
STATUTORY INSTRUMENTS

2015 No. 318

**The Dogger Bank Creyke Beck
Offshore Wind Farm Order 2015**

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the Dogger Bank Creyke Beck Offshore Wind Farm Order 2015 and comes into force on 11th March 2015.

Interpretation

2.—(1) In this Order—

“1961 Act” means the Land Compensation Act 1961⁽¹⁾;

“1965 Act” means the Compulsory Purchase Act 1965⁽²⁾;

“1980 Act” means the Highways Act 1980⁽³⁾;

“1990 Act” means the Town and Country Planning Act 1990⁽⁴⁾;

“1991 Act” means the New Roads and Street Works Act 1991⁽⁵⁾;

“2004 Act” means the Energy Act 2004⁽⁶⁾;

“2008 Act” means the Planning Act 2008;

“2009 Act” means the Marine and Coastal Access Act 2009⁽⁷⁾;

“access to works plan” means the plan certified as the access to works plan by the Secretary of State for the purposes of this Order;

“ancillary works” means the ancillary works described in Part 2 (ancillary works) of Schedule 1 (authorised project) and any other works authorised by the Order that are not development within the meaning of section 32 of the 2008 Act;

“array area” means the area within which Work No. 1A or 1B may be constructed, which are the areas enclosed within a straight line drawn between points whose co-ordinates are set out in Tables 1A and 1B in Part 1 (authorised development) of Schedule 1 and which are shown on the offshore works plans;

(1) 1961 c.33.
(2) 1965 c.56.
(3) 1980 c.66.
(4) 1990 c.8.
(5) 1991 c.22.
(6) 2004 c.20.
(7) 2009 c.23.

“authorised development” means the development and associated development described in Part 1 of Schedule 1 and any other development authorised by this Order that is development within the meaning of section 32 of the 2008 Act;

“authorised project” means the authorised development and the ancillary works;

“Bizco 1” means Doggerbank Project 1 Bizco Limited (company number 7791991)(8);

“Bizco 4” means Doggerbank Project 4 Bizco Limited (company number 7914510)(9);

“book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“cable” includes, in respect of any onshore cable, direct lay cables and cables laid in cable ducts; and in respect of any onshore or offshore cable, includes fibre-optic cables;

“cable crossings” means the crossing of existing subsea cables and pipelines by the inter-array, interconnecting or export cables authorised by this Order together with physical protection measures including cable protection;

“cable protection” means measures to protect cables from physical damage and exposure due to loss of seabed sediment, including, but not limited to, the use of bagged solutions filled with grout or other materials, protective aprons or coverings, mattresses, flow energy dissipation devices or rock and gravel burial;

“carriageway” has the same meaning as in the 1980 Act(10);

“combined platform” means a single offshore platform constructed in an array area comprising 2 or more of the following—

- (a) an offshore collector platform;
- (b) an offshore converter platform;
- (c) an offshore accommodation or helicopter platform;

“commence” means—

- (a) in relation to any marine activities licensed by Marine Licences 1 to 4, begin to carry out any of those activities, except for pre-construction surveys and monitoring in respect of the authorised development;
- (b) in any other case, begin to carry out any material operation (as defined in section 155 of the 2008 Act) in respect of the authorised development or forming part of the authorised project, except for operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, the diversion and laying of services, the erection of any temporary means of enclosure or the temporary display of site notices or advertisements;

and “commencement” and “commenced” must be construed accordingly;

“commercial operation” means—

- (a) in relation to Project A, the exporting, on a commercial basis, of electricity from the wind turbine generators comprised within Project A;
- (b) in relation to Project B, the exporting, on a commercial basis, of electricity from the wind turbine generators comprised within Project B;

(8) The registered office of Doggerbank Project 1 Bizco Limited is 55 Vastern Road, Reading, Berkshire RG1 8BU.

(9) The registered office of Doggerbank Project 4 Bizco Limited is 55 Vastern Road, Reading, Berkshire RG1 8BU.

(10) “Carriageway” is defined in section 329.

(c) in relation to any other part of the authorised project, the exporting, transmission or conversion, on a commercial basis, of electricity;

“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act⁽¹¹⁾;

“construction compound” means a secure temporary construction area associated with the onshore works, including temporary fencing, lighting and ground preparation, to be used for the location of site offices; general storage; storage of plant, cable drums, ducting and other construction materials; welfare facilities; car parking; waste management; lay-down areas; banded generators and fuel storage or any other means of enclosure and areas for other facilities required for construction purposes;

“Dogger Bank Zone” means the Dogger Bank Offshore Wind Farm Zone located in the North Sea between 125 and 290 kilometres off the coast of the East Riding of Yorkshire and extending over an area of approximately 8,660 square kilometres;

“draft fisheries liaison plan” means the document certified as the draft fisheries liaison plan by the Secretary of State for the purposes of this Order;

“draft landscaping scheme” means the document certified as the draft landscaping scheme by the Secretary of State for the purposes of this Order;

“electrical converter substation and compound” means an electrical converter housed within 1 or more converter halls and a compound containing electrical equipment including power transformers, switchgear, reactive compensation equipment, harmonic filters, cables, lightning protection systems including masts, control buildings, communications masts, back-up generators, access, fencing and other associated equipment, structures or buildings;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order and submitted with the application together with any supplementary or further environmental information submitted in support of the application;

“gravity base foundation” means a foundation type that rests on the seabed and supports the wind turbine generator, meteorological station or offshore platform primarily due to its own weight and that of added ballast, with or without skirts or other additional fixings, which may include associated equipment including J-tubes and access platforms and separate topside connection structures or an integrated transition piece. (Sub-types for wind turbine generators and meteorological stations include conical gravity base and flat-based gravity base foundations. Sub-types for platforms include offshore platform conical or flat-base gravity base foundations and offshore platform semi-submersible gravity base foundations);

“highway” and “highway authority” have the same meaning as in the 1980 Act⁽¹²⁾;

“horizontal directional drilling” is a steerable trenchless method of installing underground pipes, ducts and cables in a shallow arc along a prescribed underground bore path by using a surface-launched drill;

“HVAC” means high voltage alternating current;

“HVDC” means high voltage direct current;

“In Principle Monitoring Plan” means the document certified as the In Principle Monitoring Plan by the Secretary of State for the purposes of this Order;

“land plan” means the plan certified as the land plan by the Secretary of State for the purposes of this Order;

⁽¹¹⁾ Section 134 was amended by section 142 of, and Part 21 of Schedule 25 to, the Localism Act 2011.

⁽¹²⁾ “Highway” is defined in section 328. See section 1 for “highway authority”.

