

## SCHEDULE 1

Article 3

Authorised development, ancillary and necessary works and Requirements

### PART 1A

#### Authorised development

##### Commencement Information

**II** Sch. 1 Pt. 1A in force at 30.6.2015, see [art. 1](#)

A nationally significant infrastructure project being an offshore generating station as defined in sections 14(1)(a) and 15(3) of the 2008 Act comprising—

##### **In Swansea Bay and the City and County of Swansea and the County Borough of Neath Port Talbot**

*Work No. 1a* — A western seawall crested by a road and footway commencing at 266417E; 189134N as shown on works plans 1, 4, 7 and 9 approximately 2700m in length and incorporating—

- (a) a low voltage substation;
- (b) provision of and for lighting;
- (c) one or more slipways, jetties, access points and associated hardstanding for boats used in connection with the operation and maintenance of the generating station;
- (d) a landscaped area where the seawall makes landfall; and
- (e) operation and maintenance facilities within the seawall together with sufficient foundation areas and pilings to enable construction of an offshore building centred on grid reference 266218E; 189338N containing an administration and engineering suite.

*Work No. 1b* — An eastern seawall crested by a road and footway commencing at 266420E; 189131N approximately 6800m in length and incorporating provision of and for lighting.

*Work No. 2a* — A turbine and sluice gate housing structure located between 266417E; 189134N and 266410E; 189131N as shown on works plans 2, 6, 8 and 9, measuring approximately 410m in length and 67.5m in width containing up to 16 variable speed hydro-turbines with a gross combined installed generating capacity of up to or equal to 320MW, and up to 10 sluice gates and incorporating—

- (a) a switch room;
- (b) scour protection;
- (c) associated electrical equipment and transformers;
- (d) dividing structures and wingwalls; and
- (e) a maximum of 4 external gantry cranes and such infrastructure works or plant as may be necessary for the purposes of operating and maintaining the sluices and turbines.

The Works No. 1a, 1b and 2a are also to incorporate localised widening of the seawall to provide—

- (a) viewing areas; and

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- (b) siting locations for works of public art.

*Work No. 5a* — A 275kV grid connection laid underground consisting of 3 single phase cables and other electric cables connecting Work No. 2a (266120E; 189499N) to 266970E; 191821N.

*Work No. 6a* — A work consisting of the construction of a jetty or mole and floating pontoons and piles or dolphins, located from 267494E; 191898N to 266998E; 191498N.

*Work No. 6b* — A work consisting of construction of onshore operation and maintenance facilities comprising—

- (a) an onshore building centred on 267129E; 191741N comprising—
- (i) a hatcheries and laboratories;
  - (ii) maintenance workshops and spares stores;
  - (iii) garaging for operation and maintenance vehicles;
  - (iv) storage for boats associated with the operation and maintenance of the generating station;
  - (v) a control room;
  - (vi) staff office accommodation; and
  - (vii) staff welfare facilities; and
- (b) provision to allow construction within the area of Work No. 6b of—
- (i) outdoor parking spaces for operation and maintenance vehicles and essential visitors to the generating station;
  - (ii) outdoor emergency access facilities to enable rapid access to the authorised works.

*Work No. 7a* — A new internal access road comprising 2 carriageways together with a fence in between running in a north-easterly direction from 267048E; 191928N to 269035E; 192887N.

*Work No. 7g* — A work for a new access track at the eastern seawall landfall running in an easterly direction from 269016E; 192826N to 270275E; 192496N.

And in connection with such works and to the extent that they do not otherwise form part of any such work, further development including mitigation, being part of the nationally significant infrastructure project comprising—

- (a) temporary construction works, including workshops and stores, storage areas for rock armour, working areas, laydown areas, construction sites, internal site roads and vehicle parking facilities;
- (b) to the extent required for mitigation, the landscaping elements of the Broad Seaward Park, Narrow Seaward Park, and Landward Ecological Park as described in the design and access statement, including works to existing wave protection walls;
- (c) habitat creation (including mariculture);
- (d) navigational aids;
- (e) bunds, embankments, swales, landscaping and boundary treatments and fencing;
- (f) to the extent shown on the demolition plan, the alteration, removal, clearance, refurbishment, reconstruction, decommissioning and demolition of any buildings and structures within the Order limits;
- (g) the provision of footpaths;

- (h) lighting columns and lighting; and
- (i) safety/emergency points.

## PART 1B

### Ancillary and necessary works

#### Commencement Information

**I2** Sch. 1 Pt. 1B in force at 30.6.2015, see [art. 1](#)

Works within the Order limits to the extent necessary and ancillary to the construction, operation and maintenance of a nationally significant infrastructure project and forming part of that project being an offshore generating station as defined in sections 14(1)(a) and 15(3) of the 2008 Act comprising—

*Work No. 2b* — A temporary offshore work consisting of a sediment berm cofferdam for the purposes of constructing Work No. 2a as shown on works plan 2.2.8B and having wall heights not exceeding 16.5m above Chart Datum.

*Work No. 2c* — An offshore work comprising up to 15 dolphin piles with lights, cable booms or floating buoys in between located up to 500m seaward from the outer edge of Work No. 2a (266113E; 189484N) for the purposes of demarcating a safety zone as shown on works plan 2.2.8B and works section 2.2.16A.

*Work No. 2d* — An offshore work comprising buoys (with or without lights) with or without floating booms located up to 500m landward from the outer edge of Work No. 2a (266123E; 189494N) for the purposes of demarcating a safety zone as shown on works plan 2.2.8B and works section 2.2.16A.

*Work No. 3* — An offshore work consisting of a buried pipeline the uppermost surface of which shall be below the level of the surrounding sea bed for the extension of the existing long sea sewage outfall from 268408E; 189407N to 268030E; 187224N and replacement of diffuser apparatus.

*Work No. 4* — An offshore work consisting of a new eastern channel training wall in the River Neath providing for the relocation of Monkstone lights from 270138E; 190336N to 271033E; 191419N which work must not exceed the heights shown on works section 2.2.15A.

*Work No. 9* — Reclamation of land to establish a saltmarsh habitat area of up to 5ha and coastal grassland habitat area of up to 3ha including pedestrian and cycle routes and structures as shown on works plans 2.2.2B and 2.2.3B.

*Work No. 10* — Reclamation of land to establish a new coastal grassland and dune area of up to 11 ha. close to the landfall of Work No. 1b as shown on works plan 2.2.3B incorporating—

- (a) a beach area;
- (b) a visitor/information point to serve Crymlyn Burrows SSSI as shown on planning drawing 2.4.58; and
- (c) extension of the existing surface drainage outfalls serving Fabian Way,  
and to the extent that they do not otherwise form part of any numbered work, further ancillary works comprising—
  - (d) oyster spatting ponds;
  - (e) installation of services along eastern and western seawalls, including electricity and telecommunications;

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- (f) buoys, beacons, fenders and other navigational aids, warning or ship impact protection works;
- (g) temporary land places, moorings and other means of accommodating vessels in the construction of the works set out in Part 1A and this Part; and
- (h) works to alter the position of apparatus on, over or under tidal waters or tidal lands within the Order limits.

## PART 2

### Dimensions of structures

#### Commencement Information

**I3** Sch. 1 Pt. 2 in force at 30.6.2015, see [art. 1](#)

<i>(1)</i> Structure	<i>(2)</i> Maximum height (metres) above ordnance datum	<i>(3)</i> Maximum width/length
Seawall	9 (14m above chart datum)	N/A
Turbine and sluice gate housing structure	11.5 (16.5m above chart datum)	128m/410m
Operation and maintenance facilities within seawall and foundations and pilings for the offshore building centred on grid reference 266218E; 189338N	(14m above chart datum)	
Onshore building	13.5m	18m/120m
Crymlyn Burrows SSSI visitor information point	12m	Refer to drawing 2.4.58
Gantry cranes	22.5 (27.5m above chart datum)	N/A

## PART 3

### Requirements

#### Interpretation

**1.** In this Part—

“AEMP” means the Adaptive Environmental Management Plan to be submitted and approved pursuant to Requirement 6;

“authorised development” means the works set out in Parts 1A, 1B and 2 of this Schedule (authorised development, and ancillary and necessary works);

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“CEMP” means the Construction Environmental Management Plan to be submitted and approved pursuant to Requirement 5;

“CPTMP” means the construction phase traffic management plan to be submitted and approved pursuant to Requirement 21;

“DCWW” means Dŵr Cymru Cyfyngedig (Company Reference Number: 2366777) whose registered office is at Pentwynn Road, Nelson, Treharris CF46 6LY;

“major event” means an event likely to generate vehicular traffic capable of occupying more than the aggregate number of visitor parking spaces within the authorised development;

“OEMP” means the Operational Environmental Management Plan to be submitted and approved pursuant to Requirement 5;

“operate” means operate the authorised development for generation of electricity for transmission to the national electricity grid following completion of wet commissioning and “operation” and “operating” is to be construed accordingly;

“OPTMP” means the Operational Phase Travel Management Plan to be submitted and approved pursuant to Requirement 22;

“outline Adaptive Environmental Management Plan” means the outline Adaptive Environmental Management Plan dated 25th November 2014 certified as such by the Secretary of State for the purposes of this Order;

“outline Construction Environmental Management Plan” means the outline Construction Environmental Management Plan dated 25th November 2014 certified as such by the Secretary of State for the purposes of this Order;

“outline construction phase traffic management plan” means the outline construction phase traffic management plan annexed to the outline Construction Environmental Management Plan;

“outline Operational Environmental Management Plan” means the outline Operational Environmental Management Plan dated 4th November 2014 certified as such by the Secretary of State for the purposes of this Order;

“outline operational phase traffic management plan” means the outline operational phase traffic management plan submitted with the application certified as such by the Secretary of State for the purposes of this Order.

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#### Commencement Information

**I4** Sch. 1 para. 1 in force at 30.6.2015, see [art. 1](#)

#### Time limits, etc.

**2.** The authorised development must commence no later than the expiration of 5 years beginning with the date that this Order comes into effect.

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#### Commencement Information

**I5** Sch. 1 para. 2 in force at 30.6.2015, see [art. 1](#)

**3.—(1)** The authorised development must not commence until a construction phasing scheme for the authorised development has been submitted to and approved in writing by the relevant planning authorities. The phasing scheme must set out the sequence of construction of the authorised

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development and under which requirements approvals are to be sought in whole or in part depending on the contents of the construction phasing scheme.

(2) Where a construction phasing scheme has been submitted to and approved by the relevant planning authorities, the details to be submitted to the relevant planning authorities to discharge any requirement may relate to a particular construction phase only, in order that the construction or operation of that phase may commence in accordance with the approved details for that phase alone. Where details have not been submitted in relation to any particular construction phase, then construction of that phase must not commence until the relevant part of any requirement has been discharged in relation to that phase. Construction must then be carried out in accordance with any relevant approval.

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#### Commencement Information

**I6** Sch. 1 para. 3 in force at 30.6.2015, see [art. 1](#)

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#### Commencement Information

**I5** Sch. 1 para. 2 in force at 30.6.2015, see [art. 1](#)

**I6** Sch. 1 para. 3 in force at 30.6.2015, see [art. 1](#)

### Detailed design

4.—(1) The authorised development comprised in Works No. 2b, 2c, 2d, 3, 4, 5a, 7a and 7g, must be carried out in accordance with the relevant works plans and planning drawings in Schedule 7.

(2) The authorised development seaward of mean low water springs comprised in Work No. 1a must be carried out in accordance with the relevant works plans and planning drawings in Schedule 7 so far as those drawings refer to works that are within the description of Work No. 1a in Part 1 of Schedule 1.

(3) The authorised development seaward of mean low water springs comprised in Work No. 1b must be carried out in accordance with the relevant works plans and planning drawings in Schedule 7 so far as those drawings refer to works that are within the description of Work No. 1b in Part 1 of Schedule 1.

(4) The authorised development comprised in Work No. 2a must be carried out in accordance with the relevant works plans and planning drawings in Schedule 7 so far as those drawings refer to works that are within the description of Work No. 2a in Part 1 of Schedule 1.

(5) No authorised development is to commence until the reserved details of the landward parts above mean low water springs of Works No. 1a and 1b and of all other works referred to in Parts 1A and 1B of Schedule 1 have been submitted to and approved by the relevant planning authorities.

(6) Where reserved details have been approved by the relevant planning authorities, the authorised development must be carried out in accordance with those details.

(7) In this Requirement “reserved details” means details of layout, scale, siting, design, dimensions and external appearance.

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#### Commencement Information

**I7** Sch. 1 para. 4 in force at 30.6.2015, see [art. 1](#)

## Construction Environmental Management Plans

5.—(1) No authorised development are to commence until a CEMP substantially in accordance with the outline Construction Environmental Management Plan, has been submitted to and approved by the relevant planning authorities in consultation with Natural Resources Wales.

(2) All construction work must be carried out in accordance with the CEMP approved under sub-paragraph (1).

(3) No operation of the authorised development is to commence until an OEMP, substantially in accordance with the outline Operational Environmental Management Plan, has been submitted to and approved by the relevant planning authorities.

(4) Operation of the authorised development must be in accordance with the approved OEMP.

(5) The CEMP and OEMP must include, but not be limited to, mechanisms for the provision and implementation of the following mitigation matters—

- (a) lagoon wardens during the operational phase, whose responsibilities include (but are not limited to) securing the delivery of the OEMP and managing public access;
- (b) a Reptile Strategy which provides for their habitat retention and management, and where necessary, their translocation to suitable receptor sites;
- (c) access for otters, which is to be maintained at all times between the docks, River Tawe and the coastline;
- (d) providing that reversing alarms which are not audible beyond the development site boundaries must be fitted on any Heavy Goods Vehicles (HGVs) and mobile plant that are active during the construction phase during hours of darkness, weekends (Saturdays and Sundays) and bank holidays.

### Commencement Information

**18** Sch. 1 para. 5 in force at 30.6.2015, see [art. 1](#)

## Adaptive Environmental Management Plan

6.—(1) No authorised development are to commence until an AEMP, substantially in accordance with the outline Adaptive Environmental Management Plan, has been submitted to and approved by the relevant planning authorities in consultation with Natural Resources Wales.

(2) The approved AEMP must contain provision for the revision from time to time of the monitoring and management measures that it contains in order to achieve the objectives set out in the outline Adaptive Environmental Management Plan.

(3) Construction and operation of the authorised development must be carried out in accordance with the approved AEMP as it subsists from time to time.

(4) The undertaker is to be responsible for the implementation of measures contained in or determined pursuant to the AEMP.

(5) The AEMP must include mechanisms for the delivery of mitigation to manage restoratively any adverse impacts resulting from the development, to habitats, species and sediment distributions on the Swansea Bay seafront arising from—

- (a) increases in mud deposition within the lagoon;
- (b) increases in windblown sand hazards; and
- (c) increases in saltmarsh vegetation.

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(6) The AEMP must include a scheme for the monitoring and management of siltation in the Monkstone Marina.

(7) The AEMP must provide for the appointment of a Core Review Group to include representatives of the undertaker, Natural Resources Wales and the 2 relevant planning authorities and to be chaired by an independent person selected by the Core Review Group.

#### Commencement Information

**19** Sch. 1 para. 6 in force at 30.6.2015, see [art. 1](#)

#### Provision of landscaping

7.—(1) The authorised development is not to be commenced until a detailed landscaping scheme and associated working programme for the authorised development reflecting the principles of the design and access statement has been submitted to and approved by the relevant planning authorities.

(2) The landscaping scheme must include details of—

- (a) works to existing wave protection walls;
- (b) the location, number, species, size and planting density of proposed planting;
- (c) a planting design on and in the vicinity of Works No. 6a and 6b within the Order land;
- (d) any importation of materials and other operations to ensure plant establishment;
- (e) proposed finished ground levels;
- (f) planting and hard landscaping within the operational areas of the authorised development and the vehicular and pedestrian access, parking and circulation areas;
- (g) the new beaches, saltmarshes and dunescapes to be constructed as part of the authorised development, including the method of construction, plant types, sizing and spacing, and the measures proposed for maintenance of areas;
- (h) minor structures such as signage, refuse or other units and furniture;
- (i) signage and cycle parking facilities on the access roads proposed as part of the authorised development;
- (j) proposed and existing functional services above and below ground, including power and communications cables and pipelines, manholes and supports;
- (k) the specified standard to which the works will be undertaken maintained and managed;
- (l) the proposed term for which long term management is to be undertaken pursuant to Requirement [8\(4\)](#); and
- (m) a timetable for the implementation of all hard and soft landscaping works.

(3) All planting undertaken pursuant to the landscaping scheme is to comprise—

- (a) species that would also enhance biodiversity and connect habitats; and
- (b) stock of local provenance, where available.

(4) The details to be submitted under sub-paragraph (2) must not include any development or works that are not within the descriptions of the authorised development contained in this Schedule.

#### Commencement Information

**110** Sch. 1 para. 7 in force at 30.6.2015, see [art. 1](#)



## Implementation and maintenance of landscaping

8.—(1) All landscaping works must be carried out in their entirety, maintained and managed in accordance with the detailed written landscaping scheme approved under Requirement 7 and to the specified standard.

(2) Any tree or shrub planted as part of the approved detailed landscaping scheme that is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in accordance with the specified standard of maintenance and management in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority.

(3) If any boundary shrub or vegetation is the subject of localised clearance for the purpose of construction of the authorised development, replacement planting must be undertaken to replace the extent of vegetation lost using locally occurring species to retain the existing vegetation pattern, unless otherwise approved by the relevant planning authority.

(4) Within 2 years from the commencement of operation of the authorised development a long term management plan for the period of operation of the development for the area of the authorised development within the jurisdiction of the City and County of Swansea Council prepared in accordance with the principles set out in the landscaping scheme shall be submitted for the approval of that Council, and all planting and landscaping must then be managed in accordance with the approved plan.

