

SCHEDULE 1

Article 3

Authorised project

PART 1

Authorised development

Commencement Information

II Sch. 1 Pt. 1 in force at 2.10.2014, see [art. 1](#)

In the County of Denbighshire and in the County Borough of Conwy—

A wind energy electricity generating station with an installed capacity of between 64 and 96MW comprising a nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act consisting of—

Work No. 1 – Up to 32 wind turbines each sited on concrete foundations incorporating hardstanding for cranes, each turbine being fitted with rotating blades and having a height to blade tip of up to 145 metres and including external transformers located at the base of the turbine. The wind turbines comprising Work No. 1 will be situated at the following locations—

<i>Wind turbine number</i>	<i>Grid reference</i>	
	<i>Easting</i>	<i>Northing</i>
WT 1	301118	358328
WT 2	301550	358106
WT 3	301063	357801
WT 4	300021	357651
WT 5	300510	357483
WT 6	301065	357256
WT 7	300449	357030
WT 8	301282	356957
WT 9	300057	356694
WT 10	301308	356533
WT 11	301151	356100
WT 12	300741	355620
WT 13	301320	355593
WT 14	300957	355275
WT 15	301512	355170
WT 16	301081	354833
WT 17	301599	354551

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

<i>Wind turbine number</i>	<i>Grid reference</i>	
	<i>Easting</i>	<i>Northing</i>
WT 18	301885	354174
WT 19	302153	353716
WT 20	301561	353647
WT 21	300770	353343
WT 22	301297	353291
WT 23	302358	353159
WT 24	300610	352531
WT 25	301716	352540
WT 26	301193	352528
WT 27	302724	352076
WT 28	300752	352025
WT 29	301198	351850
WT 30	301382	351501
WT 31	300880	350721
WT 32	301232	350505

In Work No. 1, references to the locations of a wind turbine are references to the centre point of that turbine.

Work No. 2A – A series of electrical cables with a nominal voltage of 33 kilovolts together with a cable for the transmission of electronic communications buried beneath the surface of the ground along the general line of the tracks and roads comprised in Work No. 3 and connecting the wind turbines comprising Work No. 1 and the onsite electricity substation comprising Work No. 5A arranged in the following circuit routes—

<i>Cable circuit route number</i>	<i>Commencement point</i>	<i>Termination point</i>
1	Substation forming Work No. 5A	WT1
	WT1	WT2
	WT2	WT3
	WT3	WT4
	WT4	WT5
	WT5	WT7
	WT7	WT9
2	Substation forming Work No. 5A	WT6
	WT6	WT8
	WT8	WT10
	WT10	WT11

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

<i>Cable circuit route number</i>	<i>Commencement point</i>	<i>Termination point</i>
	WT11	WT12
	WT12	WT13
	WT13	WT14
3	Substation forming Work No. 5A	WT15
	WT15	WT16
	WT16	WT17
	WT17	WT18
	WT18	WT20
	WT20	WT21
4	Substation forming Work No. 5A	WT19
	WT19	WT22
	WT22	WT23
	WT23	WT24
	WT24	WT26
	WT26	WT28
5	Substation forming Work No. 5A	WT25
	WT25	WT27
	WT27	WT29
	WT29	WT30
	WT30	WT31
	WT31	WT32

Work No. 2B – A series of electrical cables with a nominal voltage of 33 kilovolts together with a cable for the transmission of electronic communications buried beneath the surface of the ground along the general line of the tracks and roads comprised in Work No. 3 and connecting the wind turbines comprising Work No. 1 and the onsite electricity substation comprising Work No. 5B arranged in the following circuit routes—

<i>Cable circuit route number</i>	<i>Commencement point</i>	<i>Termination point</i>
1	Substation forming Work No. 5B	WT24
	WT24	WT26
	WT26	WT28
	WT28	WT30
	WT30	WT31
	WT31	WT32
2	Substation forming Work No. 5B	WT19
	WT19	WT22

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

<i>Cable circuit route number</i>	<i>Commencement point</i>	<i>Termination point</i>
	WT22	WT23
	WT23	WT25
	WT25	WT27
	WT27	WT29
3	Substation forming Work No. 5B	WT15
	WT15	WT16
	WT16	WT17
	WT17	WT18
	WT18	WT20
	WT20	WT21
4	Substation forming Work No. 5B	WT6
	WT6	WT8
	WT8	WT10
	WT10	WT11
	WT11	WT12
	WT12	WT13
	WT13	WT14
5	Substation forming Work No. 5B	WT1
	WT1	WT2
	WT2	WT3
	WT3	WT4
	WT4	WT5
	WT5	WT7
	WT7	WT9

Work No. 3 – A series of new tracks, existing tracks subject to improvement and widening and public roads subject to widening as described in the following tables—

New tracks

<i>Access track no</i>	<i>Commencement point</i>		<i>Termination point</i>	
	<i>Easting</i>	<i>Northing</i>	<i>Easting</i>	<i>Northing</i>
N1	301053	354912	301148	354923
N2	301732	353137	301759	353249
N7	300779	357705	301053	357760
N9	300551	354816	300680	354787

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

<i>Access track no</i>	<i>Commencement point</i>		<i>Termination point</i>	
	<i>Easting</i>	<i>Northing</i>	<i>Easting</i>	<i>Northing</i>
N12	301051	357035	301004	356965
N13	300997	356851	301005	356965
N14	301018	355995	301095	355964
N15	300780	355350	300896	355416
N18	301763	352551	301682	352621
N19	301187	352084	301232	351977
N20	300744	358780	300798	358668
N21	299761	357707	299720	357850
N22	300062	357628	299986	357686
N23	301289	352268	301345	352245
N24	301203	352481	301211	352434
N4	301260	351872	301521	351501

New spur tracks

<i>Access track no</i>	<i>Commencement point</i>		<i>Termination point</i>	
	<i>Easting</i>	<i>Northing</i>	<i>Easting</i>	<i>Northing</i>
S1	301062	358319	301118	358328
S2	301515	358109	301549	358107
S3	301063	357801	301069	357772
S4	300030	357651	300021	357651
S5	300740	357556	300509	357483
S6	301122	357097	301065	357256
S7	300529	356984	300449	357030
S8	301122	357097	301282	356957
S9	300069	356708	300057	356694
S10	301343	356415	301308	356533
S11	301151	356100	301108	355973
S12	300741	355620	300999	355802
S13	301084	355554	301320	355593
S14	300834	355306	300957	355275
S15	301438	355078	301511	355170
S16	301081	354834	301063	354899
S17	301554	354556	301599	354551

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

<i>Access track no</i>	<i>Commencement point</i>		<i>Termination point</i>	
	<i>Easting</i>	<i>Northing</i>	<i>Easting</i>	<i>Northing</i>
S18	301885	354174	301845	354063
S19	301875	353692	302153	353716
S20	301475	353692	301561	353647
S21	300739	353256	300770	353343
S22	301295	353259	301297	353291
S23	302199	353104	302358	353159
S24	300686	352482	300610	352531
S25	301716	352540	301717	352591
S26	301268	352594	301193	352528
S27	302263	351904	302723	352077
S28	300841	352162	300841	352161
S29	301235	351963	301198	351850
S30	301378	351623	301382	351501
S31	301678	350884	300880	350721
S32	301301	350647	301232	350505
SMM1	299997	356584	299893	356575
SMM2	300653	351909	300734	351823

Existing tracks subject to improvement and widening

<i>Access track no</i>	<i>Commencement point</i>		<i>Termination point</i>	
	<i>Easting</i>	<i>Northing</i>	<i>Easting</i>	<i>Northing</i>
E1	300890	358336	301051	358313
E2	301051	358313	301375	358861
E5	300649	357389	300023	357656
E6	300635	357032	301001	356966
E7	301001	356966	301122	357097
E8	300624	357064	300325	356915
E9	300330	356917	300224	356913
E10	300224	356913	299997	356584
E11	300781	355353	301103	355969
E12	301103	355970	301343	356415
E13	300570	355106	300609	354651
E14	300604	354689	300695	354798

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

<i>Access track no</i>	<i>Commencement point</i>		<i>Termination point</i>	
	<i>Easting</i>	<i>Northing</i>	<i>Easting</i>	<i>Northing</i>
E15	300695	354798	301053	354912
E16	301148	354922	301442	355081
E17	300609	354649	300728	354115
E18	300706	354150	301554	354556
E19	300729	354114	300659	353686
E20	300658	353686	300511	353164
E21	300510	353161	301845	354063
E22	300510	353161	300777	353046
E23	300775	353045	301194	353212
E24	301197	353212	301877	353693
E25	301196	353212	301707	353255
E26	301709	353255	301829	353240
E27	301833	353239	301908	353231
E28	301895	353232	302199	353104
E29	301731	353137	301309	352690
E30	301310	352692	300686	352482
E31	301311	352692	301191	352457
E32	301191	352456	301307	352227
E33	301191	352457	300653	351909
E34	301307	352227	301408	352268
E35	301408	352268	301552	352563
E36	301549	352557	301681	352621
E37	301849	352476	302224	352055
E38	302225	352055	302263	351904
E40	301307	352227	301187	352084
E41	301233	351978	301259	351861
E43	301521	351501	301693	351263
E46	301678	350885	301300	350648
E50	300997	356851	301018	355898
E51	301047	354916	301151	354924
E53	301053	357760	301515	358109
E54	301682	352621	301848	352477
E56	301678	350885	301693	351263