“limits of deviation” means the limits of deviation shown on the onshore works plans within which the onshore works may be constructed as part of the authorised development;

“maintain” includes upkeep, inspect, repair, adjust, alter, relay and remove, to the extent assessed in the environmental statement; and any derivative of maintain must be construed accordingly;

“Marine Licence 1” means the marine licence in Schedule 8 (Marine Licence 1: Project A Offshore (Generation – Works No. 1A and 2T));

“Marine Licence 2” means the marine licence in Schedule 9 (Marine Licence 2: Project B Offshore (Generation – Works No. 1B and 2T));

“Marine Licence 3” means the marine licence in Schedule 10 (Marine Licence 3: Project A Offshore (Transmission – Works No. 2A, 3A and 2T));

“Marine Licence 4” means the marine licence in Schedule 11 (Marine Licence 4: Project B Offshore (Transmission – Works No. 2B, 2BA or 2BC, 3B and 2T));

“MCA” means the Maritime and Coastguard Agency;

“meteorological mast” or “meteorological station” means a fixed or floating structure housing or incorporating equipment to measure wind speed and other meteorological and oceanographic characteristics, including a topside which may house electrical switchgear and communication equipment and associated equipment, and marking and lighting;

“MHWS” (mean high water springs) means the highest level which spring tides reach on average over a period of time;

“MLWS” (mean low water springs) means the average of the low water heights occurring at the time of spring tides (which is also the outermost extent of the relevant planning authority jurisdiction);

“MMO” means the Marine Management Organisation;

“monopole foundation” means foundation options based around a single vertical pillar structure driven, drilled, or embedded into the seabed by means such as suction or gravity. This main support structure may change in diameter via tapers and abrupt steps. (Sub-types for wind turbine generators and meteorological stations include monopole with steel monopile footing, monopole with concrete monopile footing and monopole with a single suction-installed bucket footing);

“multi-leg foundation” means foundation options based around structures with several legs or footings. This includes jackets, tripods, and other structures which include multiple large tubulars, cross-bracing, or lattices. Multi-leg foundations may be fixed to the seabed by footings which are driven, drilled, screwed, jacked-up or embedded into the seabed by means such as suction or gravity. (Sub-types for wind turbine generators and meteorological stations include multi-legs with driven piles, drilled piles, screw piles, suction buckets and jack-up foundations. Sub-types for platforms include offshore platform jacket foundations (potentially using driven piles, suction buckets or screw piles) and offshore platform jack-up foundations);

“National Grid substation” means the existing National Grid Electricity Transmission plc substation located at Creyke Beck;

“offshore accommodation or helicopter platform” means a platform (either singly or as part of a combined platform) housing or incorporating some or all of the following: accommodation for staff during the construction, operation and decommissioning of the offshore works, landing facilities for vessels and helicopters, re-fuelling facilities, communication and control systems, electrical systems such as metering and control systems, J-tubes, small- and large-scale electrical power systems, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste

and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore collector platform” means a platform (either singly or as part of a combined platform) housing or incorporating electrical switchgear or electrical transformers, electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, accommodation for staff during the construction, operation and decommissioning of the offshore works, communication and control systems, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore converter platform” means a platform (either singly or as part of a combined platform) housing or incorporating HVDC electrical switchgear or electrical transformers and other equipment to enable HVDC transmission to be used to convey the power output of the multiple wind turbine generators to shore including electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, accommodation for staff during the construction, operation and decommissioning of the offshore works, communication and control systems, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore Order limits plan” means the plans certified as the offshore Order limits and grid coordinates plan by the Secretary of State for the purposes of this Order;

“offshore platform” means any of the following—

- (a) an offshore accommodation or helicopter platform;
- (b) an offshore collector platform;
- (c) an offshore converter platform;
- (d) a combined platform;

“offshore works” means the Project A offshore works, the Project B offshore works and any other authorised development associated with those works;

“offshore works plans” means the plans certified as the works plans by the Secretary of State for the purposes of this Order;

“onshore Order limits plan” means the plans certified as the onshore Order limits and grid coordinates plan by the Secretary of State for the purposes of this Order;

“onshore works” means the Project A onshore works, the Project B onshore works, the shared works and any other authorised development associated with those works;

“onshore works plans” means the plans certified as the onshore works plans by the Secretary of State for the purposes of this Order;

“Order land” means the land shown on the land plan that is within the limits of land to be acquired and described in the book of reference;

“Order limits” means—

- (a) the limits shown on the offshore Order limits plan within which the offshore works may be constructed as part of the authorised project; and
- (b) the limits of deviation;

“outline code of construction practice” means the document certified as the outline code of construction practice by the Secretary of State for the purposes of this Order;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(13);

“Project A” means the Project A offshore works and the Project A onshore works;

“Project A offshore works” means Works No. 1A, 2A, 2T and 3A and any other authorised development associated with those works;

“Project A onshore works” means Works No. 4A, 5A, 6A, 8A and 9A and any other authorised development associated with those works;

“Project B” means the Project B offshore works and the Project B onshore works;

“Project B offshore works” means Works No. 1B, 2B, 2BA, 2BC, 2T and 3B and any other authorised development associated with those works;

“Project B onshore works” means Works No. 4B, 5B, 6B, 8B and 9B and any other authorised development associated with those works;

“relevant planning authority” means East Riding of Yorkshire Council;

“Requirement” means a Requirement set out in Part 3 (requirements) of Schedule 1; and a reference to a numbered Requirement is a reference to the Requirement set out in the paragraph of the same number in that Part;

“scour protection” means protection against foundation scour and subsea damage, for example from trawling, through reinforcement measures and measures to prevent loss of seabed sediment around foundation bases. These measures include the use of bagged solutions filled with grout or other materials, protective aprons, mattresses, flow energy dissipation devices and rock and gravel burial;

“shared works” means Works No. 7 and 10A to 10F;

“statutory undertaker” means a person falling within section 127(8) of the 2008 Act;

“street” means a street within the meaning of section 48 of the 1991 Act(14), together with land on the verge of a street or between 2 carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act(15);

“streets and public rights of way plan” means the plan certified as the streets and public rights of way plan by the Secretary of State for the purposes of this Order;

“Tribunal” means the Lands Chamber of the Upper Tribunal;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“undertaker” means, subject to article 8(2) (consent to transfer benefit of Order)—

- (a) in relation to the Project A offshore works, the Project A onshore works, any other authorised development associated with those works and related ancillary works, Bizco 1;
- (b) in relation to the Project B offshore works, the Project B onshore works, any other authorised development associated with those works and related ancillary works, Bizco 4;
- (c) in relation to the shared works, any other authorised development associated with those works and related ancillary works, Bizco 1 and Bizco 4; and
- (d) in any other case, Bizco 1 and Bizco 4;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil

(13) 1981 c.67. The definition was amended by paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34).