(5) Within 2 years from the commencement of operation of the authorised development a long term management plan for the period of operation of the development for the area of the authorised development within the jurisdiction of the Neath Port Talbot Borough Council prepared in accordance with the principles set out in the landscaping scheme shall be submitted for the approval of that Council, and all planting and landscaping must then be managed in accordance with the approved plan.

### Commencement Information

**III** Sch. 1 para. 8 in force at 30.6.2015, see [art. 1](#)

## Highway works

9.—(1) No phase of the authorised development affecting an existing public highway is to commence until details of the siting, design and layout of the highway works have after consultation and highway authority for the works in question been submitted to and approved by the relevant planning authority.

(2) The highway works must be carried out in accordance with the approved details.

(3) The submitted details are to provide for—

- (a) reinstatement of temporary works upon their completion;
- (b) a site survey to identify pre-existing defects;
- (c) remedy of defects caused during and resulting from the works upon completion; and
- (d) construction of permanent works to adoptable standards.

(4) In this Requirement “the highway works” means the highway works comprised in Works No. 7a.

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#### Commencement Information

**I12** Sch. 1 para. 9 in force at 30.6.2015, see [art. 1](#)

### Fencing and other means of site perimeter enclosure

**10.**—(1) Prior to commencement of each phase of the authorised development, written details of all proposed permanent or temporary fences, walls or other means of enclosure within that phase of the authorised development must be submitted to and approved by the relevant planning authorities.

(2) All construction sites must remain securely fenced at all times during construction of the authorised development in accordance with the approved scheme or schemes.

(3) All temporary fencing must be removed on completion of construction of the authorised development.

(4) All perimeter fences, walls or other means of site perimeter enclosure for the authorised development approved in accordance with sub-paragraph (1) must be completed prior to commencement of operation in accordance with the approved details.

(5) Such fencing must make provision for—

- (a) the secure fencing of the Port of Swansea;
- (b) fencing and means of access as is required to secure the proper management of access to Crymlyn Burrows SSSI from the authorised development; and
- (c) alternative access routes for otters.

#### Commencement Information

**I13** Sch. 1 para. 10 in force at 30.6.2015, see [art. 1](#)

### Operational surface and foul water drainage

**11.**—(1) No part of the authorised development shall commence until a written scheme to deal with the details of the surface water drainage system and the sewage system (together, the “operational drainage scheme”) incorporating a sustainable urban drainage system so far as appropriate has been submitted to and approved by the relevant planning authority in consultation with the relevant drainage authority.

(2) The operational drainage scheme shall provide for—

- (a) prior to commencement of development, a survey to be undertaken to identify existing site drainage within the Order limits including old surface water boreholes, disused draining networks from earlier developments and part-demolished sections of existing drainage and the decommissioning of any surface water drainage network or exposed boreholes so identified to the satisfaction of Natural Resources Wales;
- (b) a rainwater harvesting system to be included in the authorised development;
- (c) surface water that has the potential for oil contamination to be passed through oil interceptors;
- (d) measures to avoid risk of spillage of contaminating material;
- (e) the discharge of all aqueous effluents via the drainage system comprised in the authorised development;

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- (f) a system to collect and treat run off from stock piles prior to discharge to the surface water drainage system; and
  - (g) the avoidance of any tie-in to drains serving the A483 Fabian Way.
- (3) The scheme must be implemented in accordance with the approved details prior to operation of the authorised development and maintained during the operation of the authorised development.

#### Commencement Information

**I14** Sch. 1 para. 11 in force at 30.6.2015, see [art. 1](#)

### Contamination and groundwater

**12.**—(1) Prior to the commencement of each phase of the authorised development a scheme to assess the nature and extent of any contamination on the Order land, and confirmation of whether or not it originates on the Order land must be submitted to and approved by the relevant planning authority in consultation with Natural Resources Wales. The investigation and risk assessment must be undertaken by competent persons in accordance with Land Contamination: A Guide for Developers and the EA/DeFRA Report CLR11 - Model Procedures for Management of Land Contamination and must be submitted as a written report. The written report is to include—

- (a) a desktop study to identify all previous uses on the Order land and potential contaminants on land and controlled waters. The desktop study must establish a “conceptual site mode” (CSM) identifying all plausible pollutant linkages to be assessed;
- (b) a survey of the extent, scale and nature of contamination;
- (c) an assessment of the potential risks to—
  - (i) human health;
  - (ii) ground waters and surface waters;
  - (iii) adjoining land;
  - (iv) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
  - (v) ecological systems; and
  - (vi) archaeological sites and ancient monuments;
- (d) an appraisal of remedial options, and proposal of the preferred remedial options; and
- (e) so far as relevant to land which is the subject of the written report in question, details of how the scheme has taken account of remediation works secured by an agreement under section 106 of the 1990 Act dated 20th November 2009 and made between Neath Port Talbot County Borough Council (1), St Modwen Developments Limited (2), St Modwen Properties PLC (3), BP Chemicals Limited (4) and BP Oil Llandarcy Refinery Limited (5) as well as consultation carried out with Baglan Bay Company Limited (company number 638328).

(2) Prior to the commencement of each phase of the authorised development a remediation scheme to bring the Order land to a condition suitable for the intended use by removing any unacceptable risks to human health, buildings, other property and the natural and historical environment must be submitted to and approved by the relevant planning authority. The remediation scheme must include all relevant works to be undertaken, proposed remediation objectives, remediation criteria and site management procedures. The measures proposed within the remediation scheme must be implemented in accordance with an approved programme of works contained in that scheme.

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(3) Prior to operation of the relevant phase of authorised development commencing, a verification report which demonstrates the effectiveness of the agreed remediation works carried out in accordance with this Requirement must be submitted to and approved by the relevant planning authority.

(4) In the event that contamination is found at any time when carrying out the authorised development that was not previously identified, work on the affected area must cease immediately and shall be reported in writing to the relevant planning authority. A Desk Study, Site Investigation, Risk Assessment and where necessary a Remediation Strategy must be undertaken in accordance with Land Contamination: A Guide for Developers. The Desk Study, Site Investigation, Risk Assessment and any Remediation Strategy must be submitted to and approved by the relevant planning authority. Prior to operation of the development, a verification report which demonstrates the effectiveness of the approved remediation must be submitted to and approved by the relevant planning authority.

(5) In this Requirement “Land Contamination - A Guide for Developers” means the document entitled Land Contamination: A Guide for Developers (WLGA, WAG & EAW, 2012) certified as such by the Secretary of State for the purposes of this Order.

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#### Commencement Information

**I15** Sch. 1 para. 12 in force at 30.6.2015, see [art. 1](#)

#### Storage of materials on site

**13.**—(1) No part of the authorised development is to be brought into use until a written scheme to deal with handling and onsite storage of process chemicals, cleaning substances, fuels, oils and lubricants on site has been submitted to and approved by the relevant planning authorities.

(2) All such materials must be stored in accordance with the approved scheme.

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#### Commencement Information

**I16** Sch. 1 para. 13 in force at 30.6.2015, see [art. 1](#)

#### Construction water supply

**14.** No part of the authorised development is to be commenced until a building water supply licence has been granted by DCWW for construction of the authorised development.

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#### Commencement Information

**I17** Sch. 1 para. 14 in force at 30.6.2015, see [art. 1](#)

#### Electrical grid connection works

**15.**—(1) No part of Work No. 5a is to be commenced until—

- (a) details of the buried depths of the cable comprised in those works according with the recommendations contained in the ERA report; and
- (b) a scheme and programme for the works, including necessary construction details and locations of laydown areas, with details of specific ecological mitigation; and

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- (c) a scheme for the restoration monitoring and aftercare of areas of land disturbed by the construction of those works upon their completion including providing for the areas to be suitable for access by the public,

has been submitted to and approved by the relevant planning authority in consultation with Natural Resources Wales.

(2) Work No. 5a must be carried out in accordance with the approved details and scheme.

(3) In this Requirement, the “ERA report” means ERA report 2015 - 0265 certified as such by the Secretary of State for the purposes of this Order.

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#### Commencement Information

**I18** Sch. 1 para. 15 in force at 30.6.2015, see [art. 1](#)

### Archaeology

**16.**—(1) No part of the authorised development in any phase is to commence until a programme of archaeological work including a written scheme of investigation has been submitted to and approved by the relevant planning authorities following consultation with Cadw. The written scheme of investigation is to include an assessment of significance and research questions appropriate for investigation and—

- (a) a programme and methodology of site investigation and recording having regard to the on- and offshore nature of the authorised development;
- (b) a programme for post-investigation assessment;
- (c) provision for analysis of the site investigation and recording, as well as retention of historic assets *in situ* where reasonably practicable;
- (d) provision for publication and dissemination of the analysis and records of the site investigation;
- (e) provision to be made for archive deposition of the analysis and records of the site investigation; and
- (f) nomination of a competent person or persons to undertake the works set out within the written scheme of investigation.

(2) No part of the authorised development is to take place other than in accordance with the written scheme of investigation approved under sub-paragraph (1) of this Requirement.

(3) The site investigation and post-investigation assessment are to be completed in accordance with the programme set out in the written scheme of investigation approved under sub-paragraph (1) and provision is to be made in the written scheme of investigation for analysis, publication and dissemination of results and archive deposition.

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#### Commencement Information

**I19** Sch. 1 para. 16 in force at 30.6.2015, see [art. 1](#)

### Retention of historic assets

**17.**—(1) No part of the authorised development is to commence until a written scope of work required for the retention (where reasonably practicable), or (as the case may be in relation to paragraph (b)) relocation, and enhancement of historic assets identified in the written scope of work, including in particular—

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- (a) the standing pill boxes, gun emplacement and tank traps situated seaward of Queen’s Dock Swansea, with a buffer zone of 5m, together with suitable landscape treatment; and
  - (b) the navigation light situated on the existing Swansea Harbour East Pier,
- has been submitted to and approved by the relevant planning authority in consultation with Cadw and the Glamorgan-Gwent Archaeological Trust Ltd.
- (2) The authorised development is to be carried out in accordance with the approved details.

.....

**Commencement Information**  
**I20** Sch. 1 para. 17 in force at 30.6.2015, see [art. 1](#)

**Monitoring of noise during construction**

- 18.**—(1) No part of the authorised development is to commence until a written scheme providing for the monitoring of noise generated during the construction of the authorised development has been submitted to and approved by the relevant planning authorities.
- (2) The scheme must specify the locations at which noise will be monitored, the method of noise measurement (which shall accord with BS 5228 or, an equivalent successor standard or other agreed noise measurement methodology appropriate to the circumstances) and the frequency of submission of data to the relevant planning authorities.
- (3) The authorised development must be carried out in accordance with the approved scheme.

.....

**Commencement Information**  
**I21** Sch. 1 para. 18 in force at 30.6.2015, see [art. 1](#)

**Piling**

- 19.**—(1) No piling activities relating to those works shown on drawing TLP - SWANSEA BAY - 141003 - VO.2 as certified by the Secretary of State are to commence until a piling method statement according with the annotations of that drawing has been submitted to and approved by the relevant planning authorities in consultation with Natural Resources Wales.
- (2) Piling must be carried out in accordance with the approved method statement.

.....

**Commencement Information**  
**I22** Sch. 1 para. 19 in force at 30.6.2015, see [art. 1](#)

**Site waste management plan**

- 20.**—(1) No part of the authorised development is to be constructed until a plan for the management and disposal of waste produced as a result of the construction of the authorised development has been submitted to and approved by the relevant planning authorities.
- (2) The construction of the authorised development must be carried out in accordance with the approved details.

**Commencement Information**

**I23** Sch. 1 para. 20 in force at 30.6.2015, see [art. 1](#)

**Construction traffic**

**21.**—(1) No part of the authorised development is to commence until a construction phase traffic management plan (CPTMP) substantially in accordance with the outline construction phase traffic management plan has been submitted to and approved in writing by the relevant planning authorities.

(2) The CPTMP must include provision for—

- (a) importation of rock armour and sediment for the authorised works only by sea;
- (b) the public dissemination of contact details for any co-ordinator appointed in respect of the CPTMP;
- (c) avoidance of access via junctions A9 or A10; and
- (d) avoidance of Heavy Goods Vehicles entering and leaving the development site between the hours of 0800-0900 and 1600-1730.

(3) All construction work must be carried out in accordance with the approved CPTMP.

**Commencement Information**

**I24** Sch. 1 para. 21 in force at 30.6.2015, see [art. 1](#)

**Operational traffic**

**22.**—(1) The authorised development must not be operated until a OPTMP, substantially in accordance with the outline operational phase traffic management plan, including identification of a travel plan co-ordinator, has been submitted to and approved by the relevant planning authorities.

(2) The approved OPTMP must make provision for the installation of and collection of data from a suitably located automatic traffic counter provided by the undertaker.

(3) The authorised development must be operated in accordance with the approved OPTMP.

**Commencement Information**

**I25** Sch. 1 para. 22 in force at 30.6.2015, see [art. 1](#)

**Major events**

**23.**—(1) No major event is to be held at the authorised development unless an overarching Major Event Strategy (“MES”) including identification of a strategy co-ordinator has been submitted to and approved by the relevant planning authorities.

(2) The MES must also make provision for—

- (a) prior consultation with the relevant planning authority, highway authority, Welsh Ministers and Police as well as the Maritime and Coastguard Agency and RNLI, so far as appropriate;
- (b) submission of subsidiary event-specific Major Event Plans;
- (c) management of pressures on Swansea Beaches and Crymlyn Burrows SSSI (to the extent appropriate);



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- (d) any co-ordination of other licensing requirements;
  - (e) management of travel and traffic; and
  - (f) responsibility for provision of off-site parking and transport between any off-site parking and the authorised development.
- (3) Any event-specific Major Event Plan must include—
- (a) an explanation of why the event constitutes a major event;
  - (b) expected number of attendees, participants, competitors, exhibitors and spectators and their expected modes of travel;
  - (c) proposed arrangements for the management of vehicular and pedestrian access, including details of off-site parking, any proposed temporary provision of park and ride facilities, drop off and pick up arrangements together with amenity facilities at such locations;
  - (d) details of any proposed temporary road closures or other traffic management required;
  - (e) proposed car and coach parking arrangements;
  - (f) details of liaison proposed to be or held with the police and other relevant first responder services;
  - (g) details of measures to control visitor movement and other activity with respect to Crymlyn Burrows SSSI and any designated quiet bird area; and
  - (h) the proposed access signage and advertising strategy for each event.
- (4) All major events held at the authorised development must be held in accordance with the approved MES and any event-specific Major Event Plan.

**Commencement Information**

**I26** Sch. 1 para. 23 in force at 30.6.2015, see [art. 1](#)

**Construction and security lighting scheme**

**24.**—(1) No phase of the authorised development is to commence until a detailed written construction and security lighting scheme in accordance with the design and access statement has been submitted to and approved by the relevant planning authorities.

- (2) The construction and security lighting scheme must provide for—
- (a) appropriate lighting of any safety zone in place or dredging activity taking place during construction;
  - (b) the avoidance of direct light spill onto open water within the authorised development including the use of fencing to minimise light spill and avoidance of the use of white mercury lamps;
  - (c) the minimisation of light spill, including the use of directional lighting and positioning of lights, baffles, cowls and hoods; and
  - (d) measures to ensure that any such lighting will be directional and sensitive to relevant ecological receptors.
- (3) Construction of the authorised development must be carried out in accordance with the approved scheme.



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### Commencement Information

**I27** Sch. 1 para. 24 in force at 30.6.2015, see [art. 1](#)

### Permanent lighting

**25.**—(1) No permanent lighting forming part of the authorised development is to be installed in any phase until a detailed written and illustrated permanent lighting scheme substantially in accordance with the principles contained in the design and access statement has been submitted to and approved by the relevant planning authorities.

(2) The permanent lighting scheme must provide for—

- (a) details of how the lighting design will minimise trespass, glare and spillage;
- (b) development of appropriate lighting to render the authorised development appropriate to Swansea Bay and its setting; and
- (c) details of how, where possible, operational lighting will be designed to minimise impacts on relevant ecological receptors as described in the environmental statement.

(3) The approved scheme must be implemented as part of the authorised development.

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### Commencement Information

**I28** Sch. 1 para. 25 in force at 30.6.2015, see [art. 1](#)

### Flood risk mitigation

**26.**—(1) No tidal works comprised in the authorised development are to commence until a scheme of mitigation works for the flood risk area at Mumbles has been submitted to and approved in writing by the relevant local planning authority following consultation with Natural Resources Wales.

(2) Construction of Works No. 1a, 2a, and 2b must not commence until the approved scheme of mitigation works for the flood risk area at Mumbles, as referred to in sub-paragraph (1), has been completed.

(3) The approved scheme must be implemented as part of the authorised development.

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### Commencement Information

**I29** Sch. 1 para. 26 in force at 30.6.2015, see [art. 1](#)

### Fish and shellfish mitigation strategy

**27.**—(1) No part of the authorised development is to commence until a written strategy for the mitigation of the impacts of the authorised development on fish and shellfish has been submitted to and approved by the relevant local planning authority in consultation with Natural Resources Wales and the relevant port Harbour Authority.