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

<i>Access track no</i>	<i>Commencement point</i>		<i>Termination point</i>	
	<i>Easting</i>	<i>Northing</i>	<i>Easting</i>	<i>Northing</i>
E57	300023	357656	299761	357707

Public roads subject to widening

<i>Public road no</i>	<i>Commencement point</i>		<i>Termination point</i>	
	<i>Easting</i>	<i>Northing</i>	<i>Easting</i>	<i>Northing</i>
PR1	300744	358778	300624	357351
PR2	300624	357351	300634	357032
PR3	301085	355555	300571	355108
PR5	302454	350166	301749	351092

In constructing Work No. 3 the undertaker may—

- (a) provide temporary passing places for construction vehicles at any location along the line of the work shown on the works plan within the limits of deviation for Work No. 3; and
- (b) construct culverts to carry any watercourse under Work No. 3 and extend or replace any existing culvert to carry such a watercourse.

Work No. 4A – A widening of part of the of the unnamed public road shown as PR1 at X on Works Plan 1 to provide construction, maintenance and emergency site access commencing at Ordnance Survey National Grid Reference Point SJ0074458778.

Work No. 4B – A widening of part of the of the unnamed public road shown as PR5 at X on Works Plan 7 to provide construction, maintenance and emergency site access commencing at Ordnance Survey National Grid Reference Point SJ0245550165.

Work No. 5A – An onsite electricity substation comprising an enclosed area of hardstanding of 4080 square metres located at Ordnance Survey National Grid Reference Point SJ0136958813 and including a control building to house switch gear and control equipment.

Work No. 5B – An onsite electricity substation comprising an enclosed area of hardstanding of 4080 square metres located at Ordnance Survey National Grid Reference Point SJ0215150472 and including a control building to house switch gear and control equipment.

Work No. 6 – A meteorological mast for the purpose of monitoring and recording wind speed and direction as well as air temperature, having a height of 100 metres and sited on an area of hardstanding of 900 square metres and located at Ordnance Survey National Grid Reference Point SH9989356575. Work No. 6 includes a cable for the transmission of electronic communications from wind turbine No. 9 comprised in Work No. 1 along the line of existing track No. E10 and new spur track No. SMM1 comprised in Work No. 3.

Work No. 7 – A meteorological mast for the purpose of monitoring and recording wind speed and direction as well as air temperature, having a height of 100 metres and sited on an area of hardstanding of 900 square metres and located at Ordnance Survey National Grid Reference Point SJ0073551823. Work No. 7 includes a cable for the transmission of electronic communications along the line of existing track No. E33 from its junction with new spur track No. S28 and new spur track No. SMM2 comprised in Work No. 3.

Work No. 8 – A temporary civil construction compound comprising an enclosed area of hardstanding of 2500 square metres located at Ordnance Survey National Grid Reference Point SJ0095558354 and including a temporary office and staff welfare building together with an area for the storage of materials for use in the construction of the authorised development.

Work No. 9 – A temporary civil construction compound comprising an enclosed area of hardstanding of 2500 square metres located at Ordnance Survey National Grid Reference Point SJ0178451133 and including a temporary office and staff welfare building together with an area for the storage of materials for use in the construction of the authorised development.

Work No. 10 – A borrow pit for the extraction of stone to be used in the construction of the authorised development, having an area of 39,200 square metres and a depth of up to 18 metres located at Ordnance Survey National Grid Reference Point SJ0189157562.

Work No. 11 – A borrow pit for the extraction of stone to be used in the construction of the authorised development, having an area of approximately 13,600 square metres and a depth of up to 16 metres located at Ordnance Survey National Grid Reference Point SJ0246654106.

Work No. 12 – A borrow pit for the extraction of stone to be used in the construction of the authorised development, having an area of approximately 18,300 square metres and a depth of up to 20 metres located at Ordnance Survey National Grid Reference Point SJ0185151493.

Work No. 13 – A borrow pit for the extraction of stone to be used in the construction of the authorised development, having an area of approximately 11,300 square metres and a depth of up to 19 metres located at Ordnance Survey National Grid Reference Point SJ0078050630.

Work No. 14A – A temporary electrical compound comprising an enclosed area of hardstanding of 2500 square metres located adjacent to the onsite electricity substation forming Work No. 5A at Ordnance Survey National Grid Reference Point SJ0131558784.

Work No. 14B – A temporary electrical compound comprising an enclosed area of hardstanding of 2500 square metres located adjacent to the onsite electricity substation forming Work No. 5B at Ordnance Survey National Grid Reference Point SJ0219750429.

PART 2

Ancillary works

Highway works

1. Landscaping and clearance of vegetation required in connection with Work No. 3.

Commencement Information

I2 Sch. 1 Pt. 2 para. 1 in force at 2.10.2014, see [art. 1](#)

PART 3

Requirements

Definitions

1. In this Part of this Schedule—
“abnormal indivisible load” has the same meaning as in the Road Vehicles (Authorisation of Special Types) (General) Order 2003;
“commencement”, in relation to the authorised development, means the date on which the authorised development begins by the carrying out of a material operation as defined

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

in section 155 of the 2008 Act and “commence” and “commenced” shall be construed accordingly;

“ecological clerk of works” means a suitably qualified environmental professional or group of professionals;

“European protected species” means a species listed in Schedules 2 or 5 of the Conservation of Habitats and Species Regulations 2010;

“felling” means any felling or lopping undertaken pursuant to article 28 (felling or lopping of trees) of this Order;

“first export date” means the date the authorised development first exports electricity on a commercial basis;

“Noise Guidance” means the guidance in Part 4 of this Schedule;

“NRW” means Natural Resources Wales;

“site” means land within the Order limits;

“stakeholder group” means the representatives of organisations which will advise on the measures within the habitat management plan and the implementation of those measures;

“TMFGL” means Tir Mostyn and Foel Goch Limited (reg no 5264934) or the owner from time to time of the Tir Mostyn and Foel Goch Wind Farm;

“Welsh devolved function” has the meaning given by section 36 of the Public Bodies Act 2011; and

“wind turbines” means the wind turbines forming part of Work No. 1 and “wind turbine” shall be construed accordingly.

Commencement Information

I3 Sch. 1 Pt. 3 para. 1 in force at 2.10.2014, see [art. 1](#)

Submission and approval of details

2. Where, under any Requirement, details or a scheme or plan are to be submitted for the approval of the relevant planning authority then unless the Requirement provides otherwise—

- (a) those details or scheme or plan and that approval must be in writing,
- (b) the details, scheme or plan must be implemented as approved, and
- (c) the approved details, scheme or plan are to be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority, provided that no amendments may be approved by the relevant planning authority where such amendments may give rise to any materially different environmental effects to those assessed in the environment statement and that where under any Requirement there is an obligation to consult with a third party prior to the submission of any details, scheme or plan for approval to the relevant planning authority then there shall be an obligation to consult with the same third party prior to the submission of any amendments to the approved details, scheme or plan to the relevant planning authority.

Commencement Information

I4 Sch. 1 Pt. 3 para. 2 in force at 2.10.2014, see [art. 1](#)

Time limits

3. The authorised development must be commenced within 5 years of the date of this Order.

Commencement Information

I5 Sch. 1 Pt. 3 para. 3 in force at 2.10.2014, see [art. 1](#)

Expiry of development consent

- 4.—(1) The development consent granted by this Order expires 25 years after the first export date.
- (2) Confirmation of the first export date must be provided by the undertaker to the relevant planning authority within one month of its occurrence.

Commencement Information

I6 Sch. 1 Pt. 3 para. 4 in force at 2.10.2014, see [art. 1](#)

Decommissioning and site restoration

- 5.—(1) Not less than 12 months before the expiry of the development consent granted by this Order, a decommissioning and site restoration scheme must be submitted to the relevant planning authority for its approval.
- (2) The decommissioning and site restoration scheme must include provision for—
- (a) removal of all above-ground elements of the authorised development (with the exception of Work No. 3 and Work No.4A or 4B),
 - (b) removal of turbine bases and cabling to one metre below ground level, and
 - (c) restoration of the disturbed areas.
- (3) Decommissioning and restoration must be completed in accordance with the approved decommissioning and site restoration scheme within the period set out in the approved scheme.

