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STATUTORY INSTRUMENTS

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**2020 No. 1656**

**INFRASTRUCTURE PLANNING**

**The Hornsea Three Offshore Wind Farm Order 2020**

*Made* - - - - *31st December 2020*

*Coming into force* - - *22nd January 2021*

An application has been made to the Secretary of State under section 37 of the Planning Act 2008 (“the 2008 Act”)<sup>M1</sup> for an order granting development consent.

The application was examined by the Examining Authority appointed by the Secretary of State pursuant to section 61<sup>M2</sup> and section 65<sup>M3</sup> of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of that Act and with the Infrastructure Planning (Examination) Procedure Rules 2010<sup>M4</sup>. The Examining Authority has submitted a report to the Secretary of State under section 74(2)<sup>M5</sup> of the 2008 Act.

The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 3 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009<sup>M6</sup> and, as a national policy statement has effect in relation to the proposed development, has had regard to the documents and matters referred to in section 104(2)<sup>M7F1</sup>... of the 2008 Act.

The Secretary of State, having decided the application, has determined to make an Order giving effect to the proposals comprised in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

The Secretary of State is satisfied that open space within the Order land, when burdened with any new rights authorised for compulsory acquisition under the terms of this Order, will be no less advantageous than it was before such acquisition, to the persons whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public, and that, accordingly, section 132(3)<sup>M8</sup> of the 2008 Act applies.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 120<sup>M9</sup> and 149A of the 2008 Act, makes the following Order—

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**Textual Amendments**

**F1** Preamble: bracket omitted (21.5.2021) by virtue of [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Hornsea Three Offshore Wind Farm Order 2020. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

### Marginal Citations

- M1** 2008 c.29. Section 37 was amended by section 128(2) and Schedule 13, Part 1, paragraphs 1 to 5 of the [Localism Act 2011 \(c.20\)](#).
- M2** [Section 61](#) was amended by section 128(2) and Schedule 13, paragraph 18 to the Localism Act 2011 and by section 26 of the [Infrastructure Act 2015 \(c.7\)](#).
- M3** [Section 65](#) was amended by Schedule 13 paragraph 22(2) and Schedule 25, paragraph 1 to the Localism Act 2011 and by section 27(1) of the Infrastructure Act 2015.
- M4** [S.I. 2010/103](#). This instrument was amended by [S.I. 2012/635](#).
- M5** [Section 74](#) was amended by sections 128(2) and 237 and by Schedule 13, paragraph 29 and Schedule 25, paragraph 1, to the Localism Act 2011.
- M6** [S.I. 2009/2263](#). Regulation 3 was amended by [S.I. 2012/635](#) and [S.I. 2012/787](#). [S.I. 2009/2263](#) was revoked by [S.I. 2017/572](#), but continues to apply to this application for development consent by virtue of transitional provisions contained in regulation 37(2) of that instrument.
- M7** [Section 104](#) was amended by section 58(5) of the [Marine and Coastal Access Act 2009 \(c.23\)](#) and by section 128(2) of the and Schedule 13, paragraphs 1 and 49(1) to (6) of the Localism Act 2011.
- M8** [Section 132](#) was amended by section 24(3) of the [Growth and Infrastructure Act 2013 \(c. 27\)](#).
- M9** [Sections 114,115 and 120](#) were amended by sections 128(2) and 140 and Schedule 13, paragraphs 1, 55(1), (2) and 60(1) and (3) of the Localism Act 2011. Relevant amendments were made to section 115 by section 160(1) to (6) of the [Housing and Planning Act 2016 \(c. 22\)](#).

## PART 1 **E+W**

### PRELIMINARY

#### Citation and commencement **E+W**

1. This Order may be cited as the Hornsea Three Offshore Wind Farm Order 2020 and comes into force on 22nd January 2021.

#### Commencement Information

- II** Art. 1 in force at 22.1.2021, see [art. 1](#)

#### Interpretation **E+W**

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961 <sup>M10</sup>;

“the 1965 Act” means the Compulsory Purchase Act 1965 <sup>M11</sup>;

“the 1980 Act” means the Highways Act 1980 <sup>M12</sup>;

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981 <sup>M13</sup>;

“the 1989 Act” means the Electricity Act 1989 <sup>M14</sup>;

“the 1990 Act” means the Town and Country Planning Act 1990 <sup>M15</sup>;

“the 1991 Act” means the New Roads and Street Works Act 1991 <sup>M16</sup>;

“the 2004 Act” means the Energy Act 2004 <sup>M17</sup>;

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009<sup>M18</sup>;

“access to works plan” means the plan or plans certified as the access to works plan or plans by the Secretary of State for the purposes of this Order under article 36 (certification of plans and documents etc);

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

“authorised development” means the development and associated development described in Part 1 of Schedule 1 (authorised project);

“authorised project” means the authorised development and the ancillary works authorised by this Order;

“the book of reference” means the document certified by the Secretary of State as the book of reference for the purposes of the Order under article 36;

“box-type gravity base foundation” means a structure principally of steel, concrete, or steel and concrete with a square base which rests on the seabed due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“buoy” means any floating device used for navigational purposes or measurement purposes;

“cables” means up to 600kV cables for the transmission of electricity, including one or more cable crossings;

“cable circuits” means a number of electrical conductors necessary to transmit electricity between two points within the authorised development; this comprises, in the case of HVAC transmission, three conductors which may be bundled as one cable or take the form of three separate cables, and, in the case of HVDC transmission two conductors, which may be attached together or take the form of single cables, and in either case the circuit may include one or more auxiliary cables (normally fibre optic cables) for the purpose of control, monitoring, protection or general communications;

“cable crossings” means a crossing of existing sub-sea cables or pipelines or other existing infrastructure by a cable or, where cables run together in parallel, a set of cables, authorised by this Order together with physical protection measures including rock placement or other protection measures;

“cable protection” means physical measures for the protection of cables including but not limited to concrete mattresses, with or without frond devices, and/or rock placement (but not material used for cable crossings);

“commence” means—

- (a) in relation to works seaward of MHWS, the first carrying out of any licensed marine activities authorised by the deemed marine licences, save for operations consisting of pre-construction monitoring surveys approved under the deemed marine licences, and
- (b) in respect of any other works comprised in the authorised project, the first carrying out of any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised project other than onshore site preparation works and the words “commencement” and “commenced” must be construed accordingly;

“connection works” means Work Nos. 6 to 15 and any related further associated development in connection with those works;

“construction compound” means a construction site associated with the connection works including central offices, welfare facilities, and storage for construction of the authorised project;

“deemed marine licences” means the marine licences set out in Schedules 11 (deemed marine licence under the 2009 Act – generation assets) and 12 (deemed marine licence under the 2009 Act – transmission assets);

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order under article 36;

“frond devices” means flow energy dissipation devices, which reduce current velocity and turbulence and encourage settlement of sediment;

“gravity base foundation” means a structure principally of steel, concrete, or steel and concrete with a base which tapers as it rises which rests on the seabed due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“highway” and “highway authority” have the same meaning as in the 1980 Act <sup>M19</sup>[<sup>F2</sup>];

“horizontal directional drilling” refers to a boring technique involving drilling in an arc between two points;

“horizontal directional drilling compound” means a construction site associated with the connection works where horizontal directional drilling or other trenchless construction technique is proposed including hard standing, lay down and storage areas for construction materials and equipment, areas for spoil, areas for vehicular parking, bunded storage areas, areas comprising water and bentonite tanks, pumps and pipes, areas for welfare facilities including offices and canteen and washroom facilities, wheel washing facilities, workshop facilities and temporary fencing or other means of enclosure and areas for other facilities required for construction purposes;

“HVAC” means high voltage alternating current;

“HVDC” means high voltage direct current;

“in principle Hornsea Three Southern North Sea Special Area of Conservation Site Integrity Plan” means the document certified as the in principle Hornsea Three Southern North Sea Special Area for Conservation Site Integrity Plan by the Secretary of State for the purposes of this Order under article 36;

“intrusive activities” means activities including anchoring of vessels, jacking up of vessels, depositing soil and seabed clearance;

“jacket foundation” means a lattice type structure constructed of steel, which may include scour protection and additional equipment such as, J-tubes, corrosion protection systems and access platforms;

“joint bay” means an excavation located at regular intervals along the cable route consisting of a concrete flat base slab constructed beneath the ground to facilitate the jointing together of the cables;

“land plans” means the plan or plans certified as the land plan or plans by the Secretary of State for the purposes of this Order under article 36;

“LAT” means lowest astronomical tide;

“lead local flood authority” has the meaning in section 6(7) (other definitions) of the Flood and Water Management Act 2010 <sup>M20</sup>;

“link box” means the underground metal box placed within a plastic or concrete pit where the metal sheaths between adjacent export cable sections are connected and earthed installed within a ground level manhole or inspection chamber to allow access to the link box for regular maintenance or fault-finding purposes;

“location plan” means the plan or plans certified as the location plan or plans by the Secretary of State for the purposes of this Order under <sup>F3</sup>article 36;]

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace, to the extent assessed in the environmental statement; and “maintenance” must be construed accordingly;

“Markham’s Triangle exclusion zone plan” means the document certified as the Markham’s Triangle exclusion zone plan by the Secretary of State for the purposes of this Order under article 36;

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

“mean low water springs” or “MLWS” means the lowest level which spring tides reach on average over a period of time;

“MMO” means the Marine Management Organisation;

“monopile foundation” means a steel pile, driven and/or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“mono suction bucket foundation” means a steel cylindrical structure which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential, and may include scour protection and additional equipment such as J-tubes;

“offshore accommodation platform” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform, containing housing accommodation, storage, workshop, auxiliary equipment, and facilities for operating, maintaining and controlling the wind turbine generators;

“offshore electrical installations” means the offshore type 1 substations, the offshore type 2 substations, the offshore subsea HVAC booster stations and the offshore HVAC booster stations forming part of the authorised development;

“offshore HVAC booster station” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform, containing—

- (a) <sup>F4</sup> electrical equipment required to provide reactive power compensation; and
- (b) <sup>F4</sup> housing accommodation, storage, workshop, auxiliary equipment, and facilities for operating, maintaining and controlling the substation;

[<sup>F5</sup>“the offshore Order limits and grid coordinates plan” means the plan or plans certified by the Secretary of State as the offshore Order limits and grid coordinates plan for the purposes of the Order under article 36;]

“offshore subsea HVAC booster station” means a sealed steel or concrete structure located under the surface of the sea, attached to the seabed by means of a foundation, containing electrical equipment required to provide reactive power compensation;

“offshore substation” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform, containing—

- (a) electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation; and
- (b) housing accommodation, storage, workshop auxiliary equipment, and facilities for operating, maintaining and controlling the substation or wind turbine generators;

“offshore type 1 substation” means the smaller version of the offshore substations assessed in the environment statement;

“offshore type 2 substation” means the larger version of the offshore substations assessed in the environment statement;

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“offshore works” means Work Nos. 1, 2, 3, 4 and 5 and any related further associated development in connection with those works;

“onshore construction works” means—

- (a) temporary haul roads;
- (b) vehicular accesses; and
- (c) construction compound(s), or if horizontal directional drilling is to be used, horizontal directional drilling [<sup>F6</sup>compound(s);]

“onshore HVAC booster station” means a compound, containing electrical equipment required to provide reactive power compensation, and auxiliary equipment and facilities for operating, maintaining and controlling the substation, with external landscaping and means of access;

“onshore HVDC/HVAC substation” means a compound, comprising the onshore HVDC converter station or the onshore HVAC substation, containing electrical equipment required to switch, transform, convert electricity and provide reactive power compensation, with external landscaping and means of access;

[<sup>F7</sup>“the onshore Order limits plan” means the plans certified by the Secretary of State as the onshore Order limits plan for the purposes of the Order under article 36;]

“onshore site preparation works” means operations consisting of site clearance, pre-planting of landscaping works, archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, creation of site accesses and the temporary display of site notices or advertisements;

“the Order land” means the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

F8  
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F8  
...

“the Order limits” means the limits shown on the offshore Order limits and grid coordinates plan and the onshore Order limits plan within which the authorised project may be carried out, whose grid coordinates seaward of MHWS are set out in paragraph 2 of Part 1 of Schedule 1 to this Order;

“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 under article 36;

“outline construction traffic management plan” means the document certified as the outline construction traffic management plan by the Secretary of State for the purposes of this Order under article 36;

“outline ecological management plan” means the document certified as the outline ecological management plan by the Secretary of State for the purposes of this Order under article 36;

“outline landscape plan” means the document certified as the outline landscape plan by the Secretary of State for the purposes of this Order under article 36;

“outline offshore written scheme of investigation” means the document certified as the outline offshore written scheme of investigation by the Secretary of State for the purposes of this Order under article 36;

“outline onshore written scheme of investigation” means the document certified as the outline onshore written scheme of investigation by the Secretary of State for the purposes of this Order under article 36;

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure jacket foundations;

“pontoon gravity base 1 foundation” means a structure principally of steel, concrete, or steel and concrete with a base made up of up to three rectangular pontoons which rests on the seabed due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“pontoon gravity base 2 foundation” means a structure principally of steel, concrete, or steel and concrete with a base made up of a pontoon arranged in a rectangle around an open centre which rests on the seabed due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“public rights of way plan” means the plan or plans certified as the temporary stopping up of public rights of way plan by the Secretary of State for the purposes of this Order under article 36;

“relevant planning authority” means the district planning authority for the area in which the land to which the relevant provision of this Order applies is situated;

“requirements” means, or a reference to a numbered requirement is to, those matters set out in Part 3 of Schedule 1 (requirements) to this Order;

“scour protection” means measures to prevent loss of seabed sediment around any structure placed in or on the seabed by use of protective aprons, mattresses with or without frond devices, or rock and gravel placement;

“SNCB” means an organisation charged by government with advising on nature conservation matters;

“street” means a street within the meaning of section 48 of the 1991 Act<sup>M21</sup>, together with land on the verge of a street or between two 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<sup>M22</sup>;

“streets plan” means the plan or plans certified as the streets plan or plans by the Secretary of State for the purposes of this Order under article 36;

“suction bucket” means a steel cylindrical structure attached to the legs of a jacket foundation which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential;

“transition joint bay” means the underground concrete bays in Work No. 7 where the offshore export cable circuits comprised in Work No. 6 are jointed to the onshore export cable circuits;

“transition piece” means the metal structure attached to the top of the foundation where the base of the wind turbine generator is connected and may include additional equipment such as J-tubes, corrosion protection systems, boat access systems, access platforms, craneage, electrical transmission equipment and associated equipment;

“tree preservation order and hedgerow plan” means the plan or plans certified as the tree preservation order and hedgerow plan or plans by the Secretary of State for the purposes of this Order under article 36;

“undertaker” means Orsted Hornsea Project Three (UK) Limited (company number 08584210);

“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 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;

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

“works plan” means the plan or plans certified as the works plan by the Secretary of State for the purposes of the Order under article 36.

(2) References in this Order to rights over land include references to rights to do or restrain or to place and maintain, anything in, on or under land or in the air-space above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over the land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or which is an interest otherwise comprised in the Order land.

(3) All distances, directions, capacities and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development shall be taken to be measured along that work.

(4) Any reference in this Order to a work identified by the number of the work is to be construed as a reference to the work of that number authorised by this Order.

(5) Unless otherwise stated, references in this Order to points identified by letters are to be construed as references to the points so lettered on the works plan.

(6) The expression “includes” is to be construed without limitation unless the contrary intention appears.

#### Textual Amendments

- F2** Art. 2(1) semi-colon inserted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), **Sch.**
- F3** Words in art. 2(1) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), **Sch.**
- F4** Words in art. 2(1) renumbered (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), **Sch.**
- F5** Words in art. 2(1) inserted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), **Sch.**
- F6** Word in art. 2(1) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), **Sch.**
- F7** Words in art. 2(1) inserted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), **Sch.**
- F8** Words in art. 2(1) omitted (21.5.2021) by virtue of [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), **Sch.**

#### Commencement Information

- I2** Art. 2 in force at 22.1.2021, see [art. 1](#)

#### Marginal Citations

- M10** 1961 c.33.  
**M11** 1965 c.56.  
**M12** 1980 c.66.  
**M13** 1981 c.66.  
**M14** 1989 c.29.  
**M15** 1990 c.8.  
**M16** 1991 c.22.



**M17** 2004 c.20.

**M18** 2009 c.23.

**M19** “Highway” is defined in section 328(1) of the 1980 Act. For “highway authority” see [section 1](#) to that Act. Relevant amendments are as follows: section 1 was amended by sections 8 and 102 and Schedules 4, paragraph 1 and Schedule 17 of the [Local Government Act 1985 \(c.51\)](#), by section 21 of the 1991 Act and by section 1(6) and Schedule 1, paragraphs 1 to 4 of the [Infrastructure Act 2015 \(c.7\)](#).

**M20** 2010 c.29.

**M21** [Section 48](#) was amended by section 124 (1) and (2) of the [Local Transport Act 2008 \(c.26\)](#).

**M22** “Street authority” is defined in section 49, which was amended by section 1(6) and paragraphs 113 and 117 of Schedule 1 to the Infrastructure Act 2015.

## PART 2 **E+W**

### PRINCIPAL POWERS

#### Development consent etc. granted by the Order **E+W**

- 3.—(1) Subject to the provisions of this Order and to the requirements the undertaker is granted—
- (a) development consent for the authorised development; and
  - (b) consent for the ancillary works,

to be carried out within the Order limits.

(2) Subject to the requirements, Work Nos. 1 to 5 must be constructed within the Order limits seaward of MHWS and Work Nos. 6 to 15 must be constructed within the Order limits landward of MHWS.

#### Commencement Information

**I3** Art. 3 in force at 22.1.2021, see [art. 1](#)

#### Power to maintain the authorised project **E+W**

4.—(1) The undertaker may at any time maintain the authorised project, except to the extent that this Order or an 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 any further licence under Part 4 of the 2009 Act (marine licensing) for offshore works not covered by the deemed marine licences.

#### Commencement Information

**I4** Art. 4 in force at 22.1.2021, see [art. 1](#)

#### Benefit of the Order **E+W**

5.—(1) Subject to this article, the provisions of this Order have effect solely for the benefit of the undertaker.

(2) Subject to paragraph (7), the undertaker may with the written consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order (including the deemed marine licences) and such related statutory rights as may be agreed between the undertaker and the transferee; and
- (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 the Order (including the deemed marine licences) and such related statutory rights as may be so agreed.

except where paragraph (7) applies, in which case no consent of the Secretary of State is required.

(3) Where an agreement has been made in accordance with paragraph (2) references in this Order to the undertaker, except in paragraphs (6) and (8), shall include references to the transferee or lessee.

(4) The undertaker shall consult the Secretary of State before making an application for consent under this article by giving notice in writing of the proposed application.

(5) The Secretary of State shall consult the MMO before giving consent to the transfer or grant to another person of the benefit of the provisions of the deemed marine licences.

(6) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit, under paragraph (2)—

- (a) the benefit transferred or granted (“the transferred benefit”) shall include any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;
- (b) the transferred benefit shall reside exclusively with the transferee or, as the case may be, the lessee and the transferred benefit shall not be enforceable against the undertaker; and
- (c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (2) 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.

(7) The consent of the Secretary of State is required for the exercise of powers under paragraph (2) except where—

- (a) the transferee or lessee is the holder of a licence under section 6 of the 1989 Act; or
- (b) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—
  - (i) no such claims have been made,
  - (ii) any such claim has been made and has been compromised or withdrawn,
  - (iii) compensation has been paid in final settlement of any such claim,
  - (iv) payment of compensation into court has taken place in lieu of settlement of any such claim, or
  - (v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation shall be payable.

(8) Prior to any transfer or grant under this article taking effect the undertaker must give notice in writing to the Secretary of State, and if such transfer or grant relates to the exercise of powers in their area, to the MMO and the relevant planning authority.

(9) A notice required under paragraphs (4) and (8) must—

- (a) state—
  - (i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;
  - (ii) subject to paragraph (10), the date on which the transfer will take effect;
  - (iii) the provisions to be transferred or granted;

- (iv) the restrictions, liabilities and obligations that, in accordance with paragraph (6)(c), will apply to the person exercising the powers transferred or granted; and
  - (v) where paragraph (7) does not apply, confirmation of the availability and adequacy of funds for compensation associated with the compulsory acquisition of the Order land.
- (b) be accompanied by—
- (i) where relevant, a plan showing the works or areas to which the transfer or grant relates; and
  - (ii) a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.
- (10) The date specified under paragraph (9)(a)(ii) in respect of a notice served in respect of paragraph (8) must not be earlier than the expiry of fourteen days from the date of the receipt of the notice.
- (11) The notice given under paragraph (8) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.
- (12) The provisions of articles 8 (street works), 10 (temporary stopping up of streets), 18 (compulsory acquisition of land), 20 (compulsory acquisition of rights), 26 (temporary use of land for carrying out the authorised project) and 27 (temporary use of land for maintaining the authorised project) shall have effect only for the benefit of the undertaker and a person who is a transferee or lessee who is also—
- (a) in respect of Work Nos. 6 to 15 a person who holds a licence under the 1989 Act, or
  - (b) in respect of functions under article 8 relating to street, a street authority.

#### Commencement Information

**I5** Art. 5 in force at 22.1.2021, see [art. 1](#)

### Application and modification of legislative provisions **E+W**

**6.—**(1) Regulation 6 of the Hedgerows Regulations 1997<sup>M23</sup> is modified so as to read for the purposes of this Order only as if there were inserted after paragraph (1)(j) the following—

“(k) or for carrying out development which has been authorised by an order granting development consent pursuant to the Planning Act 2008.”.

(2) The provisions of the Neighbourhood Planning Act 2017<sup>M24</sup> 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, insofar as they relate to temporary possession of land under articles 26 (temporary use of land for carrying out the authorised project) and 27 (temporary use of land for maintaining the authorised project) of this Order.

#### Commencement Information

**I6** Art. 6 in force at 22.1.2021, see [art. 1](#)

#### Marginal Citations

**M23** [S.I. 1997/1160](#). Relevant amendments to this instrument have been made by section 73(2) of the [Countryside and Rights of Way Act 2000 \(c. 37\)](#) and by [S.I. 2003/2155](#), [S.I. 2006/1177](#), [S.I. 2009/1307](#) and [S.I. 2105/377](#).

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**M24** 2017 c.20.

## Defence to proceedings in respect of statutory nuisance **E+W**

7.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 <sup>M25</sup> (summary proceedings by persons aggrieved by statutory nuisances) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (statutory nuisances and inspections therefor) no order may be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction, maintenance or decommissioning of the authorised project and that the nuisance is attributable to the carrying out of the authorised project in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974 <sup>M26</sup>; or
  - (ii) is a consequence of the construction, maintenance or decommissioning of the authorised project and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and that the nuisance is attributable to the use of the authorised project in compliance with requirement 21 (control of noise during operational phase); or
  - (ii) is a consequence of the use of the authorised project and that it cannot reasonably be avoided.

(2) Section 61(9) (of the Control of Pollution Act 1974 <sup>M27</sup> does not apply where the consent relates to the use of premises by the undertaker for purposes of or in connection with the construction, maintenance or decommissioning of the authorised project.

### Commencement Information

**I7** Art. 7 in force at 22.1.2021, see [art. 1](#)

### Marginal Citations

- M25** 1990 c.43. Relevant amendments are as follows: section 82 was amended by section 107 and Schedule 17 paragraph 6 of the [Environment Act 1995 \(c.25\)](#) and section 5(2) of the [Noise and Statutory Nuisance Act 1993 \(c.40\)](#), and section 79 was amended by sections 101 and 102 of the [Clean Neighbourhoods and Environment Act 2005 \(c.16\)](#), by section 2 of the Noise and Statutory Nuisance Act 1993 and by section 120 and Schedule 22 paragraph 89 of the Environment Act 2005.
- M26** 1974 c.40. Sections 61(9) was amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c.25. There are other amendments to the 1974 Act which are not relevant to the Order.
- M27** 1974 c.20. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c.25. There are other amendments to the 1974 Act which are not relevant to the Order.

## PART 3 **E+W**

### STREETS

#### Street works **E+W**

**8.**—(1) The undertaker may, for the purposes of the authorised project, enter on 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) In this article “apparatus” has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act.

#### Commencement Information

**18** Art. 8 in force at 22.1.2021, see [art. 1](#)

#### Application of the 1991 Act **E+W**

**9.**—(1) The provisions of the 1991 Act mentioned in paragraph (2) that apply in relation to the carrying out of street works under that Act and any regulations made or code of practice issued or approved under those provisions apply (with all necessary modifications) in relation to—

- (a) the carrying out of works under article 8 (street works); and
- (b) the temporary stopping up, temporary alteration or temporary diversion of a street by the undertaker under article 10 (temporary stopping up of streets),

whether or not the carrying out of the works or the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(2) The provisions of the 1991 Act <sup>M28</sup> are—

- (a) subject to paragraph (3), section 55 (notice of starting date of works);
- (b) section 57 (notice of emergency works);
- (c) section 60 (general duty of undertakers to co-operate);
- (d) section 68 (facilities to be afforded to street authority);
- (e) section 69 (works likely to affect other apparatus in the street);
- (f) section 76 (liability for cost of temporary traffic regulation);
- (g) section 77 (liability for cost of use of alternative route); and
- (h) all provisions of that Act that apply for the purposes of the provisions referred to in sub-paragraphs (a) to (g).

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(3) Section 55 of the 1991 Act as applied by paragraph (2) has effect as if references in section 57 of that Act to emergency works included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

#### Commencement Information

**I9** Art. 9 in force at 22.1.2021, see [art. 1](#)

#### Marginal Citations

**M28** Sections 55, 57, 60, 68 and 69 were amended by the [Traffic Management Act 2004 \(c.18\)](#).

### Temporary stopping up of streets **E+W**

**10.**—(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 or a class of traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limiting paragraph (1), the undertaker may use any street temporarily stopped up under the powers conferred by this article within the Order limits as a temporary working site.

(3) 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.

(4) Without limiting paragraph (1), the undertaker may temporarily stop up, alter or divert the streets set out 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 works plans, in column (3) of that schedule.

(5) The undertaker must not temporarily stop up, alter, divert or use as a temporary working site—

- (a) any street referred to in paragraph (4) without first consulting the street authority; and
- (b) any other street without the consent of the street authority, which may attach reasonable conditions to the consent.

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

(7) If a street authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (5)(b) that street authority is deemed to have granted consent.

#### Commencement Information

**I10** Art. 10 in force at 22.1.2021, see [art. 1](#)

### Temporary stopping up of public rights of way **E+W**

**11.** The undertaker may, in connection with the carrying out of the authorised project, temporarily stop up each of the public rights of way specified in column (2) of Schedule 4 (public rights of way to be temporarily stopped up) to the extent specified in column (3), by reference to the letters shown on the temporary stopping up of rights of way plan.

**Commencement Information**

**I11** Art. 11 in force at 22.1.2021, see [art. 1](#)

**Access to works** **E+W**

**12.**—(1) The undertaker may, for the purposes of the authorised project—

- (a) form, lay out and maintain a means of access, or improve or maintain an existing means of access, in the locations specified in columns (1) and (2) of Schedule 5 (access to works); and
- (b) with the approval of the relevant planning authority after consultation with the highway authority in accordance with requirement 11 (highway accesses), 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.

(2) If the relevant planning authority fails to notify the undertaker of its decision within 28 days of receiving an application for approval under paragraph (1)(b) that relevant planning authority is deemed to have granted approval.

**Commencement Information**

**I12** Art. 12 in force at 22.1.2021, see [art. 1](#)

**Agreements with street authorities** **E+W**

**13.**—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) any temporary stopping up, alteration or diversion of a street authorised by this Order; or
- (b) the carrying out in the street of any of the works referred to in article 8(1) (street works).

(2) Such agreement may, without prejudice to the generality of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which 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.

**Commencement Information**

**I13** Art. 13 in force at 22.1.2021, see [art. 1](#)

**Power to alter layout etc. of streets** **E+W**

**14.**—(1) Subject to paragraphs (2) and (3), the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with constructing, operating and maintaining the authorised development, alter the layout of any street and, without limitation on the scope of this paragraph, the undertaker may—

- (a) alter the level or increase the width of any kerb, footway, cycle track or verge; and
- (b) make and maintain passing place(s).

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(2) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(3) The powers conferred by paragraph (1) must not be exercised without the consent of the street authority.

(4) Paragraphs (2) and (3) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

#### Commencement Information

**I14** Art. 14 in force at 22.1.2021, see [art. 1](#)

## PART 4 **E+W**

### SUPPLEMENTAL POWERS

#### Discharge of water **E+W**

**15.**—(1) Subject to paragraphs (3) and (4) below 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 inspect, 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) is determined as if it were a dispute under section 106 of the Water Industry Act 1991 <sup>M29</sup> (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 that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not carry out any works to any public sewer or drain pursuant to paragraph (1) except—

- (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 that 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 the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by regulation 12 (requirement for a permit) of the Environmental Permitting (England and Wales) Regulations 2016 <sup>M30</sup>.

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board or a local authority; and



- (b) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2016 have the same meaning as in those Regulations.

(9) If a person who receives an application for consent or approval fails to notify the undertaker of a decision within 28 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be.

#### Commencement Information

**I15** Art. 15 in force at 22.1.2021, see [art. 1](#)

#### Marginal Citations

**M29** [1991 c.56](#). Section 106 was amended by sections 43(2) and 35(8)(a) and paragraph 1 of Schedule 2 to the [Competition and Service \(Utilities\) Act 1992 \(c.43\)](#) and sections 99(2), (4), (5)(a), (5)(b), (5)(c) and 36(2) of the [Water Act 2003 \(c.37\)](#) and section 32, Schedule 3, paragraph 16(1) of the Flood and Water Management Act 2010 [c.29](#).

**M30** [S.I. 2016/1154](#).

### Protective work to buildings **E+W**

**16.**—(1) Subject to the following 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 part of the authorised project in the vicinity of the building at any time up to the end of the period of five years beginning with the day on which that part of the authorised project first becomes operational.

(3) For the purpose of determining how the powers 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 under this article 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 power under paragraph (1) to carry out protective works to a building;
- (b) a power under paragraph (3) to enter a building and land within its curtilage;
- (c) a power under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a power 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 the power and, in a case

falling within sub-paragraph (a), (c) or (d), specifying 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 of 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 37 (arbitration).

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

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of five years beginning with the day on which the part of the authorised project carried out in the vicinity of the building first becomes operational it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part 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 152 of the 2008 Act (compensation in case where no right to claim in nuisance).

(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) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article to the same extent as it applies in respect of the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) 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.

#### Commencement Information

**I16** Art. 16 in force at 22.1.2021, see [art. 1](#)

#### Authority to survey and investigate the land onshore **E+W**

**17.**—(1) The undertaker may for the purposes of this Order enter on 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 prejudice to the generality of 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 prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land, including the digging of trenches; 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 or 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 their authority to do so; and
  - (b) may take with them 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 forming a railway without the consent of Network Rail <sup>M31</sup>;
  - (b) in land held by or in right of the Crown without the consent of the Crown;
  - (c) in land located within the highway boundary without the consent of the highway authority; or
  - (d) in a private street without the consent of the street authority,
- but such consent must not be unreasonably withheld or delayed.
- (5) 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 (determination of questions of disputed compensation) of the 1961 Act.
- (6) If either a highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—
- (a) under paragraph (4)(c) in the case of a highway authority; or
  - (b) under paragraph (4)(d) in the case of a street authority;
- that authority is deemed to have granted consent.
- (7) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

#### Commencement Information

**I17** Art. 17 in force at 22.1.2021, see [art. 1](#)

#### Marginal Citations

**M31** As defined in Part 5 of Schedule 9 (Protection for Network Rail Infrastructure Limited).

## PART 5 **E+W**

### POWERS OF ACQUISITION

#### Compulsory acquisition of land **E+W**

**18.**—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised project or to facilitate, or is incidental, to it.

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(2) This article is subject to paragraph (2) of article 20 (compulsory acquisition of rights) and article 26 (temporary use of land for carrying out the authorised project).

#### Commencement Information

**I18** Art. 18 in force at 22.1.2021, see [art. 1](#)

#### Time limit for exercise of authority to acquire land compulsorily **E+W**

**19.**—(1) After the end of the period of 7 years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 (determination of questions of disputed compensation) of the 1965 Act; and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 22 (application of the 1981 Act).

(2) The authority conferred by article 26 (temporary use of land for carrying out the authorised project) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

#### Commencement Information

**I19** Art. 19 in force at 22.1.2021, see [art. 1](#)

#### Compulsory acquisition of rights **E+W**

**20.**—(1) Subject to paragraph (2), the undertaker may acquire compulsorily such rights or impose restrictive covenants over the Order land as may be required for any purpose for which that land may be acquired under article 18 (compulsory acquisition of land), by creating them as well as by acquiring rights already in existence.

(2) Subject to the provisions of this paragraph, article 21 (private rights) and article 28 (statutory undertakers), in the case of the Order land specified in column (1) of Schedule 6 (land in which only new rights etc. [<sup>F9</sup>,] may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of such new rights and the imposition of restrictive covenants for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to section 8 (other provisions as to divided land) of the 1965 Act, and Schedule 2A (counter-notice requiring purchase of land) (as substituted by paragraph 10 of Schedule 7 (modification of compensation and compulsory purchase enactments for <sup>F10</sup> ... creation of new rights) [<sup>F11</sup>],] where the undertaker creates a new interest or acquires an existing right over land or imposes a restrictive covenant under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 7 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of restrictive covenants.

(5) In any case where the acquisition of new rights or imposition of a restriction under paragraph (1) or (2) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

#### Textual Amendments

- F9** Art. 20(2) comma inserted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)
- F10** Word in art. 20(3) omitted (21.5.2021) by virtue of [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)
- F11** Art. 20(3) bracket inserted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

#### Commencement Information

- I20** Art. 20 in force at 22.1.2021, see [art. 1](#)

### Private Rights **E+W**

**21.—(1)** Subject to the provisions of this article, all private rights or restrictive covenants over land subject to compulsory acquisition under article 18 (compulsory acquisition of land) cease to have effect in so far as their continuance would be inconsistent with the exercise of the powers under article 18—

- (a) as 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 (power of entry),

whichever is the earliest.

(2) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 20 (compulsory acquisition of rights) cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant—

- (a) as from the date of the acquisition of the right or the imposition of the restrictive covenant by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of lease of the land by agreement); or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right,

whichever is the earliest.

(3) Subject to the provisions of this article, all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, 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 or restrictive covenants under this article is entitled to compensation in accordance with the terms of section 152 of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(5) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 28 (statutory undertakers) applies.

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- (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 or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;
  - (ii) the undertaker's appropriation of the land,
  - (iii) the undertaker's entry onto the land, or
  - (iv) the undertaker's taking temporary possession of the land,
- that any or all of those paragraphs do not apply to any right specified in the notice; or
- (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.
- (7) If an agreement referred to in paragraph (6)(b)—
- (a) is made with a person in or to whom the right is vested or belongs; and
  - (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

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

(8) Reference in this article to private rights over land includes reference to any trusts or incidents to which the land is subject.

#### Commencement Information

**I21** Art. 21 in force at 22.1.2021, see [art. 1](#)

#### Application of the 1981 Act **E+W**

- 22.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.
- (2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.
- (3) In section 1 (application of act), for subsection 2, substitute—
- “(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”
- (4) In section 5(2) (earliest date for execution of declaration) omit the words from “, and this subsection” to the end.
- (5) Section 5A (time limit for general vesting declaration) <sup>M32</sup> is omitted.
- (6) In section 5B (extension of time limit during challenge) <sup>M33</sup> for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order) [<sup>F12</sup>] substitute “ section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent) the seven year period mentioned in article 19 (time limit for exercise of authority to acquire land compulsorily) of the Hornsea Three Offshore Wind Farm Order 2020 ”.
- (7) In section 6 (notices after execution of declaration), in subsection (1)(b) for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “ section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008 ”.
- (8) In section 7 (constructive notice to treat), in subsection (1)(a), omit the words “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) <sup>M34</sup>, for paragraph 1(2) substitute—

“(2) But see article 23(1) (acquisition of subsoil only) of the Hornsea Three Offshore Wind Farm Order 2020, which excludes the acquisition of subsoil only from this Schedule.”

(10) References to the 1965 Act in the 1981 Act must be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 24 (modification of Part 1 of the 1965 Act) to the compulsory acquisition of land under this Order.

#### Textual Amendments

**F12** Art. 22(6) punctuation inserted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), Sch.

#### Commencement Information

**I22** Art. 22 in force at 22.1.2021, see [art. 1](#)

#### Marginal Citations

**M32** Inserted by section 182(2) of the [Housing and Planning Act 2016 \(c.22\)](#).

**M33** Inserted by section 202(2) of the [Housing and Planning Act 2016 \(c.22\)](#).

**M34** Inserted by paragraph 6 of Schedule 18 to the [Housing and Planning Act 2016 \(c.22\)](#).

### Acquisition of subsoil only **E+W**

**23.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph (1) of article 18 (compulsory acquisition of land) or article 20 (compulsory acquisition of rights) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) Section 153(4A) (reference of objection to Upper Tribunal: general) of the Town and Country Planning Act 1990.

(4) Paragraphs (2) and (3) do not apply where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

#### Commencement Information

**I23** Art. 23 in force at 22.1.2021, see [art. 1](#)

### Modification of Part 1 of the 1965 Act **E+W**

**24.**—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

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(2) In section 4A(1) (extension of time limit during challenge) <sup>M35</sup> for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “ section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent), the seven year period mentioned in article 19 (time limit for exercise of authority to acquire land compulsorily) of the Hornsea Three Offshore Wind Farm Order 2020 ”.

(3) In section 11A (powers of entry: further notice of entry) <sup>M36</sup>—

(a) in subsection (1)(a), after “land” insert “ under that provision ”;

(b) in subsection (2), after “land” insert “ under that provision ”.

(4) In section 22(2) (interests omitted from purchase), for “section 4 of this Act” substitute “ article 19 (time limit for exercise of authority to acquire land compulsorily) of the Hornsea Three Offshore Wind Farm Order 2020 ”.

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat) <sup>M37</sup>—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 23(3) (acquisition of subsoil only) of the Hornsea Three Offshore Wind Farm Order 2020, which excludes the acquisition of subsoil only from this Schedule”; and

(b) at the end insert—

## “PART 4 E+W

### INTERPRETATION

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under article 16 (protective work to buildings), article 26 (temporary use of land for carrying out the authorised [<sup>F13</sup>project]) or article 27 (temporary use of land for maintaining the authorised [<sup>F13</sup>project]) of the Hornsea Three [<sup>F14</sup>Offshore] Wind Farm Order 2020.”

#### Textual Amendments

**F13** Word in art. 24(5)(b) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

**F14** Word in art. 24(5)(b) inserted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

#### Commencement Information

**I24** Art. 24 in force at 22.1.2021, see [art. 1](#)

#### Marginal Citations

**M35** Inserted by section 202(1) of the [Housing and Planning Act 2016 \(c.22\)](#).

**M36** Inserted by section 186(3) of the [Housing and Planning Act 2016 \(c.22\)](#).

**M37** Inserted by schedule 17(1) paragraph 3 to the [Housing and Planning Act 2016 \(c.22\)](#).



## Rights under or over streets **E+W**

**25.**—(1) The undertaker may enter on 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 which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who 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 who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) 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 of cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

### Commencement Information

**I25** Art. 25 in force at 22.1.2021, see [art. 1](#)

## Temporary use of land for carrying out the authorised project **E+W**

**26.**—(1) The undertaker may, in connection with the carrying out of the authorised project—

- (a) enter on and take temporary possession of—
  - (i) the land specified in columns (1) and (2) of Schedule 8 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule; and
  - (ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
- (b) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from that land;
- (c) construct temporary works (including the provision of means of access), haul roads, security fencing, bridges, structures and buildings on that land;
- (d) use the land for the purposes of a working site with access to the working site in connection with the authorised project;
- (e) construct any works, or use the land, as specified in relation to that land in column 3 of Schedule 8, or any mitigation works;
- (f) construct such works on that land as are mentioned in Part 1 of Schedule 1 (authorised development); and
- (g) carry out mitigation works required pursuant to the requirements in Schedule 1.

(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 must not remain in possession of any land under this article for longer than reasonably necessary and in any event must not, without the agreement of the owners of the land, remain in possession of any land under this article <sup>F15</sup>—]

(a) in the case of land specified in paragraph (1)(a)(i) after the end of the period of one 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 8; or

(b) in the case of land specified in paragraph (1)(a)(ii) after the end of the period of one year beginning with the date of completion of the part of the authorised project for which temporary possession of the land was taken unless the undertaker has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or otherwise acquired the land or rights over land subject to temporary possession, the undertaker must before giving up possession of land of which temporary possession has been taken under this article, remove all works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

(a) replace any building, structure, drain or electric line removed under this article;

(b) remove any drainage works installed by the undertaker under this article;

(c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 2 (streets subject to street works); or

(d) restore the land on which any works have been carried out under paragraph (1)(g) insofar as the works relate to mitigation works identified in the environmental statement or required pursuant to the requirements in Schedule 1.

(5) The undertaker must pay compensation to the owners and occupiers of land 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 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 (determination of questions of disputed compensation) of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) 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)(a)(i) except that the undertaker is not precluded from—

(a) acquiring new rights or imposing restrictive covenants over any part of that land under article 20 (compulsory acquisition of rights) to the extent that such land is listed in column (1) of Schedule 6 (land in which only new rights etc. may be acquired); or

(b) acquiring any part of the subsoil (or rights in the subsoil) of that land under article 23 (acquisition of subsoil only).

(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 (refusal to give possession to acquiring authority) of the 1965 Act 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 (application of compulsory acquisition provisions) of the [F162008 Act.]

#### Textual Amendments

**F15** Art. 26(3) dash inserted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

**F16** Words in art. 26(10) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

#### Commencement Information

**I26** Art. 26 in force at 22.1.2021, see [art. 1](#)

### Temporary use of land for maintaining the authorised project **E+W**

**27.**—(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 on and take temporary possession of any land within the Order land 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 only remain in possession of land under this article 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 the reasonable satisfaction of the owners of the land.

