

SCHEDULES

SCHEDULE 16

Article 49

COMPENSATION TO PROTECT THE COHERENCE OF THE NATIONAL SITE NETWORK

PART 1

OFFSHORE ORNITHOLOGY ENGAGEMENT GROUP

1. In this Schedule—

“the FFC” means the site designated as the Flamborough and Filey Coast Special Protection Area;

“GCIMP” means the guillemot compensation implementation and monitoring plan for the delivery of measures to compensate for the predicted loss of adult guillemot from the FFC as a result of the authorised development;

“KCIMP” means the kittiwake compensation implementation and monitoring plan for the delivery of measures to compensate for the predicted loss of adult kittiwakes from the FFC as a result of the authorised development;

“the guillemot and razorbill compensation plan” means the document certified as the guillemot and razorbill compensation plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc);

“the Hornsea Four Offshore Ornithology Engagement Group” or “H4 OOEG” means the group that will assist, through consultation, the undertaker in the delivery of the compensation measures identified in the kittiwake compensation plan and the guillemot and razorbill compensation plan;

“the kittiwake compensation plan” means the document certified as the kittiwake compensation plan by the Secretary of State for the purposes of this Order under article 38 (certification of plans and documents, etc.);

“the offshore compensation measures” means, as the context requires, bycatch reduction and/or the offshore nesting structure;

“the onshore compensation measure” means, as the context requires, predator eradication and/or the onshore nesting structure; and

“UK NSN” means the United Kingdom National Site Network as defined in regulation 3 of the Conservation of Habitats and Species Regulations 2017.

Commencement Information

II Sch. 16 para. 1 in force at 3.8.2023, see [art. 1](#)

2. Work Nos. 1, 2, 3, 4 and 5 together with any associated development offshore may not be commenced until a plan for the work of the H4 OOEG has been submitted to and approved by the Secretary of State, such plan to include—

(a) terms of reference of the H4 OOEG;

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- (b) details of the membership of the H4 OOEG which must include—
 - (i) the MMO and the relevant SNCB as core members for the offshore compensation measures;
 - (ii) the relevant local planning authority and Natural England as core members for the onshore compensation measures;
 - (iii) the RSPB, The Wildlife Trust and Alderney Wildlife Trust as advisory members, for both the onshore compensation measures and/or the offshore compensation measures subject to their area of expertise;
- (c) details of the proposed schedule of meetings, timetable for preparation of the KCIMP, the GCIMP and the RCIMP and reporting and review periods;
- (d) the dispute resolution mechanism and confidentiality provisions; and
- (e) the scope of work to be limited to the topics for discussion as identified by the appointed chair to include in relation to the compensation measure, monitoring and adaptive management.

Commencement Information

I2 Sch. 16 para. 2 in force at 3.8.2023, see [art. 1](#)

PART 2

KITTIWAKE COMPENSATION

3. Following consultation with the H4 OOEG, the KCIMP must be submitted to the Secretary of State for approval in consultation with the MMO and relevant SNCB for the offshore compensation measure, and with the relevant local planning authority and relevant SNCB for any onshore measure (if such measure is required). The KCIMP must be based on the strategy for kittiwake compensation set out in the kittiwake compensation plan and include—

- (a) Details of the location where the compensation measure will be delivered and the suitability of the site to deliver the measures (including why the location is appropriate ecologically and likely to support successful compensation);
- (b) in relation to an offshore structure, details of any relevant seabed agreement(s);
- (c) details of the design of the artificial nesting structure(s) to provide nesting for at least 750 pairs of kittiwake in total; including the projected number of nests that will be accommodated on the structure, and how risks from predation and other perturbations have been designed out or mitigated;
- (d) an implementation timetable for delivery of the artificial nesting structure, such timetable to ensure that the structure is in place to allow for at least four full kittiwake breeding seasons prior to operation of any turbine forming part of the authorised development. For the purposes of this paragraph each breeding season is assumed to have commenced on 1 April in each year and ended on 30 September;
- (e) details of the maintenance schedule for the artificial nesting structure;
- (f) details for the proposed ongoing monitoring and reporting of the effectiveness of the measures including—
 - (i) survey methods;
 - (ii) survey programmes;