(2) The fish and shellfish mitigation strategy must provide for—

- (a) fish spawning enhancements by introduction of spawning media at locations including the western face of Work No. 1a; and

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- (b) targeted oyster dredge trawls to be undertaken of the proposed dredging areas prior to commencement of construction and the translocation of native oysters.
- (3) In relation to herring, the approved scheme shall provide—
  - (a) for the placing of spawning media under sub-paragraph (2)(a) in the first year of construction of the authorised development; and
  - (b) for the monitoring of the areas where spawning media are placed in the second and third year of construction and thereafter in accordance with frequencies determined under the AEMP.
- (4) In relation to the acoustic, sonar imaging and collision recording devices to be installed in association with the turbines. The scheme shall include—
  - (a) monitoring of turbine impacts upon fish species, including migratory fish and clupeids;
  - (b) calibration of acoustic fish deterrent devices (“AFDs”) prior to commencement of operation to be effective on fish species that are hearing generalists, including sea trout and herring;
  - (c) monitoring to test the effectiveness of AFDs;
  - (d) agreement of acceptable thresholds of impact and further action to be taken if those thresholds are exceeded.
  - (e) measures to be taken when AFDs are non-operational; and
  - (f) provision for review and adaptation of AFDs during the life of the authorised development.
- (5) The provisions of this Requirement are to take precedence over the provisions of the AEMP except where an iteration of the AEMP in accordance with the terms of this Order permits.
- (6) The approved fish and shellfish mitigation strategy and any measures under it are to be implemented and maintained during construction of the authorised development, and operation of the authorised development.

**Commencement Information**

**I30** Sch. 1 para. 27 in force at 30.6.2015, see [art. 1](#)

**Avian enhancement strategy**

**28.**—(1) No part of the authorised development is to commence until a written strategy of enhancement measures for avian species has been submitted to and approved by the relevant planning authorities in consultation with Natural Resources Wales.

- (2) The avian enhancement strategy shall provide for—
  - (a) provision of an artificial roost within a less disturbed area of the authorised development; and
  - (b) provision of kittiwake ledges on north-eastern front of the new turbine and sluice gate housing structure.
- (3) The approved strategy and any measures under it are to be implemented and maintained during construction and operation of the authorised development.

**Commencement Information**

**I31** Sch. 1 para. 28 in force at 30.6.2015, see [art. 1](#)

### Habitats creation strategy

**29.**—(1) No phase of the authorised development is to commence until a written strategy for the creation, monitoring and management of onshore habitats in that phase has been submitted and approved by the relevant planning authorities in consultation with Natural Resources Wales.

(2) The habitats creation scheme is to provide for—

- (a) creation of artificial dunescape at the base of existing coastal defences and management to reduce impact through public access;
- (b) creation of an artificial sandy beach at eastern landfall of the authorised development;
- (c) beach landscaping and design on the western side of the eastern landfall of the authorised development to reduce wind effect;
- (d) vegetation management to create areas of bare sand and physical intervention to create blow-outs;
- (e) retention of habitat strips of at least 3m in width associated with the grassland in the lee of existing seawalls south-east of Queen’s Dock;
- (f) creation of grassland along the landward side of the new saltmarsh area comprised in the authorised development following removal of the existing seawall;
- (g) encouraging colonisation of existing rock armoured sea defences through infilling of large gaps with aggregate and localised topping with sandy spoil/topsoil;
- (h) creation of a dedicated coastal grassland plot to the seaward side at the south-eastern end of the docks estate with a transition to saltmarsh habitat as well as connectivity to dune habitat towards the east;
- (i) creation of grassland at the periphery of parking bays at the western end of the authorised development;
- (j) translocation of grassland turves and reuse of topsoil from areas of species-rich sward to encourage the establishment of coastal grassland habitat in the newly created areas with plants of local provenance;
- (k) translocation of robust plants or substrates containing target species seeds to holding areas where they can be relocated to newly created habitats on new seawalls; and
- (l) creation of purpose-designed artificial rocky shore habitat on new seawalls.

(3) The approved habitats creation strategy and any measures under it are to be implemented in their entirety and maintained during the entirety operation of the authorised development.

#### Commencement Information

**I32** Sch. 1 para. 29 in force at 30.6.2015, see [art. 1](#)

### Honeycomb worm translocation strategy

**30.**—(1) No part of the authorised development shall be commenced until a written strategy for the translocation of the honeycomb worm (*Sabellaria alveolata*) has been submitted to and approved by the relevant planning authority in consultation with Natural Resources Wales.

(2) The honeycomb worm translocation strategy is to provide for—

- (a) a method statement for the translocation effort;
- (b) identification of temporary or permanent receptor sites;
- (c) translocation of casts to encourage future settlement to locations around the new seawalls;

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- (d) provision of rockpools and features similar to bio-blocks to provide biodiversity offset; and
  - (e) further remedial action to be implemented in the event of an unsuccessful translocation programme or a detrimental effect upon the adjacent undisturbed honeycomb worm reef.
- (3) The approved honeycomb worm translocation strategy and any measures under it are to be implemented and maintained during construction and operation of the authorised development.

**Commencement Information**

**I33** Sch. 1 para. 30 in force at 30.6.2015, see [art. 1](#)

**Other ecological matters**

**31.**—(1) No part of the authorised development is to be commenced until a written strategy to secure the removal or management of Japanese Knotweed and other invasive non-native species within areas affected by the authorised development has been submitted to and approved by the relevant planning authorities.

(2) The approved measures are to be implemented during construction and operation of any part of the authorised development.

**Commencement Information**

**I34** Sch. 1 para. 31 in force at 30.6.2015, see [art. 1](#)

**Passive provision for western link**

**32.**—(1) No authorised development is to commence in respect of Work No. 6b until a scheme for safeguarding a future access to the Order land via the eastern bank of the River Tawe has been submitted to and approved by the relevant local planning authority.

(2) The authorised development is to be carried out in accordance with the approved scheme.

**Commencement Information**

**I35** Sch. 1 para. 32 in force at 30.6.2015, see [art. 1](#)

**Turbines**

**33.**—(1) No authorised development is to commence in respect of Work No. 2a until a scheme of works showing—

- (a) details of the turbine and sluice gate housing structure, including associated gantry cranes;
- (b) details of the variable speed hydro-turbines to be installed in the turbine housing and the depth relative to chart datum and ordnance datum at which the turbines are to operate;
- (c) details for installation with the turbines of acoustic fish deterrents and of high resolution sonar imaging and collision recording devices,

has been submitted to and approved by the relevant local planning authority in consultation with Natural Resources Wales.

(2) The authorised development is to be carried out in accordance with the approved scheme.

#### Commencement Information

**I36** Sch. 1 para. 33 in force at 30.6.2015, see [art. 1](#)

### Disposal of dredged arisings and protection of Kenfig SAC

**34.**—(1) Operation of the authorised development is not to commence until a scheme for the disposal of dredged arisings relating to maintenance of depths within the lagoon formed by the authorised works (“maintenance arisings”) has been submitted to the relevant planning authorities, in consultation with Natural Resources Wales, and approved in writing.

(2) Following commencement of the dredging referred to in sub-paragraph (1) of this Requirement, disposal of maintenance arisings must not take place except in accordance with a scheme approved under sub-paragraph (1) or a marine licence for such disposal granted by Natural Resources Wales.

(3) Any scheme approved under this Requirement may provide for—

- (a) disposal of maintenance arisings at Swansea Outer disposal ground (LU130); or
- (b) disposal of maintenance arisings at another disposal ground.

(4) Where the scheme approved under this Requirement relates to disposal of maintenance arisings at Swansea Outer disposal ground, the approved scheme is to make provision for—

- (a) the collection or augmentation of baseline data for a period of 2 years prior to the commencement of disposal of maintenance arisings in relation to the presence of sand, mud and muddy sand adjacent to the Kenfig shoreline between the northern edge of Margam Moors and Sker Point (“Kenfig Shoreline”);
- (b) a programme of monitoring designed to predict or to identify departure from predicted change to the Kenfig Shoreline as a result of the deposit of maintenance arisings;
- (c) mitigation by the undertaker to prevent or remedy adverse change to the Kenfig Shoreline (which could lead to adverse effects on the Kenfig Special Area of Conservation) as a result of the deposit of maintenance arisings by the undertaker, which may include but need not be limited to the use of an alternate disposal ground in parallel with or in substitution for the use of Swansea Outer disposal ground particularly where other mitigation measures are not available or appropriate for preventing such effects;
- (d) triggers in response to which mitigation will be secured by the undertaker in the event of change to the Kenfig Shoreline in relation to—
  - (i) erosion rate of the sand dune toe;
  - (ii) the profiles of the sand body in frontal dunes (between the seaward toe and a fixed line 20m inland) at intervals identified in the scheme as well as sedimentary characteristics; and
  - (iii) volumes of sand in the area from mean low water to the dune toe, and position of tidal contours on the beach; and
- (e) the review of the scheme and the triggers described above in light of the results of monitoring and other events in accordance with the AEMP referred to in Requirement 6.

(5) Nothing in sub-paragraph (3) of this Requirement is to prevent the undertaker from using or relying upon any scheme of that nature promoted by others relating in whole or in part to the protection or monitoring of the Kenfig SAC.

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**Commencement Information**

**I37** Sch. 1 para. 34 in force at 30.6.2015, see [art. 1](#)

**Beach mitigation management**

**35.**—(1) Operation of the authorised development is not to commence until a beach mitigation management strategy for North West Swansea Bay has been submitted to and approved by the relevant planning authority following consultation with Natural Resources Wales.

- (2) The approved strategy, which may comprise part of the AEMP is to include provision for—
- (a) continued regular monitoring of beaches in North West Swansea Bay throughout the operational, decommissioning and post-decommissioning of the authorised development;
  - (b) identification of thresholds for the application of mitigation measures; and
  - (c) flexibility to select the most appropriate mitigation measures from identified options which may include sediment nourishment, sand or mud removal, vegetation removal or spraying, and construction of sand fencing or other form of physical barrier to control wind-blown sand.

(3) The approved scheme is to be implemented by the undertaker during the operation, decommissioning and post-decommissioning phases of the authorised development.

**Commencement Information**

**I38** Sch. 1 para. 35 in force at 30.6.2015, see [art. 1](#)

**Requirement for written approval**

**36.** Where under any of the Requirements the approval or agreement of the Secretary of State, the local planning authority or another person or body is required, that approval or agreement must be given in writing.

**Commencement Information**

**I39** Sch. 1 para. 36 in force at 30.6.2015, see [art. 1](#)

**37.** Where approval or agreement is sought in relation to Requirements [26](#), [27](#), [34](#) and [35](#) approval must only be given by the relevant planning authority following consultation with Natural Resources Wales.

**Commencement Information**

**I40** Sch. 1 para. 37 in force at 30.6.2015, see [art. 1](#)

**Commencement Information**

**I39** Sch. 1 para. 36 in force at 30.6.2015, see [art. 1](#)

**I40** Sch. 1 para. 37 in force at 30.6.2015, see [art. 1](#)

### Amendments to approved details

**38.**—(1) With respect to any Requirement which requires the authorised development to be carried out in accordance with the details of a plan, scheme or code approved by the local planning authority or any other person or body, the approved details, or plan, scheme or code are to be taken to include any amendments that may subsequently be approved in writing by the local planning authority or that other person or body.

(2) Where such details, plan, scheme or code are required to be approved in consultation with another body, any amendments of that document must also be approved in consultation with that body.

(3) Any amendments to or variations from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the relevant planning authority or that other person that 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.

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#### Commencement Information

**I41** Sch. 1 para. 38 in force at 30.6.2015, see [art. 1](#)

### Marine mammal mitigation strategy

**39.**—(1) No part of the authorised development is to commence until a written strategy for the monitoring and mitigation of the impacts of the authorized development on marine mammals has been submitted to the relevant planning authorities, and in consultation with Natural Resources Wales, approved in writing.

(2) The marine mammal mitigation strategy must provide for—

- (a) monitoring and mitigation to minimise the potential for disturbance to marine mammals during construction and operation;
- (b) monitoring and mitigation measures to minimise the potential for marine mammal collision with the turbines during operation; and
- (c) agreement of thresholds of mortality of marine mammals (potential biological removal), and action to be taken if those thresholds are exceeded, for any given year during the operation of the project.

(3) The approved strategy must be implemented throughout the construction and operation of the authorised development.

(4) The strategy must be reviewed annually unless otherwise agreed in writing by the relevant planning authorities.

(5) No changes to the strategy are to be implemented unless they have been approved in writing by the relevant planning authorities.

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#### Commencement Information

**I42** Sch. 1 para. 39 in force at 30.6.2015, see [art. 1](#)



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### Section 106 agreement

**40.**—(1) No part of the authorised development is to commence until an agreement pursuant to section 106 of the Town and Country Planning Act 1990 (a “section 106 agreement”) has been secured between The City and Country of Swansea Council, Neath Port Talbot County Borough Council, AB Ports and the undertaker.

(2) The section 106 agreement mentioned in sub-paragraph (1) may be altered or varied only with the consent of all of The City and Country of Swansea Council, Neath Port Talbot County Borough Council, AB Ports and the undertaker.

(3) The section 106 agreement should reflect that of 8th December 2014, as certified by the Secretary of State.

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#### Commencement Information

**I43** Sch. 1 para. 40 in force at 30.6.2015, see [art. 1](#)

### Employment and skills plan

**41.**—(1) The authorised development shall not commence until an employment and skills plan detailing arrangements to promote employment and skills development opportunities has been submitted to and approved in writing by both The City and Country of Swansea Council and Neath Port Talbot County Borough Council.

(2) The plan must include proposals for promoting such opportunities for local residents and the approved employment and skills plan must be implemented and maintained during the construction of the authorised development, and operation of the authorised development.

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#### Commencement Information

**I44** Sch. 1 para. 41 in force at 30.6.2015, see [art. 1](#)

### Water Framework Directive

**42.**—(1) The authorised development must not commence until a monitoring and management strategy document has been submitted to and approved by Natural Resources Wales, the purpose of such strategy document being to ensure that the authorised development is carried out in compliance with the Water Framework Directive, including any necessary derogation from that Directive.

(2) The “Water Framework Directive” means [Directive 2000/60/EC](#) of the European Parliament and of the Council of 23rd October 2010 establishing a framework for Community action in the field of water policy.

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#### Commencement Information

**I45** Sch. 1 para. 42 in force at 30.6.2015, see [art. 1](#)



## SCHEDULE 2

Article 9(1)

## Streets subject to street works

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**Commencement Information**

**I46** Sch. 2 in force at 30.6.2015, see [art. 1](#)

<i>(1)</i> Area	<i>(2)</i> Street subject to street work
City and County of Swansea	Langdon Road between X1 and X2
	Port access road between X3 and X4
	Port access road between X4 and X5
	Port access road from X4 to Baldwin's Bridge off slip and link road and Fabian Way eastwards from the junction between the two to X6
Neath Port Talbot County Borough	Fabian Way between X6 and X7
	Fabian Way between X7 and X8

## SCHEDULE 3

Article 10

## Streets to be temporarily stopped up

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**Commencement Information**

**I47** Sch. 3 in force at 30.6.2015, see [art. 1](#)

<i>(1)</i> Area	<i>(2)</i> Street to be temporarily stopped up	<i>(3)</i> Extent of temporary stopping up
Neath Port Talbot County Borough	Fabian Way	Between X6 and X7
	Fabian Way	Between X7 and X8
	Wales Coast Path footpath	Between X9 and X10

## SCHEDULE 4

Article 11

## Access to works

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**Commencement Information**

**I48** Sch. 4 in force at 30.6.2015, see [art. 1](#)

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(1) Area	(2) Access reference on works plans
City and County of Swansea	Access A1 (permanent)
	Access A2 (permanent)
	Access A3 (permanent)
	Access A4 (construction)
	Access A5 (construction)
	Access A6 (permanent)
	Access A7 (permanent)
	Access A8 (permanent)
Neath Port Talbot County Borough	Access A9 (permanent)
	Access A10 (construction)
	Access A11 (construction)
	Access A12 (construction)
	Access A13 (construction)

## SCHEDULE 5

Article 28

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

### Compensation enactments modified

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with all 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 to compensation on the compulsory purchase of land and interests in land.

#### Commencement Information

**I49** Sch. 5 para. 1 in force at 30.6.2015, see [art. 1](#)

### Land Compensation Act 1973 modified

2.—(1) Without limiting paragraph 1, the Land Compensation Act 1973(1) has effect subject to the modifications set out in sub-paragraph (2).

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

- (a) for “land is acquired or taken”, substitute “a right over land is purchased from”;
- (b) for “acquired or taken from him”, substitute “over which the right is exercisable”.

(1) 1973 c. 26. Section 44 was amended by paragraph 13(b) of Schedule 24 to the Highways Act 1980, paragraph 14(d) of Schedule 7 to the Gas Act 1986 (c. 44) and paragraph 23 of Schedule 1 to the Water Consolidation (Consequential Provisions) Act 1991 (c. 60).

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**Commencement Information**

**I50** Sch. 5 para. 2 in force at 30.6.2015, see [art. 1](#)

**Compulsory Purchase Act 1965 modified**

**3.** Without limiting paragraph 1, the 1965 Act has 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 to be 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.