(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 (determination of questions of disputed compensation) of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act 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.

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act 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).

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(11) In this article “the maintenance period”, in relation to any phase of the authorised project as approved under requirement 6, means the period of 5 years beginning with the date on which a phase of the authorised project first exports electricity to the national electricity transmission network except where the authorised development consists of the maintenance of any tree or shrub pursuant to requirement 9 where “the maintenance period” means a period of 10 years beginning with the date on which that tree or shrub is first planted.

#### Commencement Information

**I27** Art. 27 in force at 22.1.2021, see [art. 1](#)

### Statutory undertakers **E+W**

- 28.** Subject to the provisions of Schedule 9 (protective provisions) the undertaker may—
- acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plans within the Order land; and
  - extinguish the rights of, remove, relocate the rights of or reposition the apparatus belonging to statutory undertakers over or within the Order land.

#### Commencement Information

**I28** Art. 28 in force at 22.1.2021, see [art. 1](#)

### Recovery of costs of new connections **E+W**

**29.—(1)** Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 28 (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 28, any person who is—

- the owner or occupier of premises the drains of which communicated with that sewer; or
- the owner of a private sewer which 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 sewage disposal plant.

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

(4) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003 <sup>M38</sup>; and

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

#### Commencement Information

**I29** Art. 29 in force at 22.1.2021, see [art. 1](#)

**Marginal Citations**

M38 2003 c.21.

**PART 6** E+W

OPERATIONS

**Operation of generating station** E+W

30.—(1) The undertaker is hereby authorised to operate the generating station comprised in the authorised project.

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

**Commencement Information**

I30 Art. 30 in force at 22.1.2021, see [art. 1](#)

**Deemed marine licences under the 2009 Act** E+W

31. The deemed marine licences set out in Schedules 11 (deemed marine licence under the 2009 Act – generation assets) and 12 (deemed marine licence under the 2009 Act – transmission assets) respectively, are deemed to be granted to the undertaker under Part 4 (marine licensing) of the 2009 Act for the licensed marine activities set out in Part 1, and subject to the conditions set out in Part 2 of each of those Schedules.

**Commencement Information**

I31 Art. 31 in force at 22.1.2021, see [art. 1](#)

**PART 7** E+W

MISCELLANEOUS AND GENERAL

**Application of landlord and tenant law** E+W

32.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised project or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any 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 any land which 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 any agreement to which this article applies.

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(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 which 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.

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**Commencement Information**

**I32** Art. 32 in force at 22.1.2021, see [art. 1](#)

**Operational land for purposes of the 1990 Act** **E+W**

**33.** Development consent granted by this Order is 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 not being operational land).

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**Commencement Information**

**I33** Art. 33 in force at 22.1.2021, see [art. 1](#)

**Felling or lopping of trees and removal of hedgerows** **E+W**

**34.**—(1) Subject to article 35 (trees subject to tree preservation orders) the undertaker may fell or lop or cut back to roots of any tree or shrub within or overhanging land within the Order limits or near any part of the authorised project if the undertaker reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with onshore site preparation works, 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 (determination of questions of disputed compensation) of the 1961 Act.

(4) The undertaker may, for the purpose of the authorised project—

- (a) subject to paragraph (2) above, remove any hedgerows within the Order limits and specified in Schedule 10, Part 1 (removal of hedgerows) that may be required for the purposes of carrying out the authorised project; and
- (b) remove the important hedgerows as are within the Order limits and specified in Schedule 10, Part 2 (removal of important hedgerows).

(5) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerows Regulations 1997 <sup>M39</sup>.

**Commencement Information**

**I34** Art. 34 in force at 22.1.2021, see [art. 1](#)

**Marginal Citations**

**M39** [S.I.1997/1160](#).

**Trees subject to tree preservation orders** **E+W**

**35.**—(1) Subject to paragraph (2), the undertaker must not fell or lop or cut back the roots of any tree within or overhanging land which is the subject of a tree preservation order.

(2) The undertaker may fell or lop any tree within or overhanging land within the Order limits subject to a tree preservation order which was made before and after 14 May 2018 or cut back its roots, if it reasonably believes it to be necessary to do so in order to prevent the tree from obstructing or interfering with onshore site preparation works the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

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

- (a) the undertaker shall do no unnecessary damage to any tree and shall pay compensation to any person for any loss or damage arising from such activity; and
- (b) the duty contained in section 206(1) (replacement of trees) of the 1990 Act shall not apply.

(4) The authority given by paragraph (2) shall constitute a deemed consent under the relevant tree preservation order.

(5) Any dispute as to a person's entitlement to compensation under paragraph (3), or as to the amount of compensation, shall be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

**Commencement Information**

**I35** Art. 35 in force at 22.1.2021, see [art. 1](#)

**Certification of plans and documents, etc.** **E+W**

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

- (a) the book of reference;
- (b) design objectives and principles;
- (c) the Development Principles;
- (d) the environmental statement;
- (e) the location plan;
- (f) the land plans;
- (g) the offshore Order limits and grid coordinates plan;
- (h) the onshore Order limits plan;
- (i) the works plans;
- (j) the access to works plan;
- (k) the streets plan;

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- (l) the public rights of way plan;
  - (m) the tree preservation order and hedgerow plan;
  - (n) the crown land plans – onshore and offshore;
  - (o) the onshore limits of deviation plan;
  - (p) the outline construction management plan;
  - (q) the outline construction traffic management plan;
  - (r) the outline code of construction practice;
  - (s) the outline ecological management plan;
  - (t) the outline landscape plan;
  - (u) the outline onshore written scheme of investigation;
  - (v) the in-principle monitoring plan;
  - (w) the outline offshore written scheme of investigation;
  - (x) the outline fisheries coexistence and liaison plan;
  - (y) the in principle Hornsea Three Southern North Sea Special Area of Conservation Site Integrity Plan;
  - (z) the Markham's Triangle exclusion zone plan;
  - (aa) the kittiwake compensation plan; and
  - (bb) the sandbanks compensation strategy.
- (2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.
- (3) Where a plan or document certified under paragraph (1)—
- (a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and
  - (b) identifies that provision by number, or combination of numbers and letters, which is different from the number, or combination of numbers and letters by which the corresponding provision of this Order is identified in the Order as made;
- the reference in the plan or document concerned must be construed for the purposes of this Order as referring to the provision (if any) corresponding to that provision in the Order as made.

#### Commencement Information

**I36** Art. 36 in force at 22.1.2021, see [art. 1](#)

#### Arbitration **E+W**

**37.**—(1) Any difference under any provision of this Order, unless otherwise provided for, shall be referred to and settled in arbitration in accordance with the rules at Schedule 13 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order shall not be subject to arbitration.



### Commencement Information

**I37** Art. 37 in force at 22.1.2021, see [art. 1](#)

### Requirements, appeals, etc. **E+W**

**38.**—(1) [<sup>F17</sup>Subsection] (1) of section 78 (right to appeal against planning decisions and failure to take such decision) of the 1990 Act applies to the development consent granted by this Order and to the requirements except that it is modified so as to read for the purposes of this Order only as follows—

(a) after “local planning authority” insert “ or Secretary of State ”

(b) after subsection (b) insert the following—

“refuse or fails to determine an application for any consent, agreement or approval of that authority required by a requirement imposed on a grant of development consent or contained in a development consent order, or grant it subject to conditions; or”

(c) after [<sup>F18</sup>subsection] (1), insert the following—

“(1A) Where the appeal under sub-section (1) relates to a decision by the Secretary of State, the appeal shall be decided by a Secretary of State who would not be responsible for determining an application for development consent with the subject matter of the Hornsea Three Offshore Wind Farm Order 2020 if section 103(1) of the 2008 Act applied.”

(2) Sections 78 and 79 (determination of appeals) of the 1990 Act have effect in relation to any appeal under the terms of this article except that the Secretary of State in question is the Secretary of State who would be responsible for determining an application for development consent with the subject matter of this Order if section 103(1) of the 2008 Act applied.

(3) The terms of any development order, and other rules and regulations which apply to applications pursuant to conditions or the subject matter of section 78 of the 1990 Act apply, insofar as they are not inconsistent with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 and any other orders, rules or regulations made under the 2008 Act, to any application or appeal made under the requirements specified in paragraph (1).

### Textual Amendments

**F17** Word in [art. 38\(1\)](#) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), [art. 1\(2\)](#), [Sch.](#)

**F18** Word in [art. 38\(1\)\(c\)](#) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), [art. 1\(2\)](#), [Sch.](#)

### Commencement Information

**I38** Art. 38 in force at 22.1.2021, see [art. 1](#)

### Abatement of works abandoned or decayed **E+W**

**39.** Where Work Nos 1, 2 or 3 or all of them or any part of them, is abandoned or allowed to fall into decay the Secretary of State may, following consultation with the undertaker, by notice in writing require the undertaker at its own expense either to repair, make safe and restore one or any of those Works, or any relevant part of them, or to remove them and, without prejudice to any notice served under section 105(2) of the 2004 Act <sup>M40</sup> restore the site to a safe and proper condition, to such an extent and within such limits as may be specified in the notice.

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#### Commencement Information

**I39** Art. 39 in force at 22.1.2021, see [art. 1](#)

#### Marginal Citations

**M40** [Section 105\(2\)](#) was substituted by section 69(3) of the [Energy Act 2008 \(c.32\)](#).

### Saving provisions for Trinity House **E+W**

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

#### Commencement Information

**I40** Art. 40 in force at 22.1.2021, see [art. 1](#)

### Crown rights **E+W**

**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 to take, use, enter upon 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)—

- (a) 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;
- (b) 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
- (c) 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.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A 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.

#### Commencement Information

**I41** Art. 41 in force at 22.1.2021, see [art. 1](#)

### Protective provisions **E+W**

**42.** Schedule 9 (protective provisions) has effect.

#### Commencement Information

**I42** Art. 42 in force at 22.1.2021, see [art. 1](#)

## Funding **E+W**

**43.**—(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any land unless it has first put in place either—

- (a) a guarantee and the amount of that guarantee approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land; or
- (b) an alternative form of security and the amount of that security for that purpose approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land.

(2) The provisions are—

- (a) article 18 (compulsory acquisition of land);
- (b) article 20 (compulsory acquisition of rights);
- (c) article 21 (private rights);
- (d) article 23 (acquisition of subsoil only);
- (e) article 25 (rights under or over streets);
- (f) article 26 (temporary use of land for carrying out the authorised project);
- (g) article 27 (temporary use of land for maintaining the authorised project); and
- (h) article 28 (statutory undertakers).

(3) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under this Order is to be treated as enforceable against the guarantor or person providing the alternative form of security by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.

(4) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised.

### Commencement Information

**I43** Art. 43 in force at 22.1.2021, see [art. 1](#)

## Service of notices **E+W**

**44.**—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978<sup>M41</sup> (references to service by post) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address and otherwise—

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- (a) in the case of the secretary of clerk of that body corporate, the registered or principal office of that body; and
  - (b) in any other case, the last known address of that person at that time of service.
- (4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—
- (a) addressing it to that person by the description of “owner”, or as the case may be “occupier” of the land (describing it); and
  - (b) either leaving it in the hands of the person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.
- (5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—
- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
  - (b) the notice or document is capable of being accessed by the recipient;
  - (c) the notice or document is legible in all material respects; and
  - (d) in a form sufficiently permanent to be used for subsequent reference.
- (6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy of all or any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.
- (7) Any consent to the use of an electronic transmission by a person may be revoked by that person in accordance with paragraph (8).
- (8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—
- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
  - (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.
- (9) This article does not exclude the employment of any method of service not expressly provided for by it.
- [<sup>F19</sup>(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.]

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#### Textual Amendments

**F19** Art. 44(10) inserted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

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#### Commencement Information

**I44** Art. 44 in force at 22.1.2021, see [art. 1](#)

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#### Marginal Citations

**M41** [1978 c.30](#). Section 7 was amended by paragraph 19 of Schedule 10 to the [Road Traffic Regulation Act 1984 \(c.27\)](#). There are other amendments not relevant to this Order.

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## Compensation provisions **E+W**

45. Schedule 14 (compensation measures) has effect.

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### Commencement Information

**I45** Art. 45 in force at 22.1.2021, see [art. 1](#)

Signed by Authority of the Secretary of State for Business, Energy and Industrial Strategy

Department for Business, Energy and Industrial  
Strategy

*Gareth Leigh*  
Head of Energy Infrastructure Planning

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## SCHEDULES

### SCHEDULE 1 E+W

Article 2

#### AUTHORISED PROJECT

### PART 1 E+W

#### AUTHORISED DEVELOPMENT

**1.** A nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act which is located in the North Sea approximately 121 kilometres to the northeast of the north Norfolk coast and approximately 10 kilometres west of the median line between UK and Netherlands waters, comprising—

*Work No. 1—*

- (a) (a) an offshore wind turbine generating station with a gross electrical output of over 100 megawatts comprising up to 231 wind turbine generators each fixed to the seabed by either monopile foundation, mono suction bucket foundation, jacket foundation or gravity base foundation;
- (b) (b) up to three offshore accommodation platforms fixed to the seabed within the area shown on the works plan by monopile foundation, mono suction bucket foundation, jacket foundation, or gravity base foundation and which may be connected to each other or one of the offshore substations within Work No. 2 by an unsupported bridge; and
- (c) (c) a network of cables between the wind turbine generators and between the wind turbine generators and Work No. 2 including one or more cable crossings;

and associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising—

*Work No. 2—*

- (a) (a) up to 12 offshore type 1 substations each fixed to the seabed by either monopile foundation, mono suction bucket foundation, jacket foundation, gravity base foundation or box-type gravity base foundations and which may be connected to each other or one of the offshore accommodation platforms within Work No.1(b) by an unsupported bridge;
- (b) (b) up to four offshore type 2 substations each fixed to the seabed by either monopile foundations, mono suction bucket foundations, jacket foundations, gravity base foundations, jacket foundations, box-type gravity base foundations, pontoon gravity base 1 foundations, or pontoon gravity base 2 foundations and which may be connected to each other or one of the offshore accommodation platforms within Work No.1(b) by an unsupported bridge;
- (c) (c) a network of cables;
- (d) (d) up to six cable circuits between Work No. 2 and Work No. 3, and between Work No. 3 and Work No.5 consisting of offshore export cables along routes within the Order limits seaward of MLWS including one or more cable crossings; and

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- (e) (e) up to eight temporary horizontal directional drilling exit pits;

*Work No. 3—*

- (a) (a) in the event that the mode of transmission is HVAC, up to four offshore HVAC booster stations fixed to the seabed within the area shown on the works plan by either monopile foundation, mono suction bucket foundation, jacket foundation, gravity base foundation, or box-type gravity base foundations;
- (b) (b) in the event that the mode of transmission is HVAC, up to six offshore subsea HVAC booster stations fixed to the seabed by either monopile foundation, mono suction bucket foundation, jacket foundation, gravity base foundation, or box-type gravity base foundations;
- (c) (c) in the event that the mode of transmission is HVAC, a network of cables between HVAC booster stations or offshore subsea HVAC booster stations; and
- (d) (d) in the event that the mode of transmission is HVAC, up to six cable circuits between Work No. 2 and Work No. 3, and between Work No. 3 and Work No.5 consisting of offshore export cables along routes within the Order limits seaward of MHWS including one or more cable crossings;

*Work No. 4—* a temporary work area associated with Work No.2 and Work No.3 for vessels to carry out intrusive activities alongside Work No.2 or Work No.3;

*Work No. 5—* landfall connection works comprising up to six cable circuits and ducts and onshore construction works within the Order limits seaward of MHWS and landward of MLWS;

#### Commencement Information

**I46** Sch. 1 Pt. 1 para. 1 in force at 22.1.2021, see [art. 1](#)

### **In the county of Norfolk, districts of North Norfolk, Broadland and South Norfolk** **E+W**

*Work No. 6—* onshore connection works consisting of up to six cable circuits, ducts and between Work No. 5 and Work No. 7 landward of MHWS and onshore construction works;

*Work No. 7—* onshore connection works consisting of—

- (a) up to six cable circuits and associated electrical circuit ducts between Work No. 6 [<sup>F20</sup>and] Work No. 8;
- (b) onshore construction works;
- (c) up to six transition joint bays; and
- (d) horizontal directional drilling launch pits;

*Work No. 8—* onshore connection works consisting of—

- (a) up to six cable circuits and associated electrical circuit ducts to Work No. 11;
- (b) onshore construction works;
- (c) up to 440 link boxes; and
- (d) up to 440 joint bays;

*Work No. 9—* onshore connection works consisting of the construction of an onshore HVAC booster station, together with onshore construction works; *Work No. 10—* onshore connection works consisting of an onshore HVDC/HVAC substation, including up to six cable circuits and electrical circuit ducts, and onshore construction works; *Work No. 11—* onshore connection works consisting of up to six cable circuits and electrical circuit ducts between Work No. 10 and Work No. 12 and

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onshore construction works; *Work No. 12*— onshore connection works consisting of up to six cable circuits and electrical circuit ducts between Work No. 11 and the Norwich Main National Grid substation, including a connection above ground and electrical engineering works within or around the National Grid substation buildings and compound, and onshore construction works; *Work No. 13*— a construction compound to support the construction of Work Nos. 8, 9, 10, 11, 12, 14 and 15; *Work No. 14*— temporary vehicular access tracks to serve Work Nos. 7, 8, 9, 10, 11, 12, 13 and 15; and *Work No. 15*— temporary storage areas to assist with the onshore connection works.

#### Textual Amendments

**F20** Word in [Sch. 1 Pt. 1](#) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

#### Textual Amendments

**F20** Word in [Sch. 1 Pt. 1](#) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

### E+W

In connection with such Work Nos. 1 to 5 and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses, with or without frond devices;
- (c) the removal of material from the seabed required for the construction of Work Nos. 1 to 5 and the disposal of up to 3,563,133 cubic metres of inert material of natural origin within the Order limits produced during construction drilling, seabed preparation for foundation works, cable installation preparation such as sandwave clearance, boulder clearance and pre-trenching and excavation of horizontal directional drilling exit pits; and
- (d) removal of static fishing equipment;

and in connection with such Work Nos. 6 to 15 and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) ramps, means of access and footpaths;
- (b) bunds, embankments, swales, landscaping, fencing and boundary treatments;
- (c) habitat creation;
- (d) jointing bays, link boxes, cable ducts, cable protection, joint protection, manholes, marker posts, underground cable marker, tiles and tape, and lighting and other works associated with cable laying;
- (e) works for the provision of apparatus including cabling, water and electricity supply works, foul drainage provision, surface water management systems and culverting;
- (f) works to alter the position of apparatus, including mains, sewers, drains and cables;



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- (g) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (h) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised project;
- (i) works for the benefit or protection of land affected by the authorised project;
- (j) working sites in connection with the construction of the authorised project, construction lay down areas and compounds, storage compounds and their restoration.

2. The grid coordinates for that part of the authorised project which is seaward of MHWS are specified below—

<b>Point ID</b>	<b>Latitude (DMS)</b>	<b>Longitude (DMS)</b>	<b>Point ID</b>	<b>Latitude (DMS)</b>	<b>Longitude (DMS)</b>
1	52° 57' 23.299" N	1° 5' 48.611" E	64	53° 45' 27.296" N	2° 34' 19.781" E
2	52° 58' 22.516" N	1° 4' 22.810" E	65	53° 45' 17.155" N	2° 33' 57.193" E
3	52° 59' 43.107" N	1° 3' 16.300" E	66	53° 44' 25.151" N	2° 28' 22.483" E
4	53° 0' 12.806" N	1° 3' 4.176" E	67	53° 43' 43.437" N	2° 23' 42.266" E
5	53° 0' 41.322" N	1° 3' 5.626" E	68	53° 43' 38.549" N	2° 23' 1.918" E
6	53° 2' 15.365" N	1° 3' 25.796" E	69	53° 40' 30.736" N	2° 17' 49.303" E
7	53° 4' 22.383" N	1° 5' 4.618" E	70	53° 37' 10.969" N	2° 7' 19.167" E
8	53° 4' 48.739" N	1° 5' 38.118" E	71	53° 37' 2.480" N	2° 6' 39.277" E
9	53° 5' 0.912" N	1° 6' 53.813" E	72	53° 36' 20.389" N	2° 5' 9.581" E
10	53° 4' 56.963" N	1° 8' 49.809" E	73	53° 35' 18.067" N	2° 5' 0.546" E
11	53° 4' 47.089" N	1° 10' 20.278" E	74	53° 34' 58.529" N	2° 4' 49.759" E
12	53° 4' 50.116" N	1° 12' 8.936" E	75	53° 34' 37.908" N	2° 4' 16.626" E
13	53° 5' 1.606" N	1° 14' 7.325" E	76	53° 32' 54.718" N	2° 4' 40.220" E
14	53° 5' 2.192" N	1° 14' 30.074" E	77	53° 32' 31.275" N	2° 4' 37.727" E
15	53° 4' 58.764" N	1° 14' 55.483" E	78	53° 31' 59.257" N	2° 4' 11.934" E
16	53° 4' 32.854" N	1° 16' 47.381" E	79	53° 31' 13.675" N	2° 3' 20.449" E
17	53° 4' 32.226" N	1° 19' 19.524" E	80	53° 30' 18.703" N	2° 2' 26.715" E
18	53° 4' 54.358" N	1° 22' 30.281" E	81	53° 30' 0.496" N	2° 1' 55.943" E
19	53° 5' 6.119" N	1° 25' 0.302" E	82	53° 29' 53.014" N	2° 1' 22.871" E
20	53° 5' 7.887" N	1° 26' 23.233" E	83	53° 29' 52.335" N	2° 0' 47.588" E
21	53° 5' 4.100" N	1° 27' 30.916" E	84	53° 28' 18.157" N	1° 53' 52.525" E
22	53° 5' 52.998" N	1° 28' 30.016" E	85	53° 27' 38.035" N	1° 51' 19.593" E
23	53° 14' 11.509" N	1° 41' 28.704" E	86	53° 27' 25.643" N	1° 50' 32.418" E
24	53° 14' 27.431" N	1° 42' 14.962" E	87	53° 27' 18.150" N	1° 50' 31.601" E
25	53° 15' 49.705" N	1° 44' 10.074" E	88	53° 26' 16.707" N	1° 50' 4.603" E
26	53° 16' 25.597" N	1° 44' 37.874" E	89	53° 25' 53.921" N	1° 50' 10.016" E

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27	53° 19' 1.814" N	1° 45' 50.556" E	90	53° 25' 34.502" N	1° 50' 4.308" E
28	53° 22' 33.955" N	1° 46' 57.914" E	91	53° 24' 21.903" N	1° 49' 42.825" E
29	53° 22' 55.872" N	1° 46' 55.918" E	92	53° 24' 2.505" N	1° 49' 42.663" E
30	53° 23' 22.176" N	1° 47' 7.319" E	93	53° 23' 34.480" N	1° 49' 32.287" E
31	53° 23' 41.762" N	1° 47' 5.727" E	94	53° 23' 14.095" N	1° 49' 34.013" E
32	53° 24' 11.270" N	1° 47' 16.705" E	95	53° 22' 47.157" N	1° 49' 22.581" E
33	53° 24' 33.225" N	1° 47' 17.703" E	96	53° 22' 23.714" N	1° 49' 23.370" E
34	53° 25' 56.028" N	1° 47' 42.459" E	97	53° 18' 42.217" N	1° 48' 12.788" E
35	53° 26' 20.933" N	1° 47' 36.143" E	98	53° 15' 55.220" N	1° 46' 54.772" E
36	53° 26' 43.765" N	1° 47' 45.420" E	99	53° 15' 3.154" N	1° 46' 14.109" E
37	53° 27' 30.131" N	1° 48' 5.945" E	100	53° 13' 23.395" N	1° 43' 55.484" E
38	53° 27' 46.677" N	1° 48' 5.619" E	101	53° 13' 5.062" N	1° 43' 4.402" E
39	53° 28' 17.076" N	1° 48' 21.428" E	102	53° 4' 59.121" N	1° 30' 24.338" E
40	53° 28' 37.302" N	1° 49' 1.846" E	103	53° 4' 20.493" N	1° 29' 37.106" E
41	53° 29' 38.707" N	1° 52' 55.786" E	104	53° 4' 9.988" N	1° 29' 29.310" E
42	53° 31' 13.071" N	1° 59' 48.933" E	105	53° 3' 47.663" N	1° 28' 59.880" E
43	53° 31' 19.720" N	2° 0' 36.709" E	106	53° 3' 36.602" N	1° 28' 9.237" E
44	53° 32' 1.260" N	2° 1' 17.462" E	107	53° 3' 36.599" N	1° 27' 27.833" E
45	53° 32' 51.864" N	2° 2' 12.822" E	108	53° 3' 40.623" N	1° 26' 14.722" E
46	53° 34' 50.465" N	2° 1' 45.585" E	109	53° 3' 39.011" N	1° 25' 12.221" E
47	53° 35' 23.664" N	2° 1' 56.535" E	110	53° 3' 28.120" N	1° 22' 53.680" E
48	53° 35' 46.884" N	2° 2' 37.417" E	111	53° 3' 4.980" N	1° 19' 32.112" E
49	53° 36' 32.251" N	2° 2' 43.845" E	112	53° 3' 6.278" N	1° 16' 22.646" E
50	53° 37' 0.888" N	2° 2' 53.784" E	113	53° 3' 34.066" N	1° 14' 17.070" E
51	53° 37' 20.916" N	2° 3' 21.412" E	114	53° 3' 23.126" N	1° 12' 23.483" E
52	53° 38' 20.262" N	2° 5' 30.569" E	115	53° 3' 19.662" N	1° 10' 8.762" E
53	53° 38' 31.038" N	2° 6' 19.862" E	116	53° 3' 30.020" N	1° 8' 33.828" E
54	53° 41' 39.572" N	2° 16' 17.662" E	117	53° 3' 32.792" N	1° 7' 6.899" E
55	53° 44' 4.728" N	2° 20' 18.541" E	118	53° 1' 51.145" N	1° 5' 45.682" E
56	53° 51' 54.307" N	2° 19' 24.004" E	119	53° 0' 17.303" N	1° 5' 29.793" E
57	53° 52' 12.798" N	2° 19' 38.938" E	120	52° 59' 10.951" N	1° 6' 24.006" E
58	53° 59' 22.420" N	2° 11' 50.694" E	121	52° 58' 23.000" N	1° 7' 34.209" E
59	53° 59' 19.280" N	2° 13' 34.691" E	122	52° 57' 44.291" N	1° 7' 45.470" E
60	53° 58' 42.514" N	2° 32' 43.904" E	123	52° 57' 19.850" N	1° 7' 56.688" E
61	54° 0' 4.028" N	2° 40' 52.651" E	124	52° 56' 59.623" N	1° 8' 4.381" E

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62	53° 48' 57.136" N	2° 44' 53.902" E	125	52° 57' 2.633" N	1° 7' 44.016" E
63	53° 41' 22.175" N	2° 47' 35.927" E	126	52° 57' 4.058" N	1° 7' 42.464" E

**Commencement Information**

**I47** Sch. 1 Pt. 1 para. 2 in force at 22.1.2021, see [art. 1](#)

## **PART 2** **E+W**

### ANCILLARY WORKS

1. Works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction and/or maintenance of the authorised development;
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works; and
- (c) temporary works for the benefit or protection of land or structures affected by the authorised development.

**Commencement Information**

**I48** Sch. 1 Pt. 2 para. 1 in force at 22.1.2021, see [art. 1](#)

## **PART 3** **E+W**

### REQUIREMENTS

#### **Time limits** **E+W**

1. The authorised project must commence no later than the expiration of seven years beginning with the date this Order comes into force.

**Commencement Information**

**I49** Sch. 1 Pt. 3 para. 1 in force at 22.1.2021, see [art. 1](#)

#### **Detailed offshore design parameters** **E+W**

2.—(1) The total number of wind turbine generators comprised in the authorised project must not exceed 231 and a total rotor swept area of 8.8 square kilometres.

(2) Subject to sub-paragraph (3), each wind turbine generator forming part of the authorised project must not—

- (a) exceed a height of 325 metres when measured from LAT to the tip of the vertical blade;
- (b) exceed a rotor diameter of 265 metres;

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- (c) be less than 41.8 metres from LAT to the lowest point of the rotating blade; and
  - (d) be less than one kilometre from the nearest wind turbine generator in all directions.
- (3) The reference in sub-paragraph (2)(d) to the location of a wind turbine generator is a reference to the centre point of that wind turbine generator.
- (4) Wind turbine generator foundation structures forming part of the authorised scheme must be one of the following foundation options: monopile foundation, mono suction bucket foundation, jacket foundation or gravity base foundation.
- (5) No wind turbine generator—
- (a) jacket foundations employing pin piles forming part of the authorised project shall have a pin pile diameter of greater than four metres; and
  - (b) monopile foundation forming part of the authorised project shall have a diameter greater than 15 metres.
- (6) The total seabed footprint area for wind turbine generator foundations must not exceed—
- (a) 435,660 square metres excluding scour protection; and
  - (b) 1,623,182 square metres including scour protection.

**Commencement Information**

**I50** Sch. 1 Pt. 3 para. 2 in force at 22.1.2021, see [art. 1](#)

- 3.—(1)** The total number of offshore electrical installations and offshore accommodation platforms shall not exceed 21, and shall consist of no more than—
- (a) 12 offshore type 1 substations;
  - (b) four offshore type 2 substations;
  - (c) four offshore HVAC booster stations;
  - (d) six offshore subsea HVAC booster stations; and
  - (e) three offshore accommodation platforms.
- (2) The dimensions of any offshore type 1 substation forming part of the authorised project must not exceed—
- (a) 90 metres in height when measured from LAT;
  - (b) 100 metres in length; and
  - (c) 100 metres in width.
- (3) The dimensions of any offshore type 2 substation forming part of the authorised project must not exceed—
- (a) 110 metres in height when measured from LAT;
  - (b) 180 metres in length; and
  - (c) 90 metres in width.
- (4) The dimensions of any offshore HVAC booster station forming part of the authorised project must not exceed—
- (a) 90 metres in height when measured from LAT;
  - (b) 100 metres in length; and
  - (c) 100 metres in width.

(5) The dimensions of any offshore subsea HVAC booster station forming part of the authorised project must not exceed—

- (a) 15 metres in height when measured from the seabed;
- (b) 50 metres in length; and
- (c) 50 metres in width.

(6) The dimensions of any offshore accommodation platform forming part of the authorised project must not exceed—

- (a) 64 metres in height when measured from LAT;
- (b) 60 metres in length; and
- (c) 60 metres in width.

(7) Any bridge located between any offshore substation or accommodation platform shall be no longer than 100 metres.

(8) Offshore accommodation platform foundation structures forming part of the authorised project must be one of the following foundation options: monopile foundations, mono suction bucket foundations, jacket foundations, or gravity base foundations.

(9) Offshore installation foundation structures forming part of the authorised scheme must be one of the following foundation options—

- (a) for offshore type 1 substations, offshore HVAC booster stations and offshore subsea HVAC booster stations either monopile foundations, mono suction bucket foundations, jacket foundations, gravity base foundations, jacket foundations or box-type gravity base foundations; and
- (b) for offshore type 2 substations, either monopile foundations, mono suction bucket foundations, jacket foundations, gravity base foundations, jacket foundations, box-type gravity base foundations, pontoon gravity base 1 foundations, or pontoon gravity base 2 foundations.

(10) No offshore installation or offshore accommodation platform—

- (a) jacket foundation employing pin piles forming part of the authorised project shall have a pin pile diameter of greater than 4 metres; and
- (b) monopile foundation forming part of the authorised project shall have a diameter greater than 15 metres.

(11) The total seabed footprint area for offshore accommodation platform foundations must not exceed—

- (a) 8,836 square metres excluding scour protection; and
- (b) 28,628 square metres including scour protection.

(12) The total seabed footprint area for offshore electrical installation foundations must not exceed—

- (a) 138,900 square metres excluding scour protection; and
- (b) 267,900 square metres including scour protection.

#### Commencement Information

**I51** Sch. 1 Pt. 3 para. 3 in force at 22.1.2021, see [art. 1](#)

**4.** The total volume of scour protection for wind turbine generators, offshore accommodation platforms and offshore electrical installations shall not exceed 2,709,673 cubic metres.

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**Commencement Information**

**I52** Sch. 1 Pt. 3 para. 4 in force at 22.1.2021, see [art. 1](#)

- 5.—(1) The number of cable circuits shall not exceed six.
- (2) The total length of the cables comprising Work No. 1(c) shall not exceed 830 kilometres.
- (3) The total length of the cables comprising Work Nos. 2(c), 2(d) and 3(d) shall not exceed 1,371 kilometres.
- (4) The total volume of cable protection (excluding cable crossings) shall not exceed 2,201,000 cubic metres with a maximum footprint of 1,540,700 square metres.
- (5) The total volume of cable protection associated with cable crossings shall not exceed 784,875 cubic metres with a maximum footprint of 747,500 square metres.
- (6) The total number of the cable crossings must not exceed 44 unless otherwise agreed with the MMO.

**Commencement Information**

**I53** Sch. 1 Pt. 3 para. 5 in force at 22.1.2021, see [art. 1](#)

**Phases of authorised development** **E+W**

- 6.—(1) The authorised development may not be commenced until a written scheme setting out the phases of construction of the authorised project has been submitted to and approved by the relevant planning authority, in relation to the connection works, or the MMO, in relation to works seaward of MHWS.
- (2) The phases of construction referred to in sub-paragraph (1) shall not exceed two, save that each phase may be undertaken in any number of stages as prescribed in the written scheme.
- (3) The scheme must be implemented as approved.

**Commencement Information**

**I54** Sch. 1 Pt. 3 para. 6 in force at 22.1.2021, see [art. 1](#)

**Detailed design approval onshore** **E+W**

- 7.—(1) Construction of the connection works in either Work No.9 or Work No. 10 shall not commence until details of—
- (a) the layout;
  - (b) scale;
  - (c) proposed finished ground levels;
  - (d) external appearance and materials;
  - (e) hard surfacing materials;
  - (f) vehicular and pedestrian access, parking and circulation areas;
  - (g) minor structures, such as furniture, refuse or other storage units, signs and lighting; and

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- (h) proposed and existing functional services above and below, ground, including drainage, power and communications cables and pipelines, manholes and supports [<sup>F21</sup>.]

relating to that work of the authorised project have been submitted to and approved in writing by the relevant planning authority.

(2) The details submitted under sub-paragraph (1) must be in accordance with the limits of deviation set out in the onshore limits of deviation plan and substantially in accordance with the design objectives and principles.

(3) The connection works in Works No.9 and 10 must be carried out in accordance with the approved details.

(4) The connection works in either Work No.9 or Work No. 10 shall not commence until explanation of the choice of HVDC or HVAC for that phase has been provided in writing to the relevant planning authority, either before, or at the same time as, the details referred to in [<sup>F22</sup>sub-paragraph] (1).

#### Textual Amendments

**F21** Comma in Sch. 1 Pt. 3 substituted for semi-colon (21.5.2021) by The Hornsea Three Offshore Wind Farm (Correction) Order 2021 (S.I. 2021/599), art. 1(2), Sch.

**F22** Word in Sch. 1 Pt. 3 substituted (21.5.2021) by The Hornsea Three Offshore Wind Farm (Correction) Order 2021 (S.I. 2021/599), art. 1(2), Sch.

#### Commencement Information

**I55** Sch. 1 Pt. 3 para. 7 in force at 22.1.2021, see art. 1

### Provision of landscaping **E+W**

8.—(1) No phase of the connection works may commence until for that phase a written landscape plan and associated work programme (which accords with the outline landscape plan and outline ecological management plan) has been submitted to and approved by the relevant planning authority in consultation with the relevant SNCBs and the Historic Buildings and Monuments Commission for England.

(2) The term “commence” as used in requirement 8(1) shall include any onshore site preparation works.

(3) The landscape plan must include details of—

- (a) surveys, assessments and method statements as guided by BS 5837 and the Hedgerows Regulations 1997; <sup>F23</sup> ...
- (b) location, number, species, size and planting density of any proposed planting;
- (c) cultivation, importing of materials and other operations to ensure plant establishment;
- (d) existing trees and hedges to be retained with measures for their protection during the construction period; and
- (e) implementation timetables for all landscaping works.

(4) The landscape plan must be carried out as approved.

#### Textual Amendments

**F23** Word in Sch. 1 Pt. 3 omitted (21.5.2021) by virtue of The Hornsea Three Offshore Wind Farm (Correction) Order 2021 (S.I. 2021/599), art. 1(2), Sch.

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#### Commencement Information

**I56** Sch. 1 Pt. 3 para. 8 in force at 22.1.2021, see [art. 1](#)

#### Implementation and maintenance of landscaping **E+W**

**9.—(1)** All landscape works must be carried out in accordance with the landscape plans approved under requirement 8 (provision of landscaping), and in accordance with the relevant recommendations of appropriate British Standards.

(2) Any tree or shrub planted as part of an approved landscape plan that, within a period of ten years after planting, is removed by the undertaker, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased must be replaced in the first available planting season with a specimen of the same species and size as that originally planted unless otherwise approved in writing by the relevant planning authority.

#### Commencement Information

**I57** Sch. 1 Pt. 3 para. 9 in force at 22.1.2021, see [art. 1](#)

#### Ecological management plan **E+W**

**10.—(1)** No phase of the connection works may commence until for that phase a written ecological management plan (which accords with the outline ecological management plan and the relevant recommendations of appropriate British Standards) reflecting the survey results and ecological mitigation and enhancement measures included in the environmental statement has been submitted to and approved by the relevant planning authority in consultation with the relevant SNCBs and (where works have potential to impact wetland habitats) the Environment Agency.

(2) The onshore site preparation works may not commence until a written ecological management plan (which accords with the outline ecological management plan) for those works reflecting the survey results and ecological mitigation and enhancement measures included in the environmental statement has been submitted to and approved by the relevant planning authority in consultation with the relevant SNCBs; and

(3) The ecological management plan must include an implementation timetable and must be carried out as approved.

#### Commencement Information

**I58** Sch. 1 Pt. 3 para. 10 in force at 22.1.2021, see [art. 1](#)

#### Highway accesses **E+W**

**11.—(1)** Construction of any new permanent or temporary means of access to a highway, or alteration, or use of an existing means of access to a highway, shall not commence until an access plan for that access has been submitted to and approved by Norfolk County Council as the local highway authority.

(2) The access plan must include details of the siting, design, layout, visibility splays, access management measures and a maintenance programme relevant to the access it relates to.

(3) The highway authority must be consulted on the access plan before it is submitted for approval.



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(4) The highway accesses (including visibility splays) must be constructed and maintained in accordance with the approved details.

**Commencement Information**

**I59** Sch. 1 Pt. 3 para. 11 in force at 22.1.2021, see [art. 1](#)

**Fencing and other means of enclosure** **E+W**

**12.**—(1) No phase of the connection works may commence until for that phase written details of all proposed permanent fences, walls or other means of enclosure of the connection works have been submitted to and approved by the relevant planning authority.

(2) Any temporary fences, walls or other means of enclosure must be provided in accordance with the outline code of construction practice.

(3) All construction sites must remain securely fenced in accordance with the code of construction practice at all times during construction of the relevant phase of the connection works.

(4) Any temporary fencing must be removed on completion of the relevant phase of the connection works.

(5) Any approved permanent fencing in relation to an onshore HVDC/HVAC substation or onshore HVAC booster station must be completed before that onshore HVDC/HVAC substation or onshore HVAC booster station is brought into use and maintained for the operational lifetime of the onshore HVDC/HVAC substation or onshore HVAC booster station.

**Commencement Information**

**I60** Sch. 1 Pt. 3 para. 12 in force at 22.1.2021, see [art. 1](#)

**Surface and foul water drainage** **E+W**

**13.**—(1) No phase of the connection works shall commence until for that phase written details of the surface and (if any) foul water drainage system (including means of pollution control) have, after consultation with the relevant sewerage and drainage authorities and the Environment Agency, been submitted to and approved by the lead local flood authority.

(2) The surface and foul water drainage system for each phase must be constructed and maintained in accordance with the approved details.

**Commencement Information**

**I61** Sch. 1 Pt. 3 para. 13 in force at 22.1.2021, see [art. 1](#)

**Contaminated land and groundwater scheme** **E+W**

**14.**—(1) No phase of the authorised development within the area of a relevant planning authority may be commenced until a scheme to deal with the contamination of any land (including groundwater) within the Order limits that is likely to cause significant harm to persons or pollution of controlled waters or the environment has been submitted to, and approved by, the relevant planning authority in consultation with the Environment Agency and, to the extent that the plan relates to the intertidal area, the MMO.

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(2) The scheme must include an investigation and assessment report, prepared by a specialist consultant approved by the relevant planning authority, to identify the extent of any contamination and the remedial measures to be taken for that stage to render the land fit for its intended purpose, together with a management plan which sets out long-term measures with respect to any contaminants remaining on the site.

(3) Such remediation as may be identified in the approved scheme must be carried out in accordance with the approved scheme.

**Commencement Information**

**I62** Sch. 1 Pt. 3 para. 14 in force at 22.1.2021, see [art. 1](#)

**Surface water** **E+W**

**15.**—(1) No part of the onshore HVDC/HVAC substation or onshore HVAC booster station shall commence until, in respect of that installation, a detailed surface water scheme has been prepared in consultation with the Environment Agency and Norfolk County Council and submitted to and approved in writing by Norfolk County Council.

(2) The detailed surface water schemes must accord with the outline code of construction practice and—

- (a) be based on sustainable drainage principles;
- (b) an assessment of the hydrological and hydrogeological context of the onshore HVDC/HVAC substation or onshore HVAC booster station, as applicable; and
- (c) include detailed designs of a surface water drainage scheme.

(3) Construction of the onshore HVDC/HVAC substation or HVAC booster station as applicable must be carried out in accordance with the approved scheme.