(14) Section 48 was amended by section 124(2) of the Local Transport Act 2008 (c.26).

(15) “Street authority” is defined in section 49.

vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain;

“wind turbine generator” means a structure comprising a tower, a rotor with 3 blades connected at the hub, a nacelle and ancillary electrical and other equipment which may include J-tubes, transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter transfer facilities and other associated equipment, fixed to a foundation;

“works plans” means the onshore works plans and the offshore works plans.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) All distances, directions and lengths referred to in this Order are approximate, and distances between points on a work comprised in the authorised project are to be taken to be measured along that work, except in respect of the parameters referred to in—

- (a) Requirements 3 to 6 and 12;
- (b) Conditions 3 and 4 in Marine Licences 1 and 2; and
- (c) Condition 3 in Marine Licences 3 and 4.

(4) References in this Order to a numbered Work are references to a work numbered in Part 1 of Schedule 1.

(5) References in this Order to points identified by letters are references to the points so lettered on the onshore works plans.

(6) References in this Order to co-ordinates are references to co-ordinates on the World Geodetic System 1984 datum.

(7) In this Order, “includes” must be construed without limitation.

PART 2

Principal powers

Development consent, etc. granted by Order

3.—(1) Subject to the provisions of this Order and to the Requirements, Bizco 1 is granted—

- (a) development consent for the Project A offshore works, the Project A onshore works, any other authorised development associated with those works; and
- (b) consent for related ancillary works,

to be carried out within the Order limits.

(2) Subject to the provisions of this Order and to the Requirements, Bizco 4 is granted—

- (a) development consent for the Project B offshore works, the Project B onshore works, any other authorised development associated with those works; and
- (b) consent for related ancillary works,

to be carried out within the Order limits.

(3) Subject to the provisions of this Order and to the Requirements, Bizco 1 and Bizco 4 are jointly granted—

- (a) development consent for the shared works and any other authorised development associated with those works; and
 - (b) consent for related ancillary works,
- to be carried out within the Order limits.
- (4) Despite anything in this Order or shown on the offshore works plans, the undertaker may construct either Work No. 2BA or Work No. 2BC but not both.
- (5) Schedule 1 (authorised project) has effect.

Maintenance of authorised project

4.—(1) The undertaker may at any time maintain, and maintain from time to time, the authorised project except to the extent that this Order or any agreement made under this Order provides otherwise.

(2) The power to maintain conferred under paragraph (1) does not relieve the undertaker of any requirement to obtain a licence under Part 4 of the 2009 Act (marine licensing).

Operation of generating stations

5.—(1) The undertaker is authorised to operate the generating stations⁽¹⁶⁾ comprised in the authorised development.

(2) This article does not relieve the undertaker of any requirements to obtain a permit or licence under any other legislation that may be required from time to time to authorise the operation of a generating station.

Requirements: appeals, etc.

6.—(1) Where an application is made to the relevant planning authority for any consent, agreement or approval required by Requirements 11 to 33, the following provisions apply in respect of that application as they would if the consent, agreement or approval so required was required by a condition imposed on a grant of planning permission—

- (a) sections 78 and 79 of the 1990 Act⁽¹⁷⁾ (right of appeal in relation to planning decisions);
- (b) any orders, rules or regulations that make provision in relation to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission, insofar as the orders, rules or regulations are not inconsistent with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 and any orders, rules or other regulations made under the 2008 Act.

(2) For the purposes of the application of section 262 of the 1990 Act (meaning of “statutory undertaker”) to appeals pursuant to this article, the undertaker is deemed to be a holder of a licence under section 6 of the Electricity Act 1989⁽¹⁸⁾.

⁽¹⁶⁾ “Generating station” is defined in section 235(1) of the Planning Act 2008.

⁽¹⁷⁾ Section 78 was amended by section 43(2) of the Planning and Compulsory Purchase Act 2004 (c.5), paragraph 3(b) of Schedule 10 to the Planning Act 2008, section 123(3) of, and paragraph 11 of Schedule 12 to, the Localism Act 2011, paragraph 8 of Schedule 1 to the Growth and Infrastructure Act 2013 and paragraph 12 of Schedule 4 to the Infrastructure Act 2015 (c.7). Section 79 was amended by section 18 of, and paragraph 19 of Schedule 7 to, the Planning and Compensation Act 1991 (c.34) and by paragraph 4 of Schedule 10 to the Planning Act 2008.

⁽¹⁸⁾ 1989 c. 29. Section 6 was amended by section 30 of the Utilities Act 2000 (c.27), section 136 and 145 of, and Schedule 23 to, the Energy Act 2004, regulation 5 of S.I. 2011/2704 and article 6 of S.I. 2012/2400.

Benefit of Order

7. Subject to article 8 (consent to transfer benefit of Order), the provisions of this Order have effect solely for the benefit of the undertaker.

Consent to transfer benefit of Order

8.—(1) Subject to the provisions of this article, the undertaker may, with the consent of the Secretary of State (except where paragraph (4) applies, in which case no such consent is required),—

- (a) transfer to another person (the “transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person (the “lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the lessee.

(2) Where an agreement is made in accordance with paragraph (1), references in this Order to the undertaker, except in paragraph (3), include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) This paragraph applies where—

- (a) the transferee or lessee is a person who holds a licence under the Electricity Act 1989; or
- (b) the time limits for claims for compensation in respect of the acquisition of land or effects on land under this Order have elapsed and either no such claim has been made or, if such a claim has been made,—
 - (i) the claim has been compromised or withdrawn;
 - (ii) compensation has been paid in final settlement of the claim;
 - (iii) payment of compensation into court has taken place in lieu of settlement of the claim; or
 - (iv) a tribunal or court of competent jurisdiction has determined that no compensation is payable in respect of the claim.

(5) The provisions of articles 13 (street works), 14 (temporary stopping up of streets), 21 (compulsory acquisition of land), 24 (compulsory acquisition of rights), 29 (temporary use of land for carrying out the authorised project) and 30 (temporary use of land for maintaining authorised project) have effect for the benefit only of a transferee or lessee who is also—

- (a) in respect of Works No. 1A, 1B, 2A, 2BA, 2BC, 2B, 3A, 3B, 4A, 4B, 5A, 5B, 6A, 6B, 7, 8A, 8B, 9A, 9B, 10A, 10B, 10C, 10D, 10E and 10F, a person who holds a licence under the Electricity Act 1989; and
- (b) in respect of functions under article 13 (street works) relating to a street, a street authority.