- (iii) success criteria; and
- (iv) timescales for the monitoring reports to be delivered;
- (g) recording of H4 OOEG consultations and project reviews;
- (h) details of any adaptive management measures, with details of the factors used to trigger any alternative and/or adaptive management measures; and
- (i) monitoring should include annual monitoring of the number of birds colonising the site including sufficient detail to identify barriers to breeding success (including nesting attempts and nest productivity) and target alternative or adaptive compensation measures. Evidence of natal dispersal and colony interchange with the UK NSN and FFC kittiwake colony should be included. Information of any other seabirds attempting to and/ or successfully nesting on the ANS should also be recorded.

Commencement Information

I3 Sch. 16 para. 3 in force at 3.8.2023, see [art. 1](#)

4. The undertaker must implement the measures set out in the KCIMP approved by the Secretary of State, unless otherwise agreed by the Secretary of State in consultation with the relevant SNCB, MMO and the relevant local planning authority. No operation of any turbine forming part of the authorised development may begin until the KCIMP has been approved by the Secretary of State and four full breeding seasons following the implementation of the measures set out in the KCIMP have taken place. For the purposes of this paragraph each breeding season is assumed to have commenced on 1 April in each year and ended on 30 September.

Commencement Information

I4 Sch. 16 para. 4 in force at 3.8.2023, see [art. 1](#)

5. The undertaker must notify the Secretary of State of completion of construction of the artificial nesting structure as set out in the KCIMP.

Commencement Information

I5 Sch. 16 para. 5 in force at 3.8.2023, see [art. 1](#)

6. Results from the monitoring scheme must be submitted at least annually to the Secretary of State and the relevant SNCB. This must include any finding that the measures have been ineffective in securing an increase in the number of adult kittiwakes available to recruit into the FCC and in such case proposals to address this. Any proposals to address effectiveness must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant statutory nature conservation body.

Commencement Information

I6 Sch. 16 para. 6 in force at 3.8.2023, see [art. 1](#)

7. The artificial nesting structure must not be decommissioned without prior written approval of the Secretary of State in consultation with relevant SNCB. The artificial nest structures shall be maintained beyond the operational lifetime of the authorised development if they are colonised,

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and routine and adaptive management measures and monitoring must continue whilst the artificial nesting structures are in place.

Commencement Information

I7 Sch. 16 para. 7 in force at 3.8.2023, see [art. 1](#)

8. The KCIMP approved under this Schedule includes any amendments that may subsequently be approved in writing by the Secretary of State. Any amendments to or variations of the approved KCIMP must be in accordance with the principles set out in the kittiwake compensation plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any materially new or materially different environmental effects from those considered in the kittiwake compensation plan.

Commencement Information

I8 Sch. 16 para. 8 in force at 3.8.2023, see [art. 1](#)

9. In the event of any conflict between the terms of the Order and the kittiwake compensation plan or the KCIMP then the provisions of this Order shall prevail.

Commencement Information

I9 Sch. 16 para. 9 in force at 3.8.2023, see [art. 1](#)

PART 3

GUILLEMOT COMPENSATION

10. Following consultation with the H4 OoEG, the GCIMP must be submitted to the Secretary of State for approval in consultation with the MMO and relevant SNCB for the offshore compensation measure, and with Natural England, the local planning authority and Alderney Wildlife Trust for the onshore compensation measure. The GCIMP must be based on the strategy for guillemot compensation set out in the guillemot and razorbill compensation plan (as relevant to guillemot) and include—

- (a) for the predator eradication measure—
 - (i) details of the location(s) where the compensation measure will be delivered;
 - (ii) details of the number of nest sites that need to be created within the Herm Island complex (Herm, Jethou, including Grand Fauconniere and the Humps) and locations around Alderney. This must take into account both the number of chicks that will need to be produced to ensure that the required number of adults survive to adulthood and the proportion of adult birds that are expected to be recruited into the UK NSN;
 - (iii) details of how any necessary land access rights, licences and approvals have or will be obtained and any biosecurity measures will be or have been secured;
 - (iv) an implementation timetable for delivery of the predator eradication measure, such timetable to ensure that the predator eradication method has commenced no later than two years prior to the commencement of Work No. 1(a) and 1(b), Work No. 2(a), 2(b) and 2(c) and Work No. 3(a);
 - (v) details for the proposed ongoing monitoring of the measure including—