**Commencement Information**

**I63** Sch. 1 Pt. 3 para. 15 in force at 22.1.2021, see [art. 1](#)

**Onshore Archaeology** **E+W**

**16.**—(1) No phase of the connection works may commence until for that phase a written scheme of archaeological investigation (which must accord with the outline onshore written scheme of investigation) for Work Nos. 6 to 15 has been submitted to and approved by the relevant planning authority in consultation with Norfolk County Council and the Historic Buildings and Monuments Commission for England.

(2) The term “commence” as used in requirement 16(1) shall include any onshore site preparation works.

(3) Any archaeological investigations must be carried out in accordance with the approved scheme.

(4) The archaeological site investigations and post investigation assessment must be completed for that phase in accordance with the programme set out in the written scheme of archaeological investigation and provision made for analysis, publication and dissemination of results and archive deposition secured for that phase.

#### Commencement Information

**I64** Sch. 1 Pt. 3 para. 16 in force at 22.1.2021, see [art. 1](#)

#### Code of construction practice **E+W**

**17.**—(1) No phase of any works landward of MLWS may commence until for that phase a code of construction practice (which must accord with the outline code of construction practice) has been submitted to and approved by the relevant planning authority, in consultation with the Environment Agency, the relevant SNCBs, the relevant highway authority and, if applicable, the MMO.

(2) The term “commence” as used in requirement 17(1) shall include any onshore site preparation works.

(3) All construction works for each phase must be undertaken in accordance with the relevant approved code of construction practice.

#### Commencement Information

**I65** Sch. 1 Pt. 3 para. 17 in force at 22.1.2021, see [art. 1](#)

#### Construction traffic management plan **E+W**

**18.**—(1) No phase of the connection works may commence until written details of a construction traffic management plan (which accords with the outline construction traffic management plan) for that phase has been submitted to and approved by the relevant planning authority in consultation with the relevant highway authority. The construction traffic management plan shall include, in respect of Link 89, as referred to in the Environmental Statement, a Cawston Highway Intervention Scheme agreed between the undertaker and the relevant highway authority.

(2) The term “commence” as used in requirement 18(1) shall include any onshore site preparation works.

(3) The construction traffic management plan for each phase must be implemented as approved for that phase.

#### Commencement Information

**I66** Sch. 1 Pt. 3 para. 18 in force at 22.1.2021, see [art. 1](#)

#### European protected species onshore **E+W**

**19.**—(1) No phase of the connection works may commence until final pre-construction survey work has been carried out to establish whether a European protected species is present on any of the land affected, or likely to be affected, by that phase of the connection works or in any of the trees to be lopped or felled as part of that phase of the connection works.

(2) Where a European protected species is shown to be present, the relevant part of the connection works must not begin until, after consultation with the relevant SNCBs and the relevant planning authority, a scheme of protection and mitigation measures has been submitted to and approved by the relevant planning authority or a European protected species licence granted by Natural England.

(3) The connection works must be carried out in accordance with the approved scheme.

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(4) In this Requirement, “European protected species” has the same meaning as in regulations 42 and 46 of the Conservation of Habitats and Species Regulations 2017<sup>M42</sup>.

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**Commencement Information**

**I67** Sch. 1 Pt. 3 para. 19 in force at 22.1.2021, see [art. 1](#)

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**Marginal Citations**

**M42** [S.I. 2017/1012](#).

**Restoration of land used temporarily for construction** **E+W**

**20.** Any land landward of MLWS within the Order limits which is used temporarily for construction of the connection works and not ultimately incorporated in permanent works or approved landscaping, must be reinstated in accordance with such details as the relevant planning authority in consultation with, where appropriate, the MMO, and the relevant highway authority, may approve, as soon as reasonably practicable and in any event within twelve months of completion of the relevant phase of the connection works.

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**Commencement Information**

**I68** Sch. 1 Pt. 3 para. 20 in force at 22.1.2021, see [art. 1](#)

**Control of noise during operational phase** **E+W**

**21.—**(1) Prior to commencement of any phase of works landward of MHWS, a noise management plan (NMP) for Work Nos. 9 and 10 shall be submitted to and approved by the relevant planning authority.

(2) The NMP must set out the particulars of—

- (a) the noise attenuation and mitigation measures to be taken to minimise noise resulting from Work Nos. 9 and 10, including any noise limits; and
- (b) a scheme for monitoring attenuation and mitigation measures provided under subparagraph (a) which must include—
  - (i) the circumstances under which noise will be monitored;
  - (ii) the locations at which noise will be monitored;
  - (iii) the method of noise measurement (which must be in accord with BS 4142:2014+A1:2019, an equivalent successor standard or other agreed noise measurement methodology appropriate to the circumstances); and
  - (iv) a complaints procedure.

(3) The NMP must be implemented as approved.

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**Commencement Information**

**I69** Sch. 1 Pt. 3 para. 21 in force at 22.1.2021, see [art. 1](#)

## Local skills and employment **E+W**

**22.**—(1) No phase of the connection works may commence until for that phase a skills and employment plan (which accords with the outline skills and employment plan) in relation to the authorised development—

- (a) within the boundaries of Norfolk County Council has been submitted to and approved by Norfolk County Council; and
- (b) within the boundaries of North East Lincolnshire Council has been submitted to and approved by North East Lincolnshire Council.

(2) The skills and employment plan described under requirement 22(1)(a) shall be prepared in consultation with Norfolk County Council, North Norfolk District Council, Broadland District Council, South Norfolk Council and the New Anglia Local Enterprise Partnership, or such other body as may be approved by Norfolk County Council.

(3) The skills and employment plan described under requirement 22(1)(b) shall be prepared in consultation with Humber Local Enterprise Partnership, or such other body as may be approved by North East Lincolnshire Council.

(4) Each skills and employment plan shall identify opportunities for individuals and businesses based in the regions of East Anglia or the Humber to access employment opportunities associated with the construction, operation and maintenance of the authorised development.

(5) The skills and employment plans shall be implemented as approved.

### Commencement Information

**I70** Sch. 1 Pt. 3 para. 22 in force at 22.1.2021, see [art. 1](#)

## Onshore decommissioning **E+W**

**23.**—(1) Within three months of the cessation of commercial operation of the connection works an onshore decommissioning plan must be submitted to the relevant planning authority for approval unless otherwise agreed in writing by the relevant planning authority.

(2) The relevant planning authority must provide its decision on the onshore decommissioning plan required under requirement 23(1) within three months of submission of such plan unless otherwise agreed in writing by the relevant planning authority and the undertaker.

(3) The decommissioning plan must be implemented as approved unless otherwise agreed in writing by the relevant planning authority.

### Commencement Information

**I71** Sch. 1 Pt. 3 para. 23 in force at 22.1.2021, see [art. 1](#)

## Notification of generation of power **E+W**

**24.** The undertaker shall notify the relevant planning authority and the MMO upon first generation of power from each phase of the authorised project not less than seven days after the occurrence of this event.

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**Commencement Information**

**I72** Sch. 1 Pt. 3 para. 24 in force at 22.1.2021, see [art. 1](#)

**Requirement for written approval** **E+W**

**25.** Where the approval, agreement or confirmation of the Secretary of State, relevant planning authority or another person is required under a requirement, that approval, agreement or confirmation must be given in writing.

**Commencement Information**

**I73** Sch. 1 Pt. 3 para. 25 in force at 22.1.2021, see [art. 1](#)

**Amendments to approved details** **E+W**

**26.**—(1) With respect to any requirement which requires the authorised project to be carried out in accordance with the details approved by the relevant planning authority or another person, the approved details must be carried out as approved unless an amendment or variation is previously agreed in writing by the relevant planning authority or that other person in accordance with subparagraph (2).

(2) 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.

(3) The approved details must be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority or that other person.

**Commencement Information**

**I74** Sch. 1 Pt. 3 para. 26 in force at 22.1.2021, see [art. 1](#)

SCHEDULE 2 **E+W**

Article 8

STREETS SUBJECT TO STREET WORKS

**Commencement Information**

**I75** Sch. 2 in force at 22.1.2021, see [art. 1](#)

**(1) Area**

North Norfolk District

**(2) Street subject to street works**

Private access tracks associated with Muckleberry Collection to the north of The Street

North Norfolk District	Private access track to the north of the A149 and east of Meadow Lane
North Norfolk District	Private access track running parallel to the west end of the A149
North Norfolk District	A149
North Norfolk District	Private access track to the west of Croft Hill
North Norfolk District	Private access track to the west of Croft Hill and north of Spion Kop
North Norfolk District	Private access tracks to the north of Broomhill Plantation and west of Spion Kop
North Norfolk District	Private access track to the east of Broomhill Plantation and west of Spion Kop
North Norfolk District	Private access track running parallel to part of Holgate Hill
North Norfolk District	Holgate Hill
North Norfolk District	Private access track running south east from Holgate Hill
North Norfolk District	Private access track to the east of the North Norfolk Railway
North Norfolk District	Private access track to the north of Warren Farm
North Norfolk District	Private access track to the east of Warren Farm
North Norfolk District	Bridge Road
North Norfolk District	Local street
North Norfolk District	Warren Road
North Norfolk District	Private access track to the north of Cromer Road
North Norfolk District	Cromer Road (A148)
North Norfolk District	Kelling Road
North Norfolk District	Church Road
North Norfolk District	Private access track to the south of Church Road
North Norfolk District	Private access track running to the east of Becketts Farm towards Hall Lane
North Norfolk District	Hempstead Road
North Norfolk District	School Lane
North Norfolk District	Hole Farm Road
North Norfolk District	Plumbstead Road
North Norfolk District	Sweetbriar Lane
North Norfolk District	Private access track to the south west of Barningham Green Plantation

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North Norfolk District	Private access track to the south west of Barningham Green Plantation
North Norfolk District	Holt Road
North Norfolk District	Holt Road (B1149)
North Norfolk District	Private access track running north east from Holt Road B1149
North Norfolk District	Briston Road (B1354)
North Norfolk District	Croft Lane
North Norfolk District	Town Close Lane
North Norfolk District	Wood Dalling Road
Broadland District	Blackwater Lane
Broadland District	Heydon Lane
Broadland District	Heydon Road
Broadland District	Reepham Road
Broadland District	Merrison's Lane
Broadland District	Wood Dalling Road
Broadland District	Cawston Road (B1145)
Broadland District	Private access track running south east from Cawston Road
Broadland District	Private access track to the north of Moor Farm
Broadland District	Private access tracks to the north of Moor Farm
Broadland District	Private access track to the east of Moor Farm
Broadland District	Private access track to the north of Church Road
Broadland District	The Grove
Broadland District	Reepham Road
Broadland District	Church Road
Broadland District	Church Farm Lane
Broadland District	Hall Road
Broadland District	Private access track to the south of Hall Road
Broadland District	Ropham Road
Broadland District	Station Road
Broadland District	Private access track to the west of Station Road
Broadland District	Private access track running south west from Station Road
Broadland District	Private access track to the west of Station Road
Broadland District	The Street



Broadland District	Fakenham Road (A1067)
Broadland District	Marl Hill Road
Broadland District	Ringland Lane to Church Street
Broadland District	Ringland Lane
Broadland District	Private access track running south west from Ringland Lane
Broadland District	Blackbreck Lane
Broadland District	Weston Road
Broadland District	Hornington Lane
Broadland District	Private access track known as Sandy Lane, running to the north of Weston Road
South Norfolk	Private access track running south from Weston Road
South Norfolk	Private access track running east from the track mentioned above towards Ringland Road
South Norfolk	Church Lane
South Norfolk	A47
South Norfolk	Church Lane
South Norfolk	Private access track known as Broom Lane
South Norfolk	Easton Road
South Norfolk	Private access tracks to the north of Bawburgh Road
South Norfolk	Bawburgh Road
South Norfolk	Private access track running north to south to the west of Algarsthorpe
South Norfolk	Private access track running west from Bawburgh Road
South Norfolk	Private access track running west from Bawburgh Road
South Norfolk	Walton Road (B1108)
South Norfolk	Market Lane
South Norfolk	Private access track running north east in parallel to part of Market Lane
South Norfolk	Private access track running west of Market Lane
South Norfolk	Great Melton Road
South Norfolk	Private access track running south from Great Melton Road
South Norfolk	Little Melton Road

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South Norfolk	Burnthouse Lane
South Norfolk	Private access track running north east from Burnthouse Lane
South Norfolk	Colney Lane
South Norfolk	Norwich Road
South Norfolk	Station Lane
South Norfolk	Private access track running east then north from Station Lane
South Norfolk	A11
South Norfolk	Cantley Lane
South Norfolk	Private access track running east from Cantley Lane
South Norfolk	Private access track running east from Cantley Lane
South Norfolk	Intwood Lane
South Norfolk	Swardeston Lane
South Norfolk	Main Road
South Norfolk	Mangreen Lane
South Norfolk	Private access track running south from Mangreen Lane
South Norfolk	Private access tracks south of Mangreen Cr
South Norfolk	Private access tracks running west from the A140
South Norfolk	Private access tracks south of Mangreen Cr
South Norfolk	Private access track running north west from Oulton Street

SCHEDULE 3 **E+W**

Article 10

**STREETS TO BE TEMPORARILY STOPPED UP**

<p><b>Commencement Information</b>  <b>I76</b> Sch. 3 in force at 22.1.2021, see <a href="#">art. 1</a></p>
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<i>(1) Area</i>	<i>(2) Public rights of way to be temporarily stopped up</i>	<i>(3) Extent of temporary stopping up</i>
North Norfolk District	Private access track associated with Muckleberry Collection	Between points 1a, 1i, 1j, 1k, 1m, 1n and 1p as shown shaded

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		brown on sheet 1 of the streets plan
North Norfolk District	Private access track associated with Muckleberry Collection	Between points 1c and 1d as shown shaded brown on sheet 1 of the streets plan
North Norfolk District	Private access track associated with Muckleberry Collection	Between points 1e and 1f as shown shaded brown on sheet 1 of the streets plan
North Norfolk District	Private access track associated with Muckleberry Collection	Between points 1h and 1g as shown shaded brown on sheet 1 of the streets plan
North Norfolk District	Private access track associated with Muckleberry Collection	Between points 2a and 2b as shown shaded brown on sheet 1 of the streets plan
North Norfolk District	Private access track associated with Muckleberry Collection	Between points 3a and 3b as shown shaded brown on sheet 1 of the streets plan
North Norfolk District	Private access track associated with Muckleberry Collection	Between points 4a and 4b as shown shaded brown on sheet 1 of the streets plan
North Norfolk District	Private access track associated with Muckleberry Collection	Between points 5a and 5b as shown shaded brown on sheet 1 of the streets plan
North Norfolk District	A149	Between points 6a and 6b and between 6c and 6d as shown shaded green on sheet 1 of the streets plan
North Norfolk District	Private access track	Between points 7a and 7b as shown shaded brown on sheet 2 of the streets plan
North Norfolk District	Private access track	Between points 8a and 8b as shown shaded brown on sheet 2 of the streets plan
North Norfolk District	Private access track	Between points 9a, 9b, 9c, 9d and 9e as shown shaded brown on sheet 2 of the streets plan
North Norfolk District	Private access track	Between points 10a and 10b as shown shaded brown on sheet 2 of the streets plan
North Norfolk District	Private access track	Between points 11a and 11b as shown shaded brown on sheets 2 and 3 of the streets plan
North Norfolk District	Holgate Hill	Between points 12a and 12b as shown shaded green on sheets 2 and 3 of the streets plan

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North Norfolk District	Private access track	Between points 13a, 13b and 13c as shown shaded brown on sheet 3 of the streets plan
North Norfolk District	Private access track	Between points 14a and 14b as shown shaded brown on sheet 3 of the streets plan
North Norfolk District	Private access track	Between points 15a and 15b as shown shaded brown on sheet 3 of the streets plan
North Norfolk District	Private access track	Between points 16a and 16b as shown shaded brown on sheets 3 and 4 of the streets plan
North Norfolk District	Bridge Road	Between points 17a and 17b as shown shaded green on sheet 3 of the streets plan
North Norfolk District	Local street	Between points 17c and 17d as shown shaded green on sheets 3 and 4 of the streets plan
North Norfolk District	Warren Road	Between points 17d and 17e as shown shaded green on sheets 3 and 4 of the streets plan
North Norfolk District	Private access track	Between points 18a and 18b as shown shaded brown on sheet 4 of the streets plan
North Norfolk District	Cromer Road (A148)	Between points 19a and 19b as shown shaded green on sheet 4 of the streets plan
North Norfolk District	Kelling Road	Between points 20a and 20b as shown shaded green on sheet 4 of the streets plan
North Norfolk District	Church Road	Between points 21a and 21b as shown shaded green on sheet 5 of the streets plan
North Norfolk District	Private access track	Between points 22a and 22b as shown shaded brown on sheet 5 of the streets plan
North Norfolk District	Private access track	Between points 23a and 23b as shown shaded brown on sheet 6 of the streets plan
North Norfolk District	Hempstead Road	Between points 24a and 24b as shown shaded green on sheet 6 of the streets plan
North Norfolk District	School Lane	Between points 25a and 25b and between 25c and 25d as shown

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		shaded green on sheet 7 of the streets plan
North Norfolk District	Hole Farm Road	Between points 26a and 26b as shown shaded green on sheet 7 of the streets plan
North Norfolk District	Plumbstead Road	Between points 27a and 27b as shown shaded green on sheet 8 of the streets plan
North Norfolk District	Sweetbriar Lane	Between points 28a and 28b as shown shaded green on sheet 9 of the streets plan
North Norfolk District	Private access track	Between points 29a and 29b as shown shaded brown on sheet 9 of the streets plan
North Norfolk District	Private access track	Between points 29c and 29d as shown shaded brown on sheet 9 of the streets plan
North Norfolk District	Private access track	Between points 31c and 31d as shown shaded brown on sheets 9 and 10 of the streets plan
North Norfolk District	Holt Road	Between points 30a and 30b as shown shaded green on sheet 10 of the streets plan
North Norfolk District	Holt Road (B1149)	Between points 31a and 31b as shown shaded green on sheet 10 of the streets plan
North Norfolk District	Briston Road (B1354)	Between points 32a and 32b as shown shaded green on sheet 10 of the streets plan
North Norfolk District	Croft Lane	Between points 33a and 33b as shown shaded green on sheet 11 of the streets plan
North Norfolk District	Town Close Lane	Between points 34a and 34b and between 34b and 34c as shown shaded green on sheet 11 of the streets plan
North Norfolk District	Wood Dalling Road	Between points 35a and 35b as shown shaded green on sheet 11 of the streets plan
Broadland District	Blackwater Lane	Between points 36a and 36b as shown shaded green on sheet 12 of the streets plan
Broadland District	Heydon Lane	Between points 37a and 37b as shown shaded green on sheet 13 of the streets plan

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Broadland District	Heydon Road	Between points 38a and 38b as shown shaded green on sheet 13 of the streets plan
Broadland District	Reepham Road	Between points 39a and 39b as shown shaded green on sheet 14 of the streets plan
Broadland District	Reepham Road	Between points 40a and 40b as shown shaded green on sheet 14 of the streets plan
Broadland District	Merrison's Lane	Between points 41a, 41b, 41c and 41d as shown shaded green on sheet 15 of the streets plan
Broadland District	Wood Dalling Road	Between points 42a and 42b as shown shaded green on sheet 15 of the streets plan
Broadland District	Cawston Road (B1145)	Between points 43a and 43b as shown shaded green on sheet 15 of the streets plan
Broadland District	Cawston Road (B1145)	Between points 44a and 44b as shown shaded green on sheet 16 of the streets plan
Broadland District	Private access track	Between points 44c and 44d as shown shaded brown on sheet 16 of the streets plan
Broadland District	Private access track	Between points 45a and 45b as shown shaded brown on sheet 16 of the streets plan
Broadland District	Private access track	Between points 45c, 44d and 45e as shown shaded brown on sheet 16 of the streets plan
Broadland District	Private access track	Between points 46a and 46b as shown shaded brown on sheet 16 of the streets plan
Broadland District	Private access track	Between points 47a and 47b as shown shaded brown on sheets 16 and 17 of the streets plan
Broadland District	Church Road	Between points 48a and 48b as shown shaded green on sheet 17 of the streets plan
Broadland District	The Grove	Between points 49a and 49b as shown shaded green on sheet 17 of the streets plan
Broadland District	Reepham Road	Between points 50a and 50b as shown shaded green on sheet 18 of the streets plan

Broadland District	Church Road	Between points 51a and 51b as shown shaded green on sheet 19 of the streets plan
Broadland District	Church Farm Lane	Between points 52a and 51b and between 52c and 52d as shown shaded green on sheet 19 of the streets plan
Broadland District	Hall Road	Between points 53a and 53b as shown shaded green on sheet 19 of the streets plan
Broadland District	Hall Road	Between points 55a and 55b as shown shaded green on sheet 19 of the streets plan
Broadland District	Private access track	Between points 54a and 54b as shown shaded brown on sheet 20 of the streets plan
Broadland District	Ropham Road	Between points 56a and 56b as shown shaded green on sheet 20 of the streets plan
Broadland District	Station Road	Between points 57a and 57b as shown shaded green on sheet 20 of the streets plan
Broadland District	Private access track	Between points 58a and 58b as shown shaded brown on sheet 20 of the streets plan
Broadland District	Station Road	Between points 59a and 59b as shown shaded green on sheet 20 of the streets plan
Broadland District	Private access track	Between points 59c and 59d as shown shaded brown on sheet 20 of the streets plan
Broadland District	Private access track	Between points 60a and 60b as shown shaded brown on sheet 20 of the streets plan
Broadland District	The Street	Between points 61a and 61b as shown shaded green on sheet 21 of the streets plan
Broadland District	Fakenham Road (A1067)	Between points 62a and 62b as shown shaded green on sheet 21 of the streets plan
Broadland District	Marl Hill Road	Between points 63a and 63b as shown shaded green on sheet 21 of the streets plan

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Broadland District	Ringland Lane	Between points 64a and 64b as shown shaded green on sheet 21 of the streets plan
Broadland District	Ringland Lane to Church Street	Between points 65a and 65b as shown shaded green on sheet 21 of the streets plan
Broadland District	Ringland Lane	Between points 66a and 66b as shown shaded green on sheet 22 of the streets plan
Broadland District	Private access track	Between points 67a and 67b as shown shaded brown on sheet 22 of the streets plan
Broadland District	Blackbreck Lane	Between points 68a and 68b as shown shaded green on sheet 23 of the streets plan
Broadland District	Weston Road	Between points 69a and 69b and between 69c and 69d as shown shaded green on sheet 23 of the streets plan
Broadland District	Hornington Lane	Between points 70a and 70b and between 70c and 70d as shown shaded green on sheet 23 of the streets plan
Broadland District	Private access track	Between points 71a and 71b as shown shaded brown on sheet 24 of the streets plan
South Norfolk	Weston Road	Between points 72a and 72b and between 72c and 72d as shown shaded green on sheet 24 of the streets plan
South Norfolk	Private access track	Between points 73a and 73b as shown shaded brown on sheet 24 of the streets plan
South Norfolk	Private access track	Between points 74a and 74b as shown shaded brown on sheet 24 of the streets plan
South Norfolk	Church Lane	Between points 75a and 75b as shown shaded green on sheet 25 of the streets plan
South Norfolk	A47	Between points 76a and 76b as shown shaded green on sheet 25 of the streets plan
South Norfolk	Church Lane	Between points 77a and 77b as shown shaded green on sheet 25 of the streets plan



South Norfolk	Private access track	Between points 78a and 78b as shown shaded brown on sheet 25 of the streets plan
South Norfolk	Easton Road	Between points 79a and 79b as shown shaded green on sheet 26 of the streets plan
South Norfolk	Private access track	Between points 80a, 8-b, 80c, 80d, and 80e as shown shaded brown on sheet 26 of the streets plan
South Norfolk	Bawburgh Road	Between points 81a and 81b as shown shaded green on sheet 26 of the streets plan
South Norfolk	Bawburgh Road	Between points 81c and 81d as shown shaded green on sheets 26 and 27 of the streets plan
South Norfolk	Private access track	Between points 82a and 82b as shown shaded brown on sheet 27 of the streets plan
South Norfolk	Private access track	Between points 83a and 83b as shown shaded brown on sheet 27 of the streets plan
South Norfolk	Private access track	Between points 84a and 84b as shown shaded brown on sheet 27 of the streets plan
South Norfolk	Bawburgh Road	Between points 85a and 85b as shown shaded green on sheet 27 of the streets plan
South Norfolk	Walton Road (B1108)	Between points 86a and 86b as shown shaded green on sheets 27 and 28 of the streets plan
South Norfolk	Market Lane	Between points 87a and 87b as shown shaded green on sheet 28 of the streets plan
South Norfolk	Market Lane	Between points 87c and 87d as shown shaded green on sheet 28 of the streets plan
South Norfolk	Private access track	Between points 88a and 88b as shown shaded brown on sheet 28 of the streets plan
South Norfolk	Private access track	Between points 89a and 89b as shown shaded brown on sheet 28 of the streets plan

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South Norfolk	Great Melton Road	Between points 90a and 90b as shown shaded green on sheet 28 of the streets plan
South Norfolk	Great Melton Road	Between points 91a and 91b as shown shaded green on sheets 28 and 29 of the streets plan
South Norfolk	Private access track	Between points 91c and 91d as shown shaded brown on sheets 28 and 29 of the streets plan
South Norfolk	Little Melton Road	Between points 92a and 92b as shown shaded green on sheets 28 and 29 of the streets plan
South Norfolk	Burnthouse Lane	Between points 93a and 93b as shown shaded green on sheet 29 of the streets plan
South Norfolk	Burnthouse Lane	Between points 93c and 93d as shown shaded green on sheet 29 of the streets plan
South Norfolk	Burnthouse Lane	Between points 93e and 93f as shown shaded green on sheet 29 of the streets plan
South Norfolk	Private access track	Between points 94a and 94b as shown shaded brown on sheet 29 of the streets plan
South Norfolk	Colney Lane	Between points 95a and 95b as shown shaded green on sheet 29 of the streets plan
South Norfolk	Norwich Road	Between points 96a and 96b as shown shaded green on sheet 30 of the streets plan
South Norfolk	Norwich Road	Between points 96c and 96d as shown shaded green on sheet 30 of the streets plan
South Norfolk	Norwich Road	Between points 96e and 96f as shown shaded green on sheet 30 of the streets plan
South Norfolk	Station Lane	Between points 97a and 97b as shown shaded green on sheet 30 of the streets plan
South Norfolk	Station Lane	Between points 97c and 97d as shown shaded green on sheet 30 of the streets plan
South Norfolk	Private access track	Between points 98c and 98d as shown shaded brown on sheet 30 of the streets plan

South Norfolk	A11	Between points 99a and 99b as shown shaded green on sheet 30 of the streets plan
South Norfolk	Cantley Lane	Between points 100a and 100b as shown shaded green on sheet 31 of the streets plan
South Norfolk	Private access track	Between points 101a and 101b as shown shaded brown on sheet 31 of the streets plan
South Norfolk	Private access track	Between points 102a and 102b as shown shaded brown on sheet 31 of the streets plan
South Norfolk	Intwood Lane	Between points 103a and 103b as shown shaded green on sheet 32 of the streets plan
South Norfolk	Swardeston Lane	Between points 104a and 104b as shown shaded green on sheet 32 of the streets plan
South Norfolk	Main Road	Between points 105a and 105b as shown shaded green on sheet 33 of the streets plan
South Norfolk	Mulbarton Road	Between points 105c and 105d as shown shaded green on sheet 33 of the streets plan
South Norfolk	Mangreen Lane	Between points 106a and 106b as shown shaded green on sheets 33 and 34 of the streets plan
South Norfolk	Private access track	Between points 107a and 107b as shown shaded brown on sheets 33 and 34 of the streets plan
South Norfolk	Private access track	Between points 108a, 108b, 108c, 108d and 108e as shown shaded brown on sheet 34 of the streets plan
South Norfolk	Private access track	Between points 109a and 109b as shown shaded brown on sheet 34 of the streets plan
South Norfolk	Private access track	Between points 110a, 110b, 110c and 110d as shown shaded brown on sheet 34 of the streets plan
South Norfolk	Private access track	Between points 111a and 111b as shown shaded brown on sheet 35 of the streets plan

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SCHEDULE 4 **E+W**

Article 11

## PUBLIC RIGHTS OF WAY TO BE TEMPORARILY STOPPED UP

**Commencement Information**I77 Sch. 4 in force at 22.1.2021, see [art. 1](#)

<i>(1) Area</i>	<i>(2) Public right of way to be temporarily stopped up</i>	<i>(3) Extent of temporary stopping up</i>
North Norfolk District	Footpath Weybourne FP7	Between points 1a and 1b as shown hatched on sheet 1 of the public rights of way plan
North Norfolk District	Restricted Byway Kelling RB4	Between points 2a and 2b as shown hatched on sheet 1 of the public rights of way plan
North Norfolk District	Footpath Kelling FP6	Between points 3a and 3b as shown hatched on sheet 3 of the public rights of way plan
North Norfolk District	Footpath Kelling FP9	Between points 4a and 4b as shown hatched on sheets 3 and 4 of the public rights of way plan
North Norfolk District	Footpath Kelling FP6	Between points 5a and 5b as shown hatched on sheets 3 and 4 of the public rights of way plan
North Norfolk District	Footpath Baconsthorpe FP15	Between points 6a and 6b as shown hatched on sheet 6 of the public rights of way plan
North Norfolk District	Bridleway Hempsted BR15	Between points 7a and 7b as shown hatched on sheet 6 of the public rights of way plan
North Norfolk District	Footpath Hempsted FP10	Between points 8a and 8b as shown hatched on sheet 6 of the public rights of way plan
North Norfolk District	Bridleway Plumstead BR6	Between points 9a and 9b as shown hatched on sheet 8 of the public rights of way plan
North Norfolk District	Restricted Byway RB21	Between points 10a and 10b as shown hatched on sheet 10 of the public rights of way plan
North Norfolk District	Restricted Byway RB21	Between points 11a and 11b as shown hatched on sheet 10 of the public rights of way plan
North Norfolk District	Footpath Corpusty FP20	Between points 12a and 12b as shown hatched on sheet 10 of the public rights of way plan

North Norfolk District	Footpath Corpusty FP19	Between points 13a and 13b as shown hatched on sheet 10 of the public rights of way plan
North Norfolk District	Footpath Corpusty FP2	Between points 14a and 14b as shown hatched on sheet 11 of the public rights of way plan
North Norfolk District	Footpath Corpusty FP2	Between points 15a and 15b as shown hatched on sheet 11 of the public rights of way plan
Broadland District	Footpath Wood Dalling FP3	Between points 16a and 16b as shown hatched on sheet 12 of the public rights of way plan
Broadland District	Bridleway Salle BR4	Between points 17a and 17b as shown hatched on sheet 15 of the public rights of way plan
Broadland District	Footpath Salle FP8	Between points 18a and 18b as shown hatched on sheet 15 of the public rights of way plan
Broadland District	Footpath Salle FP13	Between points 19a and 19b as shown hatched on sheet 15 of the public rights of way plan
Broadland District	Footpath Reepham FP18	Between points 20a and 20b as shown hatched on sheet 16 of the public rights of way plan
Broadland District	Footpath Reepham FP34	Between points 21a and 21b as shown hatched on sheet 16 of the public rights of way plan
Broadland District	Footpath Reepham FP18	Between points 22a and 22b as shown hatched on sheet 16 of the public rights of way plan
Broadland District	Footpath Booton FP1	Between points 23a and 23b as shown hatched on sheet 16 of the public rights of way plan
Broadland District	Footpath Booton FP1	Between points 23c and 23d as shown hatched on sheet 16 of the public rights of way plan
Broadland District	Footpath Booton FP2	Between points 24a and 24b as shown hatched on sheet 17 of the public rights of way plan
Broadland District	Footpath Little Witchingham FP6	Between points 25a and 25b as shown hatched on sheet 18 of the public rights of way plan
Broadland District	Footpath Little Witchingham FP2	Between points 26a and 26b as shown hatched on sheet 19 of the public rights of way plan

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South Norfolk	Footpath Little Melton FP2	Between points 27a and 27b as shown hatched on sheet 28 of the public rights of way plan
South Norfolk	Footpath Hethersett FP6	Between points 28a and 28b as shown hatched on sheet 30 of the public rights of way plan
South Norfolk	Bridleway Ketteringham BR2	Between points 29a and 29b as shown hatched on sheet 31 of the public rights of way plan
South Norfolk	Bridleway Ketteringham BR3	Between points 30a and 30b as shown hatched on sheets 31 and 32 of the public rights of way plan
South Norfolk	Footpath East Carleton FP1	Between points 31a and 31b as shown hatched on sheet 32 of the public rights of way plan
South Norfolk	Bridleway Swardeston BR9	Between points 32a and 32b as shown hatched on sheets 33 and 34 of the public rights of way plan
South Norfolk	Bridleway Swardeston BR12	Between points 33a and 33b as shown hatched on sheet 34 of the public rights of way plan
South Norfolk	Bridleway Holy Cross BR3	Between points 34a and 34b as shown hatched on sheet 34 of the public rights of way plan

SCHEDULE 5 **E+W**

Article 12

ACCESS TO WORKS

**Commencement Information**

**I78** Sch. 5 in force at 22.1.2021, see **art. 1**

<i>(1) Area</i>	<i>(2) Description of access</i>
North Norfolk District	Vehicular access from A149 to the north towards Roundhill Plantation as shown on sheet 1 of the access to works plan
North Norfolk District	Vehicular access from A149 to the south as shown on sheet 1 of the access to works plan
North Norfolk District	Vehicular access from Holgate Hill to the north as shown on sheets 2 and 3 of the access to works plan

North Norfolk District	Vehicular access from Bridge Road to the east as shown on sheet 3 of the access to works plan
North Norfolk District	Vehicular access from Cromer Road A148 to the north as shown on sheet 4 of the access to works plan
North Norfolk District	Vehicular access from Cromer Road A148 to the south as shown on sheet 4 of the access to works plan
North Norfolk District	Vehicular access from Kelling Road to the north as shown on sheet 4 of the access to works plan
North Norfolk District	Vehicular access from Kelling Road to the south as shown on sheet 4 of the access to works plan
North Norfolk District	Vehicular access from Church Road to the north as shown on sheet 5 of the access to works plan
North Norfolk District	Vehicular access from Church Road to the south as shown on sheet 5 of the access to works plan
North Norfolk District	Vehicular access to the north of Hempstead Road as shown on sheet 6 of the access to works plan
North Norfolk District	Vehicular access to the south of Hempstead Road as shown on sheet 6 of the access to works plan
North Norfolk District	Vehicular access to the north of School Lane as shown on sheet 7 of the access to works plan
North Norfolk District	Vehicular access from Hole Farm Road to the north as shown on sheet 7 of the access to works plan
North Norfolk District	Vehicular access from Hole Farm Road to the south as shown on sheet 7 of the access to works plan
North Norfolk District	Vehicular access from Plumstead Road to the north as shown on sheet 8 of the access to works plan
North Norfolk District	Vehicular access from Plumstead Road to the south as shown on sheet 8 of the access to works plan
North Norfolk District	Vehicular access to the north of Little Barningham Lane as shown on sheet 9 of the access to works plan
North Norfolk District	Vehicular access to the south of Little Barningham Lane as shown on sheet 9 of the access to works plan
North Norfolk District	Vehicular access to the north of the B1149 as shown on sheet 10 of the access to works plan
North Norfolk District	Vehicular access to the south of the B1149 as shown on sheet 10 of the access to works plan

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North Norfolk District	Vehicular access to the east of the B1149 as shown on sheet 10 of the access to works plan
North Norfolk District	Vehicular access to the north of Briston Road B1354 as shown on sheet 10 of the access to works plan
North Norfolk District	Vehicular access to the south of Briston Road B1354 as shown on sheet 10 of the access to works plan
North Norfolk District	Vehicular access to the west of Croft Lane near Great Farm as shown on sheet 11 of the access to works plan
North Norfolk District	Vehicular access to the north of Town Close Lane as shown on sheet 11 of the access to works plan
North Norfolk District	Vehicular access to the south of Town Close Lane as shown on sheet 11 of the access to works plan
North Norfolk District	Vehicular access to the north of Wood Dalling Road as shown on sheet 11 of the access to works plan
North Norfolk District	Vehicular access to the south of Wood Dalling Road as shown on sheet 11 of the access to works plan
Broadland District	Vehicular access to the north of Blackwater Lane as shown on sheet 12 of the access to works plan
Broadland District	Vehicular access to the south of Blackwater Lane as shown on sheet 12 of the access to works plan
Broadland District	Vehicular access to the north of Heydon Lane as shown on sheet 13 of the access to works plan
Broadland District	Vehicular access to the south of Heydon Lane as shown on sheet 13 of the access to works plan
Broadland District	Vehicular access to the north of Heydon Road as shown on sheet 13 of the access to works plan
Broadland District	Vehicular access to the south of Heydon Road as shown on sheet 13 of the access to works plan
Broadland District	Vehicular access to the north of Reepham Road as shown on sheet 14 of the access to works plan
Broadland District	Vehicular access to the south of Reepham Road as shown on sheet 14 of the access to works plan
Broadland District	Vehicular access to the south west of Reepham Road as shown on sheet 14 of the access to works plan
Broadland District	Vehicular access to the west of Reepham Road on to Merrison's Lane as shown on sheet 15 of the access to works plan



Broadland District	Vehicular access to the north west of Reepham Road as shown on sheet 15 of the access to works plan
Broadland District	Vehicular access to the south east of Reepham Road as shown on sheet 15 of the access to works plan
Broadland District	Vehicular access to the west of Cawston Road as shown on sheet 15 of the access to works plan
Broadland District	Vehicular access to the east of Cawston Road as shown on sheet 15 of the access to works plan
Broadland District	Vehicular access to the north of Marriott's Way as shown on sheet 16 of the access to works plan
Broadland District	Vehicular access to the north of Church Road as shown on sheet 17 of the access to works plan
Broadland District	Vehicular access to the south of Church Road as shown on sheet 17 of the access to works plan
Broadland District	Vehicular access to the north east of Reepham Road as shown on sheet 18 of the access to works plan
Broadland District	Vehicular access to the south west of Reepham Road as shown on sheet 18 of the access to works plan
Broadland District	Vehicular access to the north of Church Farm Lane as shown on sheet 19 of the access to works plan
Broadland District	Vehicular access to the south of Church Church Farm Lane as shown on sheet 19 of the access to works plan
Broadland District	Vehicular access to the north of Hall Road as shown on sheet 19 of the access to works plan
Broadland District	Vehicular access to the south of Hall Road as shown on sheet 19 of the access to works plan
Broadland District	Vehicular access to the south of Hall Road near Alderford as shown on sheet 19 of the access to works plan
Broadland District	Vehicular access to the south of Reepham Road as shown on sheet 20 of the access to works plan
Broadland District	Vehicular access to the west of Station Road to the north of Marriott's Way as shown on sheet 20 of the access to works plan
Broadland District	Vehicular access to the west of Station Road to the south of Marriott's Way as shown on sheet 20 of the access to works plan

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Broadland District	Vehicular access to the north east of the Street as shown on sheet 21 of the access to works plan
Broadland District	Vehicular access to the south west of the Street as shown on sheet 21 of the access to works plan
Broadland District	Vehicular access to the east of Marl Hill Road as shown on sheet 21 of the access to works plan
Broadland District	Vehicular access to the north east of the Ringland Lane as shown on sheet 21 of the access to works plan
Broadland District	Vehicular access to the south west of Ringland Lane as shown on sheet 21 of the access to works plan
Broadland District	Vehicular access to the north of Ringland Lane as shown on sheet 21 of the access to works plan
Broadland District	Vehicular access to the south of Ringland Lane as shown on sheet 21 of the access to works plan
Broadland District	Vehicular access to the west of Ringland Lane opposite Oak Grove as shown on sheet 22 of the access to works plan
Broadland District	Vehicular access to the south west of Ringland Lane as shown on sheet 22 of the access to works plan
Broadland District	Vehicular access to the north of Weston Road opposite Breck Barn Cottages as shown on sheet 23 of the access to works plan
Broadland District	Vehicular access to the north of Weston Road as shown on sheet 23 of the access to works plan
Broadland District	Vehicular access to the south of Weston Road as shown on sheet 23 of the access to works plan
Broadland District	Vehicular access to the north west of Honingham Lane as shown on sheet 23 of the access to works plan
Broadland District	Vehicular access to the south east of Honingham Lane as shown on sheet 23 of the access to works plan
Broadland District	Vehicular access to the north of Weston Road as shown on sheet 24 of the access to works plan
Broadland District	Vehicular access to the south of Weston Road as shown on sheet 24 of the access to works plan
South Norfolk	Vehicular access to the north of Church Lane north of the A47 as shown on sheet 25 of the access to works plan

South Norfolk	Vehicular access to the north of Church south of the A47 as shown on sheet 25 of the access to works plan
South Norfolk	Vehicular access to the south of Church south of the A47 as shown on sheet 25 of the access to works plan
South Norfolk	Vehicular access to the north of Broom Lane as shown on sheet 26 of the access to works plan
South Norfolk	Vehicular access to the south of Broom Lane as shown on sheet 26 of the access to works plan
South Norfolk	Vehicular access to west of Easton Road as shown on sheet 26 of the access to works plan
South Norfolk	Vehicular access to east of Easton Road as shown on sheet 26 of the access to works plan
South Norfolk	Vehicular access to the south of Bawburgh Road, on to Bawburgh Road as shown on sheet 26 of the access to works plan
South Norfolk	Vehicular access to the north of Bawburgh Road as shown on sheet 26 of the access to works plan
South Norfolk	Vehicular access to the north of Bawburgh Road as shown on sheet 27 of the access to works plan
South Norfolk	Vehicular access to the south of Bawburgh Road as shown on sheet 27 of the access to works plan
South Norfolk	Vehicular access to the north of Watton Road as shown on sheets 27 and 28 of the access to works plan
South Norfolk	Vehicular access to the south of Watton Road as shown on sheets 27 and 28 of the access to works plan
South Norfolk	Vehicular access to the north of Market Lane as shown on sheet 28 of the access to works plan
South Norfolk	Vehicular access to the east of Market Lane as shown on sheet 28 of the access to works plan
South Norfolk	Vehicular access to the south of Great Melton Road as shown on sheet 28 of the access to works plan
South Norfolk	Vehicular access to the south of Great Melton Road opposite Freshfields as shown on sheets 28 and 29 of the access to works plan
South Norfolk	Vehicular access to the north west of Little Melton Road as shown on sheets 28 and 29 of the access to works plan