**Commencement Information**

**I51** Sch. 5 para. 3 in force at 30.6.2015, see [art. 1](#)

SCHEDULE 6

Article 33

Land of which temporary possession may be taken

**Commencement Information**

**I52** Sch. 6 in force at 30.6.2015, see [art. 1](#)

<i>(1)</i> Area	<i>(2)</i> Number of plot of land shown on land plan	<i>(3)</i> Purpose for which temporary possession may be taken
City and County of Swansea	01005	Dredging works under article 17 and paragraph 93 of Schedule 8
	01006	Dredging works under article 17 and paragraph 93 of Schedule 8
	01007	Dredging works under article 17 and paragraph 93 of Schedule 8
	01008	Dredging works under article 17 and paragraph 93 of Schedule 8
	01010	Dredging works under article 17 and paragraph 93 of Schedule 8
	01011	Dredging works under article 17 and paragraph 93 of Schedule 8
	01012	Dredging works under article 17 and paragraph 93 of Schedule 8

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of plot of land shown on land plan</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>
	01015	Dredging works under article 17 and paragraph 93 of Schedule 8
	01020	Dredging works under article 17 and paragraph 93 of Schedule 8
	01025	Dredging works under article 17 and paragraph 93 of Schedule 8
	01035	Dredging works under article 17 and paragraph 93 of Schedule 8
	01040	Dredging works under article 17 and paragraph 93 of Schedule 8
	01045	Dredging works under article 17 and paragraph 93 of Schedule 8
	01056	Provision of a working area and construction site related to Works No. 1a, 5a and 6a
	01059	Provision of a working area and construction site related to Works No. 1a, 5a and 6a
	01061	Provision of a working area and construction site related to Works No. 1a, 5a and 6a
	01062	Dredging works under article 17 and paragraph 93 of Schedule 8
	01152	Provision of a working area and construction site related to Works No. 1a and 5a
	02050	Provision of a working area and construction site related to Works No. 7a, 9 and 10
	02070	Provision of a working area and construction site related to Works No. 7a, 9 and 10
	02075	Provision of a working area and construction site related to Works No. 7a, 9 and 10
	02115	Provision of a working area and construction site related to Works No. 7a, 9 and 10
	05010	Provision of a working area and construction site related to Works No. 1a, 5a and 6a

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of plot of land shown on land plan</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>
	05020	Provision of a working area and construction site related to Works No. 1a, 5a and 6a
	01060	Provision of a working area and construction site related to Works No. 1a and 5a; and dredging works under article 17 and paragraph 93 of Schedule 8
	05011	Provision of a working area and construction site related to Works No. 1a and 5a; and dredging works under article 17 and paragraph 93 of Schedule 8
	05015	Provision of a working area and construction site related to Works No. 1a, 5a and 6a; and dredging works under article 17 and paragraph 93 of Schedule 8
	08005	Provision of a working area and construction site related to Works No. 1a, 5a and 6a; and dredging works under article 17 and paragraph 93 of Schedule 8
	09005	Provision of a working area and construction site related to Works No. 1a, 5a and 6a; and dredging works under article 17 and paragraph 93 of Schedule 8
	12005	Provision of a working area and construction site related to Works No. 1a, 2a, 2b, 2c and 2d; and dredging works under article 17 and paragraph 93 of Schedule 8
	15005	Provision of a working area and construction site related to Works No. 1a, 2a, 2b, 2c and 2d; and dredging works under article 17 and paragraph 93 of Schedule 8
	14015	Provision of a working area and construction site related to Works No. 1b and 3
	16010	Provision of a working area and construction site related to Works No. 1b and 3
	16005B	Provision of a working area and construction site related to Works No. 1b and 3
	17010	Provision of a working area and construction site related to Works No. 1b and 3

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<i>(1)</i> Area	<i>(2)</i> Number of plot of land shown on land plan	<i>(3)</i> Purpose for which temporary possession may be taken
Neath Port Talbot County Borough	02036	Provision of Work No. 7g
	02041	Provision of Work No. 7g
	02042	Provision of Work No. 7g; and provision of a working area related to Works No. 1b and 10
	03027	Provision of a working area and construction site for Works No. 1b and 10
	14010	Provision of a working area and construction site related to Work No. 1b
	07006	Provision of a working area and construction site related to Works No. 1b and 4; and dredging under article 17 and paragraph 23 of Schedule 8
	07010	Provision of a working area and construction site related to Works No. 1b and 4; and dredging under article 17 and paragraph 23 of Schedule 8
	07015	Provision of Work No. 4; dredging; and provision of a working area and construction site related to Works No. 1b and 4
	10020	Provision of Work No. 4; dredging; and provision of a working area and construction site related to Works No. 1b and 4
	11006	Provision of a working area and construction site related to Works No. 1b and 4; and dredging under article 17 and paragraph 23 of Schedule 8
	11010	Provision of Work No. 4; dredging under article 17 and paragraph 23 of Schedule 8; and provision of a working area and construction site related to Works No. 1b and 4
	11015	Provision of Work No. 4; dredging under article 17 and paragraph 23 of Schedule 8; and provision of a working area and construction site related to Works No. 1b and 4

## SCHEDULE 7

Article 49

## Documents to be certified

**Commencement Information**

**I53** Sch. 7 in force at 30.6.2015, see [art. 1](#)

The land plans listed below—

<i>(1)</i> <i>Application Document No.</i>	<i>(2)</i> <i>Drawing No.</i>	<i>(3)</i> <i>Drawing Description</i>
2.1.1b	2.1.1b	Key plan
2.1.2b	2.1.2b	Key plan Crown land
2.1.3c	2.1.3c	Sheet 1
2.1.4b	2.1.4b	Sheet 2
2.1.5b	2.1.5b	Sheet 3
2.1.6b	2.1.6b	Sheet 4
2.1.7b	2.1.7b	Sheet 5
2.1.8b	2.1.8b	Sheet 6
2.1.9b	2.1.9b	Sheet 7
2.1.10b	2.1.10b	Sheet 8
2.1.11b	2.1.11b	Sheet 90
2.1.12b	2.1.12b	Sheet 10
2.1.13b	2.1.13b	Sheet 11
2.1.14b	2.1.14b	Sheet 12
2.1.15b	2.1.15b	Sheet 13
2.1.16b	2.1.16b	Sheet 14
2.1.17b	2.1.17b	Sheet 15
2.1.18b	2.1.18b	Sheet 16
2.1.19b	2.1.19b	Sheet 17
2.1.20b	2.1.20b	Sheet 18

the works plans listed below—

<i>(1)</i> <i>Application Document No.</i>	<i>(2)</i> <i>Drawing No.</i>	<i>(3)</i> <i>Drawing Description</i>
2.2.1		Works key plan

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<i>(1)</i> <i>Application Document No.</i>	<i>(2)</i> <i>Drawing No.</i>	<i>(3)</i> <i>Drawing Description</i>
2.2.2B	3513/order/102.1D	Works plan - Sheet 1
2.2.3B	3513/order/102.2D	Works plan - Sheet 2
2.2.4B	3513/order/102.3D	Works plan - Sheet 3
2.2.5B	3513/order/102.4D	Works plan - Sheet 4
2.2.6B	3513/order/102.5D	Works plan - Sheet 5
2.2.7B	3513/order/102.6D	Works plan - Sheet 6
2.2.8B	3513/order/102.7D	Works plan - Sheet 7
2.2.9B	3513/order/102.8D	Works plan - Sheet 8
2.2.10B	3513/order/102.9D	Works plan - Sheet 9
2.2.11A	5118483-ATK-02-ZZ-DR-C-1201A	Marine Works Seawalls Sections - Sheet 1
2.2.12A	5118483-ATK-02-ZZ-DR-C-1202A	Marine Works Seawalls Sections - Sheet 2
2.2.13A	5118483-ATK-02-ZZ-DR-C-1203A	Marine Works Seawalls Sections - Sheet 3
2.2.14A	5118483-ATK-02-ZZ-DR-C-1204A	Marine Works Seawalls Sections - Sheet 4
2.2.15A	5118483-ATK-02-ZZ-DR-C-1205A	Marine Works Seawalls Sections - Sheet 5
2.2.16A	5118483-ATK-02-ZZ-DR-C-1206A	Marine Works Typical Sections

the access and public rights of way plans listed below—

<i>(1)</i> <i>Application Document No.</i>	<i>(2)</i> <i>Drawing No.</i>	<i>(3)</i> <i>Drawing Description</i>
2.2.17A	3513/Order/201A	Access & Public Rights of Way key plan
2.2.18	3513/Order/20.21	Access & Public Rights of Way - Sheet 1
2.2.19A	3513/Order/202.2A	Access & Public Rights of Way - Sheet 2
2.2.20A	3513/Order/202.3A	Access & Public Rights of Way - Sheet 3
2.2.21	3513/Order/202.4	Access & Public Rights of Way - Sheet 4
2.2.22	3513/Order/202.5	Access & Public Rights of Way - Sheet 5
2.2.23	3513/Order/202.6	Access & Public Rights of Way - Sheet 6
2.2.24	3513/Order/202.7	Access & Public Rights of Way - Sheet 7
2.2.25	3513/Order/202.8	Access & Public Rights of Way - Sheet 8
2.2.26	3513/Order/202.9	Access & Public Rights of Way - Sheet 9
2.2.27	3513/Order/202.10	Access & Public Rights of Way - Sheet 10
2.2.28	3513/Order/202.11	Access & Public Rights of Way - Sheet 11

the Book of Reference dated 25th November 2014 (“Version 1.7”);



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the Environmental Statement which accompanied the application to the Secretary of State for an order granting development consent;

the Design and Access Statement of February 2014 (“Document 8.1”);

the Demolition Plan; bearing reference 3513/Order/401, 402.1, 402.2 and 402.3 drawing TLP - SWANSEA BAY - 141003 - VO.2 referred to in Requirement 19 (Piling);

ERA report 2015 - 0265 as referred to in Requirement 15 (Electrical Grid Connection Works);

Land Contamination: A Guide for Developers (WLGA, WAG & EAW, 2012) as referred to in Requirement 12 (contamination and groundwater);

the Operational Phase Traffic Management Plan submitted with the application;

the outline Construction Environmental Management Plan dated 25th November 2014;

the outline Operational Environmental Management Plan dated 4th November 2014;

the outline Adaptive Environmental Management Plan dated 25th November 2014;

the agreement pursuant to section 106 of the Town and Country Planning Act 1990 (a “section 106 agreement”) between The City and Country of Swansea Council, Neath Port Talbot County Borough Council, AB Ports and the undertaker of 8th December 2014; and

the drawings listed below, which comprise the planning drawings, and includes works sections—

<i>(1)</i> <i>Application Document No.</i>	<i>(2)</i> <i>Drawing No.</i>	<i>(3)</i> <i>Drawing Description</i>
2.4.1A	3513_PL_001A	Masterplan Key Plan
2.4.2	3513_PL_002.1	Masterplan Detail Scale - Sheet 1 of 6
2.4.3	3513_PL_002.2	Masterplan Detail Scale - Sheet 2 of 6
2.4.4	3513_PL_002.3	Masterplan Detail Scale - Sheet 3 of 6
2.4.5	3513_PL_002.4	Masterplan Detail Scale - Sheet 4 of 6
2.4.6	3513_PL_002.5	Masterplan Detail Scale - Sheet 5 of 6
2.4.7	3513_PL_002.6	Masterplan Detail Scale - Sheet 6 of 6
2.4.19	3513_PL_112	Typical Lagoon Wall Treatment Plan and Section
2.4.21	3513_PL_114	Halfway Point Plan and Section
2.4.23	5118483-ATK-02-ZZ-DR-C-1207	Marine Works Lagoon Water Shuttle
2.4.24	5118483-ATK-02-ZZ-DR-C-1110	Marine Works Turbine Housing and Sluices General Arrangement
2.4.25A	TLSB-ATK-02-XX-DR-C-2000A	Marine Works 7m Turbine House Typical Section
2.4.26A	5118483-ATK-02-ZZ-DR-C-1209A	Marine Works Sluice House Typical Section
2.4.27A	5118483-ATK-02-ZZ-DR-C-1213A	Marine Works Turbine and Sluice Gate Housing Elevation
2.4.28	5118483-ATK-00-ZZ-DR-C-1301	HV Cable Route and Utilities - Sheet 1 of 8

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<i>(1)</i> <i>Application Document No.</i>	<i>(2)</i> <i>Drawing No.</i>	<i>(3)</i> <i>Drawing Description</i>
2.4.29	5118483-ATK-00-ZZ-DR-C-1302	HV Cable Route and Utilities - Sheet 2 of 8
2.4.30	5118483-ATK-00-ZZ-DR-C-1303	HV Cable Route and Utilities - Sheet 3 of 8
2.4.31	5118483-ATK-00-ZZ-DR-C-1304	HV Cable Route and Utilities - Sheet 4 of 8
2.4.32	5118483-ATK-00-ZZ-DR-C-1305	HV Cable Route and Utilities - Sheet 5 of 8
2.4.33	5118483-ATK-00-ZZ-DR-C-1306	HV Cable Route and Utilities - Sheet 6 of 8
2.4.34	5118483-ATK-00-ZZ-DR-C-1307	HV Cable Route and Utilities - Sheet 7 of 8
2.4.35	5118483-ATK-00-ZZ-DR-C-1308	HV Cable Route and Utilities - Sheet 8 of 8
2.4.36	5118483-ATK-02-ZZ-DR-C-1210	HV Cable Route Typical Details
2.4.37	5118483-ATK-HW00-ZZ-DR-D-1401	Improvement Works to Existing Highway Fabian Way Junction 3 - General Arrangement
2.4.38	5118483-ATK-HW00-ZZ-DR-D-1402	TLP Access Road and Construction Access Road - General Arrangement
2.4.39	5118483-ATK-HW00-ZZ-DR-D-1406	ABP Junction Arrangement - General Arrangement
2.4.40A	5118483-ATK-00-ZZ-DR-C-1111A	Marine Works Dredging General Arrangement
2.4.41	3513/Order/401	Demolition (s) Key Plan
2.4.42	3513/Order/402.1	Demolition (s) Plan - Sheet 1 of 3
2.4.43	3513/Order/402.2	Demolition (s) Plan - Sheet 2 of 3
2.4.44	3513/Order/402.3	Demolition (s) Plan - Sheet 3 of 3
2.4.58	1259_C1002_A	Proposed Drawings: Burrows Information Centre

## SCHEDULE 8

Article 52

## PART 1

## For the protection of Associated British Ports

**Interpretation****1.** In this Part—

“accumulation” means any accumulation of silt or other material (including any materials used to construct the authorised development) which constitutes an impediment to navigation at or in the approaches to the harbours;

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“authorised development” means the works set out in Parts 1A, 1B and 2 of Schedule 1 (authorised development, and ancillary and necessary works);

“construction” includes execution and placing, maintenance, extension, enlargement, alteration, replacement, relaying, and removal, or the carrying out of an operation, and “construct” and “constructed” are to be construed accordingly;

“erosion” means any erosion of the bed or banks of the sea or of any jetty or other structure of whatever nature within the harbours or the approaches to the harbours;

“the harbours” means the ports of Swansea and Port Talbot;

“plans” includes sections, descriptions, drawings, specifications, proposed method statements and hydraulic information;

“port land” means any land held by AB Ports for the purpose of its statutory undertaking;

“specified work” means any tidal work and any work or operation authorised by this Order on port land or which may affect port land or navigation in respect of the harbours or the functions of AB Ports in relation to the operation of the harbours; and

“tidal work” includes dredging authorised by this Order or any marine licence granted under Part 4 of the 2009 Act relating to the authorised development.

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#### Commencement Information

**I54** Sch. 8 para. 1 in force at 30.6.2015, see [art. 1](#)

### General

**2.** For the protection of AB Ports in relation to the harbours the following provisions have effect unless otherwise agreed in writing between the undertaker and AB Ports.

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#### Commencement Information

**I55** Sch. 8 para. 2 in force at 30.6.2015, see [art. 1](#)

### Acquisition or use of port land

**3.—(1)** The undertaker must not under the powers conferred by this Order acquire or use, or acquire new rights over, port land without the consent of AB Ports.

(2) The undertaker must not exercise powers conferred by article 15 (authority to survey and investigate the land) or the powers conferred by section 11(3) of the 1965 Act (powers of entry) in respect of any port land without the consent of AB Ports.

(3) Article 25 (power to override easements and other rights) does not apply to any rights held by AB Ports for the purpose of its statutory undertaking, except with the consent of AB Ports.

(4) The consent of AB Ports under this paragraph must not be unreasonably withheld but may be given subject to reasonable conditions.

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#### Commencement Information

**I56** Sch. 8 para. 3 in force at 30.6.2015, see [art. 1](#)

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## Approval of plans and arrangements

4.—(1) Before commencing the construction of any specified work, the undertaker must furnish to AB Ports plans of that work for its approval.

(2) Before decommissioning the generating station comprised in the authorised development the undertaker must furnish to AB Ports for its approval proposed arrangements for the removal or retention of the authorised development and for making it safe and managing it after it has ceased to be used for the generation of electricity.

(3) Any approval of AB Ports under this paragraph—

- (a) must not be unreasonably withheld;
- (b) may be given subject to such reasonable requirements as AB Ports may make for the protection of the harbours and navigation within the harbours and the approaches to the harbours, including a requirement for the undertaker to carry out protective works at its own expense;
- (c) may not vary the operation of this Order.

(4) The undertaker must—

- (a) carry out any specified work and any protective works required under sub-paragraph (3) in accordance with the plans approved under sub-paragraph (1) or settled under article 50 (arbitration); and
- (b) comply with any arrangements approved under sub-paragraph (2) or settled under article 50 (arbitration).

(5) If AB Ports fails to express its disapproval of any plans or arrangements within 56 days after they have been delivered to it under sub-paragraph (1) or (2), it is deemed to have approved them.

(6) Nothing in this paragraph affects the operation of article 42 (application of Energy Act 2004 in relation to decommissioning) or a decommissioning programme approved under that article.

### Commencement Information

I57 Sch. 8 para. 4 in force at 30.6.2015, see [art. 1](#)

## Notice of works

5. The undertaker must give to AB Ports not less than 56 days' written notice of its intention to commence the construction of a specified work and, not more than 14 days after completion of such construction, must give to AB Ports written notice of such completion.

### Commencement Information

I58 Sch. 8 para. 5 in force at 30.6.2015, see [art. 1](#)

## Inspection

6. The undertaker must at all reasonable times during construction of a specified work and thereafter allow AB Ports, its servants and agents, access to such work and all reasonable facilities for inspection of any such work subject always to the reasonable stipulations of the undertaker relating to health, safety, security and confidentiality.

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**Commencement Information**

**I59** Sch. 8 para. 6 in force at 30.6.2015, see [art. 1](#)

**Temporary works**

7.—(1) After the purpose of any temporary works has been accomplished the undertaker must with all reasonable dispatch, or after a reasonable period of notice in writing from AB Ports requiring the undertaker so to do, remove any such temporary works or any materials relating to them which may have been placed on port land or below the level of high water within the harbours or the approaches to the harbours by or on behalf of the undertaker.