Commencement Information

I7 Sch. 1 para. 5 in force at 2.10.2014, see [art. 1](#)

Failure of turbines

- 6.—(1) If any wind turbine fails to provide electricity to the grid for a continuous period of 12 months the undertaker must—
- (a) notify the relevant planning authority within one month of the expiry of that 12 month period;
 - (b) if so instructed by the relevant planning authority, submit to the relevant planning authority within 2 months of that instruction a detailed scheme setting out how the wind turbine and its associated ancillary equipment, including cabling (but excluding the turbine bases and cabling more than one metre below ground level) is to be removed from the Order limits and how the disturbed areas will be restored, and
 - (c) implement the approved scheme no later than 6 months from its approval unless a longer period is agreed in writing by the relevant planning authority.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(2) The agreement of the relevant planning authority in paragraph (1)(c) may only be given in relation to immaterial changes where the subject matter of the agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Commencement Information

I8 Sch. 1 para. 6 in force at 2.10.2014, see [art. 1](#)

Plans

7.—(1) Subject to the power to deviate set out in article 6 (power to deviate) and any other Requirement the authorised development is to be carried out in accordance with the plans or other documents certified in accordance with article 36 (certification of plans etc).

(2) No wind turbine may be constructed—

- (a) within 50m from the highest point of existing and new forest edge, when measured from the closest part of the rotor sweep of any wind turbine; and
- (b) within 50m of any watercourse shown on Figure 8.1 of the environmental statement.

(3) Subject to the requirements of paragraph (2), no other part of the authorised development with the exception of road widening and culverting may be carried out within 30m of any watercourse shown on Figure 8.1 of the environmental statement unless shown on the plans or other documents certified in accordance with article 36 or unless approved by the relevant planning authority.

(4) The approval of the relevant planning authority in paragraph (2) may only be given in relation to immaterial changes where the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Commencement Information

I9 Sch. 1 para. 7 in force at 2.10.2014, see [art. 1](#)

Construction traffic management plan

8.—(1) No authorised development may commence until, following consultation with the Department of Transport of the Welsh Government and any relevant highway authority, a construction traffic management plan has been submitted to and approved by the relevant planning authority.

(2) The construction traffic management plan in paragraph (1) must include—

- (a) construction vehicle routing plans,
- (b) site access plans,
- (c) details of the management of junctions to and crossings of the public highway and other public rights of way,
- (d) details of the scheduling and timing of movements of delivery vehicles including details of abnormal indivisible loads,
- (e) details of escorts for abnormal indivisible loads,
- (f) details of temporary warning signs and banksman and escort details,
- (g) proposals for assessing the existing condition of affected highways,

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (h) details of any temporary or permanent improvements to the public highway,
 - (i) details of the implementation and management of temporary passing places along the B4501 and the unnamed road into the Site,
 - (j) details for the making good of any incidental damage to highways by construction traffic associated with the authorised project including street furniture, structures, drainage features, highway verge and carriageway surfaces, and
 - (k) details of the maintenance of access to TMFG wind farm from the B4501 during the construction period of any works to the B4501 in connection with the authorised development together with details of the maintenance of access to clusters B and C of the TMFG wind farm along highways PR1 and PR2 shown on the access plan during the construction of the authorised development.
- (3) The construction traffic management plan must be implemented as approved.
- (4) Before any wind turbine is removed or replaced a revised construction traffic management plan, dealing with that removal or replacement, must be submitted to and approved by the relevant planning authority.

Commencement Information

I10 Sch. 1 para. 8 in force at 2.10.2014, see [art. 1](#)

Construction method statement

9.—(1) No authorised development may commence until, following consultation with NRW, a construction method statement has been submitted to and approved by the relevant planning authority.

(2) The construction method statement in paragraph (1) must be based on the principles set out in the Outline Construction Method Statement, included as Annex 3.1 to the environmental statement, and include the following plans as appendices—

- (a) Construction Environmental Management Plan;
 - (b) Waste Management Plan;
 - (c) Emergency Response Plan;
 - (d) Soil and Peat Management Plan;
 - (e) Borrow Pit Design and Site Restoration Plan;
 - (f) any relevant Species Protection Plans; and
 - (g) Surface Water Management Plan.
- (3) The construction method statement in paragraph (1) must include details of—
- (a) roles and responsibilities and accountabilities for the multi-discipline team of engineering construction and environment staff,
 - (b) mitigation measures to avoid harm to relevant protected species and minimise damage to relevant habitats,
 - (c) the timing of construction works, including the timing of vegetation removal to avoid the potential for effects on protected species including reptiles and nesting birds,
 - (d) the vehicle washing facilities, including siting if required to be undertaken on site,
 - (e) the timing of works and methods of working for cable trenches, foundation works and erection of the wind turbines,

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (f) the timing of works and construction of the substation/control buildings and anemometry mast,
- (g) the cleaning of site accesses, site tracks and the adjacent public highway and the sheeting of all heavy goods vehicles taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the highway,
- (h) the pollution control and prevention measures including—
 - (i) sediment control measures,
 - (ii) measures for the bunding of fuel, oil and chemical storage areas,
 - (iii) sewage disposal measures,
 - (iv) measures for the protection of water courses and ground water and soils,
 - (v) a programme for monitoring private water supplies, water courses and water bodies before and during the authorised project, including details of the action to be taken if monitoring indicates adverse effects on private water supplies, water courses or water bodies,
- (i) the management of waste arisings,
- (j) the management of construction noise (including identification of access routes, locations of materials lay-down areas, details of equipment to be employed, operations to be carried out, mitigation measures and a scheme for the monitoring of noise),
- (k) a routing strategy to ensure that construction vehicles use agreed routes,
- (l) the handling, storage and re-use on site of excavated top soil,
- (m) the handling, storage and management of any peat excavated,
- (n) the design and construction methods of Works No. 3, and 4A or 4B, including drainage provisions, and the pollution prevention measures to be implemented to ensure there are no polluting discharges from tracks and disturbed areas including provision to ensure that no polluting discharge from those Works and disturbed areas enters any watercourse,
- (o) access track construction and widening including the nature, type and quantity of materials to be imported on site for backfilling operations or construction of access tracks,
- (p) the management of groundwater and surface water (including mitigation to protect water bodies, water courses and private water supplies),
- (q) the management of dust generation during excavations and soil handling,
- (r) the proposed location of temporary site compounds for storage of materials, machinery and parking within the sites clear of the highway, including the siting of the temporary buildings and all means of enclosure, oil/fuel and chemical storage and any proposals for temporary lighting, and details of proposals for restoration of the sites of the temporary compounds and works within 12 months of the first export date,
- (s) the design and construction of any culverts upgrades or replacements,
- (t) the method of borrow pit working including means of extraction, handling, storage and re-use of soil, drainage control and restoration,
- (u) the protocols and programme for any required environmental monitoring to be made publicly available on an annual basis,
- (v) the restoration of the site which will be temporarily used for construction, and
- (w) the proposed communications protocol and the mechanism for investigating complaints, including the action to be taken where complaint investigations indicate materially adverse effects have occurred as a result of the construction of the authorised project.

(4) Before any wind turbine is removed or replaced a revised construction method statement, dealing with that removal or replacement, shall be submitted to and approved by the relevant planning authority.

(5) The construction method statement shall be implemented as approved.

Commencement Information

I11 Sch. 1 para. 9 in force at 2.10.2014, see [art. 1](#)

Highways

10. No wind turbine parts may be delivered to the site before detailed plans and drawings in respect of Work No. 4A or 4B (whichever is decided on by the undertaker) have been submitted to and approved by the relevant planning authority and such works have been constructed in accordance with the plans and drawings so approved.

Commencement Information

I12 Sch. 1 para. 10 in force at 2.10.2014, see [art. 1](#)

11. The authorised development may not commence until, following consultation with the Department for Transport of the Welsh Government and any relevant highway authority, details of temporary or permanent improvements to the public highway have been submitted to and approved by the relevant planning authority. The improvement works are to be implemented in accordance with the approved details.

Commencement Information

I13 Sch. 1 para. 11 in force at 2.10.2014, see [art. 1](#)

12. The authorised development may not commence until following consultation with the Department for Transport of the Welsh Government and any relevant highway authority details of the reinstatement of the public highway and its associated street furniture following completion of the construction of the authorised development have been submitted to and approved by the relevant planning authority. The reinstatement works are to be implemented in accordance with the approved details.

