

SCHEDULE 18

Offshore Ornithology Compensation Measures

PART 1

Flamborough and Filey Coast Special Protection Area: Kittiwake Compensation Measures

1. In this Part—

“the kittiwake compensation plan” means Appendix 1 of the Offshore Ornithology Without Prejudice Compensation Measures.

Commencement Information

I1 Sch. 18 Pt. 1 para. 1 in force at 22.4.2022, see [art. 1\(2\)](#)

2. The authorised development may not be commenced until a plan for the work of the kittiwake compensation steering group (“KCSG”) has been submitted to and approved by the Secretary of State. Such plan to include—

- (a) terms of Reference of the KCSG;
- (b) details of the membership of the KCSG;
- (c) details of the schedule of meetings, timetable for preparation of the kittiwake implementation and monitoring plan (the “KIMP”) and reporting and review periods; and
- (d) the dispute resolution mechanism.

Commencement Information

I2 Sch. 18 Pt. 1 para. 2 in force at 22.4.2022, see [art. 1\(2\)](#)

3. Following consultation with the KCSG, the KIMP must be submitted to and approved by the Secretary of State (in consultation with the MMO, the local planning authority for the land containing the artificial nest site, and the relevant statutory nature conservation body). The KCSG must be consulted further as required during the approval process. The KIMP must be based on the strategy for kittiwake compensation set out in the kittiwake compensation plan and include—

- (a) details of the location where compensation measures will be deployed, why the location is appropriate ecologically and likely to support successful compensation, and details of agreements demonstrating how the land and/or rights will or have been secured to deliver the ecology objectives of the KIMP;
- (b) details of designs of the artificial nest site including the type of nesting structure; and how risks from avian or mammalian predation and unauthorised human access will be mitigated;
- (c) an implementation timetable for delivery of the artificial nest structure that ensures relevant compensation measures are in place to allow four full kittiwake breeding seasons prior to the operation of any wind turbine generator forming part of the authorised development;
- (d) details of the proposed ongoing monitoring of the measures including: survey methods; survey programmes; success criteria; recording of KCSG consultations and project

reviews; adaptive management measures and details of the factors used to trigger alternative compensation measures and/or adaptive management measures;

- (e) details of the artificial nesting site maintenance schedule; and
- (f) provision for annual reporting to the Secretary of State, to include details of the number of birds colonising the site including: evidence of birds prospecting; nesting attempts; egg laying; hatching; and fledging, to identify barriers to breeding success and target alternative or adaptive management measures.

Commencement Information

I3 Sch. 18 Pt. 1 para. 3 in force at 22.4.2022, see [art. 1\(2\)](#)

4. The undertaker must not commence the authorised development unless it has first—
- (a) provided a reasonable estimate of the cost of delivery of the compensation measures; and
 - (b) put in place either—
 - (i) a guarantee in respect of the reasonable estimate of costs associated with the delivery of the compensation measures; or
 - (ii) an alternative form of security for that purpose, that has been approved by the Secretary of State.

Commencement Information

I4 Sch. 18 Pt. 1 para. 4 in force at 22.4.2022, see [art. 1\(2\)](#)

5. The undertaker must implement the measures as set out in the KIMP approved by the Secretary of State, unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory nature conservation body and the relevant local planning authority. In particular, no operation of any turbine forming part of the authorised development may begin until four full breeding seasons following the implementation of the measures set out in the KIMP have elapsed. For the purposes of this paragraph each breeding season is assumed to have commenced on 1 March in each year and ended on 30 September.

Commencement Information

I5 Sch. 18 Pt. 1 para. 5 in force at 22.4.2022, see [art. 1\(2\)](#)

6. The undertaker shall notify the Secretary of State of completion of implementation of the measures set out in the KIMP.

Commencement Information

I6 Sch. 18 Pt. 1 para. 6 in force at 22.4.2022, see [art. 1\(2\)](#)

7. Results from the monitoring scheme must be submitted at least annually to the Secretary of State and the relevant statutory nature conservation body. This must include details of any finding that the measures have been ineffective in securing an increase in the number of adult kittiwakes available to recruit to the SPA 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

17 Sch. 18 Pt. 1 para. 7 in force at 22.4.2022, see [art. 1\(2\)](#)

8. The artificial nest structure must not be decommissioned without written approval of the Secretary of State, in consultation with the relevant statutory nature conservation body. The artificial nest structures shall be maintained beyond the operational lifetime of the authorised development if they are colonised, and routine and adaptive management measures and monitoring must continue whilst the artificial nesting structures are in place.

Commencement Information

18 Sch. 18 Pt. 1 para. 8 in force at 22.4.2022, see [art. 1\(2\)](#)

9. The KIMP 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 KIMP 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

19 Sch. 18 Pt. 1 para. 9 in force at 22.4.2022, see [art. 1\(2\)](#)

10. In the event of any conflict or inconsistency between the terms of the kittiwake compensation plan and the provisions of this Order, the provisions of this Order shall prevail.

Commencement Information

110 Sch. 18 Pt. 1 para. 10 in force at 22.4.2022, see [art. 1\(2\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The East Anglia ONE North Offshore Wind Farm Order 2022, PART 1.