(2) If the undertaker fails to do so within a reasonable period after receiving such notice, AB Ports may remove the same and may recover the reasonable costs of doing so from the undertaker.

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**Commencement Information**

**I60** Sch. 8 para. 7 in force at 30.6.2015, see [art. 1](#)

**Erosion or accumulation**

8.—(1) If during the construction of a tidal work or after the completion of that work and wholly or partly in consequence of its construction there is caused or created an accumulation or erosion the undertaker, if so requested by AB Ports acting reasonably, shall remedy such accumulation or erosion to the extent attributable to such construction and, if it refuses or fails to do so, AB Ports may itself cause the work to be done and may recover the reasonable cost of doing so from the undertaker.

(2) For the purposes of sub-paragraph (1)—

- (a) in the case of an accumulation, the remedy shall be its removal; and
- (b) in the case of erosion, the remedy shall be the carrying out of such reconstruction works and other protective works or measures as AB Ports reasonably requires.

(3) In the event that surveys, inspection, tests and sampling carried out pursuant to paragraph 12(1)(b) establish that such accumulation or erosion would have been caused in any event by factors other than the construction of a tidal work, the undertaker shall be liable to remedy such accumulation or erosion only to the extent that the same is attributable to such construction.

(4) Nothing in this paragraph removes the need for a marine licence under Part 4 of the 2009 Act.

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**Commencement Information**

**I61** Sch. 8 para. 8 in force at 30.6.2015, see [art. 1](#)

**Lighting, etc.**

9. The undertaker shall pay to AB Ports the reasonable costs of such alterations to the marking and lighting of the harbours and the approaches to the harbours as may be necessary in consequence of the construction of a tidal work.

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**Commencement Information**

**I62** Sch. 8 para. 9 in force at 30.6.2015, see [art. 1](#)

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## Abandoned or decayed works

**10.**—(1) If any tidal work or any other work of which the undertaker is in possession in exercise of any of the powers conferred by this Order is abandoned or falls into decay, insofar as it affects or otherwise impacts upon the operation of the harbours or navigation in the approaches to the harbours, AB Ports may by notice in writing require the undertaker to take such reasonable steps as may be specified in the notice either to repair or restore the work, or any part of it, or to remove the work and (to such extent as AB Ports reasonably requires) to restore the site to its former condition.

(2) If any tidal work is in such condition that it is, or is likely to become, a danger to or an interference with navigation, AB Ports may by notice in writing require the undertaker to take such reasonable steps as may be specified in the notice—

- (a) to repair and restore the work or part of it; or
- (b) if the undertaker so elects, to remove the tidal work and (to such extent as AB Ports reasonably requires) to restore the site to its former condition.

(3) If after such reasonable period as may be specified in a notice under this paragraph the undertaker has failed to begin taking steps to comply with the requirements of the notice, or after beginning has failed to make reasonably expeditious progress towards their implementation, AB Ports may carry out the works specified in the notice and any expenditure reasonably incurred by it in so doing is recoverable from the undertaker.

(4) This provision shall not apply where any work is being managed and operated in accordance with any approval given by AB Ports.

(5) In the event of a difference or dispute between the undertaker and AB Ports as to the necessity of any steps or works specified in a notice by AB Ports under this paragraph, such difference or dispute shall be determined by arbitration in accordance with article 50 (arbitration).

(6) Nothing in this paragraph affects the operation of article 42 (application of Energy Act 2004 in relation to decommissioning), or a decommissioning programme approved under that article.

### Commencement Information

**I63** Sch. 8 para. 10 in force at 30.6.2015, see [art. 1](#)

## Byelaws

**11.** The undertaker must consult AB Ports not less than 42 days before making any byelaw under article 47 (byelaws) and shall not make any byelaw which in the reasonable opinion of AB Ports conflicts with any byelaws made by AB Ports or with any powers exercisable by AB Ports or a harbour master of AB Ports for the regulation of navigation at the harbours or the approaches to the harbours.

### Commencement Information

**I64** Sch. 8 para. 11 in force at 30.6.2015, see [art. 1](#)

## Indemnity

**12.**—(1) Without limiting the other provisions of this Part, the undertaker is to be responsible for, and make good to AB Ports, all losses, costs, charges, damages and expenses however caused which may reasonably be incurred by or occasioned to AB Ports by reason of or arising from or in connection with—

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- (a) the perusal of plans and navigation schemes and the inspection of a specified work by AB Ports or its duly authorised representative;
- (b) the carrying out of surveys, inspections, tests and sampling within the harbours and the approaches to the harbours—
  - (i) to establish the marine conditions prevailing prior to the construction of any of the tidal works in such area of the River Tawe as AB Ports has reasonable cause to believe may subsequently be affected by any accumulation or erosion which the undertaker is liable to remedy under paragraph 8; and
  - (ii) where AB Ports has reasonable cause to believe that the construction of any of the tidal works is causing or has caused any such accumulation or erosion;
- (c) the construction or failure of a specified work, or the undertaking by AB Ports of works or measures to prevent or remedy danger or impediment to navigation or damage to any property of AB Ports arising from such construction or failure including—
  - (i) any additional costs of dredging incurred by AB Ports as a result of contamination of the seabed caused by the construction of the specified work; and
  - (ii) any damage to the lock gates or damage from flooding caused by increased wave reflection as a result of the construction of the specified work;
- (d) any act or omission of the undertaker or their servants or agents whilst engaged in the construction of a specified work.

(2) Without limiting the generality of sub-paragraph (1), the undertaker must indemnify AB Ports from and against all claims and demands arising out of, or in connection with, such construction, or failure or act or omission as is mentioned in that sub-paragraph.

(3) Nothing in this paragraph imposes any liability on the undertaker to the extent that any losses, costs, charges, damages, expenses, claims or demands referred to in sub-paragraph (1) or (2) are attributable to negligence on the part of AB Ports or of any person in its employ or of its contractors or agents.

(4) AB Ports must give to the undertaker notice in writing of any claim or demand for which the undertaker may be liable under this paragraph and no settlement or compromise of any such claim or demand may be made without the consent in writing of the undertaker.

**Commencement Information**

**I65** Sch. 8 para. 12 in force at 30.6.2015, see [art. 1](#)

**13.** The fact that any work or thing has been executed or done with the consent of AB Ports and in accordance with any conditions or restrictions prescribed by AB Ports or in accordance with any plans approved or deemed to be approved by AB Ports or to its satisfaction or in accordance with any directions or award of any arbitrator or in accordance with any plans approved by the Welsh Ministers and any conditions or restrictions imposed by them, does not relieve the undertaker from any liability under the provisions of this Part.

**Commencement Information**

**I66** Sch. 8 para. 13 in force at 30.6.2015, see [art. 1](#)

**14.** With the exception of any duty owed by AB Ports to the undertaker expressly provided for in the foregoing provisions of this Part, nothing in this Order is to be construed as imposing upon AB Ports, either directly or indirectly, any form of duty or liability to which AB Ports would not otherwise be subject which is enforceable by proceedings before any court.

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**Commencement Information**

**I67** Sch. 8 para. 14 in force at 30.6.2015, see [art. 1](#)

**Commencement Information**

**I65** Sch. 8 para. 12 in force at 30.6.2015, see [art. 1](#)

**I66** Sch. 8 para. 13 in force at 30.6.2015, see [art. 1](#)

**I67** Sch. 8 para. 14 in force at 30.6.2015, see [art. 1](#)

**Statutory functions**

**15.** Save to the extent expressly provided for nothing in this Order affects prejudicially any statutory or other rights, powers or privileges vested in, or enjoyed by, AB Ports at the commencement of this Order.

**Commencement Information**

**I68** Sch. 8 para. 15 in force at 30.6.2015, see [art. 1](#)

**Arbitration**

**16.** Any difference or dispute arising under this Part shall, unless otherwise agreed in writing between the undertaker and AB Ports, be determined by arbitration in accordance with article [50](#) (arbitration).

**Commencement Information**

**I69** Sch. 8 para. 16 in force at 30.6.2015, see [art. 1](#)

**PART 2**

**For the protection of Neath Port Authority**

**Interpretation**

**17.** In this Part—

“accumulation” means any accumulation of silt or other material (including any materials used to construct the authorised development) which constitutes an impediment to navigation at or in the approaches to the harbour including but not limited to accumulations against Work No. 1b;

“authorised development” means the works set out in Parts 1A, 1B and 2 of Schedule 1 (authorised development, and ancillary and necessary works);

“construction” includes execution and placing, maintenance, extension, enlargement, alteration, replacement, relaying, and removal, or the carrying out of an operation and “construct” and “constructed” are to be construed accordingly;



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“erosion” means any erosion of the bed or banks of the sea or of any jetty or other structure of whatever nature within the harbour or the approaches to the harbour;

“the harbour” means the Port of Neath;

“plans” includes sections, descriptions, drawings, specifications, proposed method statements, hydraulic and bathymetric survey information and risk assessment;

“specified work” means any tidal work and any work or operation authorised by the Order which is likely to affect navigation in respect of the harbour or the functions of Neath Port Authority in relation to the operation of the harbour; and

“tidal work” includes dredging authorised by this Order or any licence granted under Part 4 of the 2009 Act relating to the authorised development.

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#### Commencement Information

**I70** Sch. 8 para. 17 in force at 30.6.2015, see [art. 1](#)

### General

**18.** For the protection of Neath Port Authority in relation to the harbour the following provisions have effect unless otherwise agreed in writing between the undertaker and Neath Port Authority.

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#### Commencement Information

**I71** Sch. 8 para. 18 in force at 30.6.2015, see [art. 1](#)

### Approval of plans and arrangements

**19.**—(1) Before commencing the construction of any specified work the undertaker must furnish to Neath Port Authority plans of that work for its approval.

(2) Any approval of Neath Port Authority under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) may be given subject to such reasonable requirements as Neath Port Authority may make for the protection of the harbour and navigation within the harbour and the approaches to the harbour, including a requirement for the undertaker to carry out protective works at its own expense;
- (c) may not vary the operation of this Order.

(3) The undertaker must carry out any specified work and any protective works required under sub-paragraph (2) in accordance with the plans approved under sub-paragraph (1) or settled under article 50 (arbitration).

(4) If Neath Port Authority fails to express its disapproval of any plans or arrangements within 56 days after they have been delivered to it under sub-paragraph (1), it will be deemed to have approved them.

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#### Commencement Information

**I72** Sch. 8 para. 19 in force at 30.6.2015, see [art. 1](#)

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## Notice of works

**20.** The undertaker must give to Neath Port Authority not less than 56 days' written notice of its intention to commence the construction of the specified work and, not more than 14 days after completion of such construction, must give to Neath Port Authority written notice of such completion.

### Commencement Information

**I73** Sch. 8 para. 20 in force at 30.6.2015, see [art. 1](#)

## Inspection

**21.** The undertaker must at all reasonable times during construction of a specified work and thereafter allow Neath Port Authority, its servants and agents, access to such work and all reasonable facilities for inspection of any such work subject always to the reasonable stipulations of the undertaker relating to health, safety, security and confidentiality.

### Commencement Information

**I74** Sch. 8 para. 21 in force at 30.6.2015, see [art. 1](#)

## Temporary works

**22.—(1)** After the purpose of any temporary works has been accomplished, the undertaker must with all reasonable dispatch, or after a reasonable period of notice in writing from Neath Port Authority requiring the undertaker so to do, remove any such temporary works or any materials relating to them which may have been placed below the level of high water within the harbour or the approaches to the harbour by or on behalf of the undertaker.

**(2)** If the undertaker fails to do so within a reasonable period after receiving such notice, Neath Port Authority may remove the same and may recover the reasonable costs of doing so from the undertaker.

### Commencement Information

**I75** Sch. 8 para. 22 in force at 30.6.2015, see [art. 1](#)

## Erosion or accumulation

**23.—(1)** If during the construction of a tidal work or after the completion of that work and wholly or partly in consequence of its construction there is caused or created an accumulation or erosion within the harbour or approaches to the harbour that is likely to be detrimental to navigation, the undertaker, if so requested by Neath Port Authority acting reasonably, shall remedy such accumulation or erosion to the extent attributable to such construction and, if it refuses or fails to do so, Neath Port Authority may itself cause the work to be done and may recover the reasonable cost of doing so from the undertaker.

**(2)** For the purposes of sub-paragraph **(1)**—

- (a)** in the case of an accumulation, the remedy shall be its removal; and
- (b)** in the case of erosion, the remedy shall be the carrying out of such reconstruction works and other protective works or measures as Neath Port Authority reasonably requires.

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(3) In the event that surveys, inspection, tests and sampling carried out pursuant to paragraph 26(1)(b) establish that such accumulation or erosion would have been caused in any event by factors other than the construction of a tidal work, the undertaker shall be liable to remedy such accumulation or erosion only to the extent that the same is attributable to such construction.

(4) Nothing in this paragraph removes the need for a marine licence under Part 4 of the 2009 Act.

**Commencement Information**

**I76** Sch. 8 para. 23 in force at 30.6.2015, see [art. 1](#)

**Lighting, etc.**

**24.** The undertaker shall pay to Neath Port Authority the reasonable costs of such alterations to the marking and lighting of the harbour and the approaches to the harbour as may be necessary in consequence of the construction of a tidal work.

**Commencement Information**

**I77** Sch. 8 para. 24 in force at 30.6.2015, see [art. 1](#)

**Abandoned or decayed works**

**25.—(1)** If any tidal work or any other work of which the undertaker is in possession in exercise of any of the powers conferred by this Order is abandoned or falls into decay, insofar as it affects or otherwise impacts upon the operation of the harbour or navigation in the approaches to the harbours, Neath Port Authority may by notice in writing require the undertaker to take such reasonable steps as may be specified in the notice either to repair or restore the work, or any part of it, or to remove the work and (to such extent as Neath Port Authority reasonably requires) to restore the site to its former condition.

(2) If any tidal work is in such condition that it is, or is likely to become, a danger to or an interference with navigation, Neath Port Authority may by notice in writing require the undertaker to take such reasonable steps as may be specified in the notice—

- (a) to repair and restore the work or part of it; or
- (b) if the undertaker so elects, to remove the tidal work and (to such extent as Neath Port Authority reasonably requires) to restore the site to its former condition.

(3) If after such reasonable period as may be specified in a notice under this paragraph the undertaker has failed to begin taking steps to comply with the requirements of the notice, or after beginning has failed to make reasonably expeditious progress towards their implementation, Neath Port Authority may carry out the works specified in the notice and any expenditure reasonably incurred by it in so doing is recoverable from the undertaker.

(4) This provision shall not apply where any work is being managed and operated in accordance with any approval given by Neath Port Authority or by any programme approved by the Secretary of State to which article 42 (Application of Energy Act 2004 in relation to decommissioning) applies.

(5) In the event of a difference or dispute between the undertaker and Neath Port Authority as to the necessity of any steps or works specified in a notice by Neath Port Authority under this paragraph such difference or dispute shall be determined by arbitration in accordance with article 50 (arbitration).

(6) Nothing in this paragraph affects the operation of article 42 (Application of Energy Act 2004 in relation to decommissioning) or a decommissioning programme approved under that article.

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### Commencement Information

**I78** Sch. 8 para. 25 in force at 30.6.2015, see [art. 1](#)

## Indemnity

**26.**—(1) Without limiting to the other provisions of this Part, the undertaker is to be responsible for, and make good to Neath Port Authority, all losses, costs, charges, damages and expenses however caused which may reasonably be incurred by or occasioned to Neath Port Authority by reason of or arising from or in connection with—

- (a) the perusal of plans and navigation schemes and the inspection of the specified work by Neath Port Authority or its duly authorised representative;
- (b) the carrying out of surveys, inspections, tests and sampling within the harbour and the approaches to the harbours—
  - (i) to establish the marine conditions prevailing prior to the construction of any tidal work in such area as Neath Port Authority has reasonable cause to believe may subsequently be affected by any accumulation or erosion which the undertaker is liable to remedy under paragraph 23; and
  - (ii) where Neath Port Authority has reasonable cause to believe that the construction of any of the tidal works is causing or has caused any such accumulation or erosion;
- (c) the construction or failure of a specified work, or the undertaking by Neath Port Authority of works or measures to prevent or remedy danger or impediment to navigation or damage to any property of Neath Port Authority arising from such construction or failure;
- (d) any act or omission of the undertaker or their servants or agents whilst engaged in the construction of a specified work.

(2) Without limiting the generality of sub-paragraph (1), the undertaker shall indemnify Neath Port Authority from and against all claims and demands arising out of, or in connection with, such construction, or failure or act or omission as is mentioned in that sub-paragraph.

(3) Nothing in this paragraph imposes any liability on the undertaker to the extent that any losses, costs, charges, damages, expenses, claims or demands referred to in sub-paragraph (1) or (2) are attributable to negligence on the part of Neath Port Authority or of any person in its employ or its contractors or agents.

(4) Neath Port Authority must give to the undertaker notice in writing of any claim or demand for which the undertaker may be liable under this paragraph, and no settlement or compromise of any such claim or demand may be made without the consent in writing of the undertaker.

### Commencement Information

**I79** Sch. 8 para. 26 in force at 30.6.2015, see [art. 1](#)

**27.** The fact that any work or thing has been executed or done with the consent of Neath Port Authority and in accordance with any conditions or restrictions prescribed by Neath Port Authority or in accordance with any plans approved or deemed to be approved by Neath Port Authority or to its satisfaction or in accordance with any directions or award of any arbitrator or and any conditions or restrictions imposed by the arbitrator, does not relieve the undertaker from any liability under the provisions of this Part.