Commencement Information

I14 Sch. 1 para. 12 in force at 2.10.2014, see [art. 1](#)

Commencement Information

I12 Sch. 1 para. 10 in force at 2.10.2014, see [art. 1](#)

I13 Sch. 1 para. 11 in force at 2.10.2014, see [art. 1](#)

I14 Sch. 1 para. 12 in force at 2.10.2014, see [art. 1](#)

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Construction hours

13.—(1) The hours of work during the construction phase of the authorised development and any traffic movements into and out of the site associated with the construction or maintenance of the authorised development shall be 0700 to 1900 hours on Mondays to Fridays and 0700 to 1300 hours on Saturdays other than as allowed for under paragraph (2). No work may take place outside these hours, or on public holidays, unless otherwise previously agreed by the relevant planning authority.

(2) Delivery of turbine and delivery and assembly of crane components and other critical operations may take place outside the times specified in paragraph (1), if approved by the relevant planning authority.

Commencement Information

I15 Sch. 1 para. 13 in force at 2.10.2014, see [art. 1](#)

14. With respect to paragraph (2) of Requirement 13, such approval may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the relevant planning authority that the approval is unlikely to give rise to any materially new or materially different effects from construction or maintenance activities taking place on the days and hours set out in those clauses.

Commencement Information

I16 Sch. 1 para. 14 in force at 2.10.2014, see [art. 1](#)

Commencement Information

I15 Sch. 1 para. 13 in force at 2.10.2014, see [art. 1](#)

I16 Sch. 1 para. 14 in force at 2.10.2014, see [art. 1](#)

Habitat management plan

15.—(1) No authorised development may commence until, following consultation with NRW, a detailed habitat management plan has been submitted to and approved by the relevant planning authority.

(2) The detailed habitat management plan in paragraph (1) is to be based on the key objectives and principles set out in the outline habitat management plan included as Annex 9.10 to the environmental statement.

(3) The habitat management plan in paragraph (1) must include measures to—

- (a) establish and manage heathland habitat,
- (b) restore and manage peatland habitat,
- (c) establish and manage suitable habitat for dormice,
- (d) contribute to grey squirrel control,
- (e) establish and manage suitable habitat for black grouse and nightjar,
- (f) monitor the effect of the authorised development and the effectiveness of habitat management upon bats, dormice, black grouse and heathland/peatland habitats. If, following consideration of monitoring results the relevant planning authority believes it

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

is necessary to do so, management prescriptions included in the habitat management plan will be reviewed as necessary,

- (g) monitor the effect of the authorised development upon nightjars. If, following consideration of monitoring results the relevant planning authority believes it is necessary to do so, implement the mitigation measures set out in the environmental statement. The measures shall include undertaking a study of nightjar churring against weather conditions prior to construction commencing to inform detailed mitigation proposals, and
 - (h) establish the membership, terms of reference and provisions for the management of the proposed stakeholder group.
- (4) The habitat management plan is to be implemented as approved.

Commencement Information

I17 Sch. 1 para. 15 in force at 2.10.2014, see [art. 1](#)

Access management plan

16.—(1) No authorised development shall commence until, following consultation with NRW, an access management plan has been submitted to and approved by the relevant planning authority.

- (2) The access management plan must include—
- (a) details of the temporary re-routing of public rights of way during construction of the authorised development,
 - (b) details of the permanent re-routing of FP19 prior to the operational phase,
 - (c) details of the provision of signage and other information alerting the public to construction works,
 - (d) details of any fencing or barriers to be provided during the construction period,
 - (e) details as to how public rights of way, paths and roads will be inspected prior to and monitored during the construction period,
 - (f) a commitment to return all public rights of way, paths and roads to the same condition as they were, or better, once the construction period has ceased,
 - (g) details as to how any paths found to be impassable during surveying will be cleared,
 - (h) details of temporary alternative routes for any public rights of way that need to be diverted,
 - (i) details of funds for improved signage/orientation,
 - (j) details as to the provision of a new way-marked route for the life of the development,
 - (k) details of a communications campaign linked with the end of the construction period,
 - (l) details of an active management plan for crossing points for public rights of way during the construction works, and
 - (m) details of permissive routes to be provided within the public access management areas during the construction phase.
- (3) The access management plan is to be implemented as approved by the relevant planning authority.

Commencement Information

I18 Sch. 1 para. 16 in force at 2.10.2014, see [art. 1](#)

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Felling

17.—(1) All felling must be undertaken in accordance with the relevant guidance specified in paragraph (2) and NRW best practice (as amended from time to time).

(2) The relevant guidance is—

- (a) The UK Forestry Standard;
- (b) UKFS Guidelines – Forests and Water (2011);
- (c) UKFS Guidelines – Forests and Soil (2011);
- (d) UKFS Guidelines – Forests and Biodiversity (2011); and
- (e) UKFS Guidelines – Forests and Historic Environment (2011).

Commencement Information

I19 Sch. 1 para. 17 in force at 2.10.2014, see [art. 1](#)

Appearance

18. The wind turbines may not be erected until details of their external appearance and colour and surface finish and the design and appearance of the associated external transformer/switchgear units (if any) have been submitted to and approved by the relevant planning authority. The authorised development must be completed in accordance with the approved details.

Commencement Information

I20 Sch. 1 para. 18 in force at 2.10.2014, see [art. 1](#)

19. Notwithstanding any design or colour approved by the relevant planning authority pursuant to Requirement 18, all wind turbines must be of a 3 bladed configuration and of a semi-matt finish.

Commencement Information

I21 Sch. 1 para. 19 in force at 2.10.2014, see [art. 1](#)

20.—(1) No wind turbine may display any name, sign, symbol or logo on any external surface, unless such name, sign, symbol or logo has been approved in writing by the relevant planning authority.

(2) Paragraph (1) of this Requirement does not apply to any name, sign, symbol or logo required by law or for health and safety reasons.

Commencement Information

I22 Sch. 1 para. 20 in force at 2.10.2014, see [art. 1](#)

21. All wind turbines' blades are to rotate in the same direction. Without prejudice to Requirement 28 the wind turbines may not be illuminated, save for a sensor-operated access light.

Commencement Information

I23 Sch. 1 para. 21 in force at 2.10.2014, see [art. 1](#)

22. Before construction of Work No. 5A or 5B, details of the external design, appearance and finish of the substation and any associated hard standing areas, and the electrical compound must be submitted to and approved by the relevant planning authority. The authorised development is to be completed in accordance with the approved details.

Commencement Information

I24 Sch. 1 para. 22 in force at 2.10.2014, see [art. 1](#)

Commencement Information

I20 Sch. 1 para. 18 in force at 2.10.2014, see [art. 1](#)

I21 Sch. 1 para. 19 in force at 2.10.2014, see [art. 1](#)

I22 Sch. 1 para. 20 in force at 2.10.2014, see [art. 1](#)

I23 Sch. 1 para. 21 in force at 2.10.2014, see [art. 1](#)

I24 Sch. 1 para. 22 in force at 2.10.2014, see [art. 1](#)

Shadow flicker

23. The authorised development may not commence until a scheme for the avoidance of any shadow flicker effect at any dwelling which lawfully existed or had planning permission at the date of this Order has been submitted to and approved by the relevant planning authority. The scheme must include a time limit for the investigation of complaints, and for the implementation of mitigation measures. The scheme is to be implemented as approved.

Commencement Information

I25 Sch. 1 para. 23 in force at 2.10.2014, see [art. 1](#)

Archaeology

24.—(1) No authorised development may commence until a scheme of archaeological investigation has been submitted to and approved by the relevant planning authority.

(2) The scheme of archaeological investigation must incorporate—

- (a) a walkover survey before commencement of the authorised development;
- (b) fencing to be provided around Twr yr Hill round barrow and Maen Cred standing stone during construction works;
- (c) where presence of archaeological remains is established a watching brief will be undertaken during construction to record the surviving archaeological remains;
- (d) a watching brief during construction of all other infrastructure to record any previously unknown archaeological remains that may be present; and
- (e) proposed peat core sampling.

(3) The scheme of archaeological investigation shall be implemented as approved.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

.....
Commencement Information

I26 Sch. 1 para. 24 in force at 2.10.2014, see [art. 1](#)

Ecological clerk of works

25.—(1) No authorised development may commence until, following consultation with NRW and approval by the relevant local planning authority, an ecological clerk of works has been appointed.

(2) An ecological clerk of works is to be retained throughout the duration of civil construction works on site to advise on minimising ecological effects of the construction activities.

.....
Commencement Information

I27 Sch. 1 para. 25 in force at 2.10.2014, see [art. 1](#)

Surface water drainage

26.—(1) No authorised development may commence until, following consultation with NRW, details of the surface water drainage system (including means of pollution control) have been submitted to and approved by the relevant planning authority.

(2) The details of the surface water drainage system submitted under paragraph (1) must accord with the Outline Surface Water Management Plan at Annex 8.1 of the environmental statement to ensure that existing runoff regimes are maintained where possible and no increase in peak runoff is experienced within receiving watercourses as a consequence of the authorised development and shall include a mechanism to establish a baseline for the existing surface water drainage conditions.

