
STATUTORY INSTRUMENTS

2003 No. 2829

The Lynn Offshore Wind Farm Order 2003

PART II

WORKS PROVISION

Authorised works

Authorised works not to be executed without approval of the Secretary of State

5.—(1) No authorised works shall be constructed, altered, replaced, relaid or reconstructed except in accordance with the deposited plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work has begun.

(2) If the authorised works are constructed, altered, replaced, relaid or reconstructed in contravention of this article or of any condition or restriction imposed under this article—

- (a) the Secretary of State may by notice in writing require the Company at its own expense to remove the authorised works or any part thereof and restore the site to its former condition; and if on the expiration of a period of 30 days beginning with the date on which the notice is served upon the Company it shall have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice, or;
- (b) if it appears to the Secretary of State urgently necessary so to do, she may remove the authorised works or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Company.

Navigation aids on and navigational information about authorised works during construction

6. The Company shall at or near the authorised works during the whole time of the construction, alteration, replacement, relaying or re-construction thereof, exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

Provision against danger to navigation

7. In case of injury to or destruction or decay of the authorised works or any part thereof, the Company shall as soon as is reasonably practicable notify Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House may from time to time direct.

Abatement of authorised works abandoned or decayed

8.—(1) Where the authorised works are abandoned or suffered to fall into decay the Secretary of State may by notice in writing require the Company at its own expense either to repair and restore the authorised works or any part thereof, or to remove the work and restore the site to its former condition, to such an extent and within such limits as may be specified in the notice.

(2) If, on the expiration of 30 days from the date when a notice under this article is served upon the Company, it has failed to comply with the requirements of the notice, the Secretary of State may execute the work specified in the notice and any expenditure incurred by her in so doing shall be recoverable from the Company.

- (a) (3) (a) The Company shall remove from the site any individual turbine which ceases to generate electricity for more than 6 months unless such cessation is due to maintenance, repair or replacement or the Secretary of State has given prior written approval to the turbine remaining on the site.
- (b) At least 3 months before the scheduled works cease to generate electricity or the termination of the Crown Estate Lease (without a new lease being granted), whichever is the sooner, there shall be submitted to, approved in writing by, and deposited with the Secretary of State a decommissioning plan for the removal of the scheduled works, and the restoration and aftercare of the site having regard to minimising the environmental impact. Such a plan shall include a timetable for the removal, restoration and aftercare of the scheduled works and take into account any applicable legislative requirements, technology and best practice at the time of decommissioning.
- (c) Unless otherwise agreed with the Secretary of State the Company shall, following the approval of the decommissioning plan pursuant to the timetable specified in paragraph (b), arrange for the scheduled works to be decommissioned and the site restored in accordance with the plan, and within one month of completion of the work, provide the Secretary of State with written confirmation that it has been completed.
- (d) Unless otherwise agreed with the Secretary of State, within 6 months of completion of the decommissioning of the scheduled works pursuant to paragraph (c) the Company shall report on the aftercare of the site pursuant to the timetable specified in paragraph (b), and at 6 monthly intervals thereafter until the completion of the aftercare period.
- (e) If the Company ceases to operate the scheduled works without submitting a decommissioning plan pursuant to paragraph (b) the Secretary of State may take such steps as she considers fit to decommission the scheduled works and expenditure incurred in so doing shall be recoverable from the Company.

Survey of authorised works

9.—(1) The Secretary of State may at any time, if she deems it expedient, order a survey and examination of the authorised works and any expenditure incurred by the Secretary of State in such a survey and examination shall be recoverable from the Company.

(2) Except in the case of an emergency such surveys shall not be ordered more frequently than once a year, and before ordering such a survey the Secretary of State shall—

- (a) consult the Company in order to establish what relevant survey information is already available; and
- (b) give the Company an opportunity to carry out the survey itself.

Permanent lights and other navigational aids on authorised works

10.—(1) After the completion of the authorised works, the Company shall around the perimeter of such work exhibit such lights, marks, sound signals and other navigational aids and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) After the completion of the authorised works, the Company shall exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to aircraft as the Civil Aviation Authority may from time to time direct.

(3) Unless the Secretary of State otherwise directs, the Company shall ensure that so much of the turbine as is above the level to which Trinity House direct colouring for navigational safety reasons, and all nacelles and blades, are painted submarine grey (colour code: RAL 7035).

Active safety management system

11.—(1) The turbines shall be operated in accordance with an active safety management system for the purpose of minimising the risk of vessels colliding with the towers or rotating blades of the turbines and facilitating search and rescue activities.

(2) The details of the active safety management system shall be approved by the Maritime and Coastguard Agency, such approval (not to be unreasonably withheld), but the system shall include—

- (a) provision for each turbine to be marked by day and night with clearly visible identification systems;
- (b) provision for communication procedures between mariners in distress, the Maritime and Coastguard Agency and the central control room for the operation of the turbines when a vessel is in distress;
- (c) subject to the technology being available and it being available to the Company on commercially acceptable terms, provision for the immediate shutting down of one or more of the turbines at the request of the Maritime and Coastguard Agency in a position which secures the maximum clearance between the lowest point of the blades and the water level; and
- (d) provision for testing the emergency procedures at times and in a manner reasonably required by the Maritime and Coastguard Agency.

Noise

12.—(1) Unless otherwise directed by the Secretary of State, the Company—

- (a) shall comply with British Standard 5228 (Noise and Vibration Control on Construction and Open Sites) Part 1 and 2: 1997 and Part 4: 1992 in respect of all activities carried out during the construction or decommissioning of the authorised works; and
- (b) shall obtain, before the commencement of such activities, the approval by East Lindsey District Council of maximum levels of daytime and night time noise to be generated by such activities, and shall ensure that such levels are not exceeded.

(2) Unless otherwise approved in writing by the Secretary of State, the Company shall ensure that the rating level of the noise generated by the operation of the wind turbines does not exceed 35dB LA90, up to a wind speed of 10 metres per second, when measured in accordance with the guidance contained in “The Assessment and Rating of Noise from Wind Farms” (ETSU-R-1997), measured in free field conditions at a point 1.2 metres above ground level at any residential property in existence at the date of the making of this Order.

Construction exclusion zone

13.—(1) Subject to paragraph (5) below any person who, without reasonable excuse during the construction of the authorised works navigates a vessel within the construction exclusion zone shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) The construction exclusion zone shall not come into effect until—

- (a) 7 days after the publication of a notice in the prescribed manner specifying the location and extent of the construction exclusion zone, the date of its commencement and its intended duration; and
- (b) the Company has taken such other steps as the Secretary of State may require to notify shipping of the proposed construction exclusion zone.

(3) The construction exclusion zone shall terminate on completion of the construction of the authorised works.

(4) As soon as reasonably practicable following the termination of the construction exclusion zone the Company shall—

- (a) publish notice of the termination in the prescribed manner; and
- (b) take such other steps as the Secretary of State may require to notify shipping of the termination of the construction exclusion zone.

(5) Paragraph (1) above shall not apply to a person navigating a vessel for the purpose of, or in connection with, the construction, maintenance or operation of the authorised works.

(6) In this article—

“the construction exclusion zone” means the areas described in Schedule 2 to this Order or such smaller areas as may be notified in accordance with paragraph (2) above;

“the prescribed manner” of publication means—

- (a) providing a notice to mariners; and
- (b) publication in a newspaper circulating in the area of the relevant coastal authority;

“vessel” means a ship, boat, raft or water craft of any description and includes non-displacement craft, seaplanes and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily) and a hovercraft or other amphibious vehicle.