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South Norfolk	Vehicular access to the south east of Little Melton Road as shown on sheets 28 and 29 of the access to works plan
South Norfolk	Vehicular access to the north west of Burnthouse Lane as shown on sheet 29 of the access to works plan
South Norfolk	Vehicular access to the south east of Burnthouse Lane as shown on sheet 29 of the access to works plan
South Norfolk	Vehicular access to the east of Burnthouse Lane as shown on sheet 29 of the access to works plan
South Norfolk	Vehicular access to the east of Burnthouse Lane, to the south of the access referenced above, as shown on sheet 29 of the access to works plan
South Norfolk	Vehicular access to the north of Colney Lane as shown on sheet 29 of the access to works plan
South Norfolk	Vehicular access to the north of Norwich Road as shown on sheet 30 of the access to works plan
South Norfolk	Vehicular access to the north of Norwich Road opposite the access for Wynchwood House as shown on sheet 30 of the access to works plan
South Norfolk	Vehicular access to the south of Norwich Road as shown on sheet 30 of the access to works plan
South Norfolk	Vehicular access to the east of Station Lane as shown on sheet 30 of the access to works plan
South Norfolk	Vehicular access to the east of Station Lane, to the south of the access referenced above as shown on sheet 30 of the access to works plan
South Norfolk	Vehicular access to the east of Station Cottages Service Road as shown on sheet 30 of the access to works plan
South Norfolk	Vehicular access to the west of Intwood Road as shown on sheet 32 of the access to works plan
South Norfolk	Vehicular access to the east of Intwood Road as shown on sheet 32 of the access to works plan
South Norfolk	Vehicular access to the east of Swardeston Lane as shown on sheet 32 of the access to works plan
South Norfolk	Vehicular access to the west of Swardeston Lane to the east of the access referenced above as shown on sheet 32 of the access to works plan
South Norfolk	Vehicular access to the north of Main Road as shown on sheet 33 of the access to works plan
South Norfolk	Vehicular access to south of Main Road as shown on sheet 33 of the access to works plan

South Norfolk	Vehicular access to the north of Mangreen Lane as shown on sheets 33 and 34 of the access to works plan
South Norfolk	Vehicular access to the south of Mangreen Lane as shown on sheets 33 and 34 of the access to works plan
South Norfolk	Vehicular access to the south of Mangreen Hall Lane on to a private access track as shown on sheet 34 of the access to works plan
Broadland District	Vehicular access to the west of Oulton Street as shown on sheet 35 of the access to works plan

SCHEDULE 6 **E+W**

Article 20

LAND IN WHICH ONLY NEW RIGHTS ETC., MAY BE ACQUIRED

**Commencement Information**

**I79** Sch. 6 in force at 22.1.2021, see [art. 1](#)

<b>(1) Number of land shown on land plans</b>	<b>(2) Purpose for which rights may be acquired</b>
1-001, 1-002, 1-003, 1-004, 1-006, 1-008, 1-017, 1-018, 1-019, 1-022, 1-026, 2-004, 3-001, 3-002, 3-003, 3-004, 3-005, 3-006, 3-011, 3-012, 3-016, 3-017, 3-018, 3-019, 3-022, 3-023, 3-030, 3-031, 4-002, 4-003, 4-004, 4-006, 4-007, 4-009, 4-010, 5-001, 5-002, 5-003, 5-004, 5-006, 5-007, 6-001, 6-002, 6-004, 6-005, 6-006, 7-001A, 7-003, 7-004, 7-005, 7-006, 7-007, 7-009, 8-001, 8-003, 8-005, 8-006, 9-001, 9-005, 9-006, 9-013, 9-016, 9-019, 9-022, 9-026, 10-002, 10-003, 10-005, 10-006, 10-008, 10-009, 11-004, 11-005, 11-006, 11-009, 11-011, 11-013, 11-014, 12-001, 12-004, 12-005, 12-006, 13-001, 13-002, 13-004, 13-006, 14-002, 14-005, 14-006, 14-007, 15-002, 15-006, 15-007, 15-008, 15-009, 15-011, 16-001, 16-002, 16-003, 16-004, 16-005, 16-006, 16-007, 16-012, 16-020, 16-021, 16-025, 16-026, 16-027, 16-028, 16-029, 16-030, 17-002, 17-003, 17-004, 17-006, 17-007, 18-001, 18-002, 18-003, 18-004, 18-005, 18-006, 18-007, 19-001, 19-005, 19-006, 19-007, 19-009, 19-011, 19-012, 19-014, 20-005, 20-008, 20-009, 21-001, 21-002, 21-003, 21-005, 21-006, 21-007, 21-008, 21-010, 21-011, 21-014, 21-015, 21-017, 21-018, 23-001, 23-003, 23-004, 23-009, 23-010,	<sup>M43</sup> New Connection Rights (shown edged red and shaded blue on the Land Plans) required for the construction, operation and maintenance of Work Nos. 6, 7, 8 and 11

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23-011, 23-012, 23-016, 23-017, 24-003, 24-004, 24-011, 24-012, 25-006, 25-007, 25-008, 25-009, 25-010, 25-011, 25-012, 25-013, 25-015, 25-016, 26-001, 26-005, 26-007, 26-010, 26-011, 26-012, 26-013, 26-014, 26-015, 27-001, 27-002, 27-003, 27-004, 27-008, 27-009, 27-011, 27-012, 28-001, 28-002, 28-003, 28-006, 28-007, 28-009, 28-011, 28-013, 29-003, 29-004, 29-005, 29-006, 29-009, 29-012, 29-013, 29-015, 29-016, 29-017, 30-009, 30-010, 30-011, 30-012, 30-013, 30-014, 30-017, 30-018, 30-023, 30-024, 30-027, 30-028, 30-029, 31-001, 31-002, 31-004, 32-002, 32-003, 32-004, 32-006, 32-007, 32-008, 32-009, 32-010, 33-005, 33-006, 33-016, 33-023, 33-024, 34-001, 34-002, 34-003, 34-004, 34-005, 34-006, 34-007, 34-008, 34-010	
1-007, 9-015, 33-007, 33-008, 33-009, 33-010	New Connection Rights and New Construction and Operation Access Rights (shown edged red, shaded blue and hatched brown on the Land Plans) required for the construction, operation and maintenance of Work Nos. 6, 7, 8 and 11 and access to Work Nos.6, 7, 8, 9 and 10
34-011	New Connection Rights and New Construction and Maintenance Access Rights (shown edged red, shaded blue and hatched brown on the Land Plans) required for the construction, operation and maintenance of and access to Work Nos. 11 and 12
9-003, 9-007, 9-008, 9-009, 9-010, 9-014, 9-021, 33-011, 33-015, 33-018, 33-019, 33-021	New Connection Rights and New Landscaping Rights (shown edged red, shaded blue and hatched green on the Land Plans) required for the construction, operation and maintenance of Work No. 8 and for landscaping works relating to Work Nos. 9 and 10
1-014, 1-016, 9-017, 9-024, 9-025,10-004, 33-004	New Construction and Operation Access Rights (edged red and shaded brown on the Land Plans) required for access to Work Nos. 6, 7, 9 and 10
3-024, 3-025, 3-026, 3-027, 3-028, 20-006, 20-007, 20,010, 20-011, 21-012, 21-013, 25-003, 25-004, 25-005, 26-002, 26-003, 26-004, 26-016, 26-017, 28-004, 28-005, 30-003, 30-004, 30-005, 30-015, 30-016, 30-021, 30-022, 30-025, 30-026, 34-009, 34-012	New Construction and Maintenance Access Rights (shown edged red and shaded brown on the Land Plans) required for access to Work Nos. 8, 11 and 12
9-002, 9-004, 9-011, 9-020, 9-023, 33-012, 33-013, 33-020, 33-022	New Landscaping Rights (shown edged red and shaded green on the Land Plans) required for landscaping works relating to Work Nos. 9 and 10

#### Marginal Citations

**M43** Term as defined in the book of reference.

## SCHEDULE 7 **E+W**

Article 20

### MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

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

#### Commencement Information

**I80** Sch. 7 para. 1 in force at 22.1.2021, see [art. 1](#)

**2.—(1)** Without limitation on the scope of paragraph 1, the Land Compensation Act 1973 <sup>M44</sup> 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 (measure of compensation in case of severance) of the 1965 Act as substituted by [<sup>F24</sup>paragraph 5]—

- (a) for the words “land is acquired or taken from” there is substituted the words “ a right or restrictive covenant over land is purchased from or imposed on ”; and
- (b) for the words “acquired or taken from him” there is substituted the words “ over which the right is exercisable or the restrictive covenant enforceable ”.

#### Textual Amendments

**F24** Words in [Sch. 7 para. 2\(2\)](#) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), [art. 1\(2\)](#), [Sch.](#)

#### Commencement Information

**I81** Sch. 7 para. 2 in force at 22.1.2021, see [art. 1](#)

#### Marginal Citations

**M44** [1973 c.26](#).

**3.—(1)** Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) (powers of entry) of the 1965

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Act (as modified by paragraph 7 of Schedule 7 to the Hornsea Three Offshore Wind Farm Order 2020); and

(b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 10 of Schedule 7 to the Hornsea Three Offshore Wind Farm Order 2020) to acquire an interest in the land, and

(c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.”.

#### Commencement Information

**I82** Sch. 7 para. 3 in force at 22.1.2021, see [art. 1](#)

#### Application of Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act **E+W**

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

(a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or

(b) the land over which the right is or is to be exercisable, or the restriction is to be enforceable.

(2) Without limitation on the scope of sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right or, in relation to the imposition of a restriction, with the modifications specified in the following provisions of this Schedule.

#### Commencement Information

**I83** Sch. 7 para. 4 in force at 22.1.2021, see [art. 1](#)

5. For section 7 (measure of compensation in case of severance) of the 1965 Act there is substituted the following section—

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

#### Commencement Information

**I84** Sch. 7 para. 5 in force at 22.1.2021, see [art. 1](#)



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

- (a) section 9(4) (refusal to convey, failure to make title, etc);
- (b) paragraph 10(3) of Schedule 1 (persons without power to sell their interests) [<sup>F25</sup>(I conveyance of the land or interest);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

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

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#### Textual Amendments

**F25** Sch. 7 para. 6(b) bracket inserted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), Sch.

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#### Commencement Information

**I85** Sch. 7 para. 6 in force at 22.1.2021, see [art. 1](#)

7. Section 11 (powers of entry) of the 1965 Act is so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 18), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 11A (powers of entry: further notices of entry), 11B (counter-notice requiring possession to be taken on specified date), 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

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#### Commencement Information

**I86** Sch. 7 para. 7 in force at 22.1.2021, see [art. 1](#)

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

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#### Commencement Information

**I87** Sch. 7 para. 8 in force at 22.1.2021, see [art. 1](#)

9. Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 22(4) (application of the 1981 Act) is so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

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### Commencement Information

**188** Sch. 7 para. 9 in force at 22.1.2021, see [art. 1](#)

**10.** For Schedule 2A to the 1965 Act substitute—

“SCHEDULE 2A **E+W**

## COUNTER-NOTICE REQUIRING PURCHASE OF LAND

### Introduction

**1.—(1)** This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 (execution of declaration) of the 1981 Act as applied by article 22 (application of the 1981 Act) of the Hornsea Three Offshore Wind Farm Order 2020 in respect of the land to which the notice to treat relates.

(2) But see article 23(3) (acquisition of subsoil only) of the Hornsea Three Offshore Wind Farm Order 2020 which excludes the acquisition of subsoil only from this Schedule.

**2.** In this Schedule, “house”, except in paragraph 10, includes any park or garden belonging to a house.

### Counter-notice requiring purchase of land

**3.** A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.

**4.** A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

### Response to counter-notice

**5.** On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

**6.** The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

**7.** If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

**8.** If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

**9.** If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

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### Determination by the Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraw the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

#### Commencement Information

**I89** Sch. 7 para. 10 in force at 22.1.2021, see [art. 1](#)

### LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

#### Commencement Information

**I90** Sch. 8 in force at 22.1.2021, see [art. 1](#)

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<b>(1) Area</b>	<b>(2) Number of land shown on land plans</b>	<b>(3) Purpose for which temporary possession may be taken</b>
North Norfolk District	1-005	Temporary use for the passing and re-passing of users of public footpaths to facilitate construction for Work Nos. 5, 6 and 7
North Norfolk District	1-009	Temporary use for access and for the passing and re-passing of users of public footpaths to facilitate construction for Work Nos. 5, 6, 7 and 8
North Norfolk District	1-010	Temporary use for the passing and re-passing of users of public footpaths to facilitate construction for Work Nos. 5, 6 and 7
North Norfolk District	1-011	Temporary use for the passing and re-passing of users of public footpaths to facilitate construction for Work Nos. 5, 6 and 7
North Norfolk District	1-012	Temporary use for access to facilitate construction for Work Nos. 5, 6, 7 and 8
North Norfolk District	1-013	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	1-015	Temporary use (including for access and vehicle holding area) to facilitate construction for Work Nos. 5, 6, 7 and 8
North Norfolk District	1-020	Temporary use (including for access and storage) to facilitate construction for Work No. 8
North Norfolk District	1-021	Temporary use (including for access and storage) to facilitate construction for Work No. 8
North Norfolk District	1-023	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	1-024	Temporary use for access to facilitate construction for Work No. 8

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North Norfolk District	1-025	Temporary use (including for access and storage) to facilitate construction for Work No. 8
North Norfolk District	2-001	Temporary use (including for storage) to facilitate construction for Work No. 8
North Norfolk District	2-002	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	2-003	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	2-005	Temporary use (including for storage) to facilitate construction for Work No. 8
North Norfolk District	3-007	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	3-008	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	3-009	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	3-010	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	3-013	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	3-014	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	3-015	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	3-020	Temporary use (including for storage) to facilitate construction for Work No. 8
North Norfolk District	3-021	Temporary use (including for storage) to facilitate construction for Work No. 8
North Norfolk District	3-029	Temporary use (including for storage) to facilitate construction for Work No. 8

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North Norfolk District	4-001	Temporary use (including for storage) to facilitate construction for Work No. 8
North Norfolk District	4-005	Temporary use (including for storage) to facilitate construction for Work No. 8
North Norfolk District	4-008	Temporary use (including for storage) to facilitate construction for Work No. 8
North Norfolk District	5-005	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	6-003	Temporary use (including for storage) to facilitate construction for Work No. 8
North Norfolk District	7-001	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	7-002	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	7-008	Temporary use (including for storage) to facilitate construction for Work No. 8
North Norfolk District	8-002	Temporary use (including for storage) to facilitate construction for Work No. 8
North Norfolk District	8-004	Temporary use (including for storage) to facilitate construction for Work No. 8
North Norfolk District	9-018	Temporary use (including for storage and access) to facilitate construction for Work Nos. 8 and 9
North Norfolk District	10-001	Temporary use (including for storage) to facilitate construction for Work No. 8
North Norfolk District	10-007	Temporary use (including for storage) to facilitate construction for Work No. 8
North Norfolk District	10-010	Temporary use (including for storage) to facilitate construction for Work No. 8

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North Norfolk District	11-001	Temporary use (including for storage) to facilitate construction for Work No. 8
North Norfolk District	11-002	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	11-003	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	11-007	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	11-008	Temporary use for access to facilitate construction for Work No. 8
North Norfolk District	11-010	Temporary use (including for storage) to facilitate construction for Work No. 8
North Norfolk District	11-012	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	12-002	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	12-003	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	13-003	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	13-005	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	14-001	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	14-003	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	14-004	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	14-008	Temporary use for access to facilitate construction for Work No. 8

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Broadland District	14-009	Temporary use for access to facilitate construction for Work No. 8
Broadland District	15-001	Temporary use (including for access and storage) to facilitate construction for Work No. 8
Broadland District	15-003	Temporary use for access to facilitate construction for Work No. 8
Broadland District	15-004	Temporary use for access to facilitate construction for Work No. 8
Broadland District	15-005	Temporary use for access to facilitate construction for Work No. 8
Broadland District	15-010	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	16-008	Temporary use for access to facilitate construction for Work No. 8
Broadland District	16-009	Temporary use for access to facilitate construction for Work No. 8
Broadland District	16-010	Temporary use for access to facilitate construction for Work No. 8
Broadland District	16-011	Temporary use for access to facilitate construction for Work No. 8
Broadland District	16-013	Temporary use for access to facilitate construction for Work No. 8
Broadland District	16-014	Temporary use for access to facilitate construction for Work No. 8
Broadland District	16-015	Temporary use for access to facilitate construction for Work No. 8
Broadland District	16-016	Temporary use for access to facilitate construction for Work No. 8
Broadland District	16-017	Temporary use for access to facilitate construction for Work No. 8



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Broadland District	16-018	Temporary use for access to facilitate construction for Work No. 8
Broadland District	16-019	Temporary use for access to facilitate construction for Work No. 8
Broadland District	16-022	Temporary use for access to facilitate construction for Work No. 8
Broadland District	16-023	Temporary use for access to facilitate construction for Work No. 8
Broadland District	16-024	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	17-001	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	17-005	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	19-002	Temporary use for access to facilitate construction for Work No. 8
Broadland District	19-003	Temporary use for access to facilitate construction for Work No. 8
Broadland District	19-004	Temporary use for access to facilitate construction for Work No. 8
Broadland District	19-008	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	19-010	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	19-013	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	19-015	Temporary use for access to facilitate construction for Work No. 8
Broadland District	19-016	Temporary use for access to facilitate construction for Work No. 8

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Broadland District	20-001	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	20-002	Temporary use for access to facilitate construction for Work No. 8
Broadland District	20-003	Temporary use for access to facilitate construction for Work No. 8
Broadland District	20-004	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	21-004	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	21-009	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	21-016	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	21-019	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	22-001	Temporary use for access to facilitate construction for Work No. 8
Broadland District	22-002	Temporary use for access to facilitate construction for Work No. 8
Broadland District	22-003	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	23-002	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	23-005	Temporary use for access to facilitate construction for Work No. 8
Broadland District	23-006	Temporary use for access to facilitate construction for Work No. 8
Broadland District	23-007	Temporary use for access to facilitate construction for Work No. 8

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Broadland District	23-008	Temporary use (including for storage) to facilitate construction for Work No. 8
Broadland District	23-013	Temporary use for access to facilitate construction for Work No. 8
Broadland District	23-014	Temporary use for access to facilitate construction for Work No. 8
Broadland District	23-015	Temporary use for access to facilitate construction for Work No. 8
Broadland District	24-001	Temporary use for access to facilitate construction for Work No. 8
Broadland District	24-002	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	24-005	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	24-006	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	24-007	Temporary use for access to facilitate construction for Work No. 8
Broadland District	24-008	Temporary use for access to facilitate construction for Work No. 8
Broadland District	24-009	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	24-010	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	24-013	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	25-001	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	25-002	Temporary use (including for storage) to facilitate construction for Work No. 8

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South Norfolk	25-014	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	26-006	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	26-008	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	26-009	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	27-005	Temporary use (including for access and storage) to facilitate construction for Work No. 8
South Norfolk	27-006	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	27-007	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	27-010A	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	27-013	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	28-008	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	28-010	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	28-012	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	28-014	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	29-001	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	29-002	Temporary use (including for storage) to facilitate construction for Work No. 8

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South Norfolk	29-007	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	29-008	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	29-010	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	29-011	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	29-014	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	30-006	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	30-007	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	30-008	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	30-019	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	30-020	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	30-030	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	31-003	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	32-001	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	32-005	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	32-011	Temporary use (including for storage) to facilitate construction for Work No. 8

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South Norfolk	33-001	Temporary use (including for access and storage) to facilitate construction for Work No. 8
South Norfolk	33-002	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	33-003	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	33-017	Temporary use (including for storage) to facilitate construction for Work No. 10
Broadland District	35-001	Temporary use (including for storage) to facilitate construction for Work Nos. 8, 9 10, 11, and 12
Broadland District	35-002	Temporary use for access to facilitate construction for Work Nos. 8, 9 10, 11, and 12
Broadland District	35-003	Temporary use (including for storage, access and vehicle holding area) to facilitate construction for Work Nos. 8, 9 10, 11, and 12
Broadland District	35-004	Temporary use for access to facilitate construction for Work Nos. 8, 9 10, 11, and 12
South Norfolk	29-002	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	29-007	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	29-008	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	29-010	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	29-011	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	29-014	Temporary use (including for storage) to facilitate construction for Work No. 8

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South Norfolk	30-006	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	30-007	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	30-008	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	30-019	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	30-020	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	30-030	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	31-003	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	32-001	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	32-005	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	32-011	Temporary use (including for storage) to facilitate construction for Work No. 8
South Norfolk	33-001	Temporary use (including for access and storage) to facilitate construction for Work No. 8
South Norfolk	33-002	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	33-003	Temporary use for access to facilitate construction for Work No. 8
South Norfolk	33-017	Temporary use (including for storage) to facilitate construction for Work No. 10
Broadland District	35-001	Temporary use (including for storage) to facilitate

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Broadland District	35-002	construction for Work Nos. 6, 7, 8, 9 10, 11, and 12
Broadland District	35-003	Temporary use for access to facilitate construction for Work No. 6, 7, 8, 9 10, 11, and 12
Broadland District	35-004	Temporary use (including for storage, access and vehicle holding area) to facilitate construction for Work Nos. 6, 7, 8, 9 10, 11, and 12
Broadland District	35-004	Temporary use for access to facilitate construction for Work Nos. 6, 7, 8, 9 10, 11, and 12

## SCHEDULE 9 **E+W**

Article 28

### PROTECTIVE PROVISIONS

## PART 1 **E+W**

### PROTECTION FOR ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

#### Application **E+W**

1. For the protection of the affected undertakers referred to in this Part (save for National Grid which is protected by Part 2 of this Schedule, Cadent Gas Limited which is protected by Part 3 of this Schedule and Anglian Water which is protected by Part 6 of this Schedule) the following provisions must, unless otherwise agreed in writing between the undertaker and the affected undertaking concerned, have effect.

#### Commencement Information

**191** Sch. 9 Pt. 1 para. 1 in force at 22.1.2021, see [art. 1](#)

2. In this Part—

“affected undertaker” means

- (a) any licence holder within the meaning of Part 1 (electricity supply) of the 1989 Act;
- (b) a gas transporter within the meaning of Part 1 (gas supply) of the Gas Act 1986 <sup>M45</sup>;
- (c) a water undertaker within the meaning of the Water Industry Act 1991 <sup>M46</sup>;
- (d) a sewerage undertaker within the meaning of Part 1 (preliminary) of the Water Industry Act 1991,

for the area of the authorised development but, for the avoidance of doubt, does not include the undertakers specified in Part 2, Part 3, and Part 6 (National Grid, Cadent Gas Limited and



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Anglian Water Services Limited) of this Schedule, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained;

“alternative apparatus” means alternative apparatus adequate to enable the affected undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the 1989 Act), belonging to or maintained by that affected undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;
- (c) in the case of a water undertaker—
  - (i) mains, pipes or other apparatus belonging to or maintained by that affected undertaker for the purposes of water supply; and
  - (ii) any water mains or service pipes (or part of a water main or service pipe) that is the subject of an agreement to adopt made under section 51A (agreements to adopt water main or service pipe at future date) of the Water Industry Act 1991;
- (d) in the case of a sewerage undertaker—
  - (i) any drain or works vested in the affected undertaker in accordance with the Water Industry Act 1991; and
  - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewerage disposal works, at future date) of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties; and

“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.

#### Commencement Information

**I92** Sch. 9 Pt. 1 para. 2 in force at 22.1.2021, see [art. 1](#)

#### Marginal Citations

**M45** 1986 c.44. A new section 7 was substituted by section 5 of the [Gas Act 1995 \(c.45\)](#), and was further amended by section 76 of the [Utilities Act 2000 \(c.27\)](#).

**M46** 1991 c.56.

### Precedence of the 1991 Act in respect of apparatus in the streets **E+W**

**3.** This Part does not apply to apparatus in respect of which the relations between the undertaker and the affected undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

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#### Commencement Information

**193** Sch. 9 Pt. 1 para. 3 in force at 22.1.2021, see [art. 1](#)

#### No acquisition etc. except by agreement **E+W**

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

#### Commencement Information

**194** Sch. 9 Pt. 1 para. 4 in force at 22.1.2021, see [art. 1](#)

#### Removal of apparatus **E+W**

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

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

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

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

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

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the affected undertaker in question that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being executed by the affected undertaker, must be executed by the undertaker

without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the affected undertaker.

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

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#### Commencement Information

**195** Sch. 9 Pt. 1 para. 5 in force at 22.1.2021, see [art. 1](#)

### Facilities and rights for alternative apparatus **E+W**

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

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

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#### Commencement Information

**196** Sch. 9 Pt. 1 para. 6 in force at 22.1.2021, see [art. 1](#)

### Retained apparatus **E+W**

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

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

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

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

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

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

#### Commencement Information

**197** Sch. 9 Pt. 1 para. 7 in force at 22.1.2021, see [art. 1](#)

**8.—(1)** Subject to the following provisions of this paragraph, the undertaker must repay to an affected undertaker the reasonable expenses incurred by that affected undertaker in, or in connection with, the inspection, removal, 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 paragraph 5.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part, 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,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 37 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this 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 affected undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to 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 cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to 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 an affected undertaker in respect of works by virtue of sub-paragraph (1) must, 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 affected undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

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**Commencement Information**

**I98** Sch. 9 Pt. 1 para. 8 in force at 22.1.2021, see [art. 1](#)

**Expenses and costs** **E+W**

**9.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph 5, 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 an affected undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any affected undertaker, the undertaker must—

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

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 an affected undertaker, its officers, servants, contractors or agents.

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

**Commencement Information**

**I99** Sch. 9 Pt. 1 para. 9 in force at 22.1.2021, see [art. 1](#)

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

**Commencement Information**

**I100** Sch. 9 Pt. 1 para. 10 in force at 22.1.2021, see [art. 1](#)

**PART 2** **E+W**

**FOR THE PROTECTION OF NATIONAL GRID  
AS ELECTRICITY AND GAS UNDERTAKER**

**Application** **E+W**

**1.** For the protection of National Grid referred to in this Part the following provisions will, unless otherwise agreed in writing between the undertaker and National Grid, have effect.

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## Commencement Information

**I101** Sch. 9 Pt. 2 para. 1 in force at 22.1.2021, see [art. 1](#)

## Interpretation **E+W**

### 2. In this Part—

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

“apparatus” means—

- (a) electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by National Grid; and
- (b) any mains, pipes or other apparatus belonging to or maintained by National Grid for the purposes of gas supply,

together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of the undertaker for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or must be lodged or which gives or will give access to apparatus;

“authorised development” has the same meaning as in article 2 (interpretation) of this Order (unless otherwise specified) for the purposes of this Part shall include the use and maintenance of the authorised development and construction of any works authorised by this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by National Grid (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 National Grid'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 to do any of the following in relation to any apparatus or alternative apparatus of National Grid including construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Grid” means either—

- (a) National Grid Electricity Transmission PLC (Company No. 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH; or
- (b) National Grid Gas PLC (Company No. 2006000) whose registered office is at 1-3 Strand, London, WC2N 5EH,

or their successor company(ies) as the context requires;

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“plan” or “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

“specified works” means any of the authorised development or activities undertaken in association with the authorised development which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise; or
- (c) include any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (National Grid's policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties”).

**Commencement Information**

**I102** Sch. 9 Pt. 2 para. 2 in force at 22.1.2021, see [art. 1](#)

3. Except for paragraphs 4 (apparatus of National Grid in streets subject to temporary stopping up), 9 (retained apparatus: protection of National Grid as gas undertaker), 10 (retained apparatus: protection of National Grid as electricity undertaker), 11 (expenses) and 12 (indemnity) this Schedule does not apply to apparatus in respect of which the relations between the undertaker and National Grid are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

**Commencement Information**

**I103** Sch. 9 Pt. 2 para. 3 in force at 22.1.2021, see [art. 1](#)

**Apparatus of National Grid in streets subject to temporary stopping up** **E+W**

4.—(1) Without prejudice to the generality of any other protection afforded to National Grid elsewhere in the Order, where any street is stopped up under article 10 (temporary stopping up of streets), if National Grid has any apparatus in the street or accessed via that street National Grid will 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 National Grid, or will procure the granting to National Grid of, legal easements reasonably satisfactory to National Grid 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 under the powers of article 10), National Grid will be at liberty at all times to take all necessary access across any such 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**

**I104** Sch. 9 Pt. 2 para. 4 in force at 22.1.2021, see [art. 1](#)

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## Protective works to buildings **E+W**

5.—(1) The undertaker, in the case of the powers conferred by article 16 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Grid which will not unreasonably be withheld 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 National Grid or any interruption in the supply of electricity or gas, as the case may be, the undertaker must bear and pay on demand the cost reasonably incurred by National Grid in making good such damage or restoring the supply; and, subject to sub-paragraph (2), shall—

- (a) pay compensation to National Grid for any loss sustained by it; and
- (b) indemnify National Grid against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by National Grid, 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 National Grid or its contractors or workmen; and National Grid will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made by National Grid, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.

### Commencement Information

**I105** Sch. 9 Pt. 2 para. 5 in force at 22.1.2021, see [art. 1](#)

## Acquisition of land **E+W**

6.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not acquire any land interest or apparatus or override any easement or other interest of National Grid otherwise than by agreement (such agreement not to be unreasonably withheld).

(2) The undertaker and National Grid agree that where there is any inconsistency or duplication between the provisions set out in this Part relating to the relocation and/or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(3) Any agreement or consent granted by National Grid under paragraphs 9 or 10 or any other paragraph of this Part, shall not be taken to constitute agreement under [<sup>F26</sup>sub-paragraph (1)].

### Textual Amendments

**F26** Words in [Sch. 9 Pt. 2 para. 6\(3\)](#) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), [art. 1\(2\)](#), [Sch.](#)

### Commencement Information

**I106** Sch. 9 Pt. 2 para. 6 in force at 22.1.2021, see [art. 1](#)



## Removal of apparatus **E+W**

7.—(1) If, in the exercise of the agreement reached in accordance with paragraph 6 or in any other authorised manner, the undertaker acquires any interest in any Order land in which any apparatus is placed, that apparatus must not be removed under this Part and any right of National Grid to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works comprised in the authorised development 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 must give to National Grid 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 National Grid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to National Grid to its satisfaction (taking into account paragraph 8(1) below) the necessary facilities and rights [<sup>F27</sup>—]

- (a) for the construction of alternative apparatus in other land of or land secured by 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 or land secured by 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, National Grid must, 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 National Grid 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 or land secured by the undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between National Grid and the undertaker.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to National Grid 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.

### Textual Amendments

**F27** Sch. 9 Pt. 2 para. 7(2) dash inserted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

### Commencement Information

**I107** Sch. 9 Pt. 2 para. 7 in force at 22.1.2021, see [art. 1](#)

## Facilities and rights for alternative apparatus **E+W**

8.—(1) Where, in accordance with the provisions of this Part, the undertaker affords to or secures National Grid facilities and rights in land for the construction, use, maintenance and protection in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those

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facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless agreed by National Grid.

(2) If the facilities and rights to be afforded by the undertaker and agreed with National Grid under sub-paragraph (1) above 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 National Grid 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 will be referred to arbitration under paragraph 16 (arbitration) and the arbitrator shall make such provision for the payment of compensation by the undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case. In respect of the appointment of an arbitrator under this sub-paragraph, article 37 (arbitration) of the Order shall apply.

#### Commencement Information

**1108** Sch. 9 Pt. 2 para. 8 in force at 22.1.2021, see [art. 1](#)

#### Retained apparatus: protection of National Grid as Gas Undertaker **E+W**

**9.**—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid a plan and, if reasonably required by National Grid, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

- (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 must not commence any works to which sub-paragraphs (1) and (2) applies until National Grid has given written approval of the plan so submitted.

(4) Any approval of National Grid required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5) or (7); and,
- (b) must not be unreasonably withheld.

(5) In relation to a work to which sub-paragraphs (1) and (2) applies, National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus 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 to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraphs (1) and (2) or as relevant sub-paragraph (5), as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5), (7) or (8) by National Grid

for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid shall be entitled to watch and inspect the execution of those works.

(7) Where National Grid requires protective works to be carried out either by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, must be carried out to National Grid's satisfaction prior to the commencement of any authorised development (or any relevant part thereof) to which sub-paragraph (1) applies and National Grid must give 56 days' notice of such works from the date of submission of a plan in line with sub-paragraph (1) or (2) (except in an emergency).

(8) If National Grid in accordance with sub-paragraph (5) or (7) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, subparagraphs (1) to (3) and (6) to (7) apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(9) 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 comprising the authorised development, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker will not be 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 must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must—

- (a) comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with National Grid's policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW22” and the Health and Safety Executive's “HSG47 Avoiding danger from underground services”.

(12) 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 National Grid 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 paragraphs 11 and 12.

### **Retained apparatus: Protection of National Grid as Electricity Undertaker**

#### **Commencement Information**

**I109** Sch. 9 Pt. 2 para. 9 in force at 22.1.2021, see [art. 1](#)

**10.**—(1) Not less than 56 days before the commencement of any authorised development that is near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise and to which paragraph 7(2)(a) or 7(2)(b) applies, the undertaker must submit to National Grid a plan and seek from National Grid details of the underground extent of their electricity tower foundations.

- (2) In relation to works which will or may be situated on, over, under or within—
  - (a) 15 metres measured in any direction of any apparatus, or
  - (b) involve embankment works within 15 metres of any apparatus,

the plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

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- (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;
- (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) any intended maintenance regimes; and
- (g) an assessment of risks of rise of earth issues.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must in addition to the matters set out in sub-paragraph (2) include a method statement describing [<sup>F28</sup>—]

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;
- (b) demonstration that pylon foundations will not be affected prior to, during and post construction;
- (c) details of load bearing capacities of trenches;
- (d) details of cable installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) a written management plan for high voltage hazard during construction and ongoing maintenance of the cable route;
- (f) written details of the operations and maintenance regime for the cable, including frequency and method of access;
- (g) assessment of earth rise potential if reasonably required by National Grid's engineers; and
- (h) evidence that trench bearing capacity is to be designed to 26 tonnes to take the weight of overhead line construction traffic.

(4) The undertaker must not commence any works to which sub-paragraph (1), (2), or (3) applies until National Grid has given written approval of the plan so submitted.

(5) Any approval of National Grid required under sub-paragraph (1), (2), or (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (6) or (8); and
- (b) must not be unreasonably withheld.

(6) In relation to a work to which sub-paragraph (1), (2), or (3) applies, National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (2), (3) or (6) as approved or as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5), (6), (8) or (9) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.

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(8) Where National Grid require any protective works to be carried out either by themselves or by the undertaker (whether of a temporary or permanent nature) such protective works must be carried out to National Grid's satisfaction prior to the commencement of any authorised development (or any relevant part thereof) to which sub-paragraph (1) applies and National Grid must give 56 days' notice of such works from the date of submission of a plan in line with sub-paragraphs (1),(2), [F29(3) or] (6) (except in an emergency).

(9) If National Grid in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, [F30sub-paragraphs] (1) to [F31(3) and] (6) to (7) shall apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(10) 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 work, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(11) The undertaker will not be 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 must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must—

- (a) comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (12) at all times.

(12) At all times when carrying out any works authorised under the Order, the undertaker must comply with National Grid's policies for development near overhead lines ENA TA 43-8 and the Health and Safety Executive's guidance note 6 “Avoiding danger from overhead power lines”.

#### Textual Amendments

- F28** Sch. 9 Pt. 2 para. 10(3) dash substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)
- F29** Words in Sch. 9 Pt. 2 para. 10(8) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)
- F30** Word in Sch. 9 Pt. 2 para. 10(9) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)
- F31** Words in Sch. 9 Pt. 2 para. 10(9) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

#### Commencement Information

- I110** Sch. 9 Pt. 2 para. 10 in force at 22.1.2021, see [art. 1](#)

#### Expenses **E+W**

**11.—(1)** Subject to the following provisions of this paragraph, the undertaker shall pay to National Grid on demand all charges, costs and expenses reasonably anticipated or incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus or alternative 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

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without limitation in the event that National Grid elects to use compulsory purchase powers to acquire any necessary rights under paragraph 7(3);

- (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 will 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 37 (arbitration) of the Order 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 National Grid by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will 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 will 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 will 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 National Grid in respect of works by virtue of sub-paragraph (1) will, 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 National Grid 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

**III11** Sch. 9 Pt. 2 para. 11 in force at 22.1.2021, see [art. 1](#)

## Indemnity **E+W**

**12.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any 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 him) 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 purpose of those works) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, the undertaker will—

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

(2) The fact that any act or thing may have been done by National Grid on behalf of the undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid as a consequence of the authorised development or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (2) where the undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not materially accord with the approved plan or as otherwise agreed between the undertaker and National Grid.

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, servants, contractors or agents; and
- (b) any authorised development or any other works authorised by this Part carried out by National Grid as an assignee, transferee or lessee of the undertaker with the benefit of this Order pursuant to section 156 of the 2008 Act or [<sup>F32</sup>article 5] (benefit of the Order) of this Order subject to the proviso that once such works become apparatus (“new apparatus”), any works yet to be executed and not falling within this [<sup>F32</sup>sub-paragraph (3)(b)] will be subject to the full terms of this Part including this paragraph 12 in respect of such new apparatus.

(4) National Grid must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made, unless payment is required in connection with a statutory compensation scheme without first consulting the undertaker and considering its representations.]

### Textual Amendments

**F32** Words in Sch. 9 Pt. 2 para. 12(3)(b) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

### Commencement Information

**I112** Sch. 9 Pt. 2 para. 12 in force at 22.1.2021, see [art. 1](#)

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## Enactments and agreements **E+W**

13. Save to the extent provided for to the contrary elsewhere in this Part or by agreement in writing between the undertaker and National Grid, nothing in this Part shall affect the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### Commencement Information

**I113** Sch. 9 Pt. 2 para. 13 in force at 22.1.2021, see [art. 1](#)

## Co-operation **E+W**

14.—(1) Where in consequence of the proposed construction of any of the authorised development, the undertaker or National Grid requires the removal of apparatus under paragraph 7(2) or National Grid makes requirements for the protection or alteration of apparatus under paragraphs 9 or 10, National Grid 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 National Grid's undertaking and National Grid shall use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Grid's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by National Grid is required, it must not be unreasonably withheld or delayed.

### Commencement Information

**I114** Sch. 9 Pt. 2 para. 14 in force at 22.1.2021, see [art. 1](#)

## Access **E+W**

15. If in consequence of the agreement reached in accordance with paragraph 6 or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

### Commencement Information

**I115** Sch. 9 Pt. 2 para. 15 in force at 22.1.2021, see [art. 1](#)

## Arbitration **E+W**

16. Save for differences or disputes arising under paragraphs 7(2), 7(4), 8(1), 9 and 10 any difference or dispute arising between the undertaker and National Grid under this Part must, unless otherwise agreed in writing between the undertaker and National Grid, be determined by arbitration in accordance with article 37 (arbitration).

### Commencement Information

**I116** Sch. 9 Pt. 2 para. 16 in force at 22.1.2021, see [art. 1](#)



## Notices **E+W**

17. The plans submitted to National Grid by the undertaker pursuant to paragraphs 9(1) and 10(1) must be sent to National Grid Plant Protection at [plantprotection@nationalgrid.com](mailto:plantprotection@nationalgrid.com) or such other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

### Commencement Information

I117 Sch. 9 Pt. 2 para. 17 in force at 22.1.2021, see [art. 1](#)

## PART 3 **E+W**

### FOR THE PROTECTION OF CADENT GAS LIMITED AS GAS UNDERTAKER

## Application **E+W**

1. For the protection of Cadent Gas Limited referred to in this Part the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent Gas Limited, have effect.

### Commencement Information

I118 Sch. 9 Pt. 3 para. 1 in force at 22.1.2021, see [art. 1](#)

## Interpretation **E+W**

2. In this Part—

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

“apparatus” means any mains, pipes or other apparatus belonging to or maintained by Cadent Gas Limited for the purposes of gas supply together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of the undertaker for the purposes of transmission, distribution or supply and includes any structure in which apparatus is or must be lodged or which gives or will give access to apparatus;

“authorised development” has the same meaning as in article 2 (interpretation) of this Order (unless otherwise specified) for the purposes of this Part shall include the use and maintenance of the authorised development and construction of any works authorised by this Schedule;

“Cadent Gas Limited” means Cadent Gas Limited, with Company Registration Number 10080864, whose registered office is at Ashbrook Court Prologis Park, Central Boulevard, Coventry, CV7 8PE;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by Cadent Gas Limited (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

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and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for Cadent Gas Limited'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 to do any of the following in relation to any apparatus or alternative apparatus of the undertaker including construct, use, repair, alter, inspect, renew or remove the apparatus;

“plan” or “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

“specified works” means any of the authorised development or activities undertaken in association with the authorised development which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise; or
- (c) include any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (Cadent Gas Limited's policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties”).

#### Commencement Information

**I119** Sch. 9 Pt. 3 para. 2 in force at 22.1.2021, see [art. 1](#)

**3.** Except for paragraphs 4 (apparatus of Cadent Gas Limited in streets subject to temporary stopping up), 9 (retained apparatus: protection of Cadent Gas Limited as gas undertaker), 10 (expenses) and 11 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of Cadent Gas Limited, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and Cadent Gas Limited are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

#### Commencement Information

**I120** Sch. 9 Pt. 3 para. 3 in force at 22.1.2021, see [art. 1](#)

### Apparatus of Cadent Gas Limited in streets subject to temporary stopping up **E+W**

**4.—(1)** Without prejudice to the generality of any other protection afforded to Cadent Gas Limited elsewhere in the Order, where any street is stopped up under article 10 (temporary stopping up of streets), if Cadent Gas Limited has any apparatus in the street or accessed via that street Cadent Gas Limited will 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 Cadent Gas Limited, or will procure the

granting to Cadent Gas Limited of, legal easements reasonably satisfactory to Cadent Gas Limited 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 under the powers of article 10, Cadent Gas Limited will be at liberty at all times to take all necessary access across any such street and/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.

