
STATUTORY INSTRUMENTS

2015 No. 318

**The Dogger Bank Creyke Beck
Offshore Wind Farm Order 2015**

PART 2

Principal powers

Disapplication and modification of legislative provisions

10.—(1) The following provisions do not apply in relation to the construction of works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised project—

- (a) section 109 of the Water Resources Act 1991⁽¹⁾ (structures in, over or under a main river); and
- (b) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25⁽²⁾ (byelaw-making powers of the Appropriate Agency) to the Water Resources Act 1991 that require consent or approval for the carrying out of the works.

(2) Any provision of the 1836 Act and of any byelaws, rules, orders or regulations made under that Act are unenforceable and do not have effect in relation to the exercise of any power conferred by this Order so far as applying to Figham Common to the extent that the provision is inconsistent with the exercise of the power including, in particular,—

- (a) if the provision makes it an offence to take action, or not to take action, pursuant to the power;
- (b) if the provision requires the consent of any person before action may be taken pursuant to the power;
- (c) if action taken pursuant to the power causes the provision to apply so as to enable a person to require the taking of remedial or other action or so as to enable remedial or other action to be taken; or
- (d) if action taken pursuant to a power or duty under the provision would or might interfere with the exercise of any work authorised by this Order.

(3) In paragraph (2), “1836 Act” means the Act⁽³⁾ the title of which is “An Act to provide for the better regulation of certain common pastures within the Borough of Beverley in the East Riding of the County of York”.

(1) 1991 c.57. Section 109 was amended by section 82(2) of the Marine and Coastal Access Act 2009 and paragraph 274 of Schedule 2 to S.I. 2013/755.

(2) Paragraph 5 was amended by section 100 of the Natural Environment and Rural Communities Act 2006 (c.16), section 84(2) of, and paragraph 3 of Schedule 11 to, the Marine and Coastal Access Act 2009, paragraph 49 of Schedule 2 to the Flood and Water Management Act 2010 (c.29) and paragraph 315 of Schedule 2 to S.I. 2013/755. Paragraph 6 was amended by paragraph 26 of Schedule 15 to the Environment Act 1995 (c.25) and section 224 of, and paragraph 24 of Schedule 16 and Part 5 of Schedule 22 to, the Marine and Coastal Access Act 2009. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995.

(3) 1836 c. lxx.

- (4) In constructing Works No. 6A and 6B, the undertaker may do either or both of the following—
- (a) hold, use and appropriate such parts of the disused canal as it may require for the purposes of the authorised project;
 - (b) take down and remove such parts of the disused canal as the undertaker does not require for those purposes.
- (5) On the date of entry by the undertaker onto any part of the disused canal for the purposes of exercising any power in Part 5, all of the powers and duties that may be conferred or imposed by the relevant provisions in relation to that part of the disused canal that is within the Order limits cease to have effect.
- (6) Except as provided in paragraph (5), the 1801 and 1847 Acts remain in full force and effect.
- (7) In paragraphs (4) to (6)—
- “1801 Act” means the Act⁽⁴⁾ the title of which is “An Act for enabling Charlotta Bethell, widow, to make and maintain a navigable canal from the River Hull at a point in the parish of Leven near the boundary between Eske and Leven Carrs in the East Riding of the County of York to Leven Bridge in the said Riding”;
 - “1847 Act” means the York and North Midland Railway (Canals Purchase) Act 1847⁽⁵⁾;
 - “disused canal” means that part of the former Leven Canal authorised by the relevant provisions;
 - “relevant provisions” means sections 1 and 14 of the 1801 Act and section 35 of the 1847 Act.
- (8) For the purposes of carrying out development authorised by this Order only, regulation 6(1) of the Hedgerow Regulations 1997⁽⁶⁾ is deemed to be amended by the inserting the following sub-paragraph after sub-paragraph (e)—
- “(ea) for carrying out development for which development consent is granted under section 114 of the Planning Act 2008;”.

⁽⁴⁾ 41 G.3 c.xxxii, amended by 45 G.3 c.xliii.

⁽⁵⁾ 10 & 11 Vict. c.216.

⁽⁶⁾ S.I. 1997/1160.