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**Commencement Information**

**180** Sch. 8 para. 27 in force at 30.6.2015, see [art. 1](#)

**28.** With the exception of any duty owed by Neath Port Authority to the undertaker expressly provided for in the foregoing provisions of this Part, nothing in this Order is to be construed as imposing upon Neath Port Authority, either directly or indirectly, any form of duty or liability to which Neath Port Authority would not otherwise be subject which is enforceable by proceedings before any court.

**Commencement Information**

**181** Sch. 8 para. 28 in force at 30.6.2015, see [art. 1](#)

**Commencement Information**

**179** Sch. 8 para. 26 in force at 30.6.2015, see [art. 1](#)

**180** Sch. 8 para. 27 in force at 30.6.2015, see [art. 1](#)

**181** Sch. 8 para. 28 in force at 30.6.2015, see [art. 1](#)

**Statutory functions**

**29.** Save to the extent expressly provided for nothing in this Order affects prejudicially any statutory or other rights, powers or privileges vested in, or enjoyed by, Neath Port Authority at the commencement of this Order.

**Commencement Information**

**182** Sch. 8 para. 29 in force at 30.6.2015, see [art. 1](#)

**Arbitration**

**30.** Any difference or dispute arising under this Part shall, unless otherwise agreed in writing between the undertaker and Neath Port Authority, be determined by arbitration in accordance with article [50](#) (arbitration).

**Commencement Information**

**183** Sch. 8 para. 30 in force at 30.6.2015, see [art. 1](#)

## PART 3

For the protection of National Grid Electricity Transmission Plc

**Application**

**31.** For the protection of the protected person, the following provisions shall, unless otherwise agreed in writing between the protected person and the persons concerned, have effect.

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### Commencement Information

**184** Sch. 8 para. 31 in force at 30.6.2015, see [art. 1](#)

### Interpretation

#### 32. In this Part—

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of the protected person to enable the protected person to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means electric lines or electrical plant as defined in the Electricity Act 1989 belonging to or maintained by that protected person;

“authorised development” means the works set out in Parts 1A, 1B and 2 of Schedule 1 (authorised development, and ancillary and necessary works), and for the purposes of this Part includes the use and maintenance of the authorised development;

“commence” has the same meaning as in article 2 but for the purposes of this Schedule any works whatsoever which are near to or may affect apparatus of the protected person shall be included within that definition and for the avoidance of doubt this includes works for the diversion or laying of services and commencement shall be construed accordingly;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by the protected person (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for the protected person’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

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

“maintain” and “maintenance” shall include the ability and right in relation to any apparatus or alternative apparatus of the protected person to construct, use, repair, alter, inspect, renew or remove the apparatus;

“plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed; and

“protected person” means National Grid Electricity Transmission plc.

### Commencement Information

**185** Sch. 8 para. 32 in force at 30.6.2015, see [art. 1](#)

**33.** Except for paragraphs [34](#) (apparatus of protected persons in stopped up streets), [39](#) (retained apparatus: protection), [40](#) (expenses) and [41](#) (indemnity) this Schedule does not apply to apparatus

in respect of which the relations between the undertaker and the protected person are regulated by the provisions of Part 3 of the 1991 Act.

**Commencement Information**

**186** Sch. 8 para. 33 in force at 30.6.2015, see [art. 1](#)

**Commencement Information**

**185** Sch. 8 para. 32 in force at 30.6.2015, see [art. 1](#)

**186** Sch. 8 para. 33 in force at 30.6.2015, see [art. 1](#)

**Apparatus of protected persons in stopped up streets**

**34.**—(1) Where any street is stopped up under article 10 (temporary stopping up of streets), the protected person whose apparatus is in the street or accessed via that street shall be entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker will grant to the protected person legal easements reasonably satisfactory to the protected person in respect of such apparatus and access to it prior to the stopping up of any such street or highway.

(2) Notwithstanding the temporary stopping up or diversion of any street under the powers in article 10 (temporary stopping up of streets), the protected person is at liberty at all times to take all necessary access across any such stopped up street or to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

**Commencement Information**

**187** Sch. 8 para. 34 in force at 30.6.2015, see [art. 1](#)

**Protective works to buildings**

**35.**—(1) The undertaker, in the case of the powers conferred by article 14 (protective work to buildings), shall so exercise those powers as not to obstruct or render less convenient the access to any apparatus without the written consent of the protected person and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of the protected person or any interruption in the supply of electricity by the protected person is caused, the undertaker shall bear and pay on demand the cost reasonably incurred by that protected person in making good such damage or restoring the supply; and, subject to sub-paragraph (2), shall—

- (a) make compensation to the protected person for any loss sustained by it; and
- (b) indemnify the protected person against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the protected person, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of the protected person or its contractors or workers; and the protected person shall give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise



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thereof shall be made without first consulting the undertaker and giving it an opportunity to make representations as to the claim or demand.

#### Commencement Information

**188** Sch. 8 para. 35 in force at 30.6.2015, see [art. 1](#)

### Acquisition of land

**36.** This Order does not authorise the acquisition or extinguishment of land or rights in land or override any interest in land owned by the protected person that is or are required for the retention or maintenance of any retained apparatus except with the agreement of the protected person which shall not be unreasonably withheld.

#### Commencement Information

**189** Sch. 8 para. 36 in force at 30.6.2015, see [art. 1](#)

### Removal of apparatus

**37.—(1)** If, in the exercise of the agreement reached in accordance with paragraph 36 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus shall not be removed under this Part and any right of the protected person to maintain that apparatus in that land shall not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of the protected person in accordance with sub-paragraphs (2) to (6).

(2) If, for the purpose of executing any works in, on, under or over 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 protected person 56 days' advance written notice of that requirement, together with a plan 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 the protected person reasonably needs to remove any of its apparatus) the undertaker shall, subject to sub-paragraph (3), afford to the protected person to their satisfaction (taking into account paragraph 38(1)) the necessary facilities and rights for—

- (a) the construction of alternative apparatus in other land of the undertaker; and
- (b) 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 protected person shall, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for the protected person to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part shall be constructed in such manner and in such line or situation as may be agreed between the protected person and the undertaker.

(5) The protected person shall, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to the protected person 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 Part.

(6) Where there is any inconsistency or duplication between the provisions set out in this Part relating to the relocation or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus) and the provisions of any existing easements rights agreements or licences granted, used, enjoyed or exercised by the protected person as of right or otherwise in relation to the apparatus then the provisions of this Part prevail.

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**Commencement Information**

**190** Sch. 8 para. 37 in force at 30.6.2015, see [art. 1](#)

**Facilities and rights for alternative apparatus**

**38.**—(1) Where, in accordance with the provisions of this Part, the undertaker affords to the protected person 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 protected person and shall be no less favourable on the whole to the protected person than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless agreed by the protected person.

(2) If the facilities and rights to be afforded by the undertaker and agreed with the protected person under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to the protected person 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 in the matter shall be referred to arbitration and, the arbitrator shall make such provision for the payment of compensation by the undertaker to that protected person as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

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**Commencement Information**

**191** Sch. 8 para. 38 in force at 30.6.2015, see [art. 1](#)

**Retained apparatus: protection**

**39.**—(1) Not less than 56 days before the commencement of any works authorised by this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 37(2) or otherwise, the undertaker shall submit to the protected person a plan and a ground monitoring scheme and seek from the protected person details of the underground extent of any electricity tower foundations.

(2) In relation to works which will or may be (i) situated on, over, under or within 15m measured in any direction of, any apparatus; or (ii) involve embankment works within 10m of any apparatus; or (iii) involve works within 10m of the outermost edge of any tower foundations, the plan to be submitted to the protected person under sub-paragraph (1) shall be detailed including a method statement and describing—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;

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- (c) the manner of their construction or renewal including details of excavation and positioning of plant;
  - (d) the position of all apparatus;
  - (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
  - (f) intended maintenance regimes;
  - (g) an assessment of risks of rise of earth issues;
  - (h) details of clearance to pylon foundations;
  - (i) demonstration that pylon foundations will not be affected prior to, during and after construction; and
  - (j) a written management plan for high voltage hazard during construction.
- (3) The undertaker shall not commence any works to which sub-paragraph (2) applies until the protected person has given written approval of the plan so submitted.
- (4) Any approval of the protected person required under sub-paragraph (2)—
- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (6);
  - (b) shall not be unreasonably withheld.
- (5) In relation to a work to which sub-paragraph (2) applies, the protected person may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its system against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.
- (6) Works executed under this Order shall be executed only in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (5), as amended from time to time by agreement between the undertaker and the protected person and in accordance with such reasonable requirements as may be made in accordance with this sub-paragraph by the protected person for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the protected person shall be entitled to watch and inspect the execution of those works.
- (7) Where the protected person requires any protective works to be carried out either themselves or by the undertaker (whether of a temporary or permanent nature) such protective works shall be carried out to the protected persons' satisfaction prior to the commencement of any authorised development (or any relevant part thereof) and the protected persons shall give 56 days' notice of such works from the date of submission of a plan in line with sub-paragraph (1) or (5) (except in an emergency).
- (8) Nothing in this paragraph shall preclude the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.
- (9) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it shall give to the protected person notice as soon as is reasonably practicable and a plan of those works and shall—
- (a) comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances; and
  - (b) comply with sub-paragraph (11) at all times.
- (10) At all times when carrying out any works authorised under the Order comply with National Grid's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

(11) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker shall implement an appropriate ground mitigation scheme save that the protected person retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 40.

#### Commencement Information

**I92** Sch. 8 para. 39 in force at 30.6.2015, see [art. 1](#)

### Expenses

**40.**—(1) Subject to the following provisions of this paragraph, the undertaker shall pay to the protected person on demand all charges, costs and expenses reasonably anticipated or incurred by that protected person in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Schedule including without limitation—

- (a) any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation in the event that the undertaker elects to use compulsory purchase powers to acquire any necessary rights under paragraph 37(3) all costs incurred as a result of such action;
- (b) the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part.

(2) There shall be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

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

- (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 situated,

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 settled by arbitration in accordance with article 50 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part 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 protected person by virtue of sub-paragraph (1) shall be reduced by the amount of that excess save where it is

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not possible in the circumstances to obtain the existing type of operations, capacity, dimensions or place at the existing depth in which case full costs shall be borne by the undertaker.

- (4) For the purposes of sub-paragraph (3)—
- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
  - (b) where the provision of a joint in a pipe or 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 the protected person 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 protected person 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

**193** Sch. 8 para. 40 in force at 30.6.2015, see [art. 1](#)

#### Indemnity

**41.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part or any subsidence resulting from any of these works), any damage is caused to any apparatus or alternative 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 the protected person, or there is any interruption in any service provided, or in the supply of any goods, by the protected person, or the protected person becomes liable to pay any amount to any third party, the undertaker shall—

- (a) bear and pay on demand the cost reasonably incurred by the protected person in making good such damage or restoring the supply; and
- (b) indemnify the protected person for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from the protected person, by reason or in consequence of any such damage or interruption or the protected person becoming liable to any third party as aforesaid.

(2) The fact that any act or thing may have been done by the protected person on behalf of the undertaker or in accordance with a plan approved by the protected person or in accordance with any requirement of the protected person or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the neglect or default of the protected person, its officers, servants, contractors or agents.

(4) The protected person shall give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made without first consulting the undertaker and considering its representations.

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#### Commencement Information

**I94** Sch. 8 para. 41 in force at 30.6.2015, see [art. 1](#)

### Enactments and agreements

**42.** Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and the protected person in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

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#### Commencement Information

**I95** Sch. 8 para. 42 in force at 30.6.2015, see [art. 1](#)

### Co-operation

**43.** Where in consequence of the proposed construction of any of the authorised development, the undertaker or the protected person requires the removal of apparatus under paragraph 37(2) or the protected person makes requirements for the protection or alteration of apparatus under paragraph 39, the undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the protected person's undertaking and the protected person shall use its best endeavours to co-operate with the undertaker for that purpose.

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#### Commencement Information

**I96** Sch. 8 para. 43 in force at 30.6.2015, see [art. 1](#)

### Access

**44.** If in consequence of the agreement reached in accordance with paragraph 36 or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker shall provide such alternative means of access to such apparatus as will enable the protected person to maintain or use the apparatus no less effectively than was possible before such obstruction.

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#### Commencement Information

**I97** Sch. 8 para. 44 in force at 30.6.2015, see [art. 1](#)

### Arbitration

**45.** Save for differences or disputes arising under paragraphs 37(2), 37(4), 38(1) and 39 any difference or dispute arising between the undertaker and the protected person under this Part shall, unless otherwise agreed in writing between the undertaker and that protected person, be determined by arbitration in accordance with article 50 (arbitration).

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#### Commencement Information

**I98** Sch. 8 para. 45 in force at 30.6.2015, see [art. 1](#)

## PART 4

### For the protection of Western Power Distribution (South Wales) Plc

#### Application

**46.** For the protection of the persons referred to in this Part, the following provisions shall, unless otherwise agreed in writing between the protected person and the undertaker, have effect.

#### Commencement Information

**I99** Sch. 8 para. 46 in force at 30.6.2015, see [art. 1](#)

#### Interpretation

**47.** In this Part—

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of the protected person to enable the protected person to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means electric lines or electrical plant as defined in the Electricity Act 1989 belonging to or maintained by that protected person;

“authorised development” means the works set out in Parts 1A, 1B and 2 of Schedule 1 (authorised development, and ancillary and necessary works), and for the purposes of this Part includes the use and maintenance of the authorised development;

“commence” has the same meaning as in article 2 but for the purposes of this Schedule any works whatsoever which are near to or may affect apparatus of the protected person shall be included within that definition and for the avoidance of doubt this includes works for the diversion or laying of services and commencement shall be construed accordingly;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by the protected person (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for the protected person’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

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

“maintain” and “maintenance” shall include the ability and right in relation to any apparatus or alternative apparatus of the protected person to construct, use, repair, alter, inspect, renew or remove the apparatus;

“plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed; and

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“protected person” means Western Power Distribution (South Wales) Plc.

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**Commencement Information**

**I100** Sch. 8 para. 47 in force at 30.6.2015, see [art. 1](#)

**48.** Except for paragraphs 49 (apparatus of protected persons in stopped up streets), 54 (retained apparatus: protection), 55 (expenses) and 56 (indemnity) this Part does not apply to apparatus in respect of which the relations between the undertaker and the protected person are regulated by the provisions of Part 3 of the 1991 Act.

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**Commencement Information**

**I101** Sch. 8 para. 48 in force at 30.6.2015, see [art. 1](#)

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**Commencement Information**

**I100** Sch. 8 para. 47 in force at 30.6.2015, see [art. 1](#)

**I101** Sch. 8 para. 48 in force at 30.6.2015, see [art. 1](#)

### **Apparatus of protected persons in stopped up streets**

**49.**—(1) Where any street is stopped up under article 10 (temporary stopping up of streets), the protected person whose apparatus is in the street or accessed via that street shall be entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker will grant to the protected person legal easements reasonably satisfactory to the protected person in respect of such apparatus and access to it prior to the stopping up of any such street or highway.

(2) Notwithstanding the temporary stopping up or diversion of any street under the powers in article 10 (temporary stopping up of streets), the protected person is at liberty at all times to take all necessary access across any such stopped up street or to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

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**Commencement Information**

**I102** Sch. 8 para. 49 in force at 30.6.2015, see [art. 1](#)

### **Protective works to buildings**

**50.**—(1) The undertaker, in the case of the powers conferred by article 14 (protective work to buildings), shall so exercise those powers as not to obstruct or render less convenient the access to any apparatus without the written consent of the protected person and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of the protected person or any interruption in the supply of electricity by the protected person is caused, the undertaker shall bear and pay on demand the cost reasonably incurred by that protected person in making good such damage or restoring the supply; and, subject to sub-paragraph (2), shall—

(a) make compensation to the protected person for any loss sustained by it; and



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(b) indemnify the protected person against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the protected person, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of the protected person or its contractors or workers; and the protected person shall give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without first consulting the undertaker and giving it an opportunity to make representations as to the claim or demand.

#### Commencement Information

**I103** Sch. 8 para. 50 in force at 30.6.2015, see [art. 1](#)

### Acquisition of land

**51.** This Order does not authorise the acquisition or extinguishment of land or rights in land or override any interest in land owned by the protected person that is or are required for the retention or maintenance of any retained apparatus except with the agreement of the protected person which shall not be unreasonably withheld.

#### Commencement Information

**I104** Sch. 8 para. 51 in force at 30.6.2015, see [art. 1](#)

### Removal of apparatus

**52.—(1)** If, in the exercise of the agreement reached in accordance with paragraph 51 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus shall not be removed under this Part and any right of the protected person to maintain that apparatus in that land shall not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of the protected person in accordance with sub-paragraphs (2) to (6).

(2) If, for the purpose of executing any works in, on, under or over 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 protected person 56 days' advance written notice of that requirement, together with a plan 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 the protected person reasonably needs to remove any of its apparatus) the undertaker shall, subject to sub-paragraph (3), afford to the protected person to their satisfaction (taking into account paragraph 53(1)) the necessary facilities and rights for—

- (a) the construction of alternative apparatus in other land of the undertaker; and
- (b) 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 protected person shall, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be



constructed save that this obligation shall not extend to the requirement for the protected person to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part shall be constructed in such manner and in such line or situation as may be agreed between the protected person and the undertaker.

(5) The protected person shall, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to the protected person 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 Part.

(6) Where there is any inconsistency or duplication between the provisions set out in this Part relating to the relocation or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus) and the provisions of any existing easements rights agreements or licences granted, used, enjoyed or exercised by the protected person as of right or otherwise in relation to the apparatus then the provisions of this Part prevail.

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**Commencement Information**

**I105** Sch. 8 para. 52 in force at 30.6.2015, see [art. 1](#)

### **Facilities and rights for alternative apparatus**

**53.**—(1) Where, in accordance with the provisions of this Part, the undertaker affords to the protected person 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 protected person and shall be no less favourable on the whole to the protected person than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless agreed by the protected person.