(3) The surface water drainage system is to be constructed in accordance with the approved details.

.....
Commencement Information

I28 Sch. 1 para. 26 in force at 2.10.2014, see [art. 1](#)

Accumulation and deposits

27.—(1) No authorised development may commence until, following consultation with NRW, a written scheme for the management of any accumulations and deposits has been submitted to and approved by the relevant planning authority.

(2) The approved scheme for the management of accumulations and deposits is to be implemented before and maintained during the construction, operation and decommissioning of the authorised development.

.....
Commencement Information

I29 Sch. 1 para. 27 in force at 2.10.2014, see [art. 1](#)

Infra-red aviation lighting

28. No wind turbine shall be erected until, following consultation with the Ministry of Defence, details of the installation of infra-red aviation warning lights have been submitted to and approved by the relevant planning authority. The lights must be installed in accordance with the approved details and maintained until the wind turbines are decommissioned in accordance with Requirements.

Commencement Information

I30 Sch. 1 para. 28 in force at 2.10.2014, see [art. 1](#)

Defence Geographic Centre

29. No wind turbine may be erected before information on the accurate location of the wind turbines has been provided to the Defence Geographic Centre of the Ministry of Defence.

Commencement Information

I31 Sch. 1 para. 29 in force at 2.10.2014, see [art. 1](#)

Noise

30.—(1) The level of noise immissions from the combined effects of the wind turbines (including the application of any tonal penalty), when calculated in accordance with the Noise Guidance, may not exceed the values set out in Table 1 below. Noise limits for dwellings which lawfully existed or had planning permission at the date of this Order and which are not listed in Table 1 are to be those of the physically closest location listed in Table 1 below, unless otherwise agreed with the relevant planning authority. The coordinate locations to be used in determining the location of each of the dwellings listed in Table 1 are those listed in Table 2.

(2) The agreement of the relevant planning authority in paragraph (1) may only be given in relation to immaterial changes where the subject matter of the agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Table 1

The $L_{A90,10min}$ dB noise level

Location	Standardised wind speed at 10 metre height (m/s)											
	1	2	3	4	5	6	7	8	9	10	11	12
Bron Bannog	39.1	39.1	39.1	39.1	39.1	39.1	39.1	39.1	39.1	41.7	44.3	46.6
Castell y Waen	30.8	30.8	30.8	30.8	30.8	30.8	30.8	30.8	31.9	33.5	35.1	36.7
Cefn Rofft	36.7	36.7	36.7	36.7	36.7	36.7	36.7	36.7	39.0	42.3	45.6	48.8
Cefnbannog	37.5	37.5	37.5	37.5	37.5	37.5	37.5	37.5	38.3	42.1	45.8	49.3
Crud-y-Gwynt	39.3	39.3	39.3	39.3	39.3	39.3	39.3	39.9	41.0	42.3	43.8	45.4
Cruglas	39.6	39.6	39.6	39.6	39.6	39.6	39.6	39.6	39.6	39.6	41.4	44.3
Diffws	37.2	37.2	37.2	37.2	37.3	39.0	40.7	42.2	43.3	44.0	44.4	44.6

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Location	Standardised wind speed at 10 metre height (m/s)											
	1	2	3	4	5	6	7	8	9	10	11	12
Hafod Caradoc	32.0	32.0	32.0	32.0	32.0	32.0	32.0	32.0	32.8	35.4	38.1	40.8
Hafod Ty Ddu	32.0	32.0	32.0	32.0	32.0	32.0	32.0	35.1	39.2	42.6	45.7	48.8
Hafotty Newydd	38.7	38.7	38.7	38.7	38.7	38.7	38.7	38.7	38.9	41.7	44.5	47.2
Plas Nant Glyn	28.2	28.2	28.2	28.2	28.2	28.2	28.2	28.2	28.2	28.2	28.2	28.2
Tai'n-y-Waens	39.3	39.3	39.3	39.3	39.3	39.3	39.3	39.3	40.9	44.1	47.2	50.2
Tal-y-cefn Uchaf	39.2	39.2	39.2	39.2	39.2	39.2	39.2	40.2	43.4	46.6	49.8	52.8
Trawsnant	38.4	38.4	38.4	38.4	38.4	38.4	38.4	38.4	38.4	39.4	41.9	44.9
Boced	35.1	35.1	35.1	35.1	35.1	35.1	35.1	35.1	35.1	36.1	38.6	41.5
Bod Petryal	32.7	32.7	32.7	32.7	32.7	32.7	32.7	33.7	35.7	35.7	35.7	35.7
Bryn Bach	34.2	34.2	34.2	34.2	34.2	34.2	34.2	34.2	34.2	35.2	37.7	40.7
Bryn Gaseg	34.2	34.2	34.2	34.2	34.2	34.2	34.2	34.2	36.5	39.8	43.1	46.3
Bryn-celyn	33.8	33.8	33.8	33.8	33.8	33.8	33.8	34.8	36.8	36.8	36.8	36.8
Brynhyfryd	35.3	35.3	35.3	35.3	35.3	35.3	35.3	35.3	36.1	39.9	43.6	47.1
Bryn-y-gwrgi	37.6	37.6	37.6	37.6	37.6	37.6	37.6	37.6	39.3	42.5	45.6	48.6
Bryn-yr-eryr	33.1	33.1	33.1	33.1	33.1	33.1	33.1	33.1	35.5	38.8	42.1	45.3
Capel Hiraethog	38.2	38.2	38.2	38.2	38.2	38.2	38.2	38.2	38.2	38.2	40.0	42.9
Derwydd	35.2	35.2	35.2	35.2	35.2	35.2	35.2	35.2	37.6	40.8	44.2	47.4
Drws-y-Buddel	31.7	31.7	31.7	31.7	31.7	31.7	31.7	31.7	31.7	32.7	35.2	38.2
Foel	36.1	36.1	36.1	36.1	36.1	36.1	36.1	36.1	38.5	41.7	45.1	48.3
Garreg-Iwyd	32.0	32.0	32.0	32.0	32.0	32.0	32.0	32.0	32.0	33.4	36.1	38.8
Glan-y-gors	34.7	34.7	34.7	34.7	34.7	34.7	34.7	34.7	34.7	37.3	39.9	42.2
Hafod Olygfa	32.0	32.0	32.0	32.0	32.0	32.0	32.0	34.6	38.7	42.1	45.2	48.3
Hafotty Bach	36.3	36.3	36.3	36.3	36.3	36.3	36.3	36.3	36.3	37.3	39.9	42.8
Hafotty Hendre	39.6	39.6	39.6	39.6	39.6	39.6	39.6	39.6	41.2	44.4	47.5	50.5
Isgaer-wen	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.2	41.0	43.8	46.5
Lodge Isaf	35.5	35.5	35.5	35.5	35.5	35.5	35.5	35.5	36.3	40.1	43.9	47.3
Lodge Uchaf	35.7	35.7	35.7	35.7	35.7	35.7	35.7	35.7	36.5	40.3	44.0	47.5
Maes Cadarn	37.8	37.8	37.8	37.8	37.8	37.8	37.8	37.8	37.8	37.8	39.6	42.5
Nant Uchaf	38.1	38.1	38.1	38.1	38.1	38.1	38.1	38.1	38.1	39.1	41.6	44.6
Pantdedwydd	36.6	36.6	36.6	36.6	36.6	36.6	36.6	36.6	38.9	42.2	45.5	48.7
Pedair-a-dimai	31.9	31.9	31.9	31.9	31.9	31.9	31.9	31.9	34.3	37.6	40.9	44.1
Pen-Bedw	35.5	35.5	35.5	35.5	35.5	35.5	35.5	35.5	35.5	36.5	39.0	41.9
Pennant	38.3	38.3	38.3	38.3	38.3	38.3	38.3	38.3	38.3	38.3	40.1	43.0