(6) Despite anything contained in Part 4 of the 2009 Act (marine licensing) (but subject to paragraph (3)), the undertaker may, pursuant to an agreement under paragraph (1), transfer relevant provisions to another person.

(7) The Secretary of State must consult the MMO before consenting to the transfer of relevant provisions pursuant to an agreement under paragraph (1).

(8) The undertaker must consult the MMO before the transfer of relevant provisions pursuant to an agreement under paragraph (1) in a case where the Secretary of State’s consent to such a transfer is not required (because paragraph (4) applies).

(9) No later than 14 days after the taking effect of any agreement under paragraph (1) that transfers relevant provisions to another person, the transferor must give written notice to the MMO of—

- (a) the name and address of the other person;
- (b) the relevant provisions transferred; and
- (c) the date on which the transfer took effect.

(10) Section 72(7) and (8) of the 2009 Act do not apply to a transfer of relevant provisions pursuant to an agreement under paragraph (1).

(11) In this article, “relevant provisions” means any of the provisions set out in Part A of any of Marine Licences 1, 2, 3 or 4 together with the corresponding conditions set out in Part B of the Licence.

Bizco 1 and Bizco 4 may enter certain land for purpose of construction

9.—(1) For the purpose of constructing Works No. 2A, 3A, 4A, 5A, 6A, 8A and 9A, Bizco 1 may enter the land shown on the works plans within the Order limits for Works No. 2B, 2BA or 2BC, 3B, 4B, 5B, 6B, 8B and 9B that has been acquired for the purpose of Project B.

(2) For the purpose of constructing Works No. 2B, 2BA or 2BC, 3B, 4B, 5B, 6B, 8B and 9B, Bizco 4 may enter the land shown on the works plans within the Order limits for Works No. 2A, 3A, 4A, 5A, 6A, 8A and 9A that has been acquired for the purpose of Project A.

(3) For the purpose of constructing Works No. 7, 10A, 10B, 10C, 10D, 10E and 10F, Bizco 1 (in common with Bizco 4), and Bizco 4 (in common with Bizco 1), may enter the land required for those works.

Disapplication and modification of legislative provisions

10.—(1) The following provisions do not apply in relation to the construction of works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised project—

- (a) section 109 of the Water Resources Act 1991⁽¹⁹⁾ (structures in, over or under a main river); and
- (b) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25⁽²⁰⁾ (byelaw-making powers of the Appropriate Agency) to the Water Resources Act 1991 that require consent or approval for the carrying out of the works.

(2) Any provision of the 1836 Act and of any byelaws, rules, orders or regulations made under that Act are unenforceable and do not have effect in relation to the exercise of any power conferred by this Order so far as applying to Figham Common to the extent that the provision is inconsistent with the exercise of the power including, in particular,—

- (a) if the provision makes it an offence to take action, or not to take action, pursuant to the power;
- (b) if the provision requires the consent of any person before action may be taken pursuant to the power;

⁽¹⁹⁾ 1991 c.57. Section 109 was amended by section 82(2) of the Marine and Coastal Access Act 2009 and paragraph 274 of Schedule 2 to S.I. 2013/755.

⁽²⁰⁾ Paragraph 5 was amended by section 100 of the Natural Environment and Rural Communities Act 2006 (c.16), section 84(2) of, and paragraph 3 of Schedule 11 to, the Marine and Coastal Access Act 2009, paragraph 49 of Schedule 2 to the Flood and Water Management Act 2010 (c.29) and paragraph 315 of Schedule 2 to S.I. 2013/755. Paragraph 6 was amended by paragraph 26 of Schedule 15 to the Environment Act 1995 (c.25) and section 224 of, and paragraph 24 of Schedule 16 and Part 5 of Schedule 22 to, the Marine and Coastal Access Act 2009. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995.

- (c) if action taken pursuant to the power causes the provision to apply so as to enable a person to require the taking of remedial or other action or so as to enable remedial or other action to be taken; or
 - (d) if action taken pursuant to a power or duty under the provision would or might interfere with the exercise of any work authorised by this Order.
- (3) In paragraph (2), “1836 Act” means the Act(21) the title of which is “An Act to provide for the better regulation of certain common pastures within the Borough of Beverley in the East Riding of the County of York”.
- (4) In constructing Works No. 6A and 6B, the undertaker may do either or both of the following—
- (a) hold, use and appropriate such parts of the disused canal as it may require for the purposes of the authorised project;
 - (b) take down and remove such parts of the disused canal as the undertaker does not require for those purposes.
- (5) On the date of entry by the undertaker onto any part of the disused canal for the purposes of exercising any power in Part 5, all of the powers and duties that may be conferred or imposed by the relevant provisions in relation to that part of the disused canal that is within the Order limits cease to have effect.
- (6) Except as provided in paragraph (5), the 1801 and 1847 Acts remain in full force and effect.
- (7) In paragraphs (4) to (6)—
- “1801 Act” means the Act(22) the title of which is “An Act for enabling Charlotta Bethell, widow, to make and maintain a navigable canal from the River Hull at a point in the parish of Leven near the boundary between Eske and Leven Carrs in the East Riding of the County of York to Leven Bridge in the said Riding”;
 - “1847 Act” means the York and North Midland Railway (Canals Purchase) Act 1847(23);
 - “disused canal” means that part of the former Leven Canal authorised by the relevant provisions;
 - “relevant provisions” means sections 1 and 14 of the 1801 Act and section 35 of the 1847 Act.
- (8) For the purposes of carrying out development authorised by this Order only, regulation 6(1) of the Hedgerow Regulations 1997(24) is deemed to be amended by the inserting the following sub-paragraph after sub-paragraph (e)—
- “(ea) for carrying out development for which development consent is granted under section 114 of the Planning Act 2008;”.

Offshore works: abandonment, decay or removal

- 11.—(1) Where the offshore works or any part of them are abandoned or allowed to fall into decay, the Secretary of State may, following consultation with the undertaker, issue a written notice requiring the undertaker at its own expense—
- (a) to repair and restore or remove the offshore works or any relevant part of it; and
 - (b) to restore the site of the offshore works or any relevant part to a safe and appropriate condition, having regard to any requirement that appears to the Secretary of State to be relevant, within an area and to such an extent as may be specified in the notice.

(21) 1836 c. lxx.

(22) 41 G.3 c.xxxii, amended by 45 G.3 c.xliii.

(23) 10 & 11 Vict. c.216.

(24) S.I. 1997/1160.