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**Commencement Information**

**I121** Sch. 9 Pt. 3 para. 4 in force at 22.1.2021, see [art. 1](#)

**Protective works to buildings** **E+W**

**5.—**(1) The undertaker, in the case of the powers conferred by article 16 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent Gas Limited which will not unreasonably be withheld 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 Cadent Gas Limited or any interruption in the supply of gas, the undertaker must bear and pay on demand the cost reasonably incurred by Cadent Gas Limited in making good such damage or restoring the supply; and, subject to sub-paragraph (2), shall—

- (a) pay compensation to Cadent Gas Limited for any loss sustained by it; and
- (b) indemnify Cadent Gas Limited against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by Cadent Gas Limited, 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 Cadent Gas Limited or its contractors or workmen; and Cadent Gas Limited will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made by Cadent Gas Limited, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.

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**Commencement Information**

**I122** Sch. 9 Pt. 3 para. 5 in force at 22.1.2021, see [art. 1](#)

**Acquisition of land** **E+W**

**6.—**(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not acquire any land interest or apparatus or override any easement or other interest of Cadent Gas Limited otherwise than by agreement (such agreement not to be unreasonably withheld).

(2) The undertaker and Cadent Gas Limited agree that 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 and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent Gas Limited as of right or other use in relation to the apparatus, then the provisions in this Part shall prevail.

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(3) Any agreement or consent granted by Cadent Gas Limited under paragraph 9 or any other paragraph of this Part, shall not be taken to constitute agreement under [F33 sub-paragraph (1)].

#### Textual Amendments

**F33** Words in Sch. 9 Pt. 3 para. 6(3) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

#### Commencement Information

**I123** Sch. 9 Pt. 3 para. 6 in force at 22.1.2021, see [art. 1](#)

### Removal of apparatus **E+W**

7.—(1) If, in the exercise of the agreement reached in accordance with paragraph 6 or in any other authorised manner, the undertaker acquires any interest in any Order land in which any apparatus is placed, that apparatus must not be removed under this Part and any right of Cadent Gas Limited to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of Cadent Gas Limited in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works comprised in the authorised development 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 must give to Cadent Gas Limited 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 Cadent Gas Limited reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Cadent Gas Limited to its satisfaction (taking into account paragraph 8(1) below) the necessary facilities and rights [F34—]

(a) for the construction of alternative apparatus in other land of or land secured by 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 or land secured by 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, Cadent Gas Limited must, 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 Cadent Gas Limited to use its compulsory purchase powers to this end unless it elects to do so.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between Cadent Gas Limited and the undertaker.

(5) Cadent Gas Limited must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to Cadent Gas Limited of any such facilities and rights as are referred to in sub-paragraph (2) or (3), then 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.

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#### Textual Amendments

**F34** Sch. 9 Pt. 3 para. 7(2) dash inserted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

#### Commencement Information

**I124** Sch. 9 Pt. 3 para. 7 in force at 22.1.2021, see [art. 1](#)

### Facilities and rights for alternative apparatus **E+W**

**8.—(1)** Where, in accordance with the provisions of this Part, the undertaker affords to or secures for Cadent Gas Limited facilities and rights in land for the construction, use, maintenance and protection in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent Gas Limited and must be no less favourable on the whole to Cadent Gas Limited than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless agreed by Cadent Gas Limited.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent Gas Limited under sub-paragraph (1) above 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 Cadent Gas Limited 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 will be referred to arbitration in accordance with paragraph 15 (arbitration) and the arbitrator shall make such provision for the payment of compensation by the undertaker to Cadent Gas Limited as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case. In respect of the appointment of an arbitrator under this sub-paragraph article 37 (arbitration) of this Order shall apply.

#### Commencement Information

**I125** Sch. 9 Pt. 3 para. 8 in force at 22.1.2021, see [art. 1](#)

### Retained apparatus: protection of Cadent Gas Limited as Gas Undertaker **E+W**

**9.—(1)** Not less than 56 days before the commencement of any specified works the undertaker must submit to Cadent Gas Limited a plan and, if reasonably required by Cadent Gas Limited, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent Gas Limited under sub-paragraph (1) must include a method statement and describe—

- (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.

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(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) applies until Cadent Gas Limited has given written approval of the plan so submitted.

(4) Any approval of Cadent Gas Limited required under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and

(b) must not be unreasonably withheld.

(5) In relation to a work to which sub-paragraphs (1) and (2) apply, Cadent Gas Limited may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus 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 to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraphs (1) and (2) or, as relevant, sub-paragraph (5), as amended from time to time by agreement between the undertaker and Cadent Gas Limited and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5), (7) or (8) by Cadent Gas Limited for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Cadent Gas Limited shall be entitled to watch and inspect the execution of those works.

(7) Where Cadent Gas Limited requires protective works to be carried out either by themselves or by the undertaker by itself (whether of a temporary or permanent nature) such protective works, must be carried out to Cadent Gas Limited's satisfaction prior to the commencement of any authorised development (or any relevant part thereof) to which sub-paragraph (1) applies and Cadent Gas Limited must give 56 days' notice of such works from the date of submission of a plan in line with sub-paragraph (1) or (2) (except in an emergency).

(8) If Cadent Gas Limited in accordance with sub-paragraph (5) or (7) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (3) and (6) to (7) apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(9) 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 comprising the authorised development, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker will not be 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 must give to Cadent Gas Limited notice as soon as is reasonably practicable and a plan of those works and must—

(a) comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances; and

(b) comply with sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with Cadent Gas Limited's policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW22” and Health and Safety Executive's “HSG47 Avoiding danger from underground services”.

(12) 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 Cadent Gas Limited 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 10.

### Commencement Information

**I126** Sch. 9 Pt. 3 para. 9 in force at 22.1.2021, see [art. 1](#)

### Expenses **E+W**

**10.**—(1) Subject to the following provisions of this paragraph, the undertaker shall pay to Cadent Gas Limited on demand all charges, costs and expenses reasonably anticipated or incurred by Cadent Gas Limited in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus or alternative 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 Cadent Gas Limited elects to use compulsory purchase powers to acquire any necessary rights under paragraph 7(3);
- (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 will 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, by arbitration in accordance with article 37 (arbitration) of this Order 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 Cadent Gas Limited by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

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

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- (a) an extension of apparatus to a length greater than the length of existing apparatus will 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 will 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 Cadent Gas Limited in respect of works by virtue of sub-paragraph (1) will, 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 Cadent Gas Limited 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

**I127** Sch. 9 Pt. 3 para. 10 in force at 22.1.2021, see [art. 1](#)

#### Indemnity **E+W**

**11.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any 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 him) 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 purpose of those works) or property of Cadent Gas Limited, or there is any interruption in any service provided, or in the supply of any goods, by Cadent Gas Limited, or Cadent Gas Limited becomes liable to pay any amount to any third party, the undertaker will—

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

(2) The fact that any act or thing may have been done by Cadent Gas Limited on behalf of the undertaker or in accordance with a plan approved by Cadent Gas Limited or in accordance with any requirement of Cadent Gas Limited as a consequence of the authorised development or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of sub-paragraph (1) where the undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not materially accord with the approved plan or as otherwise agreed between the undertaker and Cadent Gas Limited.

- (3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of—
  - (a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent Gas Limited, its officers, servants, contractors or agents; and
  - (b) any authorised development or any other works authorised by this Part carried out by Cadent Gas Limited as an assignee, transferee or lessee of Cadent Gas Limited with the benefit of this Order pursuant to section 156 of the 2008 Act or article 5 (benefit of the Order) of this Order subject to the proviso that once such works become apparatus (“new



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apparatus”), any works yet to be executed and not falling within this sub-paragraph (b) will be subject to the full terms of this Part including this paragraph 11 in respect of such new apparatus.

(4) Cadent Gas Limited must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made unless payment is required in connection with a statutory compensation scheme, without first consulting the undertaker and considering its representations.

(5) Cadent Gas Limited must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph 11 applies. If requested to do so by the undertaker, Cadent Gas Limited shall provide an explanation of how the claim has been minimised. The undertaker shall only be liable under this paragraph 11 for claims reasonably incurred by Cadent Gas Limited.

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**Commencement Information**

**I128** Sch. 9 Pt. 3 para. 11 in force at 22.1.2021, see [art. 1](#)

**Enactments and agreements** **E+W**

**12.** Save to the extent provided for to the contrary elsewhere in this Part or by agreement in writing between Cadent Gas Limited and the undertaker, nothing in this Part shall affect the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent Gas Limited 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**

**I129** Sch. 9 Pt. 3 para. 12 in force at 22.1.2021, see [art. 1](#)

**Co-operation** **E+W**

**13.—(1)** Where in consequence of the proposed construction of any of the authorised development, the undertaker or Cadent Gas Limited requires the removal of apparatus under paragraph 7(2) or Cadent Gas Limited makes requirements for the protection or alteration of apparatus under paragraph 9, 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 Cadent Gas Limited's undertaking and Cadent Gas Limited shall use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent Gas Limited's consent, agreement or approval to is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by Cadent Gas Limited, it must not be unreasonably withheld or delayed.

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**Commencement Information**

**I130** Sch. 9 Pt. 3 para. 13 in force at 22.1.2021, see [art. 1](#)

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## Access **E+W**

14. If in consequence of the agreement reached in accordance with paragraph 6 or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable Cadent Gas Limited to maintain or use the apparatus no less effectively than was possible before such obstruction.

### Commencement Information

**I131** Sch. 9 Pt. 3 para. 14 in force at 22.1.2021, see [art. 1](#)

## Arbitration **E+W**

15. Save for differences or disputes arising under [<sup>F35</sup>paragraphs] 7(2), 7(4), 8(1), 9 and 11(5) any difference or dispute arising between the undertaker and Cadent Gas Limited under this Part must, unless otherwise agreed in writing between the undertaker and Cadent Gas Limited, be determined by arbitration in accordance with article 37 (arbitration).

### Textual Amendments

**F35** Word in Sch. 9 Pt. 3 para. 15 substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

### Commencement Information

**I132** Sch. 9 Pt. 3 para. 15 in force at 22.1.2021, see [art. 1](#)

## Notices **E+W**

16. The plans submitted to Cadent Gas Limited by the undertaker pursuant to paragraph 9(1) must be sent to Cadent Gas Limited Plant Protection at [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) or such other address as Cadent Gas Limited may, in writing, from time to time appoint instead for that purpose and notify to the undertaker.

### Commencement Information

**I133** Sch. 9 Pt. 3 para. 16 in force at 22.1.2021, see [art. 1](#)

## PART 4 **E+W**

### PROTECTION FOR OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

1.—(1) For the protection of any operator, the following provisions, unless otherwise agreed in writing between the undertaker and the operator, have effect.

### Commencement Information

**I134** Sch. 9 Pt. 4 para. 1 in force at 22.1.2021, see [art. 1](#)

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**2. In this Part—**

“the 2003 Act” means the Communications Act 2003 <sup>M47</sup>;

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system is construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 (networks, services and the radio spectrum) of the 2003 Act <sup>M48</sup>;

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 (application of the electronic communications code) of the 2003 Act; and
- (b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

**Commencement Information**

**I135** Sch. 9 Pt. 4 para. 2 in force at 22.1.2021, see [art. 1](#)

**Marginal Citations**

**M47** 2003 c.21.

**M48** See section 106.

**3.** The exercise of the powers of article 28 (statutory undertakers) are subject to part 10 of Schedule 3A (the electronic communications code) to the 2003 Act.

**Commencement Information**

**I136** Sch. 9 Pt. 4 para. 3 in force at 22.1.2021, see [art. 1](#)

**4.—(1)** Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or their construction, or of any subsidence resulting from any of those works—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works, or other property of an operator); or
- (b) there is any interruption in the supply of the service provided by an operator, the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and must—
  - (i) make reasonable compensation to an operator for loss sustained by it; and
  - (ii) indemnify an operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, an operator by reason, or in consequence of, any such damage or interruption.

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(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 an operator, its officers, servants, contractors or agents.

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

(4) Any difference arising between the undertaker and the operator under this paragraph must be referred to and settled by arbitration under article 37 (arbitration).

**Commencement Information**

**I137** Sch. 9 Pt. 4 para. 4 in force at 22.1.2021, see [art. 1](#)

5. This Part does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

**Commencement Information**

**I138** Sch. 9 Pt. 4 para. 5 in force at 22.1.2021, see [art. 1](#)

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

**Commencement Information**

**I139** Sch. 9 Pt. 4 para. 6 in force at 22.1.2021, see [art. 1](#)

## PART 5 E+W

### PROTECTION OF NETWORK RAIL INFRASTRUCTURE LIMITED

1. The following provisions of this Part of this Schedule have effect unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 15 any other person on whom rights or obligations are conferred by that paragraph.

**Commencement Information**

**I140** Sch. 9 Pt. 5 para. 1 in force at 22.1.2021, see [art. 1](#)

2. In this Part—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

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“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;  
“network licence” means the network licence, as amended from time to time, granted to Network Rail by the Secretary of State in exercise of powers under section 8 (licences) of the Railways Act 1993 <sup>M49</sup>;

“Network Rail” means Network Rail Infrastructure Limited (Company registration number 02904587) whose registered office is at 1 Eversholt Street, London, NW1 2DN and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition, “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006 <sup>M50</sup>) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail for the purposes of such railway or works, apparatus or equipment; and

“specified work” means so much of any of the authorised project as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and for the avoidance of doubt includes the exercise of the powers conferred by article 4 (power to maintain authorised project), article 12 (access to works), article 15 (discharge of water), article 17 (authority to survey and investigate the land onshore); article 34 (felling or lopping of trees and removal of hedgerows) and article 35 (trees subject to tree preservation orders) in respect of any railway property.

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#### Commencement Information

**I141** Sch. 9 Pt. 5 para. 2 in force at 22.1.2021, see [art. 1](#)

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#### Marginal Citations

**M49** 1993 c.43.

**M50** 2006 c.46.

**3.—(1)** Where under this Part Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and

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- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised project pursuant to this Order.

#### Commencement Information

**I142** Sch. 9 Pt. 5 para. 3 in force at 22.1.2021, see [art. 1](#)

4.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration under article 37 (arbitration).

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated disapproval of those plans and the grounds of disapproval, the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer is deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the opinion of the engineer should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using them (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified work), and such protective works as may be reasonably necessary for those purposes are to be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified work until the engineer has notified the undertaker that the protective works have been completed to the engineer's reasonable satisfaction.

#### Commencement Information

**I143** Sch. 9 Pt. 5 para. 4 in force at 22.1.2021, see [art. 1](#)

5.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 4(4) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 4;

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- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of, a specified work, the undertaker must, regardless of any approval described in paragraph 5(1)(a), make good such damage and pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

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**Commencement Information**

**I144** Sch. 9 Pt. 5 para. 5 in force at 22.1.2021, see [art. 1](#)

6. The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing it.

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**Commencement Information**

**I145** Sch. 9 Pt. 5 para. 6 in force at 22.1.2021, see [art. 1](#)

7. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

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**Commencement Information**

**I146** Sch. 9 Pt. 5 para. 7 in force at 22.1.2021, see [art. 1](#)

8.—(1) If any permanent or temporary alterations or additions to railway property, are reasonably necessary in consequence of the construction of a specified work, or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

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(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 4(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 9(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

#### Commencement Information

I147 Sch. 9 Pt. 5 para. 8 in force at 22.1.2021, see [art. 1](#)

**9.** The undertaker must pay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 4(3) or in constructing any protective works under paragraph 4(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it is reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, need to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified work, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

#### Commencement Information

I148 Sch. 9 Pt. 5 para. 9 in force at 22.1.2021, see [art. 1](#)

**10.—(1)** In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail's apparatus generated by the operation of the authorised project where such interference is of a level which adversely affects the safe operation of Network Rail's apparatus; and



“Network Rail's apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised project) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that the EMI is not attributable to any change to Network Rail's apparatus carried out after approval of plans under paragraph 4(1) for the relevant part of the authorised project giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised project take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker's compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail's apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 4(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail's apparatus identified pursuant to sub-paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail's apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can reasonably be prevented only by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but Network Rail may, in its reasonable discretion select the means of prevention and the method of their execution, and in relation to such modifications paragraph 4(1) has effect subject to this sub-paragraph.

(6) If at any time prior to the commencement of the commercial operation of the authorised project and regardless of any measures adopted under sub-paragraph (3), the testing or commissioning of the authorised project causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of the EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) cease to use (or procure the cessation of use of) the undertaker's apparatus causing the EMI until all measures necessary have been taken to remedy the EMI by way of modification to the source of the EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of the EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of the EMI; and
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or the EMI.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

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- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 5.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 14(1) applies, subject to paragraphs 14(2) to 14(8), to the costs and expenses reasonably incurred or losses reasonably suffered by Network Rail through the implementation of the provisions of this paragraph (including costs reasonably incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 9(a) any modifications to Network Rail's apparatus under this paragraph is deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 37 (arbitration) to the Secretary of State shall be read as a reference to the Institution of Engineering and Technology for appointment of an arbitrator.

**Commencement Information**

**I149** Sch. 9 Pt. 5 para. 10 in force at 22.1.2021, see [art. 1](#)

**11.** If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

**Commencement Information**

**I150** Sch. 9 Pt. 5 para. 11 in force at 22.1.2021, see [art. 1](#)

**12.** The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

**Commencement Information**

**I151** Sch. 9 Pt. 5 para. 12 in force at 22.1.2021, see [art. 1](#)

**13.** Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work, provided that at least 56 days' prior notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, are to be paid by the undertaker to Network Rail.

**Commencement Information**

**I152** Sch. 9 Pt. 5 para. 13 in force at 22.1.2021, see [art. 1](#)

**14.—(1)** The undertaker must—

- (a) pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part (but subject to the provisions of this paragraph) which may be occasioned to or reasonably incurred by Network Rail by reason of—
  - (i) the construction or maintenance of a specified work or the failure of such a work; or
  - (ii) any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work,
- (b) indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission.

(2) The fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the supervision of the engineer shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(3) Network Rail must give the undertaker reasonable written notice of any such claim or demand and no settlement or compromise of such a claim or demand shall be made without the prior consent of the undertaker.

(4) In no circumstances is the undertaker liable to Network Rail under sub-paragraph (1) for any indirect or consequential loss or loss of profits, save that the sums payable by the undertaker under that sub-paragraph include a sum equivalent to the relevant costs in circumstances where—

- (a) Network Rail is liable to make payment of the relevant costs pursuant to the terms of an agreement between Network Rail and a train operator; and
- (b) the existence of that agreement and the extent of Network Rail's liability to make payment of the relevant costs pursuant to its terms has previously been disclosed in writing to the undertaker, but not otherwise.

(5) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(6) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs is, in the event of default, enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (5).

(7) Network Rail must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph 14 applies. If requested to do so by the undertaker, Network Rail shall provide an explanation of how the claim has been minimised. The undertaker shall only be liable under this paragraph 14 for claims reasonably incurred by Network Rail.

(8) In this paragraph—

“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by a train operator as a consequence of any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

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**Commencement Information**

**I153** Sch. 9 Pt. 5 para. 14 in force at 22.1.2021, see [art. 1](#)

**15.** Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part (including the amount of the relevant costs mentioned in paragraph 14) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part (including any claim relating to those relevant costs).

**Commencement Information**

**I154** Sch. 9 Pt. 5 para. 15 in force at 22.1.2021, see [art. 1](#)

**16.** In the assessment of any sums payable to Network Rail under this Part no account must be taken of any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part or increasing the sums so payable.

**Commencement Information**

**I155** Sch. 9 Pt. 5 para. 16 in force at 22.1.2021, see [art. 1](#)

**17.** The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works plans and land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

**Commencement Information**

**I156** Sch. 9 Pt. 5 para. 17 in force at 22.1.2021, see [art. 1](#)

**18.** Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I (the provision of services) of the Railways Act 1993.

**Commencement Information**

**I157** Sch. 9 Pt. 5 para. 18 in force at 22.1.2021, see [art. 1](#)

**19.** The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent under article 5 (benefit of the Order) of this Order in relation to land within 15m of Network Rail's operational railway and any such notice must be given no later than 14 days before any such application is made and must describe or give (as appropriate)—

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- (a) whether the application is for consent pursuant to article 5(2)(a) or 5(2)(b);
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

**Commencement Information**

**I158** Sch. 9 Pt. 5 para. 19 in force at 22.1.2021, see [art. 1](#)

**20.** In relation to any dispute arising under this Part that is referred to arbitration in accordance with article 37 (arbitration) of this Order, the undertaker will agree to any reasonable extension of time requested by Network Rail pursuant to paragraph 5(3) of Schedule 13 where Network Rail can demonstrate that it is unable (acting reasonably) to comply with the time limit due to timing constraints that may arise for Network Rail in obtaining clearance conditions and/or any engineering regulatory or stakeholder (internal or external) consents and/or assessing any matters of concern with regards to the safe operation of the railway.

**Commencement Information**

**I159** Sch. 9 Pt. 5 para. 20 in force at 22.1.2021, see [art. 1](#)

**21.** The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 36 (certification of plans and documents [<sup>F36</sup>] etc.) are certified by the Secretary of State, provide a set of those plans to Network Rail in a format reasonably specified by Network Rail.

**Textual Amendments**

**F36** Sch. 9 Pt. 5 para. 21 comma inserted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), [art. 1\(2\)](#), [Sch.](#)

**Commencement Information**

**I160** Sch. 9 Pt. 5 para. 21 in force at 22.1.2021, see [art. 1](#)

## PART 6 **E+W**

### FOR THE PROTECTION OF ANGLIAN WATER SERVICES LIMITED

**1.** For the protection of Anglian Water, the following provisions of this Schedule, unless otherwise agreed in writing between the undertaker and Anglian Water shall have effect.

**Commencement Information**

**I161** Sch. 9 Pt. 6 para. 1 in force at 22.1.2021, see [art. 1](#)

**2.** In this Part—

“alternative apparatus” means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in not less efficient a manner than previously;

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“Anglian Water” means Anglian Water Services Limited (company number 02366656) whose registered office is at Lancaster House, Lancaster Way, Ermine Business Park, Huntington, Cambridgeshire PE29 6XU;

“apparatus” means any works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage and—

- (a) any drain or works vested in Anglian Water under the Water Industry Act 1991;
- (b) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) <sup>M51</sup> (adoption of sewers and disposal works) of the Water Industry Act 1991 or an agreement to adopt made under section 104 <sup>M52</sup> (agreements to adopt sewer, drain or sewage disposal works at future date) of that Act,

and includes a sludge main, disposal main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any sewer, drain, or works (within the meaning of section 219 (general interpretation) of that Act) and any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

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

“plan” includes sections, drawings, specifications and method statements.

#### Commencement Information

**I162** Sch. 9 Pt. 6 para. 2 in force at 22.1.2021, see [art. 1](#)

#### Marginal Citations

**M51** Section 102(4) was amended by the [Water Act 2003 \(c.37\)](#), [s96\(1\)](#) and the [Water Act 2014 \(c.21\)](#), [Schedule 7](#), paragraph 90.

**M52** Section 104 was amended by the [Water Act 2003 \(c.37\)](#), [s96](#) and the [Water Act 2014 \(c.21\)](#).

**3.** This Part does not apply to apparatus to the extent that the relations between the undertaker and Anglian Water are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

#### Commencement Information

**I163** Sch. 9 Pt. 6 para. 3 in force at 22.1.2021, see [art. 1](#)

**4.** The undertaker must not interfere with, build over or near to any apparatus within the Order land or execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within the standard protection strips which are the strips of land falling, the following distances to either side of the medial line of any apparatus—

- (a) 2.25 metres where the diameter of the pipe is less than 150 millimetres;
- (b) 3 metres where the diameter of the pipe is between 150 and 450 millimetres;
- (c) 4.5 metres where the diameter of the pipe is between 450 and 750 millimetres; or
- (d) 6 metres where the diameter of the pipe exceeds 750 millimetres,

unless otherwise agreed in writing with Anglian Water, such agreement not to be unreasonably withheld or delayed, and such provision being brought to the attention of any agent or contractor responsible for carrying out the authorised development on behalf of the undertaker.

**Commencement Information**

**I164** Sch. 9 Pt. 6 para. 4 in force at 22.1.2021, see [art. 1](#)

5. The alteration, extension, removal or re-location of any apparatus shall not be implemented until—

- (a) any requirement for any permits under the Environmental Permitting (England and Wales) Regulations 2016 or other legislation and any other associated consents are obtained, and any approval or agreement required from Anglian Water on alternative outfall locations as a result of such re-location are approved, such approvals or agreement from Anglian Water not to be unreasonably withheld or delayed; and
- (b) the undertaker has made the appropriate application required under the Water Industry Act 1991 together with a plan and description of the works proposed and Anglian Water has agreed all of the contractual documentation required under the Water Industry Act 1991, such agreement not to be unreasonably withheld or delayed; and such works to be executed only in accordance with the plan and description submitted and in accordance with such reasonable requirements as may be made by Anglian Water without delay for the alteration or otherwise for the protection of the apparatus, or for securing access to it.

**Commencement Information**

**I165** Sch. 9 Pt. 6 para. 5 in force at 22.1.2021, see [art. 1](#)

6. In the situation, where in exercise of the powers conferred by the Order, the undertaker acquires any interest in any land in which apparatus is placed and such apparatus is to be relocated, extended, removed or altered in any way, no alteration or extension shall take place until Anglian Water has established to its reasonable satisfaction, contingency arrangements in order to conduct its functions for the duration of the works to relocate, extend, remove or alter the apparatus or provide alternative apparatus. Anglian Water must use reasonable endeavours to establish contingency arrangements in a timely manner.

**Commencement Information**

**I166** Sch. 9 Pt. 6 para. 6 in force at 22.1.2021, see [art. 1](#)

7. Regardless of any provision in this Order or anything shown on any plan, the undertaker must not acquire any apparatus otherwise than by agreement, and before extinguishing any existing rights for Anglian Water to use, keep, inspect, renew and maintain its apparatus in the Order land, the undertaker shall, with the agreement of Anglian Water, create a new right to use, keep, inspect, renew and maintain the apparatus that is reasonably convenient for Anglian Water such agreement not to be unreasonably withheld or delayed, and to be subject to arbitration under article 37 (arbitration).

**Commencement Information**

**I167** Sch. 9 Pt. 6 para. 7 in force at 22.1.2021, see [art. 1](#)

8. If the undertaker is unable to create the new rights referred to in paragraph 7, Anglian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible, use its reasonable endeavours to obtain the necessary rights.

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**Commencement Information**

**I168** Sch. 9 Pt. 6 para. 8 in force at 22.1.2021, see [art. 1](#)

**9.** If in consequence of the exercise of the powers conferred by the Order the access to any apparatus is materially obstructed the undertaker must provide such alternative means of access to such apparatus as will enable Anglian Water to maintain or use the apparatus no less effectively than was possible before such obstruction.

**Commencement Information**

**I169** Sch. 9 Pt. 6 para. 9 in force at 22.1.2021, see [art. 1](#)

**10.** If in consequence of the exercise of the powers conferred by the Order, previously unmapped sewers, lateral drains or other apparatus are identified by the undertaker, notification of the location of such assets will immediately be given to Anglian Water and afforded the same protection as other Anglian Water assets.

**Commencement Information**

**I170** Sch. 9 Pt. 6 para. 10 in force at 22.1.2021, see [art. 1](#)

**11.** If for any reason or in consequence of the construction of any of the works referred to in paragraphs 3 and 5 above 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 Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

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

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

**Commencement Information**

**I171** Sch. 9 Pt. 6 para. 11 in force at 22.1.2021, see [art. 1](#)

**12.** Nothing in paragraph 11 above imposes any liability on the undertaker in respect of any damage or interruption to the extent that it is attributable to the act, neglect or default of Anglian Water, its officer, servants, contractors or agents.

**Commencement Information**

**I172** Sch. 9 Pt. 6 para. 12 in force at 22.1.2021, see [art. 1](#)

**13.** Anglian Water must give the undertaker reasonable notice of any claim or demand pursuant to paragraph 11 and must consider its representations before proceeding further in respect of the claim or demand.



**Commencement Information**

**I173** Sch. 9 Pt. 6 para. 13 in force at 22.1.2021, see [art. 1](#)

**14.** Anglian Water must use its reasonable endeavours to mitigate in whole or in part and to minimise any claim, costs, expenses, loss, demands and penalties pursuant to paragraph 11. If requested to do so by the undertaker, Anglian Water shall provide an explanation of how the claim has been minimised.

**Commencement Information**

**I174** Sch. 9 Pt. 6 para. 14 in force at 22.1.2021, see [art. 1](#)

**15.** Any difference or dispute arising between the undertaker and Anglian Water under this Part must, unless otherwise agreed in writing between the undertaker and Anglian Water, be determined by arbitration in accordance with article 37(arbitration).

**Commencement Information**

**I175** Sch. 9 Pt. 6 para. 15 in force at 22.1.2021, see [art. 1](#)

## **PART 7** **E+W**

### **FOR THE PROTECTION OF THE ENVIRONMENT AGENCY AND DRAINAGE AUTHORITIES**

**1.** The provisions of this Part have effect for the protection of a drainage authority unless otherwise agreed in writing between undertaker and the drainage authority.

**Commencement Information**

**I176** Sch. 9 Pt. 7 para. 1 in force at 22.1.2021, see [art. 1](#)

**2.** In this Part—

“construction” includes execution, placing, altering, replacing, relaying and removal; and  
“construct” and “constructed” must be construed accordingly;

“drainage authority” means—

(a) in relation to an ordinary watercourse, the drainage board concerned within the meaning of section 23 (prohibitions of obstructions etc in watercourses) of the Land Drainage Act 1991 <sup>M53</sup>; and

(b) in relation to a main river or any sea defence work, the Environment Agency;

“drainage work” means any watercourse includes any land that provides or is expected to provide flood storage capacity for any watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence, sea defence or tidal monitoring;

“ordinary watercourse” has the meaning given in the Land Drainage Act 1991(<sup>M54</sup>);

“plans” includes sections, drawings, specifications and method statements; and

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“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 16 metres of a drainage work or is otherwise likely to—

- (a) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
- (b) affect the flow, purity, or quality of water in any watercourse; or
- (c) affect the conservation, distribution or use of water resources.

#### Commencement Information

**I177** Sch. 9 Pt. 7 para. 2 in force at 22.1.2021, see [art. 1](#)

#### Marginal Citations

**M53** c.23. Section 23 was amended by the [Environment Act 1995 \(c.29\)](#), [Schedule 22](#), paragraph 192 and the [Flood and Water Management Act 2010 \(c.29\)](#), [Schedule 2](#), paragraph 32.

**M54** See section 72(1).

**3.—(1)** Before beginning to construct any specified work, the undertaker must submit to the drainage authority plans of the specified work and such further particulars available to it as the drainage authority may within 28 days of the submission of the plans reasonably require.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the drainage authority or determined under sub-paragraph 3.

(3) Any approval of the drainage authority required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval (or submission of further particulars if required by the drainage authority under sub-paragraph (1)) or, in the case of a refusal, if it is not accompanied by a statement of the grounds of refusal; and
- (c) may be given subject to such reasonable requirements as the drainage authority may make for the protection of any drainage work or, where the drainage authority is the Environment Agency, for the protection of water resources for the prevention of pollution or in the discharge of its environmental duties.

(4) The drainage authority must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph 3(3)(b).

#### Commencement Information

**I178** Sch. 9 Pt. 7 para. 3 in force at 22.1.2021, see [art. 1](#)

**4.** Without limiting paragraph 3, the requirements which the drainage authority may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage; or
- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

**Commencement Information**

**I179** Sch. 9 Pt. 7 para. 4 in force at 22.1.2021, see [art. 1](#)

**5.—(1)** Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 4, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part; and
- (b) to the reasonable satisfaction of the drainage authority,

and an officer of the drainage authority is entitled to watch and inspect the construction of such works.

(2) The undertaker must give to the drainage authority—

- (a) not less than 14 days' notice in writing of its intention to commence construction of any specified work; and
- (b) notice in writing of its completion not later than 7 days after the date on which it is brought into use.

(3) If the drainage authority reasonably requires, the undertaker must construct all or part of the protective works so that they are in place before the construction of the specified work.

(4) If any part of a specified work or any protective work required by the drainage authority is constructed otherwise than in accordance with the requirements of this Part, the drainage authority may by notice in writing require the undertaker at the undertaker's expense to comply with the requirements of this Part or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the drainage authority reasonably requires.

(5) Subject to sub-paragraph (6), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (4) is served on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, the drainage authority may execute the works specified in the notice, and any expenditure incurred by it in so doing is recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the drainage authority must not except in emergency exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined.

**Commencement Information**

**I180** Sch. 9 Pt. 7 para. 5 in force at 22.1.2021, see [art. 1](#)

**6.—(1)** Subject to sub-paragraph (5) the undertaker must from the commencement of the construction of any specified work maintain in good repair and condition and free from obstruction any drainage work that is situated within the limits of deviation on land held by the undertaker for the purposes of or in connection with the specified work, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

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(2) If any drainage work that the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the drainage authority, the drainage authority may by notice in writing require the undertaker to repair and restore the work, or any part of such work, or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the drainage authority reasonably requires.

(3) If, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the drainage authority may do what is necessary for such compliance and may recover any expenditure reasonably incurred by it in so doing from the undertaker.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the drainage authority must not except in a case of emergency exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined.

(5) This paragraph does not apply to—

- (a) drainage works that are vested in the drainage authority or that the drainage authority or another person is liable to maintain and is not prevented by this Order from so doing; and
- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part.

#### Commencement Information

**I181** Sch. 9 Pt. 7 para. 6 in force at 22.1.2021, see [art. 1](#)

7. If by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes is impaired, or the drainage work is otherwise damaged, the impairment or damage must be made good by the undertaker to the reasonable satisfaction of the drainage authority and, if the undertaker fails to do so, the drainage authority may make good the impairment or damage and recover from the undertaker the expense reasonably incurred by it in doing so.

#### Commencement Information

**I182** Sch. 9 Pt. 7 para. 7 in force at 22.1.2021, see [art. 1](#)

8. The undertaker must indemnify the drainage authority in respect of all costs, charges and expenses that the drainage authority may reasonably incur, have to pay or may sustain—

- (a) in the examination or approval of plans under this Part;
- (b) in inspecting the construction of any specified work or any protective works required by the drainage authority under this Part; and
- (c) in carrying out of any surveys or tests by the drainage authority that are reasonably required in connection with the construction of the specified work.

#### Commencement Information

**I183** Sch. 9 Pt. 7 para. 8 in force at 22.1.2021, see [art. 1](#)

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9.—(1) Without limiting the other provisions of this Part, the undertaker must indemnify the drainage authority in respect of all claims, demands, proceedings, costs, damages, expenses or loss that may be made or taken against, recovered from or incurred by, the drainage authority by reason of—

- (a) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence;
- (b) any raising or lowering of the water table in land adjoining the authorised development or any sewers, drains and watercourses; or
- (c) any flooding or increased flooding of any such land; and
- (d) where the drainage authority is the Environment Agency, inadequate water quality in any watercourse or other surface waters or in any groundwater,

that is caused by the construction of any specified work or any act or omission of the undertaker, its contractors, agents or employees whilst engaged on the work.

(2) The drainage authority must give to the undertaker reasonable notice of any such claim or demand, and no settlement or compromise may be made without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

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**Commencement Information**

**I184** Sch. 9 Pt. 7 para. 9 in force at 22.1.2021, see [art. 1](#)

10. The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by the drainage authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under this Part.

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**Commencement Information**

**I185** Sch. 9 Pt. 7 para. 10 in force at 22.1.2021, see [art. 1](#)

11. Any dispute between the undertaker and the drainage authority under this Part, if the parties agree, must be determined by arbitration under article 37 (arbitration), but otherwise must be determined by the Secretary of State for Environment, Food and Rural Affairs and [<sup>F37</sup>the Secretary of State for Energy Security and Net Zero] acting jointly on a reference to them by the undertaker or the drainage authority, after notice in writing by one to the other.

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**Textual Amendments**

**F37** Words in Sch. 9 Pt. 7 para. 11 substituted (3.5.2023) by The Secretaries of State for Energy Security and Net Zero, for Science, Innovation and Technology, for Business and Trade, and for Culture, Media and Sport and the Transfer of Functions (National Security and Investment Act 2021 etc) Order 2023 (S.I. 2023/424), art. 1(2), [Sch. para. 67](#) (with art. 17)

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**Commencement Information**

**I186** Sch. 9 Pt. 7 para. 11 in force at 22.1.2021, see [art. 1](#)

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## PART 8 E+W

### FOR THE PROTECTION OF NORFOLK VANGUARD

1. The provisions of this Part apply for the protection of Vanguard unless otherwise agreed in writing between the undertaker and Vanguard.

#### Commencement Information

I187 Sch. 9 Pt. 8 para. 1 in force at 22.1.2021, see [art. 1](#)

2. In this Part—

“apparatus” means the cables, structures or other infrastructure owned, occupied or maintained by Vanguard or its successor in title within the Norfolk Vanguard Order land;

“construction” includes execution, placing, altering, replacing, reconstruction, relaying, maintenance, extensions, enlargement and removal; and “construct” and “constructed” must be construed accordingly;

“Crossing Area” means the land within land parcels 16-001, 16-002, 16-003 and 16-004 shown on the land plans and described in the book of reference;

“Norfolk Vanguard Order” means the Norfolk Vanguard Offshore Wind Farm Order as granted by the Secretary of State on 1 July 2020;

“Norfolk Vanguard Order land” means Order land as defined in the Norfolk Vanguard Order;

“plans” includes sections, drawings, specifications, designs, design data, software, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of the Norfolk Vanguard Order land;

“proposed Norfolk Vanguard Cable Corridor” means the proposed location for any electrical circuit(s) and construction compound(s) permitted by the Norfolk Vanguard Order within the Norfolk Vanguard Order land;

“specified works” means so much of any works or operations authorised by this Order (or authorised by any planning permission intended to operate in conjunction with this Order) as is—

- (a) within the Crossing Area;
- (b) in, on, under, over or within 25 metres of the proposed Norfolk Vanguard Cable Corridor or any apparatus; or
- (c) may in any way adversely affect any apparatus; and

“Vanguard” means an undertaker with the benefit of all or part of the Norfolk Vanguard Order for the time being.

#### Commencement Information

I188 Sch. 9 Pt. 8 para. 2 in force at 22.1.2021, see [art. 1](#)

3. The consent of Vanguard under this Part is not required where the Norfolk Vanguard Order has expired without the authorised development having been commenced pursuant to requirement 1 of Schedule 1 to the Norfolk Vanguard Order.

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**Commencement Information**

**I189** Sch. 9 Pt. 8 para. 3 in force at 22.1.2021, see [art. 1](#)

4. Where conditions are included in any consent granted by Vanguard pursuant to this Part, the undertaker must comply with the conditions if it chooses to implement or rely on the consent, unless the conditions are waived or varied in writing by Vanguard.

**Commencement Information**

**I190** Sch. 9 Pt. 8 para. 4 in force at 22.1.2021, see [art. 1](#)

5. The undertaker must not under the powers of this Order—
- (a) acquire, extinguish, suspend, override or interfere with any rights that Vanguard has in respect of any apparatus or the proposed Norfolk Vanguard Cable Corridor;
  - (b) acquire the Norfolk Vanguard Order land or acquire any new rights or impose restrictive covenants or exercise any powers of temporary use over or in relation to the Norfolk Vanguard Order land without the consent of Vanguard, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions.

**Commencement Information**

**I191** Sch. 9 Pt. 8 para. 5 in force at 22.1.2021, see [art. 1](#)

6.—(1) The undertaker must not under the powers of this Order carry out any specified works without the consent of Vanguard, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions and if Vanguard does not respond within 30 days then consent is deemed to be given.

(2) Subject to obtaining consent pursuant to sub-paragraph (1) and before beginning to construct any specified works, the undertaker must submit plans of the specified works to Vanguard and must submit such further particulars available to it that Vanguard may reasonably require.

(3) Any specified works must be constructed without unreasonable delay in accordance with the plans approved in writing by Vanguard.

(4) Any approval of Vanguard required under this paragraph may be made subject to such reasonable conditions as may be required for the protection or alteration of any apparatus or the proposed Norfolk Vanguard Cable Corridor or for securing access to any apparatus or the proposed Norfolk Vanguard Cable Corridor.

(5) Without limiting sub-paragraph (1), it is not reasonable for Vanguard to withhold or delay any consent or approval under this Part in relation to specified works in, on, under, or over the Crossing Area solely on the basis of thermal interaction where the plans of the specified works submitted under sub-paragraph (2) demonstrate that all reasonable steps have been taken to minimise thermal interaction between the specified works and any apparatus or the proposed Norfolk Vanguard Cable Corridor.

(6) Where Vanguard requires any protective works to be carried out either by themselves or by the undertaker (whether of a temporary or permanent nature) such protective works must be carried out to Vanguard's reasonable satisfaction.

(7) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any specified works,

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new plans instead of the plans previously submitted, and the provisions of this paragraph shall apply to and in respect of the new plans.

**Commencement Information**

**I192** Sch. 9 Pt. 8 para. 6 in force at 22.1.2021, see [art. 1](#)

7.—(1) The undertaker must give to Vanguard not less than 28 days' written notice of its intention to commence the construction of the specified works and, not more than 14 days after completion of their construction, must give Vanguard written notice of the completion.