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

<i>Location</i>	<i>Standardised wind speed at 10 metre height (m/s)</i>											
	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>	<i>11</i>	<i>12</i>
Pennant Uchaf	32.5	32.5	32.5	32.5	32.5	32.5	32.5	32.5	32.5	34.6	37.3	40.0
Pen-y-bryn	35.2	35.2	35.2	35.2	35.2	35.2	35.2	35.2	36.2	38.2	38.2	38.2
Pen-y-Lan	37.4	37.4	37.4	37.4	37.4	37.4	37.4	37.4	37.4	38.4	40.9	43.8
Seler	38.3	38.3	38.3	38.3	38.3	38.3	38.3	38.3	38.3	39.3	41.8	44.8
Tai Ucha	38.2	38.2	38.2	38.2	38.2	38.2	38.2	38.2	38.2	39.2	41.7	44.7
Tai'n-y-graig	37.7	37.7	37.7	37.7	37.7	37.7	37.7	38.7	41.8	45.0	48.2	51.3
Tal y Cefn Isaf	38.8	38.8	38.8	38.8	38.8	38.8	38.8	38.8	40.5	43.7	46.8	49.8
Tan-y-bwlch	34.8	34.8	34.8	34.8	34.8	34.8	34.8	35.8	37.8	37.8	37.8	37.8
Ty Newydd	32.0	32.0	32.0	32.0	32.0	32.0	32.0	32.0	32.0	33.8	36.5	39.2
Ty-nant	37.7	37.7	37.7	37.7	37.7	37.7	37.7	37.7	40.1	43.4	46.7	49.9
Ty'n-y-ffordd	30.5	30.5	30.5	30.5	30.5	30.5	30.5	30.5	32.9	36.2	39.5	42.7
Ty-Uchaf	37.8	37.8	37.8	37.8	37.8	37.8	37.8	37.8	38.0	40.8	43.6	46.4
Waen Ganol	37.5	37.5	37.5	37.5	37.5	37.5	37.5	37.5	37.5	40.1	42.7	45.0
Waen Ganol2	37.2	37.2	37.2	37.2	37.2	37.2	37.2	37.2	37.2	39.8	42.4	44.7
Waen Uchaf	38.5	38.5	38.5	38.5	38.5	38.5	38.5	38.5	38.5	41.1	43.7	46.0
Wern Uchaf	27.3	27.3	27.3	27.3	27.3	27.3	27.5	29.5	31.8	34.3	37.0	39.7

Table 2

Coordinate locations of the properties listed in Table 1

<i>Property</i>	<i>Easting</i>	<i>Northing</i>
Bron Bannog	303230	352830
Castell y Waen	299803	362240
Cefn Rofft	300882	349754
Cefnbannog	302337	351034
Crud-y-Gwynt	302463	354928
Cruglas	302917	353853
Diffws	302388	357614
Hafod Caradoc	298722	359204
Hafod Ty Ddu	301570	359341
Hafotty Newydd	300176	354208
Plas Nant Glyn	300377	361202
Tai'n-y-Waens	299856	351666
Tal-y-cefn Uchaf	299732	352723

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

<i>Property</i>	<i>Easting</i>	<i>Northing</i>
Trawsnant	302393	356134
Boced	302976	358286
Bod Petryal	303760	351073
Bryn Bach	302098	358784
Bryn Gaseg	300677	349373
Bryn-celyn	302053	349903
Brynhyfryd	303561	351370
Bryn-y-gwrgi	299592	350697
Bryn-yr-eryr	300984	349178
Capel Hiraethog	303741	354707
Derwydd	300348	349609
Drws-y-Buddel	302225	359813
Foel	299701	350042
Garreg-Iwyd	300264	359607
Glan-y-gors	304906	351677
Hafod Olygfa	301400	359413
Hafotty Bach	303271	357991
Hafotty Hendre	300246	351304
Isgaer-wen	299620	354471
Lodge Isaf	303100	351300
Lodge Uchaf	302715	351159
Maes Cadarn	303961	355254
Nant Uchaf	302894	355876
Pantdedwydd	301360	349728
Pedair-a-dimai	300207	349245
Pen-Bedw	303639	357401
Pennant	303922	354677
Pennant Uchaf	299059	359533
Pen-y-bryn	301707	349724
Pen-y-Lan	303807	356760
Seler	302815	355559
Tai Ucha	302775	356368
Tai'n-y-graig	298676	352289

<i>Property</i>	<i>Easting</i>	<i>Northing</i>
Tal y Cefn Isaf	299388	352000
Tan-y-bwlch	301894	349893
Ty Newydd	299434	359360
Ty-nant	300215	350152
Ty'n-y-ffordd	299922	349210
Ty-Uchaf	299007	353971
Waen Ganol	304136	353152
Waen Ganol2	304169	352986
Waen Uchaf	303718	353376
Wern Uchaf	298304	360149

Note to Table 2: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

Commencement Information

I32 Sch. 1 para. 30 in force at 2.10.2014, see [art. 1](#)

31. Within 21 days from the receipt of a written request from the relevant planning authority and following a complaint to the relevant planning authority from the occupant of a dwelling which lawfully existed or had planning permission at the date this Order came into force, the undertaker must, at its own expense, employ an independent consultant approved by the relevant planning authority to assess the level of noise immissions from the authorised development at the complainant's property following the procedures described in the Noise Guidance in Part 4.

Commencement Information

I33 Sch. 1 para. 31 in force at 2.10.2014, see [art. 1](#)

32. The undertaker must, if directed by the relevant planning authority, switch off any of the wind turbines in order to assess compliance with the noise limits.

Commencement Information

I34 Sch. 1 para. 32 in force at 2.10.2014, see [art. 1](#)

33. The undertaker must provide to the relevant planning authority the independent consultant's assessment and conclusions regarding the noise complaint, including all calculations, audio recordings and the raw data upon which those assessments and conclusions are based. Such information must be provided within 3 months of the date of the written request of the relevant planning authority unless otherwise extended in writing by the relevant planning authority.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Commencement Information

I35 Sch. 1 para. 33 in force at 2.10.2014, see [art. 1](#)

34. The undertaker must continuously log wind speed wind direction and power generation at each of the turbines on the site relating to authorised development. The undertaker must continuously log wind speed and wind direction at all anemometer masts on the site. The undertaker must provide all logged data to the relevant planning authority at its written request and in accordance with the Noise Guidance within 28 days of such request. All data is to be retained until the commencement of a decommissioning and site restoration scheme under Requirement 5.

Commencement Information

I36 Sch. 1 para. 34 in force at 2.10.2014, see [art. 1](#)

35.—(1) No authorised development may commence until an assessment demonstrating that noise from the electrical substation on the site would not exceed a level of 30 dB L_{Aeq} at the nearest residential property has been submitted to and approved in writing by the relevant planning authority.

(2) The substation is to be constructed in accordance with the approved assessment.

Commencement Information

I37 Sch. 1 para. 35 in force at 2.10.2014, see [art. 1](#)

Commencement Information

I32 Sch. 1 para. 30 in force at 2.10.2014, see [art. 1](#)

I33 Sch. 1 para. 31 in force at 2.10.2014, see [art. 1](#)

I34 Sch. 1 para. 32 in force at 2.10.2014, see [art. 1](#)

I35 Sch. 1 para. 33 in force at 2.10.2014, see [art. 1](#)

I36 Sch. 1 para. 34 in force at 2.10.2014, see [art. 1](#)

I37 Sch. 1 para. 35 in force at 2.10.2014, see [art. 1](#)

PART 4

Noise Guidance for Requirements 30 to 35

1.—(1) Values of the $L_{A90,10min}$ noise statistic shall be measured at the complainant's property using a sound level meter of EN 60651/BS EN 60804 Type 1, or EN 61672 Class 1 quality (or the replacement thereof) set to measure using a fast time A-weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This shall be calibrated in accordance with the procedure specified in BS 4142:1997 (or its replacement). These measurements shall be made in such a way that the requirements of paragraph 3 shall also be satisfied.

(2) The microphone should be mounted at 1.2 to 1.5 m above ground level, fitted with a two layer windshield (or suitable alternative approved in writing from the relevant planning authority), and placed outside the complainant's dwelling. Measurements should be made in "free-field" conditions. To achieve this, the microphone should be placed at least 3.5m away from the building facade or

any reflecting surface except the ground at a location that shall be agreed with the relevant planning authority.

(3) The $L_{A90,10min}$ measurements shall be synchronised with measurements of the 10-minute arithmetic mean average wind speed and with operational data, including power generation information for each wind turbine, from the turbine control systems of the authorised development.

(4) The undertaker shall continuously log arithmetic mean wind speed and arithmetic mean wind direction data in 10 minute periods from the hub height of anemometers located on the site permanent mast unless otherwise requested by the relevant planning authority to enable compliance with the requirements to be evaluated. The mean wind speed data shall be ‘standardised’ to a reference height of 10 metres as described in ETSU-R-97(1) at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10m height wind speed data which is correlated with the noise measurements of paragraph 2(1) in the manner described in paragraph 2(3).

Commencement Information

I38 Sch. 1 Pt. 4 para. 1 in force at 2.10.2014, see [art. 1](#)

2.—(1) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in sub-paragraph (2). Such measurements shall provide valid data points for the range of wind speeds, wind directions, times of day and power generation requested by the relevant planning authority. In specifying such conditions the relevant planning authority shall have regard to those conditions which were most likely to have prevailed during times when the complainant alleges there was disturbance due to noise. At its request the undertaker shall provide within 28 days of the completion of the measurements all of the data collected under Requirement 31 to the relevant planning authority.