(2) Where the offshore works or any part of them are removed (other than in accordance with paragraph (1)), the Secretary of State may, following consultation with the undertaker and the relevant statutory nature conservation body, issue a written notice requiring the undertaker at its own expense to restore the site of the offshore works or any relevant part to a safe and appropriate condition, having regard to any requirement that appears to the Secretary of State to be relevant, within an area and to such an extent as may be specified in the notice.

(3) Nothing in this article limits the Secretary of State's power under Chapter 3 of Part 2 of the 2004 Act (decommissioning of offshore installations).

Defence to proceedings in respect of statutory nuisance

12.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990⁽²⁵⁾ (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within section 79(1)(g) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance), no order may be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance—

- (a) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project and is attributable to the carrying out of the authorised project in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or section 65 (noise exceeding registered level), of the Control of Pollution Act 1974⁽²⁶⁾;
- (b) is a consequence of the construction or maintenance of the authorised project and that it cannot reasonably be avoided;
- (c) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and is attributable to the use of the authorised project in compliance with Requirement 25 (control of noise during operational phase); or
- (d) is a consequence of the use of the authorised project and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded) do not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project.

(3) This article does not affect the application to the authorised project of section 158 of the 2008 Act (nuisance: statutory authority).

(25) 1990 c.43. Section 82(1) was amended by paragraph 6 of Schedule 17 to the Environment Act 1995. Section 82(2) was amended by section 5(2) of the Noise and Statutory Nuisance Act 1993 (c.40) and paragraph 6 of Schedule 17 to the Environment Act 1995.

(26) 1974 c.40. Section 61 was amended by Schedule 7 to the Building Act 1984 (c.55), paragraph 15 of Schedule 15 to the Environmental Protection Act 1990 and Schedule 24 to the Environment Act 1995. Section 65 was amended by paragraph 15 of Schedule 15 to the Environmental Protection Act 1990 and Schedule 24 to the Environment Act 1995.

PART 3

Streets

Street works

13.—(1) The undertaker may, for the purposes of the authorised project, enter so much of any of the streets specified in Schedule 2 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus under the street;
- (d) maintain apparatus under the street or change its position; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (d).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) Sections 54 to 106 of the 1991 Act⁽²⁷⁾ apply to any street works carried out under paragraph (1).

(4) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act⁽²⁸⁾.

Temporary stopping up of streets

14.—(1) The undertaker, during and for the purposes of carrying out the authorised project, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (2), prevent persons from passing along the street.

(2) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(3) Without limiting paragraph (1), the undertaker may temporarily stop up, alter or divert the streets specified in an entry in column (2) of Schedule 3 (streets to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the streets and public rights of way plan, in the corresponding entry in column (1).

(4) The undertaker must not temporarily stop up, alter or divert—

- (a) any street specified as mentioned in paragraph (3) without first consulting the street authority; and
- (b) any other street without the consent of the street authority, which may attach reasonable conditions to any consent.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

⁽²⁷⁾ A number of these provisions are amended, including by the Traffic Management Act 2004 (c.18).

⁽²⁸⁾ “Apparatus” is defined in sections 89(3) and 105(1).

Access to works

15. The undertaker may, for the purposes of the authorised project,—
- (a) form and lay out means of access, or improve existing means of access, in the locations specified in columns (1) and (2) of Schedule 4 (access to works);
 - (b) with the approval of the relevant planning authority after consultation with the highway authority, form and lay out such other means of access or improve existing means of access at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised project.

Agreements with street authorities

- 16.—(1) A street authority and the undertaker may enter into agreements with respect to—
- (a) the construction of any new street (including any structure carrying the street over or under the authorised development) authorised by this Order;
 - (b) the maintenance of the structure of any bridge or tunnel carrying a street over or under the authorised development;
 - (c) any stopping up, alternation or diversion of a street authorised by this Order; or
 - (d) the execution in any street referred to in article 13 (street works) of any of the works referred to in that article.
- (2) Such an agreement may, without limiting paragraph (1),—
- (a) provide for the street authority to carry out any function under this Order that relates to the street in question;
 - (b) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and
 - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

PART 4

Supplemental powers

Discharge of water

17.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised project and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) must be determined as if it were a dispute under section 106 of the Water Industry Act 1991⁽²⁹⁾ (right to communicate with public sewers).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as the person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not make any opening into any public sewer or drain except—

⁽²⁹⁾ 1991 c.56. Section 106 was amended by section 35(8)(a) of the Competition and Service (Utilities) Act 1992 (c.43) and sections 36(2) and 99 of the Water Act 2003 (c.37). There are other amendments to this section that are not relevant to this Order.

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
 - (b) where the person has been given the opportunity to supervise the making of the opening.
- (5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.
- (6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.
- (7) This article does not authorise a groundwater activity or a water discharge activity within the meaning of the Environmental Permitting (England and Wales) Regulations 2010⁽³⁰⁾.
- (8) In this article—
- (a) “public sewer or drain” means a sewer or drain that belongs to the Environment Agency, an internal drainage board, a local authority or a sewerage undertaker⁽³¹⁾; and
 - (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.
- (9) This article does not relieve the undertaker of any obligation to obtain from the Environment Agency any permit or licence or any other obligation under any other legislation that may be required to authorise the making of a connection to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) or the discharge of any water into, any watercourse, sewer or drain pursuant to paragraph (3).

Protective work to buildings

- 18.**—(1) Subject to the provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits as the undertaker considers necessary or expedient.
- (2) Protective works may be carried out—
- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised project; or
 - (b) after the completion of that stage of the authorised project in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that stage of the authorised project is brought into commercial operation.
- (3) For the purpose of determining how the functions under this article are to be exercised, the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.
- (4) For the purpose of carrying out protective works to a building, the undertaker may (subject to paragraphs (5) and (6))—
- (a) enter the building and any land within its curtilage; and
 - (b) where the works cannot be carried out reasonably conveniently without entering land that is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).
- (5) Before exercising—
- (a) a right under paragraph (1) to carry out protective works to a building;
 - (b) a right under paragraph (3) to enter a building and land within its curtilage;

⁽³⁰⁾ [S.I. 2010/675](#). “Groundwater activity” is defined in paragraph 3 of Schedule 22. “Water discharge activity” is defined in paragraph 3 of Schedule 21.

⁽³¹⁾ “Sewerage undertaker” is defined in Schedule 1 to the Interpretation Act [1978 \(c.30\)](#).

- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), the notice must specify the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 44 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which that stage of the authorised project carried out in the vicinity of the building is brought into commercial operation, it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that stage of the authorised project,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 10(2) of the 1965 Act (further provision as to compensation for injurious affection).

