
STATUTORY INSTRUMENTS

2023 No. 800

The Hornsea Four Offshore Wind Farm Order 2023

PART 2

PRINCIPAL POWERS

Benefit of the Order

5.—(1) Subject to this article, the provisions of this Order have effect solely for the benefit of the undertaker.

(2) Subject to paragraph (5) 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 referred to in paragraph (3) below) and such related statutory rights as may be agreed between the undertaker and the transferee; and
- (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 referred to in paragraph (3) below) and such related statutory rights as may be so agreed.

except where paragraph (8) applies, in which case the consent of the Secretary of State is not required.

(3) Subject to paragraphs (5) and (6) the undertaker may with the written consent of the Secretary of State—

- (a) Where an agreement has been made in accordance with paragraph (2)(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 (2)(b), grant to the lessee for the duration of the period mentioned in paragraph (2)(b), the whole of any of the deemed marine licences and such related statutory rights as may be so agreed.

(4) Where an agreement has been made in accordance with paragraph (1) or (3) references in this Order to the undertaker, except in paragraphs (7), (9), (12) and the first reference in paragraph (13) include references to the transferee or lessee.

(5) The undertaker must consult the Secretary of State before making an application for consent under this article by giving notice in writing of the proposed application.

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

(7) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit, under paragraphs (1) or (3)—

- (a) the benefit transferred or granted (“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;

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- (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; and
 - (c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) or (3) 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.
- (8) The consent of the Secretary of State is required for the exercise of powers under paragraphs (2) or (3) except where—
- (a) the transferee or lessee is the holder of a licence under section 6 (licences authorising supply, etc) of 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) Prior to any transfer or grant under this article taking effect, whether or not the consent of the Secretary of State is required, the undertaker must give notice in writing to the Secretary of State, and if such transfer or grant relates to the exercise of powers in their area, to the MMO and the relevant planning authority.
- (10) The notice required under paragraphs (5) and (9) must—
- (a) state—
 - (i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;
 - (ii) subject to paragraph (11), the date on which the transfer will take effect;
 - (iii) the provisions to be transferred or granted; and
 - (iv) the restrictions, liabilities and obligations that, in accordance with paragraph (7)(c), will apply to the person exercising the powers transferred or granted; and
 - (v) where paragraph (8) does not apply, confirmation of the availability and adequacy of funds for compensation associated with the compulsory acquisition of the Order land.
 - (b) be accompanied by—
 - (i) where relevant, a plan showing the works or areas to which the transfer or grant relates; and
 - (ii) a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.
- (11) The date specified under paragraph (10)(a)(ii) in respect of a notice served in respect of paragraph (9) must not be earlier than the expiry of fourteen days from the date of the receipt of the notice.

(12) The notice given under paragraph (9) 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.

(13) Sections 72(7) and (8) of the 2009 Act (variation, suspension, revocation and transfer) do not apply to a transfer or grant of the whole of the benefit of the provisions of the deemed marine licences to another person by the undertaker pursuant to an agreement under paragraph (3) save that the MMO may amend any deemed marine licence granted under Schedule 11 or Schedule 12 of the Order to correct the name of the undertaker to the name of a transferee or lessee under this article 5 (benefit of the Order).

Commencement Information

II Art. 5 in force at 3.8.2023, see [art. 1](#)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Hornsea Four Offshore Wind Farm Order 2023. Any changes that have already been made by the team appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- art. 5(4) comma inserted by [S.I. 2024/117 Sch.](#)
- art. 5(4) word substituted by [S.I. 2024/117 Sch.](#)
- art. 5(7) word substituted by [S.I. 2024/117 Sch.](#)
- art. 5(7)(c) word substituted by [S.I. 2024/117 Sch.](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 9 Pt. 3A para. 9(4) word substituted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3A para. 3 words substituted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 23(3) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 23(5) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 24(2) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 25(2) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 25(3) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 25(5) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 25(6) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 25(10) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 26(2) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 26(3) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 26(4) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 3B para. 26(5) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 4 para. 4(1)(r) word omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 4 para. 12(5) words substituted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 5 para. 1(2) full stop omitted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 7 para. 4(2)(i) semicolon inserted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 7 para. 4(2)(j) word inserted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 7 para. 4(2)(o) word inserted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 7 para. 4(2)(p) word inserted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 7 para. 4(2)(p) word substituted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 7 para. 4(2)(q) word substituted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 9 para. 8(1)(a) words substituted by [S.I. 2024/117 Sch.](#)
- Sch. 9 Pt. 10 para. 2(a) words substituted by [S.I. 2024/117 Sch.](#)
- Sch. 16 para. 10(a)(v)(cc) semicolon inserted by [S.I. 2024/117 Sch.](#)
- Preamble word substituted by [S.I. 2024/117 Sch.](#)
- art. 26(5) inserted by [S.I. 2024/117 Sch.](#)