(2) Valid data points are those measured in the climatic conditions specified by the relevant planning authority but excluding periods of rain. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in paragraph 1(3) and is situated in the vicinity of the sound level meter.

(3) A least squares, “best fit” curve of a maximum 4th order polynomial or otherwise as may be agreed with the relevant planning authority shall be fitted between the standardised mean wind speed (as defined in paragraph 1(4)) plotted against the measured $L_{A90,10min}$ noise level. The noise level at each integer speed shall be derived from this best-fit curve.

Commencement Information

I39 Sch. 1 Pt. 4 para. 2 in force at 2.10.2014, see [art. 1](#)

3. Where, in the opinion of the relevant planning authority, noise immissions at the location or locations where assessment measurements are being undertaken contain a tonal component, the following rating procedure shall be used—

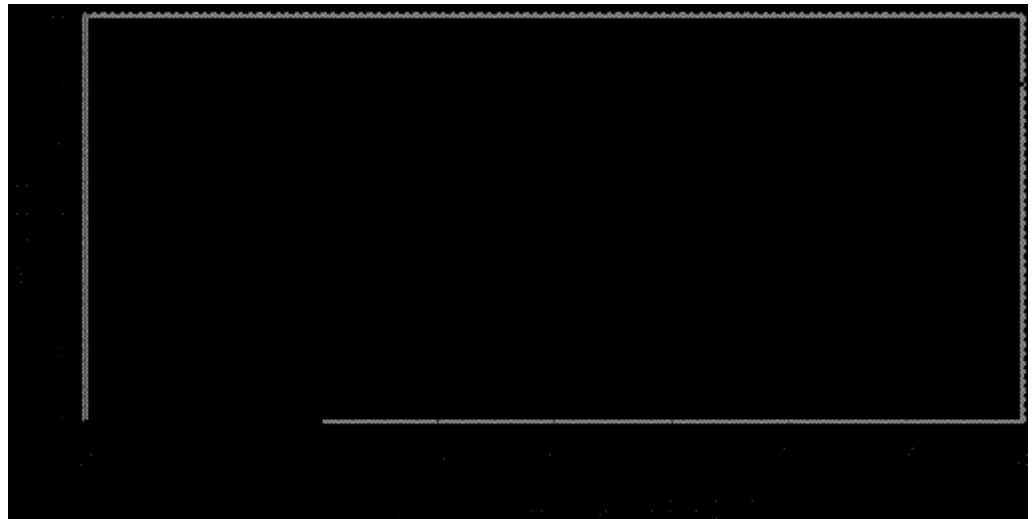
- (a) for each 10-minute interval for which $L_{A90,10min}$ data have been obtained as provided for in paragraph 1, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods shall be regularly spaced at 10-minute intervals provided that uninterrupted clean data are available. Where clean data are not available, the first available uninterrupted clean 2 minute period out of the affected

(1) “The Assessment and Rating of Noise from Wind Farm” (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

overall 10 minute period shall be selected. Any such deviations from standard procedure as described in Section 2.1 on pages 104 – 109 of ETSU-R-97 shall be reported;

- (b) for each of the 2-minute samples the margin above or below the audibility criterion of the tone level difference, $\#L_{tm}$ (Delta L_{tm}), shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97;
- (c) the margin above audibility shall be plotted against wind speed for each of the 2-minute samples. For samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted;
- (d) a linear regression shall then be performed to establish the margin above audibility at the assessed wind speed for each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic average shall be used;
- (e) the tonal penalty shall be derived from the margin above audibility of the tone according to the figure below. The rating level at each wind speed shall be calculated as the arithmetic sum of the measured noise level from the authorised development, as determined from the best-fit curve described in paragraph 2, and the penalty for tonal noise.



Commencement Information

I40 Sch. 1 Pt. 4 para. 3 in force at 2.10.2014, see [art. 1](#)

4. If the measured noise level from the authorised development (including the application of any tonal penalty as per paragraph 3) is above the limit set out in the requirements, measurements of the influence of background noise shall be made to determine whether or not there is a breach of Requirement 30 or 35. This may be achieved by repeating the steps in paragraphs 1 and 2 with all of the wind turbines switched off in order to determine the background noise, L_3 , at the assessed wind speed. The wind turbine noise at this wind speed, L_1 , is then calculated as follows, where L_2 is the measured noise level from the authorised development at the assessed wind speed with turbines running but without the addition of any tonal penalty—

$$L_1 = 10 \log \left[10^{L_2/10} - 10^{L_3/10} \right]$$

The measured noise level from the authorised development is re-calculated by adding the tonal penalty (if any) to the corrected noise level L_1 .

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Commencement Information

I41 Sch. 1 Pt. 4 para. 4 in force at 2.10.2014, see [art. 1](#)

SCHEDULE 2

Article 10

Streets subject to street works

Commencement Information

I42 Sch. 2 in force at 2.10.2014, see [art. 1](#)

<i>(1)</i> Area	<i>(2)</i> Street subject to street works
County of Denbighshire	Unclassified public road shown as PR1 on the access plan
	Unclassified public road shown as PR2 on the access plan
	Unclassified public road shown as PR3 on the access plan
	Footpath FP 12
County Borough of Conwy	Footpath FP 10
	Footpath FP 15
County of Denbighshire and County Borough Conwy	Footpath FP 142
	Footpath FP 13
	Footpath FP 14
	Unclassified public road shown as PR5 on the access plan

SCHEDULE 3

Article 11

Streets to be stopped up

Commencement Information

I43 Sch. 3 in force at 2.10.2014, see [art. 1](#)

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Streets for which a substitute is to be provided

<i>(1)</i> Area	<i>(2)</i> Street to be stopped up	<i>(3)</i> Extent of stopping up	<i>(4)</i> New street to be substituted
County Denbighshire	of Footpath FP 19	Between points P1 and P2	Footpath between points P1, P3 and P4

SCHEDULE 4

Article 14

Streets to be temporarily stopped up

Commencement Information

I44 Sch. 4 in force at 2.10.2014, see [art. 1](#)

<i>(1)</i> Area	<i>(2)</i> Street to be temporarily stopped up	<i>(3)</i> Extent of temporary stopping up
County of Denbighshire	Unclassified public road shown as PR1 on the access plan	Between points T1 and T2
	Unclassified public road shown as PR2 on the access plan	Between points T2 and T3
	Unclassified public road shown as PR3 on the access plan	Between points T4 and T5
	Footpath FP 12	Between points T12 and T13
County Borough of Conwy	Footpath FP 10	Between points T24 and T25
	Footpath FP 15	Between points T22 and T28
County of Denbighshire and County Borough Conwy	Footpath FP 142	Between points T8 and T9
	Footpath FP 13	Between points T13 and T14
	Footpath FP 14	Between points T13, T15 and T16
	Unclassified public road shown as PR5 on the access plan	Between points T6 and T7

SCHEDULE 5

Article 15

Access to works

Commencement Information

I45 Sch. 5 in force at 2.10.2014, see [art. 1](#)

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Description of access</i>
County of Denbighshire	Unclassified Road north of Clocaenog Forest B5105

SCHEDULE 6

Articles 23(1) and 29

Land subject to acquisition of new rights and interference with private rights

PART 1

Land subject to acquisition of new rights

Commencement Information

I46 Sch. 6 Pt. 1 in force at 2.10.2014, see [art. 1](#)

<i>(1)</i> <i>Number of land shown on land plan</i>	<i>(2)</i> <i>Purpose for which rights may be acquired</i>
9, 10, 11, 12, 13	Right to install cables in the public highway

PART 2

Land subject to interference with private rights

Commencement Information

I47 Sch. 6 Pt. 2 in force at 2.10.2014, see [art. 1](#)

<i>(1)</i> <i>Number of land shown on land plan</i>	<i>(2)</i> <i>Rights to be interfered with</i>
1	Mineral rights
2, 3, 4, 5, 6, 7	Private rights of way

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(1) <i>Number of land shown on land plan</i>	(2) <i>Rights to be interfered with</i>
8	Private rights of way, fishing and sporting rights and rights to water cattle, sheep, horses and other stock at reservoir

SCHEDULE 7

Article 23(4)

Modification of compensation and compulsory purchase enactments for creation of new rights

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land shall apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

Commencement Information

I48 Sch. 7 para. 1 in force at 2.10.2014, see [art. 1](#)

2.—(1) Without prejudice to the generality of paragraph 1, the Land Compensation Act 1973⁽²⁾ is to have effect subject to the modifications set out in sub-paragraphs (2) and (3).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4—

- (a) for the words “land is acquired or taken” there shall be substituted the words “a right is purchased from”; and
- (b) for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable”.