(10) Any compensation payable under paragraph (7) or (8) must be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(11) In this article, “protective works”, in relation to a building, means—

- (a) underpinning, strengthening and any other works, the purpose of which is to prevent damage that may be caused to the building by the carrying out, maintenance or use of the authorised project; and
- (b) any works the purpose of which is to remedy any damage that has been caused to the building by the carrying out, maintenance or use of the authorised project.

Authority to survey and investigate land

19.—(1) The undertaker may for the purposes of this Order enter any land shown within the Order limits or which may be affected by the authorised project and—

- (a) survey or investigate the land;
- (b) without limiting sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limiting sub-paragraph (a), carry out ecological or archaeological investigations on the land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

- (3) Any person entering land under this article on behalf of the undertaker—
 - (a) must, if so required on entering the land, produce written evidence of authority to do so; and
 - (b) may take with him or her such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.
- (4) No trial holes may be made under this article—
 - (a) in land located within the highway boundary without the consent of the highway authority; or
 - (b) in a private street without the consent of the street authority,but such consent must not be unreasonably withheld.
- (5) After completion of the activities being undertaken pursuant to this article, any apparatus must be removed as soon as practicable, and the land must be restored to its original condition.
- (6) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute under Part 1 of the 1961 Act (determination of questions of disputed compensation).

Removal of human remains

- 20.**—(1) In this article, “specified land” means the land within the limits of deviation.
- (2) Before the undertaker carries out any development or works that will or may disturb any human remains in the specified land, it must remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.
 - (3) Before any such remains are removed from the specified land, the undertaker must give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—
 - (a) publishing a notice once in each of 2 successive weeks in a newspaper circulating in the area of the authorised project; and
 - (b) displaying a notice in a conspicuous place on or near to the specified land.
 - (4) As soon as reasonably practicable after the first publication of a notice under paragraph (3), the undertaker must send a copy of the notice to the relevant planning authority.
 - (5) At any time within 56 days after the first publication of a notice under paragraph (3), any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person’s intention to undertake the removal of the remains.
 - (6) Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to be—
 - (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
 - (b) removed to, and cremated in, any crematorium,and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).
 - (7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question must be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who must remove the remains and as to the payment of the costs of the application.

(8) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph is given to the undertaker in respect of any remains in the specified land;
- (b) notice under paragraph (5) is given within the period of 56 days and no application is made under paragraph (7) within 56 days after the giving of the notice, but the person who gave the notice fails to remove the remains within a further period of 56 days;
- (c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which a notice under paragraph (5) relates cannot be identified,

subject to paragraph (10), the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves must be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(11) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar-General giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) must be sent by the undertaker to the relevant planning authority mentioned in paragraph (4).

(12) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions that may be given by the Secretary of State.

(13) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(14) Section 25 of the Burial Act 1857⁽³²⁾ (offence of removal of body from burial ground) does not apply to a removal carried out in accordance with this article.

PART 5

Powers of acquisition

Compulsory acquisition of land

21.—(1) Bizco 1 may acquire compulsorily so much of the Order land as is required for the Project A onshore works, the Project A offshore works, the shared works or to facilitate, or is incidental to, the construction and maintenance of those works.

⁽³²⁾ 1857 c.81. Section 25 was substituted by section 2 of Church of England (Miscellaneous Provisions) Measure 2014 (2014 No. 1).

(2) Bizco 4 may acquire compulsorily so much of the Order land as is required for the Project B onshore works, the Project B offshore works and the shared works or to facilitate, or is incidental to, the construction and maintenance of those works.

(3) From the day on which a compulsory acquisition notice is served or the day on which the Order land, or any part of it, is vested in the undertaker, whichever is the later, the land or the part of it that is vested (as the case may be) is discharged from all rights, trusts and incidents to which it was previously subject.

(4) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) This article is subject to—

- (a) article 9 (Bizco 1 and Bizco 4 may enter certain land for purpose of construction);
- (b) article 24 (compulsory acquisition of rights); and
- (c) article 29 (temporary use of land for carrying out authorised project).

Compulsory acquisition of land: minerals

22. Part 2 of Schedule 2 to the Acquisition of Land Act 1981 (minerals) is incorporated in this Order, subject to the modification that for “acquiring authority” there is substituted “undertaker”.

Time limit for exercise of authority to acquire land compulsorily, etc.

23.—(1) After 11th March 2020—

- (a) no notice to treat may be served under Part 1 of the 1965 Act; and
- (b) no declaration may be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981⁽³³⁾ (execution of declaration) as applied by article 26 (application of Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 29 (temporary use of land for carrying out authorised project) ceases on 11th March 2020, but nothing in this paragraph prevents the undertaker remaining in possession of land after that date, if the land was entered and possession was taken before that date.

Compulsory acquisition of rights

24.—(1) Subject to paragraph (2), the undertaker may acquire compulsorily such rights over the Order land as may be required for any purpose for which that land may be acquired under article 21 (compulsory acquisition of land) by creating them as well as by acquiring rights already in existence.

(2) In the case of the Order land specified in an entry in column (1) of Schedule 5 (land over which only new rights may be acquired), the powers of compulsory acquisition conferred by this Order are limited to the acquisition of such new rights as may be required for the purpose specified in relation to that land in the corresponding entry in column (2) and described in the book of reference.

(3) From the day on which a compulsory acquisition notice is served or the day on which any new right is vested in the undertaker, whichever is the later, the land over which any new right is acquired is discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconsistent with the exercise of that new right.

(4) Subject to section 8 of the 1965 Act⁽³⁴⁾, where the undertaker acquires a right over the Order land under this article, the undertaker is not to be required to acquire a greater interest in that land.

⁽³³⁾ 1981 c.66.

⁽³⁴⁾ Section 8 was amended by paragraph 62 of Schedule 1 to [S.I. 2009/1307](#).

(5) After the completion of any activities in exercise of the rights under this article, the land must be restored, so far as practicable, to its original condition.

(6) Any person who suffers loss as a result of the extinguishment or suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(7) Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights) has effect for the purpose of modifying the enactments referred to in that Schedule in their application in relation to the compulsory acquisition under this Order of a right over land by the creation of a new right.

Private rights of way

25.—(1) Subject to the provisions of this article, all private rights of way over land subject to compulsory acquisition under this Order are extinguished—

- (a) from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act⁽³⁵⁾ (power of entry),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights of way over land owned by the undertaker that, being within the limits of land that may be acquired shown on the land plan, is required for the purposes of this Order are extinguished on the appropriation of the land by the undertaker for any of those purposes.

(3) Subject to the provisions of this article, all private rights of way over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) This article does not apply in relation to any right of way to which section 138 of the 2008 Act⁽³⁶⁾ (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 31 (statutory undertakers) applies.