(2) If the facilities and rights to be afforded by the undertaker and agreed with the protected person under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to the protected person 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 in the matter shall be referred to arbitration and, the arbitrator shall make such provision for the payment of compensation by the undertaker to that protected person as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

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**Commencement Information**

**I106** Sch. 8 para. 53 in force at 30.6.2015, see [art. 1](#)

### **Retained apparatus: protection**

**54.**—(1) Not less than 56 days before the commencement of any works authorised by this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 52(2) or otherwise, the undertaker shall submit to the protected person a plan and a ground monitoring scheme and seek from the protected person details of the underground extent of any electricity tower foundations.

(2) In relation to works which will or may be (i) situated on, over, under or within 15m measured in any direction of, any apparatus; or (ii) involve embankment works within 10m of any apparatus;

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or (iii) involve works within 10m of the outermost edge of any tower foundations, the plan to be submitted to the protected person under sub-paragraph (1) shall be detailed including a method statement and describing—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation and positioning of plant;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) intended maintenance regimes;
- (g) an assessment of risks of rise of earth issues;

(3) The undertaker shall not commence any works to which sub-paragraph (2) applies until the protected person has given written approval of the plan so submitted.

(4) Any approval of the protected person required under sub-paragraph (2)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (6);
- (b) shall not be unreasonably withheld.

(5) In relation to a work to which sub-paragraph (2) applies, the protected person may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its system against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works executed under this Order shall be executed only in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (5), as amended from time to time by agreement between the undertaker and the protected person and in accordance with such reasonable requirements as may be made in accordance with this sub-paragraph by the protected person for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the protected person shall be entitled to watch and inspect the execution of those works.

(7) Where the protected person requires any protective works to be carried out either themselves or by the undertaker (whether of a temporary or permanent nature) such protective works shall be carried out to the protected persons' satisfaction prior to the commencement of any authorised development (or any relevant part thereof) and the protected persons shall give 56 days' notice of such works from the date of submission of a plan in line with sub-paragraph (1) or (5) (except in an emergency).

(8) Nothing in this paragraph shall preclude the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(9) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it shall give to the protected person notice as soon as is reasonably practicable and a plan of those works and shall—

- (a) comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (11) at all times.

(10) At all times when carrying out any works authorised under the Order comply with National Grid’s policies for development near overhead lines EN43-8 and HSE’s guidance note 6 “Avoidance of Danger from Overhead Lines”.

**Commencement Information**

**I107** Sch. 8 para. 54 in force at 30.6.2015, see [art. 1](#)

**Expenses**

**55.**—(1) Subject to the following provisions of this paragraph, the undertaker shall pay to the protected person on demand all charges, costs and expenses reasonably anticipated or incurred by that protected person in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Schedule including without limitation—

- (a) any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation in the event that the undertaker elects to use compulsory purchase powers to acquire any necessary rights under paragraph 52(3) all costs incurred as a result of such action;
- (b) the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part.

(2) There shall be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

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

- (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 situated,

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 settled by arbitration in accordance with article 50 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part 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 protected person by virtue of sub-paragraph (1) shall be reduced by the amount of that excess save where it is

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not possible in the circumstances to obtain the existing type of operations, capacity, dimensions or place at the existing depth in which case full costs shall be borne by the undertaker.

- (4) For the purposes of sub-paragraph (3)—
- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
  - (b) where the provision of a joint in a pipe or 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 the protected person 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 protected person 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

**1108** Sch. 8 para. 55 in force at 30.6.2015, see [art. 1](#)

#### Indemnity

**56.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part or any subsidence resulting from any of these works), any damage is caused to any apparatus or alternative 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 the protected person, or there is any interruption in any service provided, or in the supply of any goods, by the protected person, or the protected person becomes liable to pay any amount to any third party, the undertaker shall—

- (a) bear and pay on demand the cost reasonably incurred by the protected person in making good such damage or restoring the supply; and
- (b) indemnify the protected person for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from the protected person, by reason or in consequence of any such damage or interruption or the protected person becoming liable to any third party as aforesaid.

(2) The fact that any act or thing may have been done by the protected person on behalf of the undertaker or in accordance with a plan approved by the protected person or in accordance with any requirement of the protected person or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the neglect or default of the protected person, its officers, servants, contractors or agents.

(4) The protected person shall give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made without first consulting the undertaker and considering its representations.

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#### Commencement Information

**I109** Sch. 8 para. 56 in force at 30.6.2015, see [art. 1](#)

### Enactments and agreements

**57.** Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and the protected person in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

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#### Commencement Information

**I110** Sch. 8 para. 57 in force at 30.6.2015, see [art. 1](#)

### Co-operation

**58.** Where in consequence of the proposed construction of any of the authorised development, the undertaker or the protected person requires the removal of apparatus under paragraph 52(2) or the protected person makes requirements for the protection or alteration of apparatus under paragraph 54, the undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the protected person's undertaking and the protected person shall use its best endeavours to co-operate with the undertaker for that purpose.

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#### Commencement Information

**I111** Sch. 8 para. 58 in force at 30.6.2015, see [art. 1](#)

### Access

**59.** If in consequence of the agreement reached in accordance with paragraph 51 or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker shall provide such alternative means of access to such apparatus as will enable the protected person to maintain or use the apparatus no less effectively than was possible before such obstruction.

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#### Commencement Information

**I112** Sch. 8 para. 59 in force at 30.6.2015, see [art. 1](#)

### Arbitration

**60.** Save for differences or disputes arising under paragraphs 52(2), 52(4), 53(1) and 54 any difference or dispute arising between the undertaker and the protected person under this Part shall, unless otherwise agreed in writing between the undertaker and that protected person, be determined by arbitration in accordance with article 50 (arbitration).

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#### Commencement Information

**I113** Sch. 8 para. 60 in force at 30.6.2015, see [art. 1](#)

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## PART 5

### For the protection of SSE Energy Supply Limited, SWALEC and, Wales and West Utilities Limited

#### Application

**61.** For the protection of the protected persons referred to in this Part the following provisions shall, unless otherwise agreed in writing between the undertaker and the protected person concerned, have effect.

#### Commencement Information

**I114** Sch. 8 para. 61 in force at 30.6.2015, see [art. 1](#)

#### Interpretation

**62.** In this Part—

“1991 Act” means the New Roads and Street Works Act 1991;

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of the protected person to enable the protected person to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means in the case of a gas protected person, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;

“authorised development” means the works set out in Parts 1A, 1B and 2 of Schedule 1 (authorised development, and ancillary and necessary works), and for the purposes of this Part includes the use and maintenance of the authorised development;

“commence” has the same meaning as in article 2 but for the purposes of this Schedule any works whatsoever which are near to or may affect apparatus of the protected person shall be included within that definition and for the avoidance of doubt this includes works for the diversion or laying of services and commencement shall be construed accordingly;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by the protected person (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for the protected person’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

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

“maintain” and “maintenance” shall include the ability and right in relation to any apparatus or alternative apparatus of the protected person to construct, use, repair, alter, inspect, renew or remove the apparatus;

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“plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed; and

“protected person” means any of SSE Energy Supply Limited, SWALEC and, Wales and West Utilities Limited; and

“undertaker” means the undertaker as defined in article 6 of this Order.

**Commencement Information**

**I115** Sch. 8 para. 62 in force at 30.6.2015, see [art. 1](#)

**63.** Except for paragraphs 64 (apparatus in stopped up streets), 68 (retained apparatus: protection), 69 (expenses) and 70 (indemnity) this Part does not apply to apparatus in respect of which the relations between the undertaker and the protected person are regulated by the provisions of Part 3 of the 1991 Act.

**Commencement Information**

**I116** Sch. 8 para. 63 in force at 30.6.2015, see [art. 1](#)

**Commencement Information**

**I115** Sch. 8 para. 62 in force at 30.6.2015, see [art. 1](#)

**I116** Sch. 8 para. 63 in force at 30.6.2015, see [art. 1](#)

**Apparatus of protected person in stopped up streets**

**64.** Notwithstanding the temporary stopping up or diversion of any street under the powers in article [10](#) (temporary stopping up of streets ), the protected person is at liberty at all times to take all necessary access across any such stopped up street or to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that street.

**Commencement Information**

**I117** Sch. 8 para. 64 in force at 30.6.2015, see [art. 1](#)

**Protective works to buildings**

**65.—(1)** The undertaker, in the case of the powers conferred by article [14](#) (protective work to buildings), shall so exercise those powers as not to obstruct or render less convenient the access to any apparatus without the written consent of the protected person and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of the protected person or any interruption in the supply of electricity, gas or water, as the case may be, by the protected person is caused, the undertaker shall bear and pay on demand the costs reasonably incurred by that protected person in making good such damage or restoring the supply; and, subject to sub-paragraph (2), shall—

- (a) make compensation to the protected person for any loss sustained by it; and



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(b) indemnify the protected person against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by that protected person, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of the protected person or its contractors or workers; and the protected person shall give to the undertaker reasonable notice of any claim or demand under sub-paragraph (1) and no settlement or compromise shall be made without first consulting the undertaker and giving it an opportunity to make representations as to the claim or demand.

#### Commencement Information

**1118** Sch. 8 para. 65 in force at 30.6.2015, see [art. 1](#)

#### Removal of apparatus

**66.**—(1) If, in the exercise of an agreement reached in accordance with sub-paragraph (3) or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus a protected person is placed, that apparatus shall not be removed under this Part and any right of the protected person to maintain that apparatus in that land shall not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of the undertaker in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over 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 protected person 56 days' advance written notice of that requirement, together with a plan 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 the protected person reasonably needs to remove any of its apparatus) the undertaker shall, subject to sub-paragraph (3), afford to the undertaker to their satisfaction (taking into account paragraph 67(1)) the necessary facilities and rights for—

- (a) the construction of alternative apparatus in other land of the undertaker; and
- (b) 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 protected person shall, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for the protected person to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part shall be constructed in such manner and in such line or situation as may be agreed between the protected person and the undertaker.

(5) The protected person shall, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to the protected person 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 Part.



**Commencement Information**

**I119** Sch. 8 para. 66 in force at 30.6.2015, see [art. 1](#)

**Facilities and rights for alternative apparatus**

**67.**—(1) Where, in accordance with the provisions of this Part, the undertaker affords to the protected person 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 protected person and shall be no less favourable on the whole to the protected person than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless agreed by the protected person.

(2) If the facilities and rights to be afforded by the undertaker and agreed with the protected person under (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to the protected person 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 in the matter shall be referred to arbitration and, the arbitrator shall make such provision for the payment of compensation by the undertaker to that protected person as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

**Commencement Information**

**I120** Sch. 8 para. 67 in force at 30.6.2015, see [art. 1](#)

**Retained apparatus: protection**

**68.**—(1) Not less than 56 days before the commencement of any authorised works authorised by this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 66(2) or otherwise, the undertaker shall submit to the protected person a plan.

(2) In relation to works which will or may be situated on, over, under or within 15m measured in any direction of any apparatus, or (wherever situated) impose any load directly upon any apparatus or involve embankment works within 15m of any apparatus, the plan to be submitted to the protected person under sub-paragraph (1) shall be detailed including a method statement and describing—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) intended maintenance regimes.

(3) The undertaker shall not commence any works to which sub-paragraph (2) applies until the protected person has given written approval of the plan so submitted.

(4) Any approval of the protected person required under sub-paragraph (2)—

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- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (6);
- (b) shall not be unreasonably withheld.

(5) In relation to a work to which sub-paragraph (2) applies, the protected person may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its system against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works executed under this Order shall be executed only in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (5), as amended from time to time by agreement between the undertaker and the protected person and in accordance with such reasonable requirements as may be made in accordance with this sub-paragraph by the protected person for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the protected person shall be entitled to watch and inspect the execution of those works.

(7) Where the protected person requires any protective works to be carried out either themselves or by the undertaker (whether of a temporary or permanent nature) such protective works shall be carried out to the protected persons' satisfaction prior to the commencement of any authorised development (or any relevant part thereof) and the protected persons shall give 56 days' notice of such works from the date of submission of a plan in line with sub-paragraph (1) or (5) (except in an emergency).

(8) Nothing in this paragraph shall preclude the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(9) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it shall give to the protected person notice as soon as is reasonably practicable and a plan of those works and shall—

- (a) comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (11) at all times.

(10) At all times when carrying out any works authorised under the Order comply with Wales & West Utilities policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of pipelines and associated installations operating above 2 BARs” and “General conditions to be observed for the protection of apparatus and the prevention of disruption to gas supplies” “HS(~G)47 Avoiding Danger from underground services”.

**Commencement Information**

**I121** Sch. 8 para. 68 in force at 30.6.2015, see [art. 1](#)

**Expenses**

**69.**—(1) Subject to the following provisions of this paragraph, the undertaker shall pay to the protected person on demand all charges, costs and expenses reasonably anticipated or incurred by that protected person in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Part including without limitation—

- (a) any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including

without limitation in the event that the undertaker elects to use compulsory purchase powers to acquire any necessary rights under 66(3) all costs incurred as a result of such action;

- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part.

(2) There shall be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

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

- (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 situated,

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 settled by arbitration in accordance with article 50 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part 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 protected person by virtue of sub-paragraph (1) shall be reduced by the amount of that excess save where it is not possible in the circumstances to obtain the existing type of operations, capacity, dimensions or place at the existing depth in which case full costs shall be borne by the undertaker.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or 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 the protected person 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 protected person 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**

**I122** Sch. 8 para. 69 in force at 30.6.2015, see [art. 1](#)

## Indemnity

70.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by the undertaker) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative 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 the protected person, or there is any interruption in any service provided, or in the supply of any goods, by the protected person, or the protected person becomes liable to pay any amount to any third party, the undertaker shall—

- (a) bear and pay on demand the cost reasonably incurred by that protected person in making good such damage or restoring the supply; and
- (b) indemnify that protected person for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from the undertaker, by reason or in consequence of any such damage or interruption or the protected person becoming liable to any third party as aforesaid.

(2) The fact that any act or thing may have been done by the protected person on behalf of the undertaker or in accordance with a plan approved by the protected person or in accordance with any requirement of the protected person or under its supervision shall not (subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1)).

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the neglect or default of the protected person, its officers, servants, contractors or agents.

(4) The protected person shall give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made without first consulting the undertaker and considering their representations.

(5) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land either owned by the protected person in respect of which the protected person has an easement or wayleave for their Apparatus or any other Interest or to carry out any works within 15m of the protected person's apparatus until the following conditions are satisfied—

- (a) unless and until the protected person is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it shall maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and the protected person has confirmed the same to the undertaker in writing; and
- (b) unless and until the protected person are satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Grid that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and protected person has confirmed the same in writing to the undertaker.

(6) In the event of the undertakers failure to comply with sub-paragraph (5) the protected person shall be entitled to seek injunctive relief (or any other equitable remedy) in any court of competent jurisdiction and the undertaker irrevocably and unconditionally waives any right of objection in relation to the protected person's right to seek injunctive relief or any other equitable remedy.

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**Commencement Information**

**I123** Sch. 8 para. 70 in force at 30.6.2015, see [art. 1](#)

**Enactments and agreements**

**71.** Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and the protected person in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

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**Commencement Information**

**I124** Sch. 8 para. 71 in force at 30.6.2015, see [art. 1](#)

**Co-operation**

**72.** Where in consequence of the proposed construction of any of the authorised development, the undertaker or the protected person requires the removal of apparatus under paragraph 66(2) or the protected person makes requirements for the protection or alteration of apparatus under paragraph 67, the undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the protected person's undertaking and the protected person shall use its best endeavours to co-operate with the undertaker for that purpose.

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**Commencement Information**

**I125** Sch. 8 para. 72 in force at 30.6.2015, see [art. 1](#)

**Access**

**73.** If in consequence of the agreement reached in accordance with paragraph 66 or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker shall provide such alternative means of access to such apparatus as will enable the protected person to maintain or use the apparatus no less effectively than was possible before such obstruction.

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**Commencement Information**

**I126** Sch. 8 para. 73 in force at 30.6.2015, see [art. 1](#)

**Arbitration**

**74.** Save for differences or disputes arising under paragraphs 66(2) and (4) , 67(1) and 68 any difference or dispute arising between the undertaker and the protected person under this Schedule shall, unless otherwise agreed in writing between the undertaker and that protected person, be determined by arbitration in accordance with article 50 (arbitration).

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**Commencement Information**

**I127** Sch. 8 para. 74 in force at 30.6.2015, see [art. 1](#)

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## PART 6

For the protection of British Telecommunications Plc,  
Telefónica O2 UK Limited, and Virgin Media Limited

### Application

75. For the protection of communication operators, the following provisions of this Part shall, unless it is otherwise agreed in writing between the undertaker and the communication operator, have effect.

#### Commencement Information

I128 Sch. 8 para. 75 in force at 30.6.2015, see [art. 1](#)

### Interpretation

76. In this Part—

“authorised development” means the works set out in Parts 1A, 1B and 2 of Schedule 1 (authorised development, and ancillary and necessary works);

“communication operators” means any of British Telecommunications plc, Telefónica O2 UK Limited and Virgin Media Limited; and

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003<sup>(2)</sup>.

#### Commencement Information

I129 Sch. 8 para. 76 in force at 30.6.2015, see [art. 1](#)

### Apparatus of public communications operator in stopped up streets

77. The temporary stopping up or diversion of any street under article 10 (temporary stopping up of streets) does not affect any right of a public communications provider under paragraph 9 of the Telecommunications Code (the “Code”), contained in Schedule 2 to the Telecommunications Act 1984<sup>(3)</sup>, in respect of any apparatus which at the time of the temporary stopping up or diversion is in that street.