(3) In section 58(1) (determination of material detriment where part of house etc proposed for compulsory acquisition) as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5—

- (a) for the word “part” in paragraphs (a) and (b) there shall be substituted the words “a right over land consisting”;
- (b) for the word “severance” there shall be substituted the words “right affecting the whole of the house, building or manufactory or of the house and the park or garden”;
- (c) for the words “part proposed” there shall be substituted the words “right proposed”; and
- (d) for the words “part is” there shall be substituted the words “right is”.

Commencement Information

I49 Sch. 7 para. 2 in force at 2.10.2014, see [art. 1](#)

(2) [1973 c.26.](#)

Commencement Information

I48 Sch. 7 para. 1 in force at 2.10.2014, see [art. 1](#)

I49 Sch. 7 para. 2 in force at 2.10.2014, see [art. 1](#)

Application of the 1965 Act

3.—(1) The 1965 Act shall have effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

(2) Without prejudice to the generality of sub-paragraph (1), Part 1 of the 1965 Act shall apply in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

Commencement Information

I50 Sch. 7 para. 3 in force at 2.10.2014, see [art. 1](#)

4. For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—

“**7.** In assessing the compensation to be paid by the acquiring authority under this Act, regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

Commencement Information

I51 Sch. 7 para. 4 in force at 2.10.2014, see [art. 1](#)

5. For section 8 of the 1965 Act (provisions as to divided land) there shall be substituted the following section—

“**8.**—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Upper Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that land and—
 - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land; or

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

the Clocaenog Forest Wind Farm Order 2014 (“the Order”) shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section shall be determined by the tribunal.

(3) Where in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”.

Commencement Information

I52 Sch. 7 para. 5 in force at 2.10.2014, see [art. 1](#)

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land);

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

Commencement Information

I53 Sch. 7 para. 6 in force at 2.10.2014, see [art. 1](#)

7. Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act shall be modified correspondingly.

Commencement Information

I54 Sch. 7 para. 7 in force at 2.10.2014, see [art. 1](#)

8. Section 20 of the 1965 Act (protection for interests of tenants at will, etc) shall apply with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

Commencement Information

I55 Sch. 7 para. 8 in force at 2.10.2014, see [art. 1](#)

9. Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

Commencement Information

I56 Sch. 7 para. 9 in force at 2.10.2014, see [art. 1](#)

Commencement Information

I50 Sch. 7 para. 3 in force at 2.10.2014, see [art. 1](#)

I51 Sch. 7 para. 4 in force at 2.10.2014, see [art. 1](#)

I52 Sch. 7 para. 5 in force at 2.10.2014, see [art. 1](#)

I53 Sch. 7 para. 6 in force at 2.10.2014, see [art. 1](#)

I54 Sch. 7 para. 7 in force at 2.10.2014, see [art. 1](#)

I55 Sch. 7 para. 8 in force at 2.10.2014, see [art. 1](#)

I56 Sch. 7 para. 9 in force at 2.10.2014, see [art. 1](#)

SCHEDULE 8

Article 35

Protection for electricity, gas, water and sewerage undertakers

1. For the protection of the utility undertakers referred to in this Schedule the following provisions shall, unless otherwise agreed in writing between the undertaker and the utility undertaker concerned, have effect.

Commencement Information

I57 Sch. 8 para. 1 in force at 2.10.2014, see [art. 1](#)

2. In this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) in the case of an electricity utility undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989)(3), belonging to or maintained by that utility undertaker;
- (b) in the case of a gas utility undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;
- (c) in the case of a water utility undertaker, mains, pipes or other apparatus belonging to or maintained by that utility undertaker for the purposes of water supply; and
- (d) in the case of a sewerage utility undertaker—
 - (i) any drain or works vested in the utility undertaker under the Water Industry Act 1991(4); and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land; and

“utility undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986(5);
- (c) a water utility undertaker within the meaning of the Water Industry Act 1991; and
- (d) a sewerage utility undertaker within the meaning of Part 1 of the Water Industry Act 1991, for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

Commencement Information

I58 Sch. 8 para. 2 in force at 2.10.2014, see [art. 1](#)

3. This Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 of the 1991 Act.

Commencement Information

I59 Sch. 8 para. 3 in force at 2.10.2014, see [art. 1](#)

4. Regardless of any provision in this Order or anything shown on the land plans, the undertaker may not acquire any apparatus otherwise than by agreement.

(3) 1989 c.29.
(4) 1991 c.56.
(5) 1986 c.44.

Commencement Information

I60 Sch. 8 para. 4 in force at 2.10.2014, see [art. 1](#)

5.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus may not be removed under this Schedule and any right of a utility undertaker to maintain that apparatus in that land may not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it shall give to the utility undertaker in question written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker shall, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question shall, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Schedule shall be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 37 (arbitration).

(5) The utility undertaker in question shall, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 37 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, shall be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) shall authorise the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

Commencement Information

I61 Sch. 8 para. 5 in force at 2.10.2014, see [art. 1](#)

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

6.—(1) Where, in accordance with the provisions of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 37 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in or along any railway of the undertaker, the arbitrator shall—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the railway and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the undertaker or the traffic on the railway; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or along the railway for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator shall make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Commencement Information

I62 Sch. 8 para. 6 in force at 2.10.2014, see [art. 1](#)

7.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 5(2) that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 5(2), the undertaker shall submit to the utility undertaker in question a plan, section and description of the works to be executed.

(2) Those works shall be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker shall be entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) shall be made within a period of 21 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If a utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 6 shall apply as if the removal of the apparatus had been required by the undertaker under paragraph 5(2).

(5) Nothing in this paragraph shall preclude the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan, section and description.

(6) The undertaker may not be required to comply with sub-paragraph (1) in a case of emergency but in that case it shall give to the utility undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and shall comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

Commencement Information

I63 Sch. 8 para. 7 in force at 2.10.2014, see [art. 1](#)

8.—(1) Subject to the following provisions of this paragraph, the undertaker shall repay to a utility undertaker the reasonable expenses incurred by that utility undertaker in, or in connection with, the—

- (a) the inspection, removal and relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus under any provision of this Schedule (including any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or exercise of statutory powers for such apparatus);
- (b) the cutting off of any apparatus from any other apparatus, or the making safe of any redundant apparatus in consequence of the exercise by the undertaker of any power under this Order;
- (c) the survey of any land, apparatus of works, the inspection, superintendence and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the exercise by the undertaker of any power under this Order; and
- (d) any other work or thing rendered reasonably necessary in consequence of the exercise by the undertaker of any such power,

within a reasonable time of being notified by the utility undertaker that it has incurred such expenses.

(2) There shall be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Schedule, that value being calculated after removal.

(3) If in accordance with the provisions of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 37 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) shall be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus may not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Commencement Information

I64 Sch. 8 para. 8 in force at 2.10.2014, see [art. 1](#)

9.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph 5(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided by the utility undertaker, the undertaker shall—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker,

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) shall impose any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(3) A utility undertaker shall give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made without the consent of the undertaker which, if it withholds such consent, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Commencement Information

I65 Sch. 8 para. 9 in force at 2.10.2014, see [art. 1](#)

10. Nothing in this Schedule shall affect the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Commencement Information

I66 Sch. 8 para. 10 in force at 2.10.2014, see [art. 1](#)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Clocaenog Forest Wind Farm Order 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Sch. 1 Pt. 1 table inserted by [S.I. 2017/1197 art. 5\(5\)](#)
- Sch. 1 Pt. 1 table entitled "New tracks" word substituted by [S.I. 2017/1197 art. 5\(3\)\(a\)\(i\)](#)
- Sch. 1 Pt. 1 table entitled "New tracks" word substituted by [S.I. 2017/1197 art. 5\(3\)\(a\)\(ii\)](#)
- Sch. 1 Pt. 1 table entitled "Existing tracks subject to improvement and widening" word substituted by [S.I. 2017/1197 art. 5\(4\)\(a\)](#)
- Sch. 1 Pt. 1 table entitled "Existing tracks subject to improvement and widening" word substituted by [S.I. 2017/1197 art. 5\(4\)\(b\)](#)
- Sch. 1 Pt. 1 table entitled "New tracks" words inserted by [S.I. 2017/1197 art. 5\(3\)\(b\)](#)
- Sch. 1 Pt. 3 para. 1 words substituted by [S.I. 2017/1012 Sch. 6 para. 38](#)
- Sch. 1 Pt. 1 words substituted by [S.I. 2017/1197 art. 5\(1\)](#)
- art. 2(1) words substituted by [S.I. 2017/1197 art. 3\(2\)](#)
- art. 18(7) words substituted by [S.I. 2016/1154 Sch. 29 Pt. 2 para. 69](#)

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):

- art. 36(1A) inserted by [S.I. 2017/1197 art. 4\(2\)](#)