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

**Commencement Information**

**I193** Sch. 9 Pt. 8 para. 7 in force at 22.1.2021, see [art. 1](#)

8. The undertaker must at all reasonable times during construction of the specified works allow Vanguard and its servants and agents access to the specified works and all reasonable facilities for inspection of the specified works.

**Commencement Information**

**I194** Sch. 9 Pt. 8 para. 8 in force at 22.1.2021, see [art. 1](#)

9.—(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 Vanguard requiring the undertaker to do so, remove the temporary works in, on, under, over, or within the Crossing Area.

(2) If the undertaker fails to remove the temporary works within a reasonable period of receipt of a notice pursuant to sub-paragraph (1), Vanguard may remove the temporary works and may recover the reasonable costs of doing so from the undertaker.

**Commencement Information**

**I195** Sch. 9 Pt. 8 para. 9 in force at 22.1.2021, see [art. 1](#)

10. If in consequence of the exercise of the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable Vanguard to maintain or use the apparatus no less effectively than was possible before the obstruction.

**Commencement Information**

**I196** Sch. 9 Pt. 8 para. 10 in force at 22.1.2021, see [art. 1](#)

11. The undertaker must not exercise the powers conferred by this Order to prevent or interfere with the access by Vanguard to the proposed Norfolk Vanguard Cable Corridor.



**Commencement Information**

**I197** Sch. 9 Pt. 8 para. 11 in force at 22.1.2021, see [art. 1](#)

**12.** To ensure its compliance with this Part, the undertaker must before carrying out any works or operations pursuant to this Order within the Crossing Area request up-to-date written confirmation from Vanguard of the location of any apparatus or the proposed Norfolk Vanguard Cable Corridor.

**Commencement Information**

**I198** Sch. 9 Pt. 8 para. 12 in force at 22.1.2021, see [art. 1](#)

**13.** The undertaker and Vanguard must each act in good faith and use reasonable endeavours to co-operate with, and provide assistance to, each other as may be required to give effect to the provisions of this Part.

**Commencement Information**

**I199** Sch. 9 Pt. 8 para. 13 in force at 22.1.2021, see [art. 1](#)

**14.** The undertaker must pay to Vanguard the reasonable expenses incurred by Vanguard in connection with the approval of plans, inspection of any specified works or the alteration or protection of any apparatus or the proposed Norfolk Vanguard Cable Corridor.

**Commencement Information**

**I200** Sch. 9 Pt. 8 para. 14 in force at 22.1.2021, see [art. 1](#)

**15.—**(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any specified works, any damage is caused to any apparatus or there is any interruption in any service provided, or in the supply of any goods, by Vanguard, or Vanguard becomes liable to pay any amount to any third party, the undertaker must—

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

(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 Vanguard, its officers, servants, contractors or agents.

(3) Vanguard must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made, unless payment is required in connection with a statutory compensation scheme without first consulting the undertaker and considering its representations.

(4) Vanguard must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph 15 applies. If requested to do so by the undertaker, Vanguard shall provide an explanation of how the claim has been minimised. The undertaker shall only be liable under this paragraph 15 for claims reasonably incurred by Vanguard.

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(5) The fact that any work or thing has been executed or done with the consent of Vanguard and in accordance with any conditions or restrictions prescribed by Vanguard or in accordance with any plans approved by Vanguard or to its satisfaction or in accordance with any directions or award of any arbitrator does not relieve the undertaker from any liability under this Part.

**Commencement Information**

**I201** Sch. 9 Pt. 8 para. 15 in force at 22.1.2021, see [art. 1](#)

**16.** Any dispute arising between the undertaker and Vanguard under this Part must be determined by arbitration under article 37 (arbitration).

**Commencement Information**

**I202** Sch. 9 Pt. 8 para. 16 in force at 22.1.2021, see [art. 1](#)

## PART 9 **E+W**

### FOR THE PROTECTION OF NORFOLK BOREAS

**1.** The provisions of this Part apply for the protection of Boreas unless otherwise agreed in writing between the undertaker and Boreas.

**Commencement Information**

**I203** Sch. 9 Pt. 9 para. 1 in force at 22.1.2021, see [art. 1](#)

**2.** In this Part—

“apparatus” means the cables, structures or other infrastructure owned, occupied or maintained by Boreas or its successor in title within the Norfolk Boreas Order Land;

“Boreas” means an undertaker with the benefit of all or part of the Norfolk Boreas Order for the time being;

“construction” includes execution, placing, altering, replacing, reconstruction, relaying, maintenance, extensions, enlargement and removal; and “construct” and “constructed” must be construed accordingly;

“Crossing Area” means the land within land parcels 16-001, 16-002, 16-003 and 16-004 shown on the land plans and described in the book of reference;

“Norfolk Boreas Order” means a development consent order granted by the Secretary of State following an application by Norfolk Boreas Limited for the [<sup>F38</sup>Norfolk Boreas Offshore Wind Farm;]

“Norfolk Boreas Order land” means Order land as defined in the Norfolk Boreas Order;

“plans” includes sections, drawings, specifications, designs, design data, software, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of the Norfolk Boreas Order land;

“proposed Norfolk Boreas Cable Corridor” means the proposed location for any electrical circuit(s) and construction compound(s) permitted by the Norfolk Boreas Order within the Norfolk Boreas Order land; and

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“specified works” means so much of any works or operations authorised by this Order (or authorised by any planning permission intended to operate in conjunction with this Order) as is—

- (a) within the Crossing Area;
- (b) in, on, under, over or within 25 metres of the proposed Norfolk Boreas Cable Corridor or any apparatus; or
- (c) may in any way adversely affect any apparatus.

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#### Textual Amendments

**F38** Words in [Sch. 9 Pt. 9 para. 2](#) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), [art. 1\(2\)](#), [Sch.](#)

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#### Commencement Information

**I204** [Sch. 9 Pt. 9 para. 2](#) in force at 22.1.2021, see [art. 1](#)

**3.** The consent of Boreas under this Part is not required where the Norfolk Boreas Order has expired without the authorised development having been commenced pursuant to any requirement of Schedule 1 to the Norfolk Boreas Order.

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#### Commencement Information

**I205** [Sch. 9 Pt. 9 para. 3](#) in force at 22.1.2021, see [art. 1](#)

**4.** Where conditions are included in any consent granted by Boreas pursuant to this Part, the undertaker must comply with the conditions if it chooses to implement or rely on the consent, unless the conditions are waived or varied in writing by Boreas.

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#### Commencement Information

**I206** [Sch. 9 Pt. 9 para. 4](#) in force at 22.1.2021, see [art. 1](#)

- 5.** The undertaker must not under the powers of this Order—
- (a) acquire, extinguish, suspend, override or interfere with any rights that Boreas has in respect of any apparatus or the proposed Norfolk Boreas Cable Corridor;
  - (b) acquire the Norfolk Boreas Order land or acquire any new rights or impose restrictive covenants or exercise any powers of temporary use over or in relation to the Norfolk Boreas Order land without the consent of Boreas, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions.

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#### Commencement Information

**I207** [Sch. 9 Pt. 9 para. 5](#) in force at 22.1.2021, see [art. 1](#)

**6.—(1)** The undertaker must not under the powers of this Order carry out any specified works without the consent of Boreas, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions and if Boreas does not respond within 30 days then consent is deemed to be given.

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(2) Subject to obtaining consent pursuant to sub-paragraph (1) and before beginning to construct any specified works, the undertaker must submit plans of the specified works to Boreas and must submit such further particulars available to it that Boreas may reasonably require.

(3) Any specified works must be constructed without unreasonable delay in accordance with the plans approved in writing by Boreas.

(4) Any approval of Boreas required under this paragraph may be made subject to such reasonable conditions as may be required for the protection or alteration of any apparatus or the proposed Norfolk Boreas Cable Corridor or for securing access to any apparatus or the proposed Norfolk Boreas Cable Corridor [<sup>F39</sup>.]

(5) Without limiting sub-paragraph (1), it is not reasonable for Boreas to withhold or delay any consent or approval under this Part in relation to specified works in, on, under, or over the Crossing Area solely on the basis of thermal interaction where the plans of the specified works submitted under sub-paragraph (2) demonstrate that all reasonable steps have been taken to minimise thermal interaction between the specified works and any apparatus or the proposed Norfolk Boreas Cable Corridor.

(6) Where Boreas requires any protective works to be carried out either by themselves or by the undertaker (whether of a temporary or permanent nature) such protective works must be carried out to Boreas's reasonable satisfaction.

(7) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any specified works, new plans instead of the plans previously submitted, and the provisions of this paragraph shall apply to and in respect of the new plans.

#### Textual Amendments

**F39** Sch. 9 Pt. 9 para. 6(4) full stop substituted for semi-colon (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

#### Commencement Information

**I208** Sch. 9 Pt. 9 para. 6 in force at 22.1.2021, see [art. 1](#)

7.—(1) The undertaker must give to Boreas not less than 28 days' written notice of its intention to commence the construction of the specified works and, not more than 14 days after completion of their construction, must give Boreas written notice of the completion.

(2) The undertaker is not required to comply with paragraph 6 or sub-paragraph (1) in a case of emergency, but in that case it must give to <sup>F40</sup>... Boreas notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonable practicable subsequently and must comply with paragraph 6 in so far as is reasonably practicable in the circumstances.

#### Textual Amendments

**F40** Word in [Sch. 9 Pt. 9 para. 7\(2\)](#) omitted (21.5.2021) by virtue of [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

#### Commencement Information

**I209** Sch. 9 Pt. 9 para. 7 in force at 22.1.2021, see [art. 1](#)

8. The undertaker must at all reasonable times during construction of the specified works allow Boreas and its servants and agents access to the specified works and all reasonable facilities for inspection of the specified works.

**Commencement Information**

I210 Sch. 9 Pt. 9 para. 8 in force at 22.1.2021, see [art. 1](#)

9.—(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 Boreas requiring the undertaker to do so, remove the temporary works in, on, under, over, or within the Crossing Area.

(2) If the undertaker fails to remove the temporary works within a reasonable period of receipt of a notice pursuant to sub-paragraph (1), Boreas may remove the temporary works and may recover the reasonable costs of doing so from the undertaker.

**Commencement Information**

I211 Sch. 9 Pt. 9 para. 9 in force at 22.1.2021, see [art. 1](#)

10. If in consequence of the exercise of the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable Boreas to maintain or use the apparatus no less effectively than was possible before the obstruction.

**Commencement Information**

I212 Sch. 9 Pt. 9 para. 10 in force at 22.1.2021, see [art. 1](#)

11. The undertaker must not exercise the powers conferred by this Order to prevent or interfere with the access by Boreas to the proposed Norfolk Boreas Cable Corridor.

**Commencement Information**

I213 Sch. 9 Pt. 9 para. 11 in force at 22.1.2021, see [art. 1](#)

12. To ensure its compliance with this Part, the undertaker must before carrying out any works or operations pursuant to this Order within the Crossing Area request up-to-date written confirmation from Boreas of the location of any apparatus or the proposed Norfolk Boreas Cable Corridor.

**Commencement Information**

I214 Sch. 9 Pt. 9 para. 12 in force at 22.1.2021, see [art. 1](#)

13. The undertaker and Boreas must each act in good faith and use reasonable endeavours to cooperate with, and provide assistance to, each other as may be required to give effect to the provisions of this Part.

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**Commencement Information**

**I215** Sch. 9 Pt. 9 para. 13 in force at 22.1.2021, see [art. 1](#)

**14.** The undertaker must pay to Boreas the reasonable expenses incurred by Boreas in connection with the approval of plans, inspection of any specified works or the alteration or protection of any apparatus or the proposed Norfolk Boreas Cable Corridor.

**Commencement Information**

**I216** Sch. 9 Pt. 9 para. 14 in force at 22.1.2021, see [art. 1](#)

**15.—**(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any specified works, any damage is caused to any apparatus or there is any interruption in any service provided, or in the supply of any goods, by Boreas, or Boreas becomes liable to pay any amount to any third party, the undertaker must—

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

(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 Boreas, its officers, servants, contractors or agents.

(3) Boreas must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made, unless payment is required in connection with a statutory compensation scheme without first consulting the undertaker and considering its representations.

(4) Boreas must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph 15 applies. If requested to do so by the undertaker, Boreas shall provide an explanation of how the claim has been minimised. The undertaker shall only be liable under this paragraph 15 for claims reasonably incurred by Boreas.

(5) The fact that any work or thing has been executed or done with the consent of Boreas and in accordance with any conditions or restrictions prescribed by Boreas or in accordance with any plans approved by Boreas or to its satisfaction or in accordance with any directions or award of any arbitrator does not relieve the undertaker from any liability under this Part.

**Commencement Information**

**I217** Sch. 9 Pt. 9 para. 15 in force at 22.1.2021, see [art. 1](#)

**16.** Any dispute arising between the undertaker and Boreas under this Part must be determined by arbitration under article 37 (arbitration).

**Commencement Information**

**I218** Sch. 9 Pt. 9 para. 16 in force at 22.1.2021, see [art. 1](#)

SCHEDULE 10 **E+W**

Article 34

**PART 1** **E+W**

REMOVAL OF HEDGEROWS

**Commencement Information**

**I219** Sch. 10 Pt. 1 in force at 22.1.2021, see [art. 1](#)

<i>(1) Area</i>	<i>(2) Location of hedgerow</i>
North Norfolk District	The hedgerow shown between points 1a and 1b on sheet 1 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 2a and 2b on sheet 1 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 3a and 3b on sheet 1 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 4a and 4b on sheet 1 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 5a and 5b on sheet 1 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 7a and 7b on sheet 1 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 8a and 8b on sheet 1 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 9a and 9b on sheet 2 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 10a and 10b on sheet 2 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 11a and 11b on sheet 2 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 12a and 12b on sheet 2 of the tree preservation order and hedgerow plan

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North Norfolk District	The hedgerow shown between points 13a and 13b on sheet 3 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 14a and 14b on sheet 3 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 15a and 15b on sheet 3 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 16a and 16b on sheet 3 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 17a and 17b on sheet 3 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 18a and 18b on sheet 3 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 19a and 19b on sheet 3 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 20a and 20b on sheet 3 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 21a and 21b on sheet 3 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 22a and 22b on sheet 3 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 22b and 22c on sheet 3 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 23a and 23b on sheet 3 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 25a and 25b on sheets 3 and 4 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 26a and 26b on sheets 3 and 4 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 27a and 27b on sheets 3 and 4 of the tree preservation order and hedgerow plan



North Norfolk District	The hedgerow shown between points 29a and 29b on sheet 4 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 30a and 30b on sheet 4 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 32a and 32b on sheet 4 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 33a and 33b on sheet 4 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 34a and 34b on sheet 4 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 39a and 39b on sheet 5 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 43a and 43b on sheet 7 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 44a and 44b on sheet 7 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 45a and 45b on sheet 7 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 47a and 47b on sheet 7 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 50a and 50b on sheet 8 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 51a and 51b on sheet 8 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 52a and 52b on sheet 8 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 53a and 53b on sheet 8 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 54a and 54b on sheet 8 of the tree preservation order and hedgerow plan

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North Norfolk District	The hedgerow shown between points 55a and 55b on sheet 8 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 56a and 56b on sheet 8 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 57a and 57b on sheets 8 and 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 58a and 58b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 59a and 59b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 60a and 60b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 61a and 61b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 62a and 62b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 63a and 63b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 64a and 64b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 65a and 65b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 66a and 66b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 67a and 67b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 68a and 68b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 69a and 69b on sheet 9 of the tree preservation order and hedgerow plan

North Norfolk District	The hedgerow shown between points 70a and 70b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 71a and 71b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 72a and 72b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 73a and 73b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 74a and 74b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 75a and 75b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 76a and 76b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 77a and 77b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 78a and 78b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 80a and 80b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 81a and 81b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 82a and 82b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 83a and 83b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 85a and 85b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 85c and 85d on sheet 9 of the tree preservation order and hedgerow plan

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North Norfolk District	The hedgerow shown between points 85e and 85f on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 86a and 86b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 87a and 87b on sheet 10 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 88a and 88b on sheet 10 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 89a and 89b on sheet 10 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 90a and 90b on sheet 10 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 92a and 92b on sheet 10 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 93a and 93b on sheet 10 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 94a and 94b on sheet 10 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 95a and 95b on sheet 10 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 96a and 96b on sheet 10 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 97a and 97b on sheet 10 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 98a and 98b on sheet 10 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 100a and 100b on sheet 10 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 102a and 102b on sheet 10 of the tree preservation order and hedgerow plan

North Norfolk District	The hedgerow shown between points 103a and 103b on sheet 11 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 104a and 104b on sheet 11 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 105a and 105b on sheet 11 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 106a and 106b on sheet 11 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 107a and 107b on sheet 11 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 108a and 108b on sheet 11 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 109a and 109b on sheet 11 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 110a and 110b on sheet 11 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 111a and 111b on sheet 11 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 112a and 112b on sheet 12 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 115a and 115b on sheet 12 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 116a and 116b on sheet 12 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 122a and 122b on sheet 13 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 123a and 123b on sheet 13 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 124a and 124b on sheet 13 of the tree preservation order and hedgerow plan

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Broadland District	The hedgerow shown between points 125a and 125b on sheet 13 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 128a and 128b on sheet 13 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 129a and 129b on sheet 13 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 131a and 131b on sheet 14 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 132a and 132b on sheet 14 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 133a and 133b on sheet 14 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 134a and 134b on sheet 14 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 135a and 135b on sheet 14 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 136a and 136b on sheet 14 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 137a and 137b on sheet 14 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 138a and 138b on sheet 14 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 139a and 139b on sheet 14 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 140a and 140b on sheet 14 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 141a and 141b on sheet 15 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 142a and 142b on sheet 15 of the tree preservation order and hedgerow plan

Broadland District	The hedgerow shown between points 143a and 143b on sheet 15 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 144a and 144b on sheet 15 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 145a and 145b on sheet 15 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 146a and 146b on sheet 15 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 147a and 147b on sheet 16 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 149a and 149b on sheet 16 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 150a and 150b on sheet 16 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 152a and 152b on sheet 16 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 155a and 155b on sheet 17 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 156a and 156b on sheet 17 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 157a and 157b on sheet 18 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 158a and 158b on sheet 18 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 160a and 160b on sheet 18 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 161a and 161b on sheet 18 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 162a and 162b on sheet 18 of the tree preservation order and hedgerow plan

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Broadland District	The hedgerow shown between points 163a and 163b on sheet 19 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 164a and 164b on sheet 19 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 165a and 165b on sheet 19 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 167a and 167b on sheet 19 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 168a and 168b on sheet 19 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 169a and 169b on sheet 19 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 170a and 170b on sheet 20 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 171a and 171b on sheet 20 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 172a and 172b on sheet 20 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 177a and 177b on sheet 20 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 178a and 178b on sheet 20 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 179a and 179b on sheet 21 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 180a and 180b on sheet 21 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 181a and 181b on sheet 21 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 182a and 182b on sheet 21 of the tree preservation order and hedgerow plan



Broadland District	The hedgerow shown between points 183a and 183b on sheet 21 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 184a and 184b on sheet 21 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 185a and 185b on sheet 21 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 186a and 186b on sheet 21 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 187a and 187b on sheet 21 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 188a and 188b on sheet 21 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 190a and 190b on sheet 22 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 191a and 191b on sheet 22 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 192a and 192b on sheet 22 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 193a and 193b on sheet 23 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 194a and 194b on sheet 23 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 195a and 195b on sheet 23 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 196a and 196b on sheet 23 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 197a and 197b on sheet 23 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 199a and 199b on sheet 23 of the tree preservation order and hedgerow plan

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Broadland District	The hedgerow shown between points 201a and 201b on sheet 24 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 202a and 202b on sheet 24 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 208a and 208b on sheet 24 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 209a and 209b on sheet 25 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 210a and 210b on sheet 25 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 211a and 211b on sheet 25 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 213a and 213b on sheet 25 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 215a and 215b on sheet 26 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 216a and 216b on sheet 26 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 217a and 217b on sheet 26 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 218a and 218b on sheet 26 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 219a and 219b on sheet 26 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 220a and 220b on sheet 26 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 221a and 221b on sheet 26 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 223a and 223b on sheet 26 of the tree preservation order and hedgerow plan

South Norfolk District	The hedgerow shown between points 224a and 224b on sheet 26 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 225a and 225b on sheet 26 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 226a and 226b on sheet 26 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 227a and 227b on sheet 26 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 232a and 232b on sheet 27 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 233a and 233b on sheet 27 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 234a and 234b on sheet 27 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 235a and 235b on sheet 27 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 236a and 236b on sheet 27 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 237a and 237b on sheet 27 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 238a and 238b on sheet 27 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 239a and 239b on sheets 27 and 28 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 240a and 240b on sheets 27 and 28 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 241a and 241b on sheets 27 and 28 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 242a and 242b on sheet 28 of the tree preservation order and hedgerow plan

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South Norfolk District	The hedgerow shown between points 243a and 243b on sheet 28 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 246a and 246b on sheet 28 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 246c and 246d on sheet 28 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 247a and 247b on sheet 28 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 248a and 248b on sheet 28 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 252a and 252b on sheet 28 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 253a and 253b on sheets 28 and 29 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 254a and 254b on sheet 28 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 256a and 256b on sheet 28 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 258a and 258b on sheets 28 and 29 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 259a and 259b on sheets 28 and 29 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 262a and 262b on sheet 29 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 263a and 263b on sheet 29 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 264a and 264b on sheet 29 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 266a and 266b on sheet 29 of the tree preservation order and hedgerow plan

South Norfolk District	The hedgerow shown between points 267a and 267b on sheet 29 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 268a and 268b on sheet 29 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 269a and 269b on sheet 29 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 270a and 270b on sheet 29 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 271a and 271b on sheet 29 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 272a and 272b on sheet 29 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 275a and 275b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 276a and 276b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 278a and 278b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 281a and 281b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 282a and 282b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 283a and 283b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 284a and 284b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 285a and 285b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 286a and 286b on sheet 30 of the tree preservation order and hedgerow plan

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South Norfolk District	The hedgerow shown between points 287a and 287b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 288a and 288b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 289a and 289b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 290a and 290b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 291a and 291b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 292a and 292b on sheet 31 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 293a and 293b on sheet 31 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 294a and 294b on sheet 31 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 296a and 296b on sheet 32 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 297a and 297b on sheet 31 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 298a and 298b on sheet 32 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 299a and 299b on sheet 31 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 300a and 300b on sheet 31 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 301a and 301b on sheet 32 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 303a and 303b on sheet 32 of the tree preservation order and hedgerow plan

South Norfolk District	The hedgerow shown between points 304a and 304b on sheet 32 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 306a and 306b on sheet 31 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 308a and 308b on sheet 32 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 310a and 310b on sheet 32 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 311a and 311b on sheet 32 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 312a and 312b on sheet 32 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 313a and 313b on sheet 32 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 314a and 314b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 315a and 315b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 317a and 317b on sheet 31 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 319a and 319b on sheet 31 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 322a and 322b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 326a and 326b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 329a and 329b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 338a and 338b on sheet 34 of the tree preservation order and hedgerow plan

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South Norfolk District	The hedgerow shown between points 340a and 340b on sheet 34 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 341a and 341b on sheets 35 and 36 of the tree preservation order and hedgerow plan

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## PART 2 E+W

### REMOVAL OF IMPORTANT HEDGEROWS

<p><b>Commencement Information</b>  <b>I220</b> Sch. 10 Pt. 2 in force at 22.1.2021, see <a href="#">art. 1</a></p>
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<i>(1) Area</i>	<i>(2) Reference of hedgerow</i>
North Norfolk District	The hedgerow shown between points 6a and 6b on sheet 1 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 24a and 24b on sheet 3 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 28a and 28b on sheet 3 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 31a and 31b on sheet 4 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 35a and 35b on sheet 5 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 36a and 36b on sheet 5 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 37a and 37b on sheet 5 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 38a and 38b on sheet 5 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 40a and 40b on sheet 6 of the tree preservation order and hedgerow plan



North Norfolk District	The hedgerow shown between points 42a and 42b on sheet 6 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 46a and 46b on sheet 7 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 48a and 48b on sheet 7 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 49a and 49b on sheets 7 and 8 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 79a and 79b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 84a and 84b on sheet 9 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 91a and 91b on sheet 10 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 99a and 99b on sheet 10 of the tree preservation order and hedgerow plan
North Norfolk District	The hedgerow shown between points 101a and 101b on sheet 10 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 113a and 113b on sheet 12 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 114a and 114b on sheet 12 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 117a and 117b on sheet 12 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 118a and 118b on sheet 12 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 120a and 120b on sheet 12 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 126a and 126b on sheet 13 of the tree preservation order and hedgerow plan

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Broadland District	The hedgerow shown between points 127a and 127b on sheet 13 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 130a and 130b on sheet 13 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 148a and 148b on sheet 16 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 151a and 151b on sheet 16 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 151c and 151d on sheet 16 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 153a and 153b on sheet 16 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 154a and 154b on sheet 16 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 166a and 166b on sheet 19 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 173a and 173b on sheet 20 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 174a and 174b on sheet 20 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 175a and 175b on sheet 20 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 176a and 176b on sheet 20 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 189a and 189b on sheet 21 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 198a and 198b on sheet 23 of the tree preservation order and hedgerow plan
Broadland District	The hedgerow shown between points 200a and 200b on sheet 23 of the tree preservation order and hedgerow plan

South Norfolk District	The hedgerow shown between points 203a and 203b on sheet 24 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 204a and 204b on sheet 24 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 205a and 205b on sheet 24 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 206a and 206b on sheet 24 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 207a and 207b on sheet 24 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 212a and 212b on sheet 25 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 214a and 214b on sheet 25 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 222a and 222b on sheet 26 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 228a and 228b on sheet 26 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 229a and 229b on sheet 26 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 230a and 230b on sheet 26 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 231a and 231b on sheet 26 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 245a and 245b on sheet 28 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 249a and 249b on sheet 28 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 250a and 250b on sheet 28 of the tree preservation order and hedgerow plan

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South Norfolk District	The hedgerow shown between points 251a and 251b on sheet 28 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 255a and 255b on sheet 28 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 257a and 257b on sheet 28 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 261a and 261b on sheets 28 and 29 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 265a and 265b on sheet 29 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 273a and 273b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 274a and 274b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 277a and 277b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 279a and 279b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 280a and 280b on sheet 30 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 295a and 295b on sheet 32 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 302a and 302b on sheet 32 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 305a and 305b on sheet 32 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 307a and 307b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 309a and 309b on sheet 33 of the tree preservation order and hedgerow plan

South Norfolk District	The hedgerow shown between points 316a and 316b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 318a and 318b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 320a and 320b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 321a and 321b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 323a and 323b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 324a and 324b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 325a and 325b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 327a and 327b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 328a and 328b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 330a and 330b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 331a and 331b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 332a and 332b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 333a and 333b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 334a and 334b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 335a and 335b on sheet 33 of the tree preservation order and hedgerow plan

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Hornsea Three Offshore Wind Farm Order 2020. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

South Norfolk District	The hedgerow shown between points 336a and 336b on sheet 33 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 337a and 337b on sheet 34 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 339a and 339b on sheet 34 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 342a and 342b on sheets 35 and 36 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 343a and 343b on sheets 35 and 36 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 344a and 344b on sheet 36 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 345a and 345b on sheets 35 and 36 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 346a and 346b on sheets 35 and 36 of the tree preservation order and hedgerow plan
South Norfolk District	The hedgerow shown between points 347a and 347b on sheet 36 of the tree preservation order and hedgerow plan

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SCHEDULE 11 **E+W**

Article 31

## DEEMED MARINE LICENCE UNDER THE 2009 ACT—GENERATION ASSETS

**PART 1** **E+W**

## LICENSED MARINE ACTIVITIES

## 1.—(1) In this licence—

“the 2004 Act” means the Energy Act 2004;

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“2017 Regulations” means the Conservation of Offshore Marine Habitats and Species Regulations 2017;

“array cable” means the network of offshore subsea cables connecting the wind turbine generators in Work No.1 and the offshore substations in Work No.2;

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“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this licence;

“authorised development” means the development and associated development described in Part 1 of Schedule 1 (authorised project) of the Order;

“authorised project” means Work No. 1 described in paragraph 3 of Part 1 of this licence or any part of that work;

“buoy” means any floating device used for navigational purposes or measurement purposes;

“cable protection” means physical measures for the protection of cables including but not limited to concrete mattresses, with or without frond devices, and/or rock placement (but not material used for cable crossings);

“commence” means the first carrying out of any licensed marine activities authorised by this marine licence, save for pre-construction monitoring surveys approved under this licence and “commenced” and “commencement” must be construed accordingly;

“condition” means a condition in Part 2 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands B75 7RL and any successor body to its functions;

“Development Principles” means the document certified as the Development Principles by the Secretary of State for the purposes of the Order under article 36 (certification of plans and documents etc);

“disturbance” must be construed in accordance with regulation 45(1)(b) (protection of wild animals listed in Annex IV(a) to the Habitats Directive) of the 2017 Regulations;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 (marine licensing) of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order;

“European site” has the meaning given in regulation 27(meaning of European site) of the 2017 Regulations;

“gravity base foundation” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“in principle Hornsea Three Southern North Sea Special Area of Conservation Site Integrity Plan” means the document certified as the in principle Hornsea Three Southern North Sea Special Area of Conservation Site Integrity Plan by the Secretary of State for the purposes of this Order;

“jacket foundation” means a lattice type structure constructed of steel, which may include scour protection and additional equipment such as, J-tubes, corrosion protection systems and access platforms;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this licence;

“LAT” means lowest astronomical tide;

“licensed activities” means the activities specified in Part 1 of this licence;” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace, to the extent assessed in the environmental statement; and “maintenance” must be construed accordingly;

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“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“Markham's Triangle MCZ” means the MCZ designated by the Secretary of State under the Markham's Triangle Marine Conservation Designation Order 2019;

“Markham's Triangle MCZ exclusion zone” means the area comprising Markham's Triangle MCZ as shown on the Markham's Triangle exclusion zone plan;

“Markham's Triangle exclusion zone plan” means the document certified as the Markham's Triangle exclusion zone plan by the Secretary of State for the purposes of this Order under article 36;

“MCA” means the Maritime and Coastguard Agency;

“MCZ” means a marine conservation zone designated under section 116(1) (marine conservation zones) of the 2009 Act or any area which is recommended for such designation to the relevant Secretary of State in accordance with the 2009 Act unless the Secretary of State determines that it shall not be designated as a marine conservation zone;

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

“monopile foundation” means a steel pile, typically cylindrical, driven and/or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“offshore accommodation platform” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform, containing housing accommodation, storage, workshop, auxiliary equipment, and facilities for operating, maintaining and controlling the wind turbine generators;

“offshore electrical installations” means the offshore type 1 substations, the offshore type 2 substations, the offshore subsea HVAC booster stations and the offshore HVAC booster stations forming part of the authorised development;

“offshore HVAC booster station” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform, containing—

- (a) electrical equipment required to provide reactive power compensation; and
- (b) housing accommodation, storage, workshop, auxiliary equipment, and facilities for operating, maintaining and controlling the substation;

“offshore subsea HVAC booster station” means a sealed steel or concrete structure located under the surface of the sea, attached to the seabed by means of a foundation, containing electrical equipment required to provide reactive power compensation;

“offshore substation” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform, containing—

- (a) electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation; and
- (b) housing accommodation, storage, workshop auxiliary equipment, and facilities for operating, maintaining and controlling the substation or wind turbine generators;

“offshore type 1 substation” means the smaller version of the offshore substations assessed in the environment statement;

“offshore type 2 substation” means the larger version of the offshore substations assessed in the environment statement;

“Order” means the Hornsea Project Three Offshore Wind Farm Order 2020;



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“the offshore Order limits” means the offshore Order limits defined by the offshore Order limits and grid coordinates plan;

“the offshore Order limits and grid coordinates plan” means the plan certified as the offshore Order limits and grid coordinates plan by the Secretary of State for the purposes of the Order under article 36 of the Order;

“outline fisheries coexistence and liaison plan” means the plan or plans certified as the outline fisheries coexistence and liaison plan or plans by the Secretary of State for the purposes of the Order under article 36 of the Order;

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure jacket foundations;

“statutory historic body” means the Historic Buildings and Monuments Commission for England or its successor in function;

“suction bucket” means a steel cylindrical structure attached to the legs of a jacket foundation which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential;

“mono suction bucket foundation” means a steel cylindrical structure which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential, and may include scour protection and additional equipment such as J-tubes;

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

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means Orsted Hornsea Project Three (UK) Limited;

“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 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;

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

“Work No. 2” means—

- (a) up to 12 offshore type 1 substations each fixed to the seabed by either monopile foundation, mono suction bucket foundation, jacket foundation, gravity base foundation or box-type gravity base foundations and which may be connected to each other or one of the offshore accommodation platforms within Work No.1(b) by an unsupported bridge;
- (b) up to four offshore type 2 substations each fixed to the seabed by either monopile foundations, mono suction bucket foundations, jacket foundations, gravity base foundations, jacket foundations, box-type gravity base foundations, pontoon gravity base 1 foundations, or pontoon gravity base 2 foundations and which may be connected to each other or one of the offshore accommodation platforms within Work No.1(b) by an unsupported bridge;
- (c) a network of cables;
- (d) up to six cable circuits between Work No. 2 and Work No. 3, and between Work No. 3 and Work No.5 consisting of offshore export cables along routes within the Order limits seaward of MHWS including one or more cable crossings; and
- (e) up to eight temporary horizontal directional drilling exit pits; and

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“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order.

(2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT);
- (b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

(a) Marine Management Organisation

Marine Licensing Team  
Lancaster House Hampshire Court  
Newcastle Business Park  
Newcastle upon Tyne  
NE4 7YH  
Tel: 0300 123 1032;

(b) Marine Management Organisation (local office)

Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT

(c) Trinity House

Tower Hill  
London  
EC3N 4DH  
Tel: 020 7481 6900;

(d) The United Kingdom Hydrographic Office

Admiralty Way  
Taunton  
Somerset  
TA1 2DN  
Tel: 01823 337 900;

(e) Maritime and Coastguard Agency

Navigation Safety Branch  
Bay 2/20, Spring Place 105 Commercial Road  
Southampton  
SO15 1EG  
Tel: 020 3817 2433;

(f) Centre for Environment, Fisheries and Aquaculture Science

Pakefield Road

Lowestoft

Suffolk

NR33 0HT

Tel: 01502 562 244;

(g) Natural England 4th Floor

Foss House 1-2 Peasholme Green

York

YO1 7PX

Tel: 0300 060 4911;

(h) Historic England

Brooklands 24 Brooklands Avenue

Cambridge

CB2 8BU

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#### Commencement Information

**I221** Sch. 11 Pt. 1 para. 1 in force at 22.1.2021, see [art. 1](#)

#### Details of licensed marine activities **E+W**

2. Subject to the licence conditions, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea within the Order limits seaward of MHWS of the substances and articles specified in paragraph 4 below and up to 1,344,318 cubic metres of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable sandwave preparation works within Work No. 1;
- (b) the construction of works in or over the sea and/or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works and/or electrical circuit works; the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (d) boulder clearance works either by displacement ploughing or subsea grab technique or any other equivalent method;
- (e) removal of static fishing equipment; and
- (f) site preparation works.

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#### Commencement Information

**I222** Sch. 11 Pt. 1 para. 2 in force at 22.1.2021, see [art. 1](#)

3. Such activities are authorised in relation to the construction, maintenance and operation of

*Work No. 1—*

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- (a) (a) an offshore wind turbine generating station with a gross electrical output of over 100 megawatts comprising up to 231 wind turbine generators each fixed to the seabed by either monopile foundation, mono suction bucket foundation, jacket foundation or gravity base foundation;
- (b) (b) up to three offshore accommodation platforms fixed to the seabed within the area shown on the works plan by monopile foundation, mono suction bucket foundation, jacket foundation, or gravity base foundation and which may be connected to each other or one of the offshore substations within Work No. 2 by an unsupported bridge; and
- (c) (c) a network of cables between the wind turbine generators and between the wind turbine generators and Work No. 2 including one or more cable crossings.

In connection with such Work No. 1 and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses, with or without frond devices; and
- (c) temporary landing places, moorings or other means of accommodating vessels in the construction and/or maintenance of the authorised development.

**Commencement Information**  
**I223** Sch. 11 Pt. 1 para. 3 in force at 22.1.2021, see [art. 1](#)

4. The substances or articles authorised for deposit at sea are—
- (a) iron and steel, copper and aluminium;
  - (b) stone and rock;
  - (c) concrete;
  - (d) sand and gravel;
  - (e) plastic and synthetic;
  - (f) material extracted from within the offshore Order limits during construction drilling or seabed preparation for foundation works and cable sandwave preparation works; and
  - (g) marine coatings, other chemicals and timber.

**Commencement Information**  
**I224** Sch. 11 Pt. 1 para. 4 in force at 22.1.2021, see [art. 1](#)

5. The grid coordinates for that part of the authorised development comprising Work No. 1 are specified below and more particularly on the offshore Order limits and grid coordinates plan—

<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
57	53° 52' 12.798" N	2° 19' 38.938" E	61	54° 0' 4.028" N	2° 40' 52.651" E
58	53° 59' 22.420" N	2° 11' 50.694" E	62	53° 48' 57.136" N	2° 44' 53.902" E

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59	53° 59' 19.280" N	2° 13' 34.691" E	63	53° 41' 22.175" N	2° 47' 35.927" E
60	53° 58' 42.514" N	2° 32' 43.904" E	64	53° 45' 27.296" N	2° 34' 19.781" E

**Commencement Information**

**I225** Sch. 11 Pt. 1 para. 5 in force at 22.1.2021, see [art. 1](#)

6. This licence remains in force until the authorised project has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.

**Commencement Information**

**I226** Sch. 11 Pt. 1 para. 6 in force at 22.1.2021, see [art. 1](#)

7. The provisions of sections 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 5 (benefit of the Order).

**Commencement Information**

**I227** Sch. 11 Pt. 1 para. 7 in force at 22.1.2021, see [art. 1](#)

8. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this Schedule, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

**Commencement Information**

**I228** Sch. 11 Pt. 1 para. 8 in force at 22.1.2021, see [art. 1](#)

9. Any amendments to or variations from the approved plans, protocols or statements 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 MMO that it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

**Commencement Information**

**I229** Sch. 11 Pt. 1 para. 9 in force at 22.1.2021, see [art. 1](#)

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## PART 2 E+W

### CONDITIONS

#### Design parameters E+W

1.—(1) The total number of wind turbine generators comprised in the authorised project must not exceed 231 and a total rotor swept area of 8.8 square kilometres.

(2) Subject to paragraph (3), each wind turbine generator forming part of the authorised project must not—

- (a) exceed a height of 325 metres when measured from LAT to the tip of the vertical blade;
- (b) exceed a rotor diameter of 265 metres;
- (c) be less than 41.8 metres from LAT to the lowest point of the rotating blade; and
- (d) be less than one kilometre from the nearest wind turbine generator in all directions.

(3) The reference in sub-paragraph 1(2)(d) to the location of a wind turbine generator is a reference to the centre point of that wind turbine generator.

(4) Wind turbine generator foundation structures forming part of the authorised scheme must be one of the following foundation options: monopile foundation, mono suction bucket foundation, jacket foundation or gravity base foundation.

(5) No wind turbine generator—

- (a) jacket foundation employing pin piles forming part of the authorised project shall have a pin pile diameter of greater than four metres; and
- (b) monopile foundation forming part of the authorised project shall have a diameter greater than 15 metres.

(6) The total seabed footprint area for wind turbine generator foundations must not exceed—

- (a) 435,660 square metres excluding scour protection; and
- (b) 1,623,182 square metres including scour protection.

(7) The volume of scour protection material for wind turbine generator foundations must not exceed 2,375,044 cubic metres.

#### **Commencement Information**

**I230** Sch. 11 Pt. 2 para. 1 in force at 22.1.2021, see [art. 1](#)

2.—(1) The total number of offshore accommodation platforms forming part of the authorised project must not exceed three.

(2) The dimensions of any offshore accommodation platform forming part of the authorised project must not exceed—

- (a) 64 metres in height when measured from LAT;
- (b) 60 metres in length; and
- (c) 60 metres in width.

(3) Any bridge located on an offshore accommodation platform shall be no longer than 100 metres.

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(4) Offshore accommodation platform foundation structures forming part of the authorised project must be one of the following foundation options: monopile foundations, mono suction bucket foundations, jacket foundations, or gravity base foundations.

(5) No offshore accommodation platform—

(a) jacket foundation employing pin piles forming part of the authorised project shall have a pin pile diameter of greater than 4 metres; and

(b) monopile foundation forming part of the authorised project shall have a diameter greater than 15 metres.

(6) The total seabed footprint area for offshore accommodation platform foundations must not exceed—

(a) 8,836 square metres excluding scour protection; and

(b) 28,628 square metres including scour protection.

(7) The volume of scour protection material for offshore accommodation platform foundations must not exceed 43,429 cubic metres.

(8) The total number of cable crossings when combined with the deemed marine licence granted under Schedule 12 (deemed marine licence under the 2009 Act – transmission assets) of the Order must not exceed 44, unless otherwise agreed between the undertaker and the MMO.

(9) No works permitted under this licence may be undertaken within the boundaries of the Markham's Triangle MCZ exclusion zone.

#### Commencement Information

**I231** Sch. 11 Pt. 2 para. 2 in force at 22.1.2021, see [art. 1](#)

**3.—(1)** The total length of the cables in Work No.1(c) and the volume of their cable protection (excluding cable crossings) when combined with the cable authorised under Work No.2(c) of the deemed marine licence granted under Schedule 12 of the Order must not exceed the following—

<i>Work</i>	<i>Length</i>	<i>Cable protection</i>
Work No. 1(c)	1055 kilometres	1,055,000 cubic metres

(2) No cable protection by way of concrete mattresses may be used in European Sites or MCZ.

(3) No more than 6% of the length of the cables in Work No 1(c) falling within any European Site shall be subject to cable protection, unless otherwise agreed with the MMO.

(4) No more than 7% of the length of the cables in Work No 1(c) falling within any MCZ shall be subject to cable protection, unless otherwise agreed with the MMO.