(6) Paragraphs (1) to (3) have effect subject to—

- (a) any notice given by the undertaker before—
 - (i) the completion of the acquisition of the land;
 - (ii) the undertaker’s appropriation of it;
 - (iii) the undertaker’s entry onto it; or
 - (iv) the undertaker’s taking temporary possession of it,
 that any or all of those paragraphs do not apply to any right of way specified in the notice; or
- (b) any agreement made at any time between the undertaker and the person in or to whom the right of way in question is vested or belongs.

(7) If any such agreement as is referred to in paragraph (6)(b)—

⁽³⁵⁾ Section 11(1) was amended by paragraph 14 of Schedule 4 to the Acquisition of Land Act 1981 and paragraph 12 of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No. 1).

⁽³⁶⁾ Section 138 was amended by section 23(4) of the Growth and Infrastructure Act 2013.

- (a) is made with a person in or to whom the right of way is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

Application of Compulsory Purchase (Vesting Declarations) Act 1981

26.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981 applies as if this Order were a compulsory purchase order.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as so applied, has effect with the following modifications.

(3) In section 3 (preliminary notices), for subsection (1) there is substituted—

“(1) Before making a declaration under section 4 with respect to any land subject to a compulsory purchase order, the acquiring authority must include the particulars specified in subsection (3) in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in a local newspaper circulating in the area in which the land is situated.”

(4) In that section, in subsection (2), for “(1)(b)” there is substituted “(1)” and after “given” there is inserted “and published”.

(5) In that section, for subsections (5) and (6) there is substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) the person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
- (b) the person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds 1 month.”

(6) In section 5 (earliest date for execution of declaration)—

- (a) in subsection (1), after “publication” there is inserted “in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) is omitted.

(7) In section 7 (constructive notice to treat), in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” are omitted.

(8) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 must be construed as references to that Act as applied by section 125 of the 2008 Act to the compulsory acquisition of land under this Order.

Acquisition of part of certain properties

27.—(1) This article applies instead of section 8(1) of the 1965 Act (other provisions as to divided land) (as applied by section 125 of the 2008 Act) where—

- (a) a notice to treat is served on a person (the “owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or manufactory or of land consisting of a house with a park or garden (the “land subject to the notice to treat”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice is served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat that states that the owner is willing and able to sell the whole (the “land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner is required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner must be required to sell only the land subject to the notice to treat must, unless the undertaker agrees to take the land subject to the counter-notice, be referred to the Tribunal.

(5) If on such a reference the Tribunal determines that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner is required to sell the land subject to the notice to treat.

(6) If on such a reference the Tribunal determines that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat is deemed to be a notice to treat for that part.

(7) If on such a reference the Tribunal determines that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land that the undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the Tribunal determines that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) the material detriment is not confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land that the undertaker is authorised to acquire compulsorily under this Order.

(9) Where, by reason of a determination by the Tribunal under this article, a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, must pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the Tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or manufactory or of land consisting of a house with a park or garden, the undertaker must pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

Rights under or over streets

28.—(1) The undertaker may enter, and appropriate so much of the subsoil of or air-space over, any street within the Order limits as may be required for the purposes of the authorised project and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised project.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street that forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who—

- (a) is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land; and
- (b) suffers loss as a result,

is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out authorised project

29.—(1) The undertaker may, in connection with the carrying out of the authorised project enter, and take temporary possession of, the land specified in an entry in column (2) of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in the corresponding entry in column (3) relating to the part of the authorised project specified in the corresponding entry in column (4) for the purpose of exercising the rights identified in Class 9 in the book of reference.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article, the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of 1 year beginning with the date of completion of the part of the authorised project specified in relation to that land in column (4) of Schedule 7.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to its original condition, but the undertaker is required to replace a building removed under this article.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of any power conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 10(2) of the 1965 Act (further provision as to compensation for injurious affection) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised project, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act⁽³⁷⁾ (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

Temporary use of land for maintaining authorised project

30.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised project, the undertaker may—

- (a) enter and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised project; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article, the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may remain in possession of land under this article only for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised project for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to its original condition.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 10(2) of the 1965 Act (further provision as to compensation for injurious affection) or under any other enactment in respect of loss or damage arising from the maintenance of the authorised project, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

⁽³⁷⁾ Section 13 was amended by section 139 of, and paragraph 28(2) of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c.15).

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(11) In this article, “maintenance period”, in relation to any part of the authorised project, means the period of 5 years beginning with the day on which that stage of the authorised project is brought into commercial operation.

Statutory undertakers

31.—(1) Subject to Parts 1 to 4 of Schedule 12 (protective provisions), the undertaker may—

- (a) acquire compulsorily the land belonging to statutory undertakers shown on the land plan within the Order limits and described in the book of reference;
- (b) extinguish the rights of, remove or reposition the apparatus belonging to, statutory undertakers within the Order limits; and
- (c) acquire compulsorily the new rights over land belonging to statutory undertakers within the Order limits and described in the book of reference.

(2) In this article, a reference to a statutory undertaker includes a reference to a public communications provider (as defined in article 32(3) (recovery of costs of new connections)).

Recovery of costs of new connections

32.—(1) Where any apparatus of a public utility undertaker or a public communications provider is removed under article 31 (statutory undertakers), any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer, but where such a sewer is removed under article 31, any person who is—

- (a) the owner or occupier of premises, the drains of which communicated with that sewer; or
- (b) the owner of a private sewer that communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which Part 3 of the 1991 Act applies.

(4) In this article—

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003⁽³⁸⁾;

“public utility undertaker” has the same meaning as in the 1980 Act⁽³⁹⁾.

Application of landlord and tenant law

33.—(1) This article applies to—

⁽³⁸⁾ 2003 (c.21).

⁽³⁹⁾ “Public utility undertakers” is defined in section 329.

- (a) an agreement for leasing to a person the whole or any part of the authorised project or the right to operate the same; and
- (b) an agreement entered into by the undertaker with a person for the construction, maintenance, use or operation of the authorised project, or any part of it,

so far as any such agreement relates to the terms on which land that is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of an agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land that is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Special category land

34.—(1) On the exercise by the undertaker of the order rights, so much of the special category land as is required for the purposes of the exercise of those rights is discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconsistent with the exercise of the order rights.

