STATUTORY INSTRUMENTS

2016 No. 810

INFRASTRUCTURE PLANNING

The Walney Extension Offshore Wind Farm (Amendment) Order 2016

Made - - - -	*27th July 2016*
Coming into force - -	*28th July 2016*

An application has been made to the Secretary of State under paragraph 2 of Schedule 6 to the Planning Act 2008(**1**)("the Act"), and in accordance with Part 1 of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011(**2**)("the 2011 Regulations"), for a change to the Walney Extension Offshore Wind Farm Order 2014(**3**)("the 2014 Order") which is not a material change to the Order.

The Secretary of State, having considered the application, the responses to the publicity and consultation required by regulations 6 and 7 of the 2011 Regulations, has determined to make an Order giving effect to the proposed change comprised in the application which in the opinion of the Secretary of State does not make any material change to the 2014 Order.

The Secretary of State, in exercise of the powers conferred by paragraphs 2(1) and (9) of Schedule 6 to the Act makes the following Order —

Citation and Commencement

1. This Order may be cited as the Walney Extension Offshore Wind Farm (Amendment) Order 2016 and comes into force on 28th July 2016.

Amendments to the Walney Extension Offshore Wind Farm Order 2014

2.—(1) The Walney Extension Offshore Wind Farm Order 2014 is amended as follows.

(2) For Article 5, substitute—

(**1**) 2008 c.29. Paragraph 2 of Schedule 6 was amended by paragraph 4 of Schedule 8 to the Marine and Coastal Access Act 2009 (c.23), by paragraph 72 of Schedule 13 and by Schedule 25 to the Localism Act 2011 (c.29), and by section 28 of the Infrastructure Act 2015 (c.7). There are other amendments which are not relevant to this Order.

(**2**) S.I. 2011/2055. Part 1 was amended by S.I 2012/635 and S.I 2015/760.

(**3**) S.I 2014/2950, as amended by S.I 2015/1270.

"**Benefit of the Order**

5.—(1) Subject to paragraph (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 (including the deemed marine licences) and such related statutory rights as may be agreed 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 (including the deemed marine licences) and such related statutory rights as may be so agreed,

except where paragraph (5) applies, in which case no such consent shall be required.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraphs (4) and (6), shall include references to the transferee or lessee.

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

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

(a) the benefit transferred or granted ("the transferred benefit") shall include 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 shall reside exclusively with the transferee or, as the case may be, the lessee and the transferred benefit shall not be enforceable against the undertaker; and

(c) 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.

(5) This paragraph applies to any provisions of this Order and its related statutory rights where—

(a) the transferee or lessee is the holder of a licence under section 6 of the Electricity Act 1989(**4**); 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 shall be payable.

(6) Prior to any transfer or grant under this article taking effect 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.

(**4**) 1989 c.29. Subsection 6 (2A) was inserted by section 145(1) and (6) of the Energy Act 2004 (c.20).