(5) Any cable protection authorised under this licence must be deployed within 15 years from the date of the grant of the Order unless otherwise agreed by the MMO.

#### Commencement Information

**I232** Sch. 11 Pt. 2 para. 3 in force at 22.1.2021, see [art. 1](#)

### Phases of authorised development **E+W**

**4.—(1)** The authorised development may not be commenced until a written scheme setting out the phases of construction of the authorised project has been submitted to and approved by the MMO.

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(2) The phases of construction referred to in paragraph (1) shall not exceed two, save that each phase may be undertaken in any number of stages as prescribed in the written scheme.

(3) The scheme must be implemented as approved.

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**Commencement Information**

**I233** Sch. 11 Pt. 2 para. 4 in force at 22.1.2021, see [art. 1](#)

**Maintenance of the authorised development** **E+W**

**5.**—(1) The undertaker may at any time maintain the authorised development, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) No maintenance works whose likely effects are not assessed in the environmental statement may be carried out, unless otherwise approved by the MMO.

(3) Maintenance works include but are not limited to—

- (a) major wind turbine component or offshore accommodation platform replacement;
- (b) painting wind turbine generators or offshore accommodation platforms;
- (c) bird waste removal;
- (d) cable remedial burial;
- (e) array cable repairs;
- (f) access ladder replacement;
- (g) wind turbine generator anode replacement; and
- (h) J-tube repair/replacement.

(4) Where the MMO's approval is required under paragraph (2), approval may be given only where it has been demonstrated to the satisfaction of the MMO that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(5) The undertaker shall issue to operators of vessels under its control operating within the Order limits a code of conduct to prevent collision risk or injury to marine mammals.

(6) The undertaker shall ensure appropriate co-ordination of vessels within its control operating within the Order limits so as to reduce collision risk to other vessels including advisory safe passing distances for vessels.

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**Commencement Information**

**I234** Sch. 11 Pt. 2 para. 5 in force at 22.1.2021, see [art. 1](#)

**Extension of time periods** **E+W**

**6.** Any time period given in this licence given to either the undertaker or the MMO may be extended with the agreement of the other party.

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**Commencement Information**

**I235** Sch. 11 Pt. 2 para. 6 in force at 22.1.2021, see [art. 1](#)



## Notifications and inspections **E+W**

- 7.—(1) The undertaker must ensure that—
- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
    - (i) all agents and contractors notified to the MMO in accordance with condition 16; and
    - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with condition 16; and
  - (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) above must provide a completed confirmation form to the MMO confirming receipt of this licence.
- (2) Only those persons and vessels notified to the MMO in accordance with condition 16 are permitted to carry out the licensed activities.
- (3) Copies of this licence must also be available for inspection at the following locations—
- (a) the undertaker's registered address;
  - (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
  - (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.
- (4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.
- (5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised project.
- (6) The undertaker must inform the MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any part of them and within five days of the completion of the licenced activity.
- (7) The undertaker must inform the Kingfisher Information Service of Seafish by email to [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk) of details regarding the vessel routes, timings and locations relating to the construction of the authorised project or relevant part—
- (a) at least fourteen days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
  - (b) on completion of construction of all offshore activities,
- and confirmation of notification must be provided to the MMO within five days.
- (8) A notice to mariners must be issued at least ten days prior to the commencement of the licensed activities or any part of them advising of the start date of Work No. 1 and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO and UKHO within five days.
- (9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under condition 13(1)(b). Copies of all notices must be provided to the MMO and UKHO within five days.
- (10) The undertaker must notify the UK Hydrographic Office both of the commencement (within ten days), progress and completion of construction (within ten days) of the licensed activities in

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order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO.

(11) In case of damage to, or destruction or decay of, the authorised project seaward of MHWS or any part thereof the undertaker must as soon as possible and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, MCA, Trinity House, the Kingfisher Information Service of Seafish and the UK Hydrographic Office.

(12) In case of the development of a cable exposure deemed by the undertaker to present a risk to fishing activity, the undertaker must notify mariners by issuing a notice to mariners and notify the MMO and the Kingfisher Information Service within three working days following the undertaker becoming aware of it.

#### Commencement Information

**I236** Sch. 11 Pt. 2 para. 7 in force at 22.1.2021, see [art. 1](#)

#### Aids to navigation **E+W**

**8.—(1)** The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning of the authorised project seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised project to completion of decommissioning of the authorised project seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised project seaward of MHWS including the following—

- (a) notice of commencement of construction of the authorised project within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised project.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to condition 13(1)(j) using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning of the authorised project seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 7(11) are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

#### Commencement Information

**I237** Sch. 11 Pt. 2 para. 8 in force at 22.1.2021, see [art. 1](#)

**9.—(1)** The undertaker must colour all structures yellow (colour code RAL 1023) from at least highest astronomical tide to a height directed by Trinity House, or must colour the structure as directed by Trinity House from time to time.

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(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must ensure that the wind turbine generators are painted light grey (colour code RAL 7035).

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**Commencement Information**

**I238** Sch. 11 Pt. 2 para. 9 in force at 22.1.2021, see [art. 1](#)

**Aviation safety** **E+W**

**10.**—(1) The undertaker must exhibit such lights, with such shape, colour and character as are required in writing by Air Navigation Order 2016<sup>M55</sup> and determined necessary for aviation safety in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the Civil Aviation Authority

(2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, and the MMO, at least 14 days prior to the commencement of the authorised project, in writing of the following information—

- (a) the date of the commencement of construction of the authorised project;
- (b) the date any wind turbine generators are brought into use;
- (c) the maximum height of any construction equipment to be used;
- (d) the maximum heights of any wind turbine generator and offshore accommodation platform to be constructed;
- (e) the latitude and longitude of each wind turbine generator and offshore accommodation platform to be constructed,

and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the authorised project.

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**Commencement Information**

**I239** Sch. 11 Pt. 2 para. 10 in force at 22.1.2021, see [art. 1](#)

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**Marginal Citations**

**M55** [S.I. 2016/765](#).

**Chemicals, drilling and debris** **E+W**

**11.**—(1) Unless otherwise agreed in writing by the MMO all chemicals used in the construction of the authorised project must be selected from the List of Notified Chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002<sup>M56</sup> (as amended).

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 31 January each year for

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the months August to January inclusive, and by 31 July each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within the Order limits seaward of MHWS.

(6) The undertaker must ensure that any rock material used in the construction of the authorised project is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised project is misplaced or lost below MHWS, the undertaker must report the loss to the District Marine Office within 48 hours and if the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 13(1)(d)(i).

(10) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident. On receipt of the Dropped Object Procedure Form, the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

#### Commencement Information

I240 Sch. 11 Pt. 2 para. 11 in force at 22.1.2021, see [art. 1](#)

#### Marginal Citations

M56 S.I. 2002/1355.

### Force majeure **E+W**

**12.**—(1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

#### Commencement Information

I241 Sch. 11 Pt. 2 para. 12 in force at 22.1.2021, see [art. 1](#)

## Pre-construction plans and documentation **E+W**

**13.—(1)** The licensed activities or any phase of those activities must not commence until the following (insofar as relevant to that activity or phase of activity) has been submitted to and approved in writing by the MMO, in consultation with Trinity House and the MCA—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, which shows—
- (i) the proposed location, including grid co-ordinates of the centre point of the proposed location for each wind turbine generator and offshore accommodation platform, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions and choice of foundation types for all wind turbine generators and offshore accommodation platforms;
  - (ii) the number, specifications and dimensions of the wind turbine generators in that phase;
  - (iii) the length and arrangement of cable comprising Work No. 1(c);
  - (iv) the dimensions of all monopile foundations, mono suction bucket foundations, jacket foundations or gravity base foundations; and
  - (v) any exclusion zones or micrositing requirements identified in any mitigation project pursuant to sub-paragraph 13(2)(d) or relating to any Annex I reefs identified as part of surveys undertaken in accordance with condition 17;

to ensure conformity with the description of Work No. 1 and compliance with conditions 1 to 3 above;

- (b) a construction programme to include details of—
- (i) the proposed construction start date;
  - (ii) proposed timings for mobilisation of plant delivery of materials and installation works; and
  - (iii) an indicative written construction programme for all wind turbine generators offshore accommodation platforms and cable comprised in the works at paragraph 3(a) to 3(b) of Part 1 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above);

unless otherwise agreed in writing with the MMO;

- (c) a construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
- (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation and cable installation works and having regard to any mitigation scheme pursuant to sub-paragraph 13(1)(f);
  - (ii) advisory safe passing distances for vessels around construction sites;
  - (iii) cable installation;
  - (iv) contractors;
  - (v) vessels and vessels transit corridors;
  - (vi) codes of conduct for vessel operators;
  - (vii) associated ancillary works;
  - (viii) guard vessels to be employed; and
  - (ix) details of means to avoid impacts on European sites;

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- (d) a project management plan and monitoring plan covering the period of construction and operation to include details of—
  - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents of the authorised project in relation to all activities carried out;
  - (ii) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
  - (iii) a biosecurity plan detailing how the risk of introduction and spread of invasive non-native species will be minimised;
  - (iv) waste management and disposal arrangements;
  - (v) a code of conduct for vessel operators;
  - (vi) the appointment and responsibilities of a fisheries liaison officer; and
  - (vii) all spatial data for archaeological exclusion zones and application of a protocol for archaeological discoveries;
- (e) a scour protection management plan providing details of the need, type, sources, quantity and installation methods for scour protection, which must be updated and resubmitted for approval if changes to it are proposed following cable laying operations;
- (f) proposed pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting in accordance with conditions 17, 18 and 19;
- (g) in the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals, including details of soft start procedures with specified duration periods following current best practice as advised by the relevant statutory nature conservation bodies;
- (h) a cable specification and installation plan, to include—
  - (i) technical specification of offshore cables below MHWS, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
  - (ii) a sandwave clearance plan for all designated sites affected, including details of the volumes of material to be dredged, timing of works, locations for disposal and monitoring proposals;
  - (iii) a detailed cable laying plan for the Order limits, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection;
  - (iv) a cable protection plan for all designated sites where cable protection is required, including details of the volumes, material, locations and seabed footprints for cable protection measures, where required, consideration of alternative methods of protection and monitoring proposals and provision for review and update of the plan for a period of 15 years from the date of the grant of the Order;
  - (v) proposals for the volume and areas of cable protection to be used for each cable crossing; and

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- (vi) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised project which includes a risk based approach to the management of unburied or shallow buried cables, and, where necessary, details of micrositing through any European Site.
  - (i) an offshore operations and maintenance plan, to be submitted to the MMO at least four months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase;
  - (j) an aid to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 8 for the lifetime of the authorised project;
  - (k) a plan for marine mammal monitoring setting out the circumstances in which marine mammal monitoring will be required and the monitoring to be carried out in such circumstances; and
  - (l) an ornithological monitoring plan setting out the circumstances in which ornithological monitoring will be required and the monitoring to be carried out in such circumstances.
- (2) The licensed activities or any part of those activities must not commence unless no later than 6 months prior to the commencement a written scheme of archaeological investigation has been submitted to and approved by the MMO, in accordance with the outline offshore written scheme of investigation, and in accordance with industry good practice, in consultation with the statutory historic body to include—
- (a) details of responsibilities of the undertaker, archaeological consultant and contractor;
  - (b) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
  - (c) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within six months of any survey being completed;
  - (d) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones prior to construction;
  - (e) monitoring of archaeological exclusion zones during and post construction, including provision of a report on such monitoring;
  - (f) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS ('Online Access to the Index of archaeological investigationS') form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
  - (g) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme;
  - (h) implementation of the Offshore Renewables Protocol for Reporting Archaeological Discoveries as set out by The Crown Estate; and
  - (i) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.
- (3) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific outline written scheme of investigation (which must accord with the details set out in the outline offshore written scheme of investigation) which has been submitted to and approved by the MMO.

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(4) The licensed activities or any part of those activities must not commence until a fisheries coexistence and liaison plan in accordance with the outline fisheries coexistence and liaison plan has been submitted to and approved by the MMO.

(5) In the event that driven or part-driven pile foundations are proposed to be used, the licenced activities, or any phase of those activities must not commence until a Site Integrity Plan which accords with the principles set out in the in principle Hornsea Three Southern North Sea Special Area of Conservation Site Integrity Plan has been submitted to the MMO and the MMO is satisfied that where the plan assesses that mitigation is necessary to avoid adversely affecting the integrity (within the meaning of the 2017 Regulations) of the Southern North Sea Special Area of Conservation, it provides for such mitigation, to the extent that harbour porpoise are a protected feature of that site.

(6) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 5,000kJ.

#### Commencement Information

**I242** Sch. 11 Pt. 2 para. 13 in force at 22.1.2021, see [art. 1](#)

**14.**—(1) Each programme, statement, plan, protocol or scheme required to be approved under condition 13 (save for that required under condition 13(1)(f)) must be submitted for approval at least four months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) The pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting required under condition 13(1)(f) must be submitted in accordance with the following, unless otherwise agreed in writing with the MMO—

- (a) at least four months prior to the first survey, detail of any pre-construction surveys and an outline of all proposed monitoring;
- (b) at least four months prior to construction, detail on construction monitoring; and
- (c) at least four months prior to commissioning, detail of post-construction (and operational) monitoring;

(3) The design plan required by condition 13(1)(a) shall be prepared by the undertaker and determined by the MMO in accordance with the Development Principles.

(4) The MMO shall determine an application for approval made under condition 13 within a period of four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(5) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 13, unless otherwise agreed in writing by the MMO.

#### Commencement Information

**I243** Sch. 11 Pt. 2 para. 14 in force at 22.1.2021, see [art. 1](#)

### Offshore safety management **E+W**

**15.** No part of the authorised scheme may commence until the MMO, in consultation with the MCA, has given written approval of an Emergency Response Co-operation Plan (ERCoP) which includes full details of the plan for emergency response and co-operation for the construction, operation and decommissioning phases of that part of the authorised scheme in accordance with



the MCA recommendations contained within MGN543 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” (or any equivalent guidance that replaces or supersedes it), and has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that part of the authorised scheme, adequately addressed all MCA recommendations contained within MGN543 and its annexes.

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#### Commencement Information

**I244** Sch. 11 Pt. 2 para. 15 in force at 22.1.2021, see [art. 1](#)

### Reporting of engaged agents, contractors and vessels **E+W**

**16.**—(1) The undertaker must provide the following information to the MMO—

- (a) the name and function of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and
- (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

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#### Commencement Information

**I245** Sch. 11 Pt. 2 para. 16 in force at 22.1.2021, see [art. 1](#)

### Pre-construction monitoring and surveys **E+W**

**17.**—(1) The undertaker must in discharging condition 13(1)(f) submit a monitoring plan or plans in accordance with an in-principle monitoring plan for written approval by the MMO in consultation with the relevant statutory bodies, which shall contain details of proposed surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report and;

- (a) the survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position or will enable the validation or otherwise of key predictions in the environmental statement; and
- (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the preconstruction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this Condition, the pre-construction surveys must comprise, in outline—

- (a) a high-resolution swath bathymetric survey to include a 100% coverage and a side-scan sonar survey of the parts of the offshore Order limits within which it is proposed to carry out construction works and disposal activities under this licence, to—
  - (i) determine the location, extent and composition of any biogenic or geogenic reef features, as set out within the in-principle monitoring plan;

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- (ii) inform future navigation risk assessments as part of the cable specification and installation plan;
  - (iii) inform the identification of any archaeological exclusion zone and post consent monitoring of any such archaeological exclusion zone; and
  - (iv) to identify and characterise any preferred sandeel habitat.
- (b) any marine mammal monitoring required by the plan for marine mammal monitoring submitted in accordance with condition 13(1)(k); and
  - (c) any ornithological monitoring required by the Ornithological Monitoring Plans submitted in accordance with condition 13(1)(l).
- (3) The undertaker must carry out the surveys specified within the monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

#### Commencement Information

**I246** Sch. 11 Pt. 2 para. 17 in force at 22.1.2021, see [art. 1](#)

#### Construction monitoring **E+W**

**18.**—(1) The undertaker must in discharging condition 13(1)(f) submit a construction monitoring plan or plans for written approval by the MMO in consultation with the relevant statutory nature conservation body, which shall include details of any proposed construction monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this condition the construction monitoring plan must include, in outline—

- (a) where piled foundations are to be employed, unless otherwise agreed by the MMO in writing, details of proposed monitoring of the noise generated by the installation of the first four monopile foundations to be constructed under this licence;
- (b) a plan for monitoring of the duration of piling activity; and
- (c) details of vessel traffic monitoring by automatic identification system for the duration of the construction period including obligations to report annually to the MMO, Trinity House and the MCA during the construction phase of the authorised development.

(3) The results of the initial noise measurements monitored in accordance with condition 18(2)(a) must be provided to the MMO within six weeks of the installation of the first four piled foundations of each piled foundation type. The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, in the opinion of the MMO in consultation with the relevant statutory nature conservation body, the assessment shows significantly different impacts to those assessed in the environmental statement or failures in mitigation, all piling activity must cease until an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.

(4) The undertaker must carry out the surveys specified within the construction monitoring plan or plans in accordance with that plan or plans, including any further noise monitoring required in writing by the MMO under condition 18(3), unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

### Commencement Information

**I247** Sch. 11 Pt. 2 para. 18 in force at 22.1.2021, see [art. 1](#)

### Post-construction monitoring **E+W**

**19.**—(1) The undertaker must in discharging condition 13(1)(f) submit a post-construction monitoring plan or plans for written approval by the MMO in consultation with the relevant statutory nature conservation body including details of proposed post-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the preconstruction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt of specific proposals the post-construction survey plan or plans must include, in outline—

- (a) a survey to determine any change in the location, extent and composition of any biogenic or geogenic reef feature identified in the pre-construction survey in the parts of the offshore Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey;
- (b) any marine mammal monitoring required by the plan for marine mammal monitoring submitted in accordance with condition 13(1)(k);
- (c) any ornithological monitoring required by the Ornithological Monitoring Plans submitted in accordance with condition 13(1)(l);
- (d) details of vessel traffic monitoring by automatic identification system, for a period of 28 individual days taking account seasonal variations in traffic patterns over the course of one year to be submitted to the MMO, Trinity House and the MCA no later than one year following completion of the construction phase of the authorised development;
- (e) a full sea floor coverage swath-bathymetry survey of the areas within which construction activity has taken place in order to inform of any dropped objects or residual navigational risk to be submitted to the MMO and MCA;
- (f) a bathymetric survey to monitor the effectiveness of archaeological exclusion zones identified to have been potentially impacted by construction works. The data shall be analysed by an accredited archaeologist as defined in the offshore written scheme of investigation required under condition 13(2);
- (g) a high resolution swath bathymetric and side scan sonar survey to determine any change to the seabed morphology and composition around a representative number of WTG foundations within muddy sediments of the outer Silver Pit and Markham's Hole features, in accordance with the scour monitoring detailed within the in-principle monitoring plan; and
- (h) a high resolution swath-bathymetric and side scan sonar survey to determine any change and recovery in the composition of any preferred sandeel habitat identified in the pre-construction survey in the parts of the offshore Order limits in which sandwave clearance activity has been carried out. The survey design must be informed by the results of the pre-construction benthic survey.

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(3) The undertaker must carry out the surveys agreed under condition 19(1) and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.

#### Commencement Information

**I248** Sch. 11 Pt. 2 para. 19 in force at 22.1.2021, see [art. 1](#)

#### Timing of monitoring report **E+W**

**20.** Any monitoring report compiled in accordance with the monitoring plans provided under conditions 17, 18 and 19 must be provided to the MMO no later than four months following completion of the monitoring to which it relates, unless otherwise agreed with the MMO.

#### Commencement Information

**I249** Sch. 11 Pt. 2 para. 20 in force at 22.1.2021, see [art. 1](#)

#### Updating of cable monitoring plan **E+W**

**21.** Following installation of cables, the cable monitoring plan required under condition 13(1)(h) (vi) must be updated with the results of the post-installation surveys. The plan must be implemented during the operational lifetime of the project and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

#### Commencement Information

**I250** Sch. 11 Pt. 2 para. 21 in force at 22.1.2021, see [art. 1](#)

#### Reporting of impact pile driving **E+W**

**22.—(1)** Only when driven or part-driven pile foundations or detonation of explosives are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry—

- (a) prior to the commencement of the licenced activities, information on the expected location, start and end dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Forward Look requirements;
- (b) at six-month intervals following the commencement of pile driving/detonation of explosives, information on the locations and dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements; and
- (c) within 12 weeks of completion of impact pile driving/detonation of explosives, information on the locations and dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements.

(2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to paragraph (1) above within 7 days of the submission.

(3) For the purpose of this condition—

- (a) “Marine Noise Registry” means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas; and

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- (b) “Forward Look” and “Close Out” requirements are as set out in the UK Marine Noise Registry Information.

**Commencement Information**

**I251** Sch. 11 Pt. 2 para. 22 in force at 22.1.2021, see [art. 1](#)

**Reporting of cable protection** **E+W**

**23.**—(1) Not more than 4 months following completion of the construction phase of the project, the undertaker shall provide the MMO and the relevant SNCBs with a report setting out details of the cable protection used for the authorised scheme.

(2) The report shall include the following information—

- (a) location of the cable protection;
- (b) volume of cable protection; and
- (c) any other information relating to the cable protection as agreed between the MMO and the undertaker.

**Commencement Information**

**I252** Sch. 11 Pt. 2 para. 23 in force at 22.1.2021, see [art. 1](#)

**Decommissioning of cable protection within marine protected areas** **E+W**

**24.**—(1) The obligations under paragraphs (2) and (3) shall only apply if and to the extent that—

- (a) cable protection is installed as part of the authorised project within an area designated as a European Site or MCZ as at the date of the grant of the Order; and
- (b) it is a requirement of the written decommissioning programme approved by the Secretary of State pursuant to sections 105 (requirement to prepare decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108 (reviews and revisions of decommissioning programmes), that such cable protection is removed as part of the decommissioning of the authorised project.

(2) Within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the undertaker shall carry out an appropriate survey of cables within Work No. 1(c), that are subject to cable protection and that are situated within any European Site or MCZ to assess the integrity and condition of that cable protection and determine the appropriate extent of the feasibility of the removal of such cable protection having regard to the condition of the cable protection and feasibility of any new removal techniques at that time, and submit that along with a method statement for recovery of cable protection to the MMO.

(3) Within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the MMO must confirm whether or not it is satisfied with the method statement pursuant to (2) above.

(4) If the MMO has confirmed it is satisfied pursuant to (3) above, then within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the undertaker shall endeavour to recover the cable protection to the extent identified in the survey and according to the methodology set out in the method statement submitted pursuant to (2) above.

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**Commencement Information**

**I253** Sch. 11 Pt. 2 para. 24 in force at 22.1.2021, see [art. 1](#)

SCHEDULE 12 **E+W**

Article 31

DEEMED MARINE LICENCE UNDER THE 2009 ACT – TRANSMISSION ASSETS

**PART 1** **E+W**

LICENSED MARINE ACTIVITIES

1.—(1) In this licence—

“the 2004 Act” means the Energy Act 2004;

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“2017 Regulations” means the Conservation of Offshore Marine Habitats and Species Regulations 2017;

“Annex I reef” means a reef of a type listed in Annex I of Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora;

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this licence;

“authorised development” means the development and associated development described in Part 1 of Schedule 1 of the Order;

“authorised project” means Work Nos. 2, 3, 4 and 5 as described in paragraph 3 of Part 1 of this licence or any part of that work;

“buoy” means any floating device used for navigational purposes or measurement purposes;

“cable protection” means physical measures for the protection of cables including but not limited to concrete mattresses, with or without frond devices, and/or rock placement (but not material used for cable crossings);

“commence” means the first carrying out of any licensed marine activities authorised by this marine licence, save for pre-construction monitoring surveys approved under this licence and “commenced” and “commencement” must be construed accordingly;

“condition” means a condition in Part 2 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands B75 7RL and any successor body to its functions;

“Development Principles” means the document certified as the Development Principles by the Secretary of State for the purposes of the Order under article 36 (certification of plans and documents etc);

“disturbance” must be construed in accordance with regulation 45(1)(b) (protection of wild animals listed in Annex IV(a) to the Habitats Directive) of the 2017 Regulations;

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“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 (marine licensing) of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order;

“European site” has the meaning given in regulation 27 of the 2017 Regulations;

“gravity base foundation” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“in-principle Hornsea Three Southern North Sea Special Area of Conservation Site Integrity Plan” means the document certified as the in principle Hornsea Three Southern North Sea Special Area of Conservation Site Integrity Plan by the Secretary of State for the purposes of this Order;

“interconnector cable” means a network of cables between the offshore substations;

“jacket foundation” means a lattice type structure constructed of steel, which may include scour protection and additional equipment such as, J-tubes, corrosion protection systems and access platforms;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this licence;

“LAT” means lowest astronomical tide;

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace, to the extent assessed in the environmental statement; and “maintenance” must be construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“Markham's Triangle MCZ” means the MCZ designated by the Secretary of State under the Markham's Triangle Marine Conservation Designation Order 2019;

“Markham's Triangle MCZ exclusion zone” means the area comprising Markham's Triangle MCZ as shown on the Markham's Triangle exclusion zone plan;

“Markham's Triangle exclusion zone plan” means the document certified as the Markham's Triangle exclusion zone plan by the Secretary of State for the purposes of this Order under article 36 (certification of plans and documents etc);

“MCZ” means a marine conservation zone designated under section 116(1) (marine conservation zones) of the 2009 Act or any area which is recommended for such designation to the relevant secretary of state in accordance with the 2009 Act unless the Secretary of State determines that it shall not be designated as a marine conservation zone;

“MCA” means the Maritime and Coastguard Agency;

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

“monopile foundation” means a steel pile, typically cylindrical, driven and/or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“offshore accommodation platform” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform, containing

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housing accommodation, storage, workshop, auxiliary equipment, and facilities for operating, maintaining and controlling the wind turbine generators;

“offshore electrical installations” means the offshore type 1 substations, the offshore type 2 substations, the offshore subsea HVAC booster stations and the offshore HVAC booster stations forming part of the authorised development;

“offshore export cable” means a network of cables for as described in Work No.2(d) and Work No.3(d).

“offshore HVAC booster station” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform, containing—

- (a) electrical equipment required to provide reactive power compensation; and
- (b) housing accommodation, storage, workshop, auxiliary equipment, and facilities for operating, maintaining and controlling the substation;

“offshore subsea HVAC booster station” means a sealed steel or concrete structure located under the surface of the sea, attached to the seabed by means of a foundation, containing electrical equipment required to provide reactive power compensation;

“offshore substation” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform, containing—

- (a) electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation; and
- (b) housing accommodation, storage, workshop auxiliary equipment, and facilities for operating, maintaining and controlling the substation or wind turbine generators;

“offshore type 1 substation” means the smaller version of the offshore substations assessed in the environment statement;

“offshore type 2 substation” means the larger version of the offshore substations assessed in the environment statement;

“the offshore Order limits” means the offshore Order limits defined by the offshore Order limits and grid coordinates plan;

“the offshore Order limits and grid coordinates plan” means the plan certified as the offshore Order limits and grid coordinates plan by the Secretary of State for the purposes of the Order under article 36;

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure jacket foundations;

“SAC” means an area designated as an area of special area of conservation under regulation 11 (designation of special areas of conservation) of the 2017 Regulations;

“statutory historic body” means Buildings and Monuments Commission for England, the relevant local authority or its successor in function;

“suction bucket” means a steel cylindrical structure attached to the legs of a jacket foundation which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential;

“Order” means the Hornsea Project Three Offshore Wind Farm Order 2020;

“mono suction bucket foundation” means a steel cylindrical structure which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential, and may include scour protection and additional equipment such as J-tubes;

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



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“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means Orsted Energy Hornsea Project Three (UK) Limited;

“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 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;

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

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order.

(2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT);
- (b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

(a) Marine Management Organisation

Marine Licensing Team  
Lancaster House Hampshire Court  
Newcastle Business Park  
Newcastle upon Tyne  
NE4 7YH  
Tel: 0300 123 1032;

(b) Marine Management Organisation (local office)

Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT;

(c) Trinity House

Tower Hill  
London  
EC3N 4DH  
Tel: 020 7481 6900;

(d) The United Kingdom Hydrographic Office

Admiralty Way  
Taunton

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Somerset

TA1 2DN

Tel: 01823 337 900;

(e) Maritime and Coastguard Agency

Navigation Safety Branch

Bay 2/20, Spring Place 105 Commercial Road

Southampton

SO15 1EG

Tel: 020 3817 2433;

(f) Centre for Environment, Fisheries and Aquaculture Science

Pakefield Road

Lowestoft

Suffolk

NR33 0HT

Tel: 01502 562 244;

(g) Natural England 4th Floor

Foss House 1-2 Peasholme Green

York

YO1 7PX

Tel: 0300 060 4911;

(h) Historic England

Brooklands 24 Brooklands Avenue

Cambridge

CB2 8BU.

**Commencement Information**

**I254** Sch. 12 Pt. 1 para. 1 in force at 22.1.2021, see [art. 1](#)

**Details of licensed marine activities** **E+W**

2. Subject to the licence conditions, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable offshore activities) of the 2009 Act—

- (a) the deposit at sea within the Order limits seaward of MHWS of the substances and articles specified in paragraph 4 below and up to 2,218,816 cubic metres of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and cable sandwave preparation works within Work Nos. 2, 3, 4 and 5;
- (b) the construction of works in or over the sea or on or under the sea bed; dredging for the purposes of seabed preparation for foundation works and/or electrical circuit works;
- (c) boulder clearance works either by displacement ploughing or subsea grab technique or any other equivalent method;

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- (d) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (e) removal of static fishing equipment; and
- (f) site preparation works.

#### Commencement Information

**I255** Sch. 12 Pt. 1 para. 2 in force at 22.1.2021, see [art. 1](#)

3. Such activities are authorised in relation to the construction, maintenance and operation of—

*Work No.2—*

- (a) (a) up to 12 offshore type 1 substations each fixed to the seabed by either monopile foundation, mono suction bucket foundation, jacket foundation, gravity base foundation or box-type gravity base foundations and which may be connected to each other or one of the offshore accommodation platforms within Work No.1(b) by an unsupported bridge;
- (b) (b) up to four offshore type 2 substations each fixed to the seabed by either monopile foundations, mono suction bucket foundations, jacket foundations, gravity base foundations, jacket foundations, box-type gravity base foundations, pontoon gravity base 1 foundations, or pontoon gravity base 2 foundations and which may be connected to each other or one of the offshore accommodation platforms within Work No.1(b) by an unsupported bridge;
- (c) (c) a network of cables;
- (d) (d) up to six cable circuits between Work No. 2 and Work No. 3, and between Work No. 3 and Work No.5 consisting of offshore export cables along routes within the Order limits seaward of MHWS including one or more cable crossings; and
- (e) (e) up to eight temporary horizontal directional drilling exit pits.

*Work No.3—*

- (a) (a) in the event that the mode of transmission is HVAC, up to four HVAC booster stations fixed to the seabed within the area shown on the works plan by either monopile foundation, mono suction bucket foundation, jacket foundation, gravity base foundation, or box-type gravity base foundations;
- (b) (b) in the event that the mode of transmission is HVAC, up to six offshore subsea HVAC booster stations fixed to the seabed by either monopile foundation, mono suction bucket foundation, jacket foundation, gravity base foundation, or box-type gravity base foundations;
- (c) (c) in the event that the mode of transmission is HVAC, a network of cables between HVAC booster stations or offshore subsea HVAC booster stations; and
- (d) (d) up to six cable circuits between Work No. 2 and Work No. 3, and between Work No. 3 and Work No.5 consisting of offshore export cables along routes within the Order limits seaward of MHWS including one or more cable crossings.

*Work No. 4—* a temporary work area associated with Work No.2 and Work No.3 for vessels to carry out intrusive activities alongside Work No.2 or Work No.3.

*Work No. 5—* landfall connection works comprising up to six cable circuits and ducts and onshore construction works within the Order limits seaward of MHWS and landward of MLWS.

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In connection with such Works Nos. 2, 3, 4 and 5 and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this license, including—

- (a) scour protection around the foundations of the offshore electrical installations;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses, with or without frond devices;
- (c) the removal of material from the seabed required for the construction of Work Nos. 2, 3, 4 and 5 and the disposal of up to 2,218,816 cubic metres of inert material of natural origin within Order limits produced during construction drilling and seabed preparation for foundation works and cable sandwave preparation works; and
- (d) temporary landing places, moorings or other means of accommodating vessels in the construction and/or maintenance of the authorised development.

#### Commencement Information

**I256** Sch. 12 Pt. 1 para. 3 in force at 22.1.2021, see [art. 1](#)

4. The substances or articles authorised for deposit at sea are—
  - (a) iron and steel, copper and aluminium;
  - (b) stone and rock;
  - (c) concrete;
  - (d) sand and gravel;
  - (e) plastic and synthetic;
  - (f) material extracted from within the offshore Order limits during construction drilling and seabed preparation for foundation works and cable sandwave preparation works; and
  - (g) marine coatings, other chemicals and timber.

#### Commencement Information

**I257** Sch. 12 Pt. 1 para. 4 in force at 22.1.2021, see [art. 1](#)

5. The grid coordinates for that part of the authorised development comprising Work Nos. 2, 3, 4 and 5 are specified below and more particularly on the offshore Order limits and grid coordinates plan—

<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point ID</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 57' 23.299" N	1° 5' 48.611" E	64	53° 45' 27.296" N	2° 34' 19.781" E
2	52° 58' 22.516" N	1° 4' 22.810" E	65	53° 45' 17.155" N	2° 33' 57.193" E
3	52° 59' 43.107" N	1° 3' 16.300" E	66	53° 44' 25.151" N	2° 28' 22.483" E
4	53° 0' 12.806" N	1° 3' 4.176" E	67	53° 43' 43.437" N	2° 23' 42.266" E
5	53° 0' 41.322" N	1° 3' 5.626" E	68	53° 43' 38.549" N	2° 23' 1.918" E
6	53° 2' 15.365" N	1° 3' 25.796" E	69	53° 40' 30.736" N	2° 17' 49.303" E

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7	53° 4' 22.383" N	1° 5' 4.618" E	70	53° 37' 10.969" N	2° 7' 19.167" E
8	53° 4' 48.739" N	1° 5' 38.118" E	71	53° 37' 2.480" N	2° 6' 39.277" E
9	53° 5' 0.912" N	1° 6' 53.813" E	72	53° 36' 20.389" N	2° 5' 9.581" E
10	53° 4' 56.963" N	1° 8' 49.809" E	73	53° 35' 18.067" N	2° 5' 0.546" E
11	53° 4' 47.089" N	1° 10' 20.278" E	74	53° 34' 58.529" N	2° 4' 49.759" E
12	53° 4' 50.116" N	1° 12' 8.936" E	75	53° 34' 37.908" N	2° 4' 16.626" E
13	53° 5' 1.606" N	1° 14' 7.325" E	76	53° 32' 54.718" N	2° 4' 40.220" E
14	53° 5' 2.192" N	1° 14' 30.074" E	77	53° 32' 31.275" N	2° 4' 37.727" E
15	53° 4' 58.764" N	1° 14' 55.483" E	78	53° 31' 59.257" N	2° 4' 11.934" E
16	53° 4' 32.854" N	1° 16' 47.381" E	79	53° 31' 13.675" N	2° 3' 20.449" E
17	53° 4' 32.226" N	1° 19' 19.524" E	80	53° 30' 18.703" N	2° 2' 26.715" E
18	53° 4' 54.358" N	1° 22' 30.281" E	81	53° 30' 0.496" N	2° 1' 55.943" E
19	53° 5' 6.119" N	1° 25' 0.302" E	82	53° 29' 53.014" N	2° 1' 22.871" E
20	53° 5' 7.887" N	1° 26' 23.233" E	83	53° 29' 52.335" N	2° 0' 47.588" E
21	53° 5' 4.100" N	1° 27' 30.916" E	84	53° 28' 18.157" N	1° 53' 52.525" E
22	53° 5' 52.998" N	1° 28' 30.016" E	85	53° 27' 38.035" N	1° 51' 19.593" E
23	53° 14' 11.509" N	1° 41' 28.704" E	86	53° 27' 25.643" N	1° 50' 32.418" E
24	53° 14' 27.431" N	1° 42' 14.962" E	87	53° 27' 18.150" N	1° 50' 31.601" E
25	53° 15' 49.705" N	1° 44' 10.074" E	88	53° 26' 16.707" N	1° 50' 4.603" E
26	53° 16' 25.597" N	1° 44' 37.874" E	89	53° 25' 53.921" N	1° 50' 10.016" E
27	53° 19' 1.814" N	1° 45' 50.556" E	90	53° 25' 34.502" N	1° 50' 4.308" E
28	53° 22' 33.955" N	1° 46' 57.914" E	91	53° 24' 21.903" N	1° 49' 42.825" E
29	53° 22' 55.872" N	1° 46' 55.918" E	92	53° 24' 2.505" N	1° 49' 42.663" E
30	53° 23' 22.176" N	1° 47' 7.319" E	93	53° 23' 34.480" N	1° 49' 32.287" E
31	53° 23' 41.762" N	1° 47' 5.727" E	94	53° 23' 14.095" N	1° 49' 34.013" E
32	53° 24' 11.270" N	1° 47' 16.705" E	95	53° 22' 47.157" N	1° 49' 22.581" E
33	53° 24' 33.225" N	1° 47' 17.703" E	96	53° 22' 23.714" N	1° 49' 23.370" E
34	53° 25' 56.028" N	1° 47' 42.459" E	97	53° 18' 42.217" N	1° 48' 12.788" E
35	53° 26' 20.933" N	1° 47' 36.143" E	98	53° 15' 55.220" N	1° 46' 54.772" E
36	53° 26' 43.765" N	1° 47' 45.420" E	99	53° 15' 3.154" N	1° 46' 14.109" E
37	53° 27' 30.131" N	1° 48' 5.945" E	100	53° 13' 23.395" N	1° 43' 55.484" E
38	53° 27' 46.677" N	1° 48' 5.619" E	101	53° 13' 5.062" N	1° 43' 4.402" E
39	53° 28' 17.076" N	1° 48' 21.428" E	102	53° 4' 59.121" N	1° 30' 24.338" E
40	53° 28' 37.302" N	1° 49' 1.846" E	103	53° 4' 20.493" N	1° 29' 37.106" E
41	53° 29' 38.707" N	1° 52' 55.786" E	104	53° 4' 9.988" N	1° 29' 29.310" E

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42	53° 31' 13.071" N	1° 59' 48.933" E	105	53° 3' 47.663" N	1° 28' 59.880" E
43	53° 31' 19.720" N	2° 0' 36.709" E	106	53° 3' 36.602" N	1° 28' 9.237" E
44	53° 32' 1.260" N	2° 1' 17.462" E	107	53° 3' 36.599" N	1° 27' 27.833" E
45	53° 32' 51.864" N	2° 2' 12.822" E	108	53° 3' 40.623" N	1° 26' 14.722" E
46	53° 34' 50.465" N	2° 1' 45.585" E	109	53° 3' 39.011" N	1° 25' 12.221" E
47	53° 35' 23.664" N	2° 1' 56.535" E	110	53° 3' 28.120" N	1° 22' 53.680" E
48	53° 35' 46.884" N	2° 2' 37.417" E	111	53° 3' 4.980" N	1° 19' 32.112" E
49	53° 36' 32.251" N	2° 2' 43.845" E	112	53° 3' 6.278" N	1° 16' 22.646" E
50	53° 37' 0.888" N	2° 2' 53.784" E	113	53° 3' 34.066" N	1° 14' 17.070" E
51	53° 37' 20.916" N	2° 3' 21.412" E	114	53° 3' 23.126" N	1° 12' 23.483" E
52	53° 38' 20.262" N	2° 5' 30.569" E	115	53° 3' 19.662" N	1° 10' 8.762" E
53	53° 38' 31.038" N	2° 6' 19.862" E	116	53° 3' 30.020" N	1° 8' 33.828" E
54	53° 41' 39.572" N	2° 16' 17.662" E	117	53° 3' 32.792" N	1° 7' 6.899" E
55	53° 44' 4.728" N	2° 20' 18.541" E	118	53° 1' 51.145" N	1° 5' 45.682" E
56	53° 51' 54.307" N	2° 19' 24.004" E	119	53° 0' 17.303" N	1° 5' 29.793" E
57	53° 52' 12.798" N	2° 19' 38.938" E	120	52° 59' 10.951" N	1° 6' 24.006" E
58	53° 59' 22.420" N	2° 11' 50.694" E	121	52° 58' 23.000" N	1° 7' 34.209" E
59	53° 59' 19.280" N	2° 13' 34.691" E	122	52° 57' 44.291" N	1° 7' 45.470" E
60	53° 58' 42.514" N	2° 32' 43.904" E	123	52° 57' 19.850" N	1° 7' 56.688" E
61	54° 0' 4.028" N	2° 40' 52.651" E	124	52° 56' 59.623" N	1° 8' 4.381" E
62	53° 48' 57.136" N	2° 44' 53.902" E	125	52° 57' 2.633" N	1° 7' 44.016" E
63	53° 41' 22.175" N	2° 47' 35.927" E	126	52° 57' 4.058" N	1° 7' 42.464" E

#### Commencement Information

**I258** Sch. 12 Pt. 1 para. 5 in force at 22.1.2021, see [art. 1](#)

6. This licence remains in force until the authorised project has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.

#### Commencement Information

**I259** Sch. 12 Pt. 1 para. 6 in force at 22.1.2021, see [art. 1](#)

7. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of sections 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 5 (benefit of the Order).

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**Commencement Information**

**I260** Sch. 12 Pt. 1 para. 7 in force at 22.1.2021, see [art. 1](#)

**8.** With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this Schedule, the approved details, plan or project are taken to include any amendments that may subsequently be approved in writing by the MMO.