#### Commencement Information

I130 Sch. 8 para. 77 in force at 30.6.2015, see [art. 1](#)

### Indemnity

78. If any of the communication operators suffers damage by reason or in consequence of the construction, use or failure of the authorised development or any subsidence resulting from those works, the undertaker shall pay any cost reasonably and properly incurred by the communication operator in making good such damage, and shall indemnify the communication operator against

(2) 2003 c. 21.

(3) 1984 c. 12 as amended by Schedule 3 to the Communications Act 2003.

claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the communication operator by reason or in consequence of any such damage, but—

- (a) nothing in this paragraph imposes any liability on the undertaker with respect to any damage to the extent that such damage is attributable to any act or omission of the communication operator, its officers, servants, contractors or other agents; and
- (b) the communication operator shall give to the undertaker reasonable notice of any claim, demand or proceedings and shall make no settlement of any claim, demand or proceedings without the consent of the undertaker, such consent not to be unreasonably withheld.

**Commencement Information**

**I131** Sch. 8 para. 78 in force at 30.6.2015, see [art. 1](#)

**Code**

**79.** Nothing in this Order affects any right of a public communications provider under the Code.

**Commencement Information**

**I132** Sch. 8 para. 79 in force at 30.6.2015, see [art. 1](#)

## PART 7

### For the protection of Dŵr Cymru Cyfyngedig

**Application**

**80.** For the protection of the protected person, the following provisions, unless otherwise agreed in writing between the undertaker and the protected person, have effect.

**Commencement Information**

**I133** Sch. 8 para. 80 in force at 30.6.2015, see [art. 1](#)

**Interpretation**

**81.** In this Part—

“accessories” has the same meaning as that set out in section 219 of the Water Industry Act 1991 but also includes any feature or aspect of a design that is intended to receive or facilitate the receipt of rainwater or surface and which is part of a sustainable drainage system;

“apparatus” means all apparatus or accessories vested in or belonging to the protected person for the purpose of carrying on its statutory undertaking including the outfall;

“authorised development” means the works set out in Parts 1A, 1B and 2 of Schedule 1 (authorised development, and ancillary and necessary works);

“draft specification” means a detailed plan, cross-section and description of the specified works to be prepared by the undertaker (including, without limitation, a method statement and risk assessment setting out the intention in respect of the specified works, construction methods

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and programmes, and the position of the apparatus that might be affected as a result of the specified works);

“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;

“outfall” means the existing long sea outfall pipeline from Swansea Bay Waste Water Treatment Works;

“outfall works” means Work No. 3 and such other works required for its provision under the powers of this Order;

“protected person” means Dŵr Cymru Cyfyngedig;

“specification” means the approved version of a draft specification considered by the protected person under paragraph 85 of this Part;

“specified works” means the outfall works and any work forming part of the authorised development in any land purchased, held, or used pursuant to the Order that is—

- (a) within 3m either side of the centre line of any public sewer or public water main that is less than 300mm in diameter;
- (b) within 6m either side of a public sewer or public water main where the public sewer or public water main is greater than 300mm in diameter;
- (c) within 9m either side of the centre line of a rising main; or
- (d) within 100m either side of the centre line of the outfall,

or which will or may in any way affect any apparatus together with all ancillary actions relating hereto; and

“sustainable drainage system” means any structure designed to receive rainwater and other surface water where such structure includes any feature or aspect of design that is intended to receive or facilitate the receipt of rainwater except a public sewer or a natural watercourse.

**Commencement Information**

**I134** Sch. 8 para. 81 in force at 30.6.2015, see [art. 1](#)

**Consent not to be unreasonably withheld**

**82.** Where under any provision of this Part the consent or agreement of any person is required, such consent shall not be unreasonably withheld or delayed, may be given subject to reasonable conditions and may be given by the duly authorised representative of that person.

**Commencement Information**

**I135** Sch. 8 para. 82 in force at 30.6.2015, see [art. 1](#)

**Water Industry Act 1991**

**83.** This Part does not apply to apparatus in respect of which the relations between the undertaker and the protected person are regulated by the provisions of Part 3 and Part 4 of the Water Industry Act 1991(4).

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(4) 1991 c. 56.



**Commencement Information**

**I136** Sch. 8 para. 83 in force at 30.6.2015, see [art. 1](#)

**Written consent necessary**

**84.** Regardless of any provision in the Order or anything shown on the land plans or contained in the book of reference, the undertaker shall not acquire any apparatus or accessories or override or extinguish any easement or other interest of the protected person or acquire any land or other interest of the protected person or create any new rights over the same without the prior written consent of the protected person.

**Commencement Information**

**I137** Sch. 8 para. 84 in force at 30.6.2015, see [art. 1](#)

**Protection of apparatus**

**85.—(1)** Without limiting the other provisions of this Part, before commencing the construction, replacement, renewal or removal of any specified work, and in the case of any specified work of a temporary nature its removal, the undertaker shall submit to the protected person a draft specification.

(2) For the purpose of the preparation of the draft specification and subject to such reasonable stipulations as it may require, the protected person shall as soon as reasonably practicable upon the undertaker's reasonable request permit the undertaker to have reasonable access to such plans as it may have in its possession and to any of its land or apparatus.

(3) The protected person shall examine the draft specification submitted under sub-paragraph (1) and give its written consent or proposed amendments to the draft specification within 28 days from the date of receipt (and in the event of amendments, the process in this sub-paragraph shall be repeated where those amendments are not accepted) provided that where consent is neither given nor refused within 42 days of the submission of the draft specification (or such other time period agreed by the undertaker and the protected person acting reasonably) consent thereto shall be deemed to have been given. The undertaker shall not commence the specified works until written or deemed consent is provided by the protected person in accordance with this sub-paragraph.

(4) The conditions which may be imposed under any consent and relating to a specification given by the protected person hereunder include conditions as to—

- (a) the commencement date and completion date of the specified works;
- (b) the reasonable removal, extension or alteration of apparatus necessitated by the specified works;
- (c) works for the protection of apparatus necessitated as a result of the specified works;
- (d) provision for access to any apparatus;
- (e) such works, provisions or methods as are reasonably necessary for the protection of the environment or the protection of the protected person from liability under the terms of any licence relating to its activities; and
- (f) an advance warning system providing for liaison between the undertaker and the protected person in respect of potential performance operational issues affecting, or damage to, apparatus arising from the specified works.

(5) The specified works shall be executed only—

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- (a) in accordance with the specification;
- (b) exercising the standard of skill and care reasonably to be expected of a skilled and experienced professional person engaged in undertakings of a similar scope, nature and complexity as the specified works; and
- (c) in accordance with such reasonable conditions and requirements as may be imposed by the protected person,

and the protected person shall be entitled to watch and inspect the execution of the specified works.

(6) Nothing in this paragraph shall preclude the undertaker from submitting at any time or from time to time a draft specification to be implemented in substitution of the draft specification previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new draft specification, but the substituted draft specification shall not become the specification and may not be carried out without the consent or deemed consent of the protected person.

(7) The undertaker may not be required to comply with sub-paragraph (1) in a case of emergency provided it has complied with paragraph 88, save that the undertaker shall comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances, after carrying out any specified works to which this sub-paragraph applies.

(8) The undertaker shall be responsible to the protected person for the reasonable expenses (including VAT) incurred by the protected person in, or in connection with, the inspection of the specified works or the apparatus, the protection of any apparatus or temporary works to be undertaken by the protected person (including in respect of examining the draft specification in accordance with sub-paragraph (3)).

(9) Where the protected person has apparatus that will be affected by the specified works (including the outfall), the undertaker shall determine the exact location of apparatus prior to any specified works being carried out by the undertaker.

(10) The undertaker shall not make any trial holes which interfere with any apparatus without the consent of the protected person.

(11) When works for the provision of any new, extended or altered apparatus or any protective work forming part of any such new, extended or altered apparatus, or existing apparatus, have been completed under this Part to the reasonable satisfaction of the protected person, they shall be vested in the protected person forthwith but shall be maintainable by the undertaker until a period of—

- (a) in the case of the outfall works, 24 months has elapsed and the protected person or an engineer appointed by the protected person has issued a certificate of final inspection of the new, altered or extended apparatus;
- (b) in the case of any other specified works which vest in the protected person in accordance with this paragraph, 12 months has elapsed and the protected person or an engineer appointed by the protected person has issued a certificate of final inspection of the new, altered or extended apparatus.

#### **Commencement Information**

**I138** Sch. 8 para. 85 in force at 30.6.2015, see [art. 1](#)

### **Outfall**

**86.** Save as may be authorised under paragraph 85, the undertaker shall not take any action or permit any action to be taken which is likely to endanger the structural integrity of the outfall.

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#### Commencement Information

**I139** Sch. 8 para. 86 in force at 30.6.2015, see [art. 1](#)

### Suspension of specified works

**87.**—(1) The protected person is entitled to instruct the undertaker to suspend the specified works (or any part of the specified works) if in the protected person’s reasonable opinion the actions of the undertaker, or those of its contractors or subcontractors in carrying out the specified works otherwise than in accordance with the specification or the provisions in this Part have caused damage to any apparatus or are likely to cause or result in damage to any apparatus or damage to the environment that was not foreseen at the time of the approval of the specification. In the event of such an instruction being given by the protected person—

- (a) the undertaker shall procure that it and its contractors and subcontractors shall as soon as reasonably practicable and forthwith in case of urgency suspend or cease the specified works in each case having due regard to health and safety factors and shall discuss and agree with the protected person such remedial actions (which may include works) as may be required prior to resuming the specified works and the person who shall be responsible for the performance of such remedial actions;
- (b) the undertaker and the protected person shall act reasonably and without delay in discussing and agreeing any remedial actions required prior to resuming the specified works;
- (c) the protected person shall at such time as it issues any instruction under this paragraph submit to the undertaker immediately a written notice specifying the reasons for suspending the specified works;
- (d) in the event that the protected person fails to supply the written notice within 5 working days of the protected person’s instruction to suspend, the instruction shall be void and the undertaker shall be entitled to recommence the specified works; and
- (e) where the protected person is responsible for any remedial action, it shall commence, carry out and complete such remedial actions pursuant to paragraph (a), as soon as reasonably practicable and the protected person shall give the undertaker notice immediately upon completion of such remedial works and on receipt of such notice the undertaker shall be entitled to resume the specified works.

(2) The protected person shall be entitled to reclaim all reasonable costs of all remedial actions attributable to any act or neglect of the undertaker in accordance with this paragraph.

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#### Commencement Information

**I140** Sch. 8 para. 87 in force at 30.6.2015, see [art. 1](#)

### Repair, maintenance and emergency works

**88.**—(1) If in the reasonable opinion of the protected person repairs or maintenance works are necessary to apparatus within the Order limits, the undertaker shall as soon as reasonably practicable, and (without prejudice to sub-paragraph (3)) in case of emergency forthwith, but subject always to such reasonable conditions as the undertaker may impose, permit access to the protected person for both personnel and equipment and allow the protected person (or its agent) to carry out such repairs or maintenance works.

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(2) The undertaker is permitted to carry out emergency works provided that it first notifies the protected person of this immediately and in the event that the protected person suffers any loss, cost or damage as a result of the emergency action taken by the undertaker without prior notification the provision in paragraph 91 shall apply.

(3) The protected person shall at all times be permitted to carry out any emergency works in relation to its apparatus at the development site in accordance with Part 2 of Schedule 6 to the Water Industry Act 1991.

#### Commencement Information

**I141** Sch. 8 para. 88 in force at 30.6.2015, see [art. 1](#)

### Entry on protected person's land

**89.**—(1) Regardless of the other provisions of this Part, the undertaker shall not access any land comprised in site 02055 as shown on the land plans (plan 2 of 18) (“the waste water treatment works”) without providing 14 days’ prior written notice.

(2) The undertaker shall comply with the health and safety requirements specified by the protected person whilst present on the site of the waste water treatment works.

#### Commencement Information

**I142** Sch. 8 para. 89 in force at 30.6.2015, see [art. 1](#)

### Expenses

**90.**—(1) Subject to the following provisions of this paragraph, the undertaker is liable to make good, or, if the protected person so decides, to repay to the protected person the reasonable expenses and costs (including without limitation legal and professional fees) reasonably incurred by the protected person in, or in connection with—

- (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 Part (including any costs or compensation paid in connection with the acquisition of rights or land or the 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 or 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;
- (d) the preparation and completion of any deeds of transfer where the apparatus is abandoned rather than removed; and
- (e) any other work or thing rendered reasonably necessary in consequence of the exercise by the undertaker of any power under this Order,

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

(2) If in accordance with the provisions of this Part, 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 and the placing of apparatus of that type or capacity or of those

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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 50 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part 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 protected person by virtue of paragraph 91(1) shall be reduced by the amount of that excess.

(3) For the purposes of paragraph 91(2) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus.

**Commencement Information**

I143 Sch. 8 para. 90 in force at 30.6.2015, see [art. 1](#)

**Damage to apparatus**

**91.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any specified works referred to in this Part 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 the protected person, or there is any interruption in any service provided by the protected person, the undertaker shall to the extent possible in law—

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

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

(2) Nothing in sub-paragraph (1) imposes 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 the protected person, its officers, servants, contractors or agents.

(3) The protected person shall give the undertaker reasonable notice of any claim or demand from any third party arising out of or in connection with the specified works, and no settlement or compromise shall be made without the consent of the undertaker.

**Commencement Information**

I144 Sch. 8 para. 91 in force at 30.6.2015, see [art. 1](#)

**Enactments**

**92.** Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and the protected person in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which the Order is made.

**Commencement Information**

I145 Sch. 8 para. 92 in force at 30.6.2015, see [art. 1](#)

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## PART 8

### For the protection of the City and County of Swansea Council

#### Accumulation and dredging in River Tawe

**93.**—(1) If during the construction of a tidal work or after the completion of that work and wholly or partly in consequence of its construction or presence there is caused or created an accumulation in that section of the River Tawe between the entrance to King’s Dock and the Sail Bridge the undertaker, if so requested by the City and County of Swansea Council acting reasonably, shall remedy such accumulation or erosion to the extent attributable to such construction or presence and, if it refuses or fails to do so, or if the City and County of Swansea Council so elects, that council may itself cause the work to be done and may recover the reasonable cost of doing so from the undertaker.

(2) For the purposes of sub-paragraph (1), in the case of any accumulation, the remedy shall be its removal.

(3) In the event that such accumulation would have been caused in any event by the factors other than the construction of a tidal work, the undertaker shall be liable to remedy such accumulation only to the extent that the same is attributable to such construction.

(4) Nothing in this paragraph removes the need for a marine licence under Part 4 of the 2009 Act.

#### Commencement Information

**I146** Sch. 8 para. 93 in force at 30.6.2015, see [art. 1](#)

**94.** Any difference arising between the undertaker and the City and County of Swansea Council other than a difference as to the meaning and construction of this Part shall be referred to and settled by arbitration under article 50 (arbitration) of this Order.

#### Commencement Information

**I147** Sch. 8 para. 94 in force at 30.6.2015, see [art. 1](#)

**95.** In this Part—

“authorised development” means the works set out in Parts 1A, 1B and 2 of Schedule 1 (authorised development, and ancillary and necessary works), and for the purposes of this Schedule includes the use and maintenance of the authorised development;

“tidal work” includes dredging authorised by this Order or any licence granted under Part 4 of the 2009 Act relating to the authorised development.

#### Commencement Information

**I148** Sch. 8 para. 95 in force at 30.6.2015, see [art. 1](#)

#### Commencement Information

**I146** Sch. 8 para. 93 in force at 30.6.2015, see [art. 1](#)

**I147** Sch. 8 para. 94 in force at 30.6.2015, see [art. 1](#)

**I148** Sch. 8 para. 95 in force at 30.6.2015, see [art. 1](#)

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### Changes and effects yet to be applied to :

- Sch. 1 Pt. 3 para. 27(4)(d) semi-colon substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 8(5) word inserted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 4(2) word omitted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 4(3) word omitted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 4(5) word omitted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 5(5)(d) word substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 12(1)(a) word substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 39(1) word substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 40(1) word substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 40(2) word substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 41(1) word substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 1 words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 4(2) words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 4(3) words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 4(4) words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 9(4) words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 12(4) words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 15(1) words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 22(1) words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 23(2)(a) words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 27(1) words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 36 words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 1 Pt. 3 para. 38 words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 7 word substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 7 words omitted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 8 Pt. 4 para. 54(9)(b) word substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 8 Pt. 4 para. 62 word substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 8 Pt. 4 para. 68(9)(b) word substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 8 Pt. 3 para. 39(9)(a) words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 8 Pt. 3 para. 41(1) words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 8 Pt. 4 para. 62 words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- Sch. 8 Pt. 6 para. 77 words substituted by [S.I. 2017/1011 Sch. 4 para. 49\(2\)](#) (This amendment comes into force on the day on which section 4 of, and Schedule 1 to, the Digital Economy Act 2017 come fully into force. [S.I. 2017/1286, reg. 2](#) brought those provisions fully into force on 28.12.2017)
- art. 7(4)(a)(ii) bracket substituted by [S.I. 2015/1830 art. 2Sch.](#)
- art. 7(5) words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- art. 13(7) words substituted by [S.I. 2016/1154 Sch. 29 Pt. 2 para. 94](#)
- art. 20(a) word substituted by [S.I. 2015/1830 art. 2Sch.](#)
- art. 33(8)(a) words inserted by [S.I. 2015/1830 art. 2Sch.](#)
- art. 37(2) words inserted by [S.I. 2015/1830 art. 2Sch.](#)
- art. 42(1) words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- art. 47(9) words substituted by [S.I. 2015/1830 art. 2Sch.](#)
- art. 54(1) word substituted by [S.I. 2015/1830 art. 2Sch.](#)
- art. 54(2) word substituted by [S.I. 2015/1830 art. 2Sch.](#)