(2) In this article—

“order rights” means rights exercisable over the special category land by the undertaker under article 24 (compulsory acquisition of rights);

“special category land” means the land in the East Riding of Yorkshire identified in the book of reference and on the special category land plan attached to the land plan and—

- (a) forming part of Figham Common and numbered 99Aii, 99Bii, 100A, 100B, 101A, 101B, 102A, 102B, 103A, 103B, 104A and 104B;
- (b) forming open space and numbered 1Ai, 1Aii, 1Bi, 1Bii, 2i, 4Ai, 4Bi, 4Bii and 4Biii.

PART 6

Miscellaneous and general

Railway and navigation undertakings

35.—(1) Subject to the provisions of this article, the undertaker may not under article 13 (street works) break up or open a street where the street, not being a highway maintainable at public expense (within the meaning of the 1980 Act),—

- (a) is under the control or management of, or is maintainable by a railway undertaker or a navigation authority; or
- (b) forms part of a level crossing belonging to such an undertaker or authority or to any other person,

except with the consent of the undertaker or authority or, as the case may be, person to whom the level crossing belongs.

(2) Paragraph (1) does not apply to the carrying out under this Order of emergency works, within the meaning of Part 3 of the 1991 Act.

(3) A consent given for the purpose of paragraph (1) may be made subject to such reasonable conditions as may be specified by the person giving it, but must not be unreasonably withheld.

(4) In this article, “navigation authority” means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary or harbour.

Trees subject to tree preservation orders

36.—(1) The undertaker may fell or lop any tree within the Order limits that is subject to a tree preservation order, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

(2) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker must not do any unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity; and
- (b) the duty contained in section 206(1) of the 1990 Act⁽⁴⁰⁾ (replacement of trees) does not apply.

(3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(4) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

(5) In this article, “tree preservation order” has the same meaning as in section 198 of the 1990 Act.

Operational land for purposes of 1990 Act

37. Development consent granted by this Order must be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

Felling or lopping of trees and removal of hedgerows

38.—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised project, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not do any unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

(4) The undertaker may remove any hedgerows within the Order limits that may be required to be removed for the purposes of carrying out the authorised development.

⁽⁴⁰⁾ Section 206(1) was amended by paragraph 11 of Schedule 8 to the Planning Act 2008.

Deemed licences under Marine and Coastal Access Act 2009

39. The following marine licences set out in Schedules 8 to 11 are deemed to have been issued under Part 4 of the 2009 Act (marine licensing) for the licensed activities specified in Part A of each licence and subject to the conditions specified in Part B of each licence—

- (a) Marine Licence 1 (set out in Schedule 8);
- (b) Marine Licence 2 (set out in Schedule 9);
- (c) Marine Licence 3 (set out in Schedule 10);
- (d) Marine Licence 4 (set out in Schedule 11).

Saving for Trinity House

40. Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.

Crown rights

41.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee—

- (a) to take, use, enter on or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—
 - (i) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;
 - (ii) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or
 - (iii) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department; or
- (b) to exercise any right under this Order compulsorily to acquire an interest in any land that is Crown land (as defined in section 227 of the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown without the consent in writing of the appropriate Crown authority (as defined in section 227 of that Act).

(2) Consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

Certification of plans and documents, etc.

42.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the offshore Order limits and grid co-ordinates plan (comprising the offshore Order limits and grid co-ordinates plan amendment drawing no. F-OFC-MA-801, application reference 2.2, dated 3rd July 2014);
- (b) the onshore Order limits and grid co-ordinates plan (comprising the onshore Order limits and grid co-ordinates plan amendment sheets 1 and 2 drawing no. F-ONC-MA-801, dated 13th June 2014);

- (c) the book of reference (application reference 4.3, document no. F-EXC-RP-008, dated August 2014);
- (d) the land plan (comprising the following—
 - (i) onshore land plans, drawing no. PA-2500-LP-01-23 rev. 5, dated August 2013;
 - (ii) onshore land plan amendment sheet 1, drawing no. PA-2500-LP-01-23 rev. 7, dated July 2014;
 - (iii) onshore land plan amendment sheet 3, drawing no. PA-2500-LP-01-23 rev. 6, dated June 2014;
 - (iv) onshore land plan amendment sheet 4, drawing no. PA-2500-LP-01-23 rev. 6, dated June 2014;
 - (v) onshore land plan amendment sheet 18, drawing no. PA-2500-LP-01-23 rev. 8, dated July 2014;
 - (vi) onshore land plan amendment sheet 19 drawing no. PA-2500-LP-01-23 rev. 8, dated July 2014;
 - (vii) onshore land plan amendment sheet 21, drawing no. PA-2500-LP-01-23 rev. 7, dated July 2014;
 - (viii) onshore land plan amendment sheet 22, drawing no. PA-2500-LP-01-23 rev. 7, dated June 2014;
 - (ix) onshore land plan amendment sheet 23, drawing no. PA-2500-LP-01-23 rev. 7, dated June 2014;
 - (x) special category land plan amendment sheet 1, drawing no. PA-2500-SP-01-02 rev. 4, dated July 2014 and amendment sheet 2, drawing no. PA-2500-SP-01-02 rev. 3, dated July 2014);
- (e) the onshore works plans (comprising drawing no. F-ONC-MA-803, application reference 2.4.2, dated 14th August 2013 and the onshore works plans amendment sheets 22 and 23, drawing no. F-ONC-MA-803, dated 13th June 2014);
- (f) the offshore works plans (drawing no. F-OFC-MA-802, application reference 2.4.1, dated 14th August 2013);
- (g) the environmental statement (comprising all documents in the series application reference 6.1 to 6.30.5);
- (h) the draft landscaping scheme dated March 2014;
- (i) the outline code of construction practice (document no. F-EXC-RW-DVIII-App6, Deadline VIII – Appendix 6 – Revised CoCP, dated July 2014);
- (j) the draft fisheries liaison plan (document no. F-EXC-EQ-014-A3, Question 14 Appendix 3, Examining Authority’s First Written Questions, issue no. 2.0, dated March 2014);
- (k) the In Principle Monitoring Plan (document no. F-EXC-RW-DVIII-App5, Deadline VIII – Appendix 5 – updated In Principle Monitoring Plan, dated July 2014);
- (l) the outline maintenance plan (Responses to the Examining Authority’s First Written Questions – Question 130 Appendix 1 – outline offshore maintenance plan, dated March 2014);
- (m) the streets and public rights of way plan (drawing no. F-ONC-MA-807);
- (n) the access to works plan (drawing no. F-ONC-MA-805),

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the plan or document of which it is a copy.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Protective provisions

43. Schedule 12 (protective provisions) has effect.

Arbitration

44. Any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

Signed by authority of the Secretary of State for Energy and Climate Change

17th February 2015

Giles Scott
Head of National Infrastructure Consents
Department of Energy and Climate Change