secretary of State.

(2) The provisions are—

- (a) article 15 (compulsory acquisition of land);
- (b) article 16 (compulsory acquisition of land: minerals);
- (c) article 18 (compulsory acquisition of rights);
- (d) article 19 (private rights);
- (e) article 21 (acquisition of subsoil only);
- (f) article 22 (rights under or over streets);
- (g) article 24 (temporary use of land for carrying out authorised project);
- (h) article 25 (temporary use of land for maintaining authorised project); and
- (i) article 27 (statutory undertakers).

(3) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under this Order must be treated as enforceable against the guarantor or person providing the alternative form of security by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.

(4) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised.

Procedure regarding certain approvals, etc.

38.—(1) Where an application is made to, or a request is made of, the relevant planning authority, a highway authority, a street authority or the owner of a watercourse, sewer or drain for any consent, agreement or approval required or contemplated by any of the provisions of this Order, the consent, agreement or approval must, if given, be given in writing and is not to be unreasonably withheld or delayed.

(2) Schedule 11 (procedure for discharge of Requirements) has effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to the Requirements unless otherwise agreed in writing between the undertaker and the relevant planning authority.

Saving provisions for Trinity House

39. Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.

Crown rights

40.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter on or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1)—

- (a) may be given unconditionally or subject to terms and conditions;
- (b) is deemed to have been given in writing where it is sent electronically.