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- (aa) survey methods for predators and seabirds;
 - (bb) success criteria;
 - (cc) survey and reporting programmes
 - (dd) seabird productivity rates;
 - (ee) seabird breeding population;
 - (ff) distribution of breeding seabirds; and
 - (gg) evidence of guillemot natal dispersal to the UK NSN;
 - (vi) recording of H4 OOEG consultations and project reviews;
 - (vii) details of any adaptive management measures, with details of the factors used to trigger any such measures. Such measures should consider offshore artificial nesting structures for guillemot;
 - (viii) provision for reporting to the Secretary of State, to include details of the use of the location(s) by breeding guillemot to identify barriers to success and target any adaptive management measures;
- (b) for the bycatch reduction measure—
- (i) details of relevant technology supply agreements and arrangements with fishers to use the bycatch reduction technology that will be or have been secured by the undertaker;
 - (ii) the locations where the measures will be deployed and the number of fishing vessels to be included in the scheme;
 - (iii) an implementation timetable for provision of the bycatch reduction measure, such timetable to ensure that contract(s) are entered into with fishers for the provision and use of bycatch reduction technology no later than one year prior to the commencement of Work No. 1(a) and 1(b), Work No. 2(a), 2(b) and 2(c) and Work No. 3(a);
 - (iv) details for the proposed ongoing monitoring of the measure including collection of data from participating fishers;
 - (v) the success criteria, defined as the estimated reduction in the number of guillemot killed;
 - (vi) recording of H4 OOEG consultations and project reviews;
 - (vii) details of any adaptive management measures and details of the factors used to trigger any such measures; and
 - (viii) provision for annual reporting to the Secretary of State, to identify barriers to success and target the adaptive management measures.

Commencement Information

I10 Sch. 16 para. 10 in force at 3.8.2023, see [art. 1](#)

11. The undertaker must carry out the predator eradication method and enter into contract(s) with fishers for the provision and use of bycatch reduction technology as set out in the GCIMP approved by the Secretary of State in consultation with Natural England, the Alderney Wildlife Trust and the local planning authority for the onshore measures and the relevant SNCB and MMO for the offshore measures. Work No. 1(a) and 1(b), Work No. 2(a), 2(b) and (c) and Work No. 3(a) must not commence until the GCIMP has been approved by the Secretary of State in accordance with paragraph 10, and at least 2 years have elapsed since the start of the predator eradication works and

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at least one year after the contract(s) with fishers for the provision and use of bycatch reduction technology have been entered into.

Commencement Information

I11 Sch. 16 para. 11 in force at 3.8.2023, see [art. 1](#)

12. The undertaker must notify the Secretary of State of completion of the predator eradication method and entering into contract(s) with fishers for the provision and use of bycatch reduction technology set out in the GCIMP.

Commencement Information

I12 Sch. 16 para. 12 in force at 3.8.2023, see [art. 1](#)

13. The GCIMP approved under this Schedule includes any amendments that may subsequently be approved in writing by the Secretary of State. Any amendments to or variations of the approved GCIMP must be in accordance with the principles set out in the guillemot and razorbill compensation plan (as relevant to guillemot) and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any materially new or materially different environmental effects from those considered in the guillemot and razorbill compensation plan (as relevant to guillemot).

Commencement Information

I13 Sch. 16 para. 13 in force at 3.8.2023, see [art. 1](#)

14. In the event of any conflict between the terms of this Order and the guillemot compensation plan or the GCIMP then the provisions of this Order shall prevail.

Commencement Information

I14 Sch. 16 para. 14 in force at 3.8.2023, see [art. 1](#)

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Changes and effects yet to be applied to :

- Sch. 16 para. 6 words inserted by [S.I. 2024/117 Sch.](#)
- Sch. 16 para. 2(c) words 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.](#)