**Commencement Information**

**I261** Sch. 12 Pt. 1 para. 8 in force at 22.1.2021, see [art. 1](#)

**9.** Any amendments to or variations from the approved plans, protocols or statements 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 MMO that it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

**Commencement Information**

**I262** Sch. 12 Pt. 1 para. 9 in force at 22.1.2021, see [art. 1](#)

## **PART 2** **E+W**

### CONDITIONS

#### **Design parameters** **E+W**

**1.—(1)** The total number of offshore electrical installations shall not exceed 18, and shall consist of no more than—

- (a) 12 offshore type 1 substations;
- (b) four offshore type 2 substations;
- (c) four offshore HVAC booster stations; and
- (d) six offshore subsea HVAC booster stations.

**Commencement Information**

**I263** Sch. 12 Pt. 2 para. 1 in force at 22.1.2021, see [art. 1](#)

**2.—(1)** The dimensions of any offshore type 1 substations forming part of the authorised project must not exceed—

- (a) 90 metres in height when measured from LAT;
- (b) 100 metres in length; and
- (c) 100 metres in width.

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- (2) The dimensions of any offshore type 2 substations forming part of the authorised project must not exceed—
  - (a) 110 metres in height when measured from LAT;
  - (b) 180 metres in length; and
  - (c) 90 metres in width.
- (3) The dimensions of any offshore HVAC booster station forming part of the authorised project must not exceed—
  - (a) 90 metres in height when measured from LAT;
  - (b) 100 metres in length; and
  - (c) 100 metres in width.
- (4) The dimensions of any offshore subsea HVAC booster station forming part of the authorised project must not exceed—
  - (a) 15 metres in height when measured from the seabed;
  - (b) 50 metres in length; and
  - (c) 50 metres in width.
- (5) Any bridge located on an offshore electrical installation shall be no longer than 100 metres.
- (6) Offshore electrical installation foundation structures forming part of the authorised scheme must be one of the following foundation options—
  - (a) for offshore type 1 substations, offshore HVAC booster stations and offshore subsea HVAC booster stations either monopile foundations, mono suction bucket foundations, jacket foundations, gravity base foundations, jacket foundations or box-type gravity base foundations; and
  - (b) for offshore type 2 substations, either monopile foundations, mono suction bucket foundations, jacket foundations, gravity base foundations, jacket foundations, box-type gravity base foundations, pontoon gravity base 1 foundations, or pontoon gravity base 2 foundations.
- (7) No offshore electrical installation—
  - (a) jacket foundation employing pin piles forming part of the authorised project shall have a pin pile diameter of greater than 4 metres; and
  - (b) monopile foundation forming part of the authorised project shall have a diameter greater than 15 metres.
- (8) The total seabed footprint area for offshore electrical installation foundations must not exceed—
  - (a) 138,900 square metres excluding scour protection; and
  - (b) 267,900 square metres including scour protection.
- (9) The volume of scour protection material for offshore electrical installation foundations must not exceed 291,200 cubic metres.
- (10) The total number of cable crossings when combined with the deemed marine licence granted under Schedule 11 of the Order must not exceed 44, unless otherwise agreed between the undertaker and the MMO.
- (11) No works permitted under this licence may be undertaken within the boundaries of Markham's Triangle MCZ exclusion zone.—



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**Commencement Information**

**I264** Sch. 12 Pt. 2 para. 2 in force at 22.1.2021, see [art. 1](#)

3.—(1) The total length of the cables and the volume of their cable protection (excluding cable crossings) must not exceed the following—

<i>Work</i>	<i>Length</i>	<i>Cable protection</i>
Work Nos. 2 and 3	1,371 kilometres	1,371,000 cubic metres
Work No. 5	3 kilometres	None

(2) No cable protection by way of concrete mattresses may be used in European Sites or MCZ.

(3) No more than 6% of the length of the cables in Work Nos. 2, 3 and 5 falling within any European Site shall be subject to cable protection.

(4) No more than 7% of the length of the cables in Works Nos. 2, 3 and 5 falling within any MCZ shall be subject to cable protection.

**Commencement Information**

**I265** Sch. 12 Pt. 2 para. 3 in force at 22.1.2021, see [art. 1](#)

4.—(1) The total length of the cables in Work No.2(c) and the volume of their cable protection when combined with the cable authorised under Work No.1(c) of the deemed marine licence granted under Schedule 11 of the Order must not exceed the following—

<i>Length</i>	<i>Cable protection</i>
1,055 kilometres	1,055,000 cubic metres

(2) Any cable protection authorised under this licence must be deployed within 15 years from the date of the grant of the Order unless otherwise agreed by the MMO.

**Commencement Information**

**I266** Sch. 12 Pt. 2 para. 4 in force at 22.1.2021, see [art. 1](#)

**Phases of authorised development** **E+W**

5.—(1) The authorised development may not be commenced until a written scheme setting out the phases of construction of the authorised project has been submitted to and approved by the MMO.

(2) The phases of construction referred to in paragraph (1) shall not exceed two, save that each phase may be undertaken in any number of stages as prescribed in the written scheme.

(3) The scheme must be implemented as approved.

**Commencement Information**

**I267** Sch. 12 Pt. 2 para. 5 in force at 22.1.2021, see [art. 1](#)

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## Maintenance of the authorised development **E+W**

6.—(1) The undertaker may at any time maintain the authorised development, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) No maintenance works whose likely effects are not assessed in the environmental statement may be carried out, unless otherwise approved by the MMO.

(3) Maintenance works include but are not limited to—

- (a) offshore electrical installation component replacement;
- (b) offshore electrical installation painting;
- (c) removal of organic build-up;
- (d) cable remedial burial;
- (e) cable repairs;
- (f) replacement of offshore electrical installation anodes; and
- (g) J-tube repair/replacement.

(4) Where the MMO's approval is required under paragraph (2), such approval may be given only where it has been demonstrated to the satisfaction of the MMO that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(5) The undertaker shall issue to operators of vessels under its control operating within the Order limits a code of conduct to prevent collision risk or injury to marine mammals.

(6) The undertaker shall ensure appropriate co-ordination of vessels within its control operating within the Order limits so as to reduce collision risk to other vessels including advisory safe passing distances for vessels.

### Commencement Information

**I268** Sch. 12 Pt. 2 para. 6 in force at 22.1.2021, see [art. 1](#)

## Extension of time periods **E+W**

7. Any time period given in this licence given to either the undertaker or the MMO may be extended with the agreement of the other party.

### Commencement Information

**I269** Sch. 12 Pt. 2 para. 7 in force at 22.1.2021, see [art. 1](#)

## Notifications and inspections **E+W**

8.—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
  - (i) all agents and contractors notified to the MMO in accordance with condition 17; and
  - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with condition 17; and

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- (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) above must provide a completed confirmation form to the MMO confirming receipt of this licence.
- (2) Only those persons and vessels notified to the MMO in accordance with condition 17 are permitted to carry out the licensed activities.
- (3) Copies of this licence must also be available for inspection at the following locations—
  - (a) the undertaker's registered address;
  - (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
  - (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.
- (4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.
- (5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised project.
- (6) The undertaker must inform the MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any part of them and within five days of the completion of the licenced activity.
- (7) The undertaker must inform the Kingfisher Information Service of Seafish by email to [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk) of details regarding the vessel routes, timings and locations relating to the construction of the authorised project or relevant part—
  - (a) at least fourteen days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
  - (b) on completion of construction of all offshore activities,and confirmation of notification must be provided to the MMO within five days.
- (8) A notice to mariners must be issued at least ten days prior to the commencement of the licensed activities or any part of them advising of the start date of Work Nos 2, 3, 4 and 5 and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO and UKHO within five days.
- (9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under condition 14(1)(b). Copies of all notices must be provided to the MMO and UKHO within five days.
- (10) The undertaker must notify the UK Hydrographic Office both of the commencement (within ten days), progress and completion of construction (within ten days) of the licensed activities in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO.
- (11) In case of damage to, or destruction or decay of, the authorised project seaward of MHWS or any part thereof including the exposure of cables the undertaker must as soon as possible and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, MCA, Trinity House, the Kingfisher Information Service of Seafish and the UK Hydrographic Office. In case of the development of a cable exposure deemed by the undertaker to

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present a risk to fishing activity, the undertaker must notify the MMO and the Kingfisher Information Service within three working days following the undertaker becoming aware of it.

#### Commencement Information

**I270** Sch. 12 Pt. 2 para. 8 in force at 22.1.2021, see [art. 1](#)

### Aids to navigation **E+W**

**9.**—(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning of the authorised project seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised project to completion of decommissioning of the authorised project seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised project seaward of MHWS including the following—

- (a) notice of commencement of construction of the authorised project within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised project.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to condition 14(1)(j) using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning of the authorised project seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 8(11) are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

#### Commencement Information

**I271** Sch. 12 Pt. 2 para. 9 in force at 22.1.2021, see [art. 1](#)

**10.** The undertaker must colour all structures yellow (colour code RAL 1023) from at least highest astronomical tide to a height directed by Trinity House, or must colour the structure as directed by Trinity House from time to time.

#### Commencement Information

**I272** Sch. 12 Pt. 2 para. 10 in force at 22.1.2021, see [art. 1](#)

### Aviation safety **E+W**

**11.**—(1) The undertaker must exhibit such lights, with such shape, colour and character as are required in writing by Air Navigation Order 2016<sup>MS7</sup> and determined necessary for aviation safety

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in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the Civil Aviation Authority

(2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, at least 14 days prior to the commencement of the authorised project, in writing of the following information—

- (a) the date of the commencement of construction of the authorised project;
- (b) the date any offshore electrical installations are brought into use;
- (c) the maximum height of any construction equipment to be used;
- (d) the maximum heights of any offshore electrical installations to be constructed; and
- (e) the latitude and longitude of each offshore electrical installations to be constructed,

and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the authorised project. Copies of notifications must be provided to the MMO.

**Commencement Information**

I273 Sch. 12 Pt. 2 para. 11 in force at 22.1.2021, see [art. 1](#)

**Marginal Citations**

M57 [S.I. 2016/765](#).

**Chemicals, drilling and debris** **E+W**

12.—(1) Unless otherwise agreed in writing by the MMO all chemicals used in the construction of the authorised project must be selected from the List of Notified Chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002<sup>M58</sup> (as amended).

(2) The undertaker must ensure that any coatings or treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 31 January each year for the months August to January inclusive, and by 31 July each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within the Order limits seaward of MHWS.

(6) The undertaker must ensure that any rock material used in the construction of the authorised project is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised project is misplaced or lost below MHWS, the undertaker must report the loss to the District Marine Office within 48 hours and if the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it.

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(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 14(1)(d)(i).

(10) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident. On receipt of the Dropped Object Procedure Form, the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

#### Commencement Information

**I274** Sch. 12 Pt. 2 para. 12 in force at 22.1.2021, see [art. 1](#)

#### Marginal Citations

**M58** S.I. 2002/1355.

### Force majeure **E+W**

**13.**—(1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the safety of human life or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

#### Commencement Information

**I275** Sch. 12 Pt. 2 para. 13 in force at 22.1.2021, see [art. 1](#)

### Pre-construction plans and documentation **E+W**

**14.**—(1) The licensed activities or any phase of those activities must not commence until the following (as relevant to that phase) have been submitted to and approved in writing by the MMO in consultation with Trinity House and the MCA—

- (a) a design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be agreed in writing with the MMO which shows, in accordance with the Development Principles—
  - (i) the proposed location, including grid co-ordinates of the centre point of the proposed location for each offshore electrical installation, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions and choice of foundation of all offshore electrical installations;
  - (ii) the height, length and width of all offshore electrical installations;
  - (iii) the length and arrangement of all cables comprised in Work Nos. 2, 3, and 5;

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- (iv) the dimensions of all monopile foundations, mono suction bucket foundations, jacket foundations, gravity base foundations, box-type gravity base foundations, pontoon gravity base 1 foundations and pontoon gravity base 2 foundations;
  - (v) the proposed layout of all offshore electrical installations including any exclusion zones identified under sub-paragraph 14(2)(d); and
  - (vi) any exclusion zones or micro-siting requirements identified in any mitigation scheme pursuant to sub-paragraph 14(2)(d) or relating to any Annex I reefs identified as part of surveys undertaken in accordance with condition 18,
- to ensure conformity with the description of Work Nos. 2, 3, 4 and 5 and compliance with conditions 1 to 3 above;
- (b) a construction programme to include details of—
    - (i) the proposed construction start date;
    - (ii) proposed timings for mobilisation of plant delivery of materials and installation works; and
    - (iii) an indicative written construction programme for all offshore electrical installations and electrical circuits comprised in the works at paragraph 2(f) of Part 1 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above);unless otherwise agreed in writing with the MMO;
  - (c) a construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
    - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation works and having regard to any mitigation scheme pursuant to sub-paragraph 14(1)(f);
    - (ii) advisory safe passing distances for vessels around construction sites;
    - (iii) cable installation;
    - (iv) contractors;
    - (v) vessels and vessels transit corridors;
    - (vi) codes of conduct for vessel operators;
    - (vii) associated ancillary works;
    - (viii) guard vessels to be employed; and
    - (ix) details of means to avoid impacts on European sites;
  - (d) a project management plan and monitoring plan covering the period of construction and operation to include details of—
    - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents of the authorised project in relation to all activities carried out;
    - (ii) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
    - (iii) a biosecurity plan detailing how the risk of introduction and spread of invasive non-native species will be minimised;
    - (iv) waste management and disposal arrangements;
    - (v) a code of conduct for vessel operators;
    - (vi) the appointment and responsibilities of a fisheries liaison officer; and

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- (vii) all spatial data for archaeological exclusion zones and application of a protocol for archaeological discoveries;
  - (e) a scour protection management plan providing details of the need, type, sources, quantity and installation methods for scour protection, which plan must be updated and resubmitted for approval if changes to it are proposed following cable laying operations;
  - (f) proposed pre-construction surveys, construction monitoring, post-construction monitoring and related reporting in accordance with conditions 18, 19 and 20;
  - (g) in the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals, including details of soft start procedures with specified duration periods following current best practice as advised by the relevant statutory nature conservation bodies;
  - (h) a cable specification and installation plan, to include—
    - (i) technical specification of offshore cables below MHWS, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
    - (ii) a sandwave clearance plan for all designated sites affected, including details of the volumes of material to be dredged, timing of works, locations for disposal and monitoring proposals;
    - (iii) a detailed cable laying plan for the Order limits, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection;
    - (iv) a cable protection plan for all designated sites where cable protection is required, including details of the volumes, material, locations and seabed footprints for cable protection measures, where required, consideration of alternative methods of protection and monitoring proposals and provision for review and update of the plan for a period of 15 years from the date of the grant of the Order;
    - (v) proposals for the volume and areas of cable protection to be used for each cable crossing; and
    - (vi) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised project which includes a risk based approach to the management of unburied or shallow buried cables, and, where necessary, details of micrositing through any European Site;
  - (i) an offshore operations and maintenance plan, to be submitted to the MMO at least four months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase; and
  - (j) an aid to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 8 for the lifetime of the authorised project.
- (2) The licensed activities or any part of those activities must not commence unless no later than six months prior to the commencement a written scheme of archaeological investigation has been submitted to and approved by the MMO, in accordance with the outline offshore written scheme



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of investigation, and in accordance with industry good practice, in consultation with the statutory historic body to include—

- (a) details of responsibilities of the undertaker, archaeological consultant and contractor;
- (b) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
- (c) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within six months of any survey being completed;
- (d) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones prior to construction;
- (e) monitoring of archaeological exclusion zones during and post construction;
- (f) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS ('Online Access to the Index of archaeological investigations') form with a digital copy of the report within six months of completion of construction of the authorised project, and to notify the MMO (and North Norfolk District Council where the report relates to the intertidal area) that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
- (g) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised project;
- (h) implementation of the Offshore Renewables Protocol for Reporting Archaeological Discoveries as set out by The Crown Estate; and
- (i) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.

(3) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific outline written scheme of investigation (which must accord with the details set out in the outline offshore written scheme of investigation) which has been submitted to and approved by the MMO.

(4) The licensed activities or any part of those activities must not commence until a fisheries coexistence and liaison plan in accordance with the outline fisheries coexistence and liaison plan has been submitted to and approved by the MMO.

(5) In the event that driven or part-driven pile foundations are proposed to be used, the licensed activities, or any phase of those activities must not commence until a site integrity plan which accords with the principles set out in the in principle Hornsea Three Southern North Sea Special Area of Conservation Site Integrity Plan has been submitted to the MMO and the MMO is satisfied that the plan provides such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2017 Regulations) of a relevant site, to the extent that harbour porpoise are a protected feature of that site.

(6) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 5,000kJ.

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#### **Commencement Information**

**I276** Sch. 12 Pt. 2 para. 14 in force at 22.1.2021, see [art. 1](#)

**15.—**(1) Each programme, statement, plan, protocol or scheme required to be approved under condition 14 (save for that required under condition 14(1)(f)) must be submitted for approval at

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least four months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) The pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting required under condition 14(1)(f) must be submitted in accordance with the following, unless otherwise agreed in writing with the MMO—

- (a) at least four months prior to the first survey, detail of any pre-construction surveys and an outline of all proposed monitoring;
- (b) at least four months prior to construction, detail on construction monitoring; and
- (c) at least four months prior to commissioning, detail of post-construction (and operational) monitoring.

(3) The design plan required by condition 14(1)(a) shall be prepared by the undertaker and determined by the MMO in accordance with the Development Principles.

(4) The MMO shall determine an application for consent made under this article within a period of four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(5) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 14, unless otherwise agreed in writing by the MMO.

#### Commencement Information

I277 Sch. 12 Pt. 2 para. 15 in force at 22.1.2021, see [art. 1](#)

### Offshore safety management **E+W**

**16.** No part of the authorised project may commence until the MMO, in consultation with the MCA, has given written approval of an Emergency Response Co-operation Plan (ERCoP) which includes full details of the plan for emergency response and co-operation for the construction, operation and decommissioning phases of that part of the authorised project in accordance with the MCA recommendations contained within MGN543 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” (or any equivalent guidance that replaces or supersedes it), and has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that part of the authorised project, adequately addressed all MCA recommendations contained within MGN543 and its annexes.

#### Commencement Information

I278 Sch. 12 Pt. 2 para. 16 in force at 22.1.2021, see [art. 1](#)

### Reporting of engaged agents, contractors and vessels **E+W**

**17.—**(1) The undertaker must provide the following information to the MMO—

- (a) the name and function of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and
- (b) each week during the construction of the authorised project a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

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#### Commencement Information

**I279** Sch. 12 Pt. 2 para. 17 in force at 22.1.2021, see [art. 1](#)

### Pre-construction monitoring and surveys **E+W**

**18.**—(1) The undertaker must submit in discharging condition 14(1)(f) submit a monitoring plan or plans in accordance with an in-principle monitoring plan for written approval by the MMO in consultation with the relevant statutory bodies, which shall contain details of proposed surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report, and;

- (a) the survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position or will enable the validation or otherwise of key predictions in the environmental statement; and
- (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the preconstruction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this Condition the pre-construction surveys must comprise, in outline—

- (a) a high-resolution swath bathymetric survey to include a 100% coverage and a side-scan sonar survey of the parts of the offshore Order limits within which it is proposed to carry out construction works and disposal activities under this licence to—
  - (i) provide a baseline of the seabed environment and bathymetric conditions against which specific post construction marine process monitoring can be undertaken, as set out within the in-principle monitoring plan;
  - (ii) determine the location, extent and composition of any biogenic or geogenic reef features, as set out within the in-principle monitoring plan;
  - (iii) inform future navigation risk assessments as part of the cable specification and installation plan;
  - (iv) inform the identification of any archaeological exclusion zone and post consent monitoring of any such archaeological exclusion zone; and
  - (v) identify and characterise any preferred sandeel habitat; and
- (b) a survey (in the parts of the offshore Order limits in which it is proposed to carry out construction works under this licence) to provide a baseline of the benthic environment within designated sites against which specific post construction benthic monitoring can be undertaken, as set out within the in-principle monitoring plan.

(3) Any monitoring report compiled in accordance with the monitoring plans provided under this condition must be provided to the MMO no later than four months following completion of the monitoring to which it relates.

#### Commencement Information

**I280** Sch. 12 Pt. 2 para. 18 in force at 22.1.2021, see [art. 1](#)

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## Construction monitoring **E+W**

**19.**—(1) The undertaker must in discharging condition 14(1)(f) submit a construction monitoring plan or plans for written approval by the MMO in consultation with the relevant statutory nature conservation body, which shall include details of any proposed construction monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this condition the construction monitoring plan must include in outline details of vessel traffic monitoring by automatic identification system for the duration of the construction period including obligations to report annually to the MMO, Trinity House and the MCA during the construction phase of the authorised development.

(3) The undertaker must carry out the surveys specified within the construction monitoring plan or plans in accordance with that plan or plans unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

### Commencement Information

**I281** Sch. 12 Pt. 2 para. 19 in force at 22.1.2021, see [art. 1](#)

## Post-construction monitoring **E+W**

**20.**—(1) The undertaker must in discharging condition 14(1)(f) submit a post-construction monitoring plan or plans for written approval by the MMO in consultation with the relevant statutory nature conservation body including details of proposed post-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the preconstruction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt of specific proposals the post-construction survey plan or plans must include, in outline—

- (a) details of a high-resolution swath bathymetric survey to be undertaken no sooner than 6 months following completion of construction works and disposal activities were carried out under this licence to assess recovery of sandwave features within any designated site, and any changes bathymetric profile in designated sites following application of cable protection material. The need for further surveys must be agreed in writing with the MMO following submission of the first year of survey data;
- (b) details of a survey to determine any change in the location, extent and composition of any biogenic or geogenic reef feature identified in the pre-construction survey in the parts of the offshore Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey;
- (c) details of a survey to determine the recovery of any benthic features of ecological importance within designated sites, following cable burial and excavation of HDD exit pits, and to assess degree colonisation of cable protection material as detailed within the in-principle monitoring plan. The survey design must be informed by the results of the

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pre-construction benthic survey. The need for further surveys must be agreed in writing with the MMO following submission of the first year of survey data;

- (d) details of vessel traffic monitoring by automatic identification system, for a period of 28 individual days taking account seasonal variations in traffic patterns over the course of one year to be submitted to the MMO, Trinity House and the MCA no later than one year following completion of the construction phase of the authorised development;
  - (e) details of a full sea floor coverage swath-bathymetry survey of the areas within which construction activity has taken place in order to inform of any dropped objects or residual navigational risk to be submitted to the MMO and MCA;
  - (f) a bathymetric survey to monitor the effectiveness of archaeological exclusion zones identified to have been potentially impacted by construction works. The data shall be analysed by an accredited archaeologist as defined in the offshore written scheme of investigation required under condition 14(2);
  - (g) a high resolution swath-bathymetric and side scan sonar survey to determine any change in the composition of any preferred sandeel habitat identified in the pre-construction survey in the parts of the offshore Order limits in which sandwave clearance activity has been carried out. The survey design must be informed by the results of the pre-construction benthic survey; and
  - (h) a swath bathymetric survey to IHO Order 1a of the installed export cable route and provision of the data and survey report(s) to the MMO, MCA and UKHO.
- (3) The undertaker must carry out the surveys specified within the post-construction monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

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#### Commencement Information

**I282** Sch. 12 Pt. 2 para. 20 in force at 22.1.2021, see [art. 1](#)

#### Timing of monitoring report **E+W**

**21.** Any monitoring report compiled in accordance with the monitoring plans provided under conditions 18, 19 and 20 must be provided to the MMO no later than four months following completion of the monitoring to which it relates, unless otherwise agreed with the MMO.

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#### Commencement Information

**I283** Sch. 12 Pt. 2 para. 21 in force at 22.1.2021, see [art. 1](#)

#### Reporting of impact pile driving **E+W**

**22.—(1)** Only when driven or part-driven pile foundations or detonation of explosives are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry—

- (a) prior to the commencement of the licenced activities, information on the expected location, start and end dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Forward Look requirements;
- (b) at 6 month intervals following the commencement of pile driving or detonation of explosives, information on the locations and dates of impact pile driving or detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements;

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- (c) within 12 weeks of completion of impact pile driving or detonation of explosives, information on the locations and dates of impact pile driving or detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements.
- (2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to paragraph (1) above within 7 days of the submission.
- (3) For the purpose of this condition—
  - (a) “Marine Noise Registry” means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas; and
  - (b) “Forward Look” and “Close Out” requirements are as set out in the UK Marine Noise Registry Information.

#### Commencement Information

**I284** Sch. 12 Pt. 2 para. 22 in force at 22.1.2021, see [art. 1](#)

#### Reporting of cable protection **E+W**

**23.**—(1) Not more than 4 months following completion of the construction phase of the project, the undertaker shall provide the MMO and the relevant SNCBs with a report setting out details of the cable protection used for the authorised scheme.

- (2) The report shall include the following information—
  - (a) location of the cable protection;
  - (b) volume of cable protection; and
  - (c) any other information relating to the cable protection as agreed between the MMO and the undertaker.

#### Commencement Information

**I285** Sch. 12 Pt. 2 para. 23 in force at 22.1.2021, see [art. 1](#)

#### Decommissioning of cable protection within marine protected areas **E+W**

**24.**—(1) The obligations under paragraphs (2) and (3) shall only apply if and to the extent that—

- (a) cable protection is installed as part of the authorised project within an area designated as a European Site or MCZ as at the date of the grant of the Order; and
- (b) it is a requirement of the written decommissioning programme approved by the Secretary of State pursuant to sections 105 of the 2004 Act, including any modification to the programme under section 108, that such cable protection is removed as part of the decommissioning of the authorised project.

(2) Within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the undertaker shall carry out an appropriate survey of cables within Work Nos. 2(c), 2(d), 3(c) and 3(d) that are subject to cable protection and that are situated within any European Site or MCZ to assess the integrity and condition of that cable protection and determine the appropriate extent of the feasibility of the removal of such cable protection having regard to the condition of the cable protection and feasibility of any new removal techniques at that time, and submit that along with a method statement for recovery of cable protection to the MMO.

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(3) Within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the MMO must confirm whether or not it is satisfied with the method statement pursuant to (2) above.

(4) If the MMO has confirmed it is satisfied pursuant to (3) above, then within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the undertaker shall endeavour to recover the cable protection to the extent identified in the survey and according to the methodology set out in the method statement submitted pursuant to (2) above.

**Commencement Information**

**I286** Sch. 12 Pt. 2 para. 24 in force at 22.1.2021, see [art. 1](#)

SCHEDULE 13 **E+W**

Article 37

ARBITRATION RULES

**Primary objective** **E+W**

1.—(1) The primary objective of these Arbitration Rules is to achieve a fair, impartial, final and binding award on the substantive difference between the parties (save as to costs) within 4 months from the date the Arbitrator is appointed pursuant to article 37 (arbitration) of the Order.

(2) The Parties will first use their reasonable endeavours to settle a dispute amicably through negotiations undertaken in good faith by the senior management of the Parties. Any dispute which is not resolved amicably by the senior management of the Parties within twenty business days of the dispute arising, or such longer period as agreed in writing by the Parties, shall be subject to arbitration in accordance with the terms of this Schedule.

(3) The Arbitration shall be deemed to have commenced when a party (“the Claimant”) serves a written notice of arbitration on the other party (“the Respondent”).

**Commencement Information**

**I287** Sch. 13 para. 1 in force at 22.1.2021, see [art. 1](#)

**Time periods** **E+W**

2.—(1) All time periods in these Arbitration Rules will be measured in business days and this will exclude weekends, bank and public holidays.

(2) Time periods will be calculated from the day after the Arbitrator is appointed which shall be either—

- (a) the date the Arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or
- (b) the date the Arbitrator is appointed by the Secretary of State.

**Commencement Information**

**I288** Sch. 13 para. 2 in force at 22.1.2021, see [art. 1](#)

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## Timetable **E+W**

3.—(1) The timetable for the arbitration will be that set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 15 days of the Arbitrator being appointed, the Claimant shall provide both the Respondent and the Arbitrator with—

- (a) a written Statement of Claim which describes the nature of the difference between the parties, the legal and factual issues, the Claimant's contentions as to those issues, and the remedy it is seeking; and
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 15 days of receipt of the Claimant's statements under sub-paragraph (2) by the Arbitrator and Respondent, the Respondent shall provide the Claimant and the Arbitrator with—

- (a) a written Statement of Defence responding to the Claimant's Statement of Claim, its statement in respect of the nature of the difference, the legal and factual issues in the Claimant's claim, its acceptance of any element(s) of the Claimant's claim, its contentions as to those elements of the Claimant's claim it does not accept;
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports; and
- (c) any objections it wishes to make to the Claimant's statements, comments on the Claimant's expert report(s) (if submitted by the Claimant) and explanations for the objections.

(4) Within 5 days of the Respondent serving its statements sub-paragraph (3), the Claimant may make a Statement of Reply by providing both the Respondent and the Arbitrator with—

- (a) a written statement responding to the Respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;
- (b) all statements of evidence and copies of documents in response to the Respondent's submissions;
- (c) any expert report in response to the Respondent's submissions;
- (d) any objections to the statements of evidence, expert reports or other documents submitted by the Respondent; and
- (e) its written submissions in response to the legal and factual issues involved.

### Commencement Information

1289 Sch. 13 para. 3 in force at 22.1.2021, see [art. 1](#)

## Procedure **E+W**

4.—(1) The Arbitrator shall make an award on the substantive difference based solely on the written material submitted by the parties unless the Arbitrator decides that a hearing is necessary to explain or resolve any matters.

(2) Either party may, within 2 days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(3) Within 5 days of receiving the last submission, the Arbitrator will notify the parties whether a hearing is to be held and the length of that hearing.



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(4) Within 10 days of the Arbitrator advising the parties that he will hold a hearing, the date and venue for the hearing will be fixed by agreement with the parties, save that if there is no agreement the Arbitrator shall direct a date and venue which he considers is fair and reasonable in all the circumstances. The date for the hearing shall not be less than 35 days from the date of the Arbitrator's direction confirming the date and venue of the hearing.

(5) A decision will be made by the Arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the Arbitrator, then any expert(s) attending the hearing may be asked questions by the Arbitrator.

(6) There will be no process of examination and cross-examination of experts, but the Arbitrator shall invite the parties to ask questions of the experts by way of clarification of any answers given by the expert(s) in response to the Arbitrator's questions. Prior to the hearing the procedure for the expert(s) will be that—

- (a) at least 20 days before a hearing, the Arbitrator will provide a list of issues to be addressed by the expert(s);
- (b) if more than one expert is called, they will jointly confer and produce a joint report or reports within 10 days of the issues being provided; and
- (c) the form and content of a joint report shall be as directed by the Arbitrator and must be provided at least 5 days before the hearing.

(7) Within 10 days of a Hearing or a decision by the Arbitrator that no hearing is to be held the Parties may by way of exchange provide the Arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The Arbitrator shall take these submissions into account in the [F41award].

(8) The Arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within 4 months of the date on which they are appointed, unless both parties otherwise agree to an extension to the date for the award.

(9) If a party fails to comply with the timetable, procedure or any other direction then the Arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before them attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure and/or direction.

(10) The Arbitrator's award shall include reasons. The parties shall accept that the extent to which reasons are given shall be proportionate to the issues in dispute and the time available to the Arbitrator to deliver the award.

#### Textual Amendments

**F41** Word in Sch. 13 para. 4(7) substituted (21.5.2021) by The Hornsea Three Offshore Wind Farm (Correction) Order 2021 (S.I. 2021/599), art. 1(2), Sch.

#### Commencement Information

**I290** Sch. 13 para. 4 in force at 22.1.2021, see art. 1

### Arbitrator's powers **E+W**

5.—(1) The Arbitrator has all the powers of the Arbitration Act 1996 <sup>M59</sup>, including the non-mandatory sections, save where modified by these Rules.

(2) There shall be no discovery or disclosure, except that the Arbitrator shall have the power to order the parties to produce such documents as are reasonably requested by another party no

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later than the Statement of Reply, or by the Arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the Arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the Arbitrator. In the absence of agreement, the Arbitrator may vary the timescales and/or procedure—

- (a) if the Arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;
- (b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the Arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the Arbitrator's fees and expenses.

#### Commencement Information

**I291** Sch. 13 para. 5 in force at 22.1.2021, see [art. 1](#)

#### Marginal Citations

**M59** 1996 c.23.

### Costs **E+W**

6.—(1) The costs of the Arbitration shall include the fees and expenses of the Arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the Arbitration.

(2) Subject to sub-paragraph (3), the Arbitrator will award recoverable costs on the general principle that each party should bear its own costs.

(3) The Arbitrator may depart from the general principle in sub-paragraph (2) and make such other costs award as it considers reasonable where a party has behaved unreasonably as defined within the National Planning Practice Guidance or such other guidance as may replace it.

#### Commencement Information

**I292** Sch. 13 para. 6 in force at 22.1.2021, see [art. 1](#)

### Confidentiality **E+W**

7.—(1) Subject to sub-paragraphs (2) and (3), any arbitration hearing and documentation shall be open to and accessible by the public.

(2) The Arbitrator may direct that the whole or part of a hearing is to be private or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(3) Nothing in this paragraph shall prevent any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

#### Commencement Information

**I293** Sch. 13 para. 7 in force at 22.1.2021, see [art. 1](#)

SCHEDULE 14 **E+W**

Article 45

COMPENSATION MEASURES

**PART 1** **E+W**

KITTIWAKE COMPENSATION MEASURES

1. In this Schedule:

“the FFC” means the site designated as the Flamborough and Filey Coast Special Protection Area; and

“the kittiwake compensation plan [<sup>F42</sup>]” means the document certified as the kittiwake compensation plan by the Secretary of State for the purposes of this Order under article 36 (certification of plans and documents etc.).

**Textual Amendments**

**F42** Sch. 14 Pt. 1 para. 1 punctuation inserted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

**Commencement Information**

**I294** Sch. 14 para. 1 in force at 22.1.2021, see [art. 1](#)

2. The authorised development may not be commenced until a plan for the work of the Offshore Ornithology Engagement Group (“OOEG”) has been submitted to and approved by the Secretary of State. Such plan to include:

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

**Commencement Information**

**I295** Sch. 14 para. 2 in force at 22.1.2021, see [art. 1](#)

3. The KIMP must be submitted to the Secretary of State for approval (in consultation with the MMO, the local planning authority or authorities for the land containing the artificial nest sites, and Natural England). The KIMP must be based on the strategy for kittiwake compensation set out in the kittiwake compensation plan and include:

- (a) details of locations where compensation measures will be deployed and details of landowner agreements demonstrating how the land will be bought or leased and assurances that the land management will deliver the ecology objectives of the KIMP;
- (b) details of designs of artificial nest sites including the number of nesting structures; and how risks from avian or mammalian predation and unauthorised human access will be mitigated;

<sup>F43</sup>(c) an implementation timetable for delivery of four artificial nest structures that ensures all necessary compensation measures are in place to allow three full kittiwake breeding

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seasons in respect of two artificial nest structures prior to the operation of any turbine forming part of the authorised development, and to allow two full kittiwake breeding seasons for the other two artificial nest structures prior to the operation of any turbine forming part of the authorised development, with the KIMP to specify whether three or two breeding seasons applies to each artificial nest structure;]

- (d) details of the proposed ongoing monitoring of the measures including: survey methods; survey programmes; success criteria; recording of OOEG consultations and project reviews; details of the factors used to trigger alternative compensation measures and/ or adaptive management measures; and annual reporting to the Secretary of State;
- (e) details of any adaptive management measures, to include the provision of additional nesting sites if capacity in one location is exceeded;
- (f) provision for annual reporting to the Secretary of State, to include details of the use of each site by breeding kittiwake to identify barriers to success and target the adaptive management measures. This would include the number of birds colonising the site; evidence of birds prospecting; nesting attempts; egg laying; hatching; and fledging.
- (g) details of how natal dispersal and colony interchange with the FFC kittiwake colony will be considered and proposals for assessing any evidence of additional productivity to the FFC;
- (h) details of the artificial nesting site maintenance schedule; and
- (i) details of the work within the exploration of prey availability measures as set out in Appendix 1 of the response from the undertaker to the Secretary of State's minded to approve letter dated 1 July 2020, that could support practical management measures to increase prey availability, and which should be undertaken alongside the artificial nest site installation.

#### Textual Amendments

**F43** Sch. 14 para. 3(c) substituted (18.4.2023) by [The Hornsea Three Offshore Wind Farm \(Amendment\) Order 2023 \(S.I. 2023/459\)](#), arts. 1, **3(a)**

#### Commencement Information

**I296** Sch. 14 para. 3 in force at 22.1.2021, see [art. 1](#)

[<sup>F44</sup>4. The undertaker must implement the measures as set out in the KIMP approved by the Secretary of State and no operation of any turbine forming part of the authorised development may be commenced until three full breeding seasons have elapsed from the implementation of two of the artificial nest structures and two full breeding seasons have elapsed from the implementation of two of the artificial nest structures, as set out in the KIMP. For the purposes of this paragraph each breeding season is assumed to have commenced on 1 March in each year and ended on 30 September.]

#### Textual Amendments

**F44** Sch. 14 para. 4 substituted (18.4.2023) by [The Hornsea Three Offshore Wind Farm \(Amendment\) Order 2023 \(S.I. 2023/459\)](#), arts. 1, **3(b)**

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

**Commencement Information**

**I297** Sch. 14 para. 5 in force at 22.1.2021, see [art. 1](#)

6. Once the measures have been implemented the undertaker shall provide an annual report to the Secretary of State on the progress of the measures as detailed in the KIMP.

**Commencement Information**

**I298** Sch. 14 para. 6 in force at 22.1.2021, see [art. 1](#)

7. The artificial nest structures must not be decommissioned without written approval of the Secretary of State. The artificial nest structures shall be maintained beyond the operational lifetime of the authorised development if they are colonised, and routine and adaptive management measures and monitoring must continue whilst the artificial nesting structures are in place.

**Commencement Information**

**I299** Sch. 14 para. 7 in force at 22.1.2021, see [art. 1](#)

8. The KIMP approved under this Schedule includes any amendments that may subsequently be approved in writing by the Secretary of State. Any amendments to or variations of the approved KIMP must be in accordance with the principles set out in the kittiwake compensation plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any materially new or materially different environmental effects from those considered in the kittiwake compensation plan.

**Commencement Information**

**I300** Sch. 14 para. 8 in force at 22.1.2021, see [art. 1](#)

## PART 2 **E+W**

### BENTHIC COMPENSATION MEASURES

#### Benthic compensation measures **E+W**

9. In this part of the Schedule:

“the NNSSR” means the site designated as the North Norfolk Sandbanks and Saturn Reef Special Area of Conservation;

“the WNNC” means the site designated as the Wash and North Norfolk Coast Special Area of Conservation; and

“the sandbanks compensation strategy” means the document certified as the sandbanks compensation strategy by the Secretary of State for the purposes of this Order under article 36 (certification of plans and documents etc.).

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#### Commencement Information

**I301** Sch. 14 para. 9 in force at 22.1.2021, see [art. 1](#)

**10.** The authorised development may not be commenced until a plan for the work of a Steering Group who will shape and inform the scope and delivery of Sandbanks Implementation Plans for the NNSR and the WNNC (“the SIPs”) has been submitted to and approved by the Secretary of State. Such plan to include:

- (a) terms of reference of the Steering Group;
- (b) the membership of the Steering Group;
- (c) the schedule of meetings, timetable for preparation of the SIPs and reporting and review periods; and
- (d) the dispute resolution mechanism.

#### Commencement Information

**I302** Sch. 14 para. 10 in force at 22.1.2021, see [art. 1](#)

**11.** The Steering Group must be consulted on i) the proposed SIPs prior to the submission to the Secretary of State and ii) the decommissioning feasibility study and monitoring plans prior to the submission to the MMO and must be consulted further as required during the approval process for each. The undertaker will meet with and report to the Steering Group at least annually throughout the establishment and implementation phases of [<sup>F45</sup>the SIPs] and document the conclusions of the meetings.

#### Textual Amendments

**F45** Words in [Sch. 14 para. 11](#) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), [art. 1\(2\)](#), [Sch.](#)

#### Commencement Information

**I303** Sch. 14 para. 11 in force at 22.1.2021, see [art. 1](#)

**12.** A SIP for each of the NNSR and the WNNC must be submitted to the Secretary of State for approval.

#### Commencement Information

**I304** Sch. 14 para. 12 in force at 22.1.2021, see [art. 1](#)

**13.** Each SIP must accord with the principles set out in the Sandbanks Compensation Strategy relating to the protected feature “sandbanks slightly covered by water all the time” and must include the following:

- (a) details of how all impacts to Annex 1 reef habitats within designated sites will be avoided;
- (b) details of the locations for the disposal of dredged material, and evidence that the disposal mechanism will allow sediment to be retained within the sandbank system and avoid impacts to other features, particularly reef habitats;
- (c) details of the areas which will be subject to marine debris removal, which should equate to no less than 41.80 ha at NNSR and 2.77 ha at WNNC;

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- (d) details of the marine debris awareness events, and measures to facilitate the rapid recovery of lost fishing gear, as detailed in the sandbanks compensation strategy. Such measures should be applied to both NNSSR and WNCC;
- (e) an environmental monitoring plan to include: appropriate surveys to assess the effects of cable protection on sediment movement and epifauna assemblages during the operation of [<sup>F46</sup>the authorised project], to improve the evidence base for assessing the impacts of offshore windfarm cable installation and rock protection for future projects; and appropriate surveys to monitor the recovery of the areas of the NNSSR and the WNNC impacted by cable protection, post-decommissioning; and
- (f) Details of the timetable for implementation of each measure.

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#### Textual Amendments

**F46** Words in Sch. 14 para. 13(e) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), Sch.

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#### Commencement Information

**I305** Sch. 14 para. 13 in force at 22.1.2021, see [art. 1](#)

**14.** No cable installation works in Work No. 2(c) and (d), Work No. 3(c) and (d) and Work No. 5 may be commenced until a SIP for each of the NNSSR and the WNNC has been approved in writing by the Secretary of State. Before approving the SIPs the Secretary of State must consult the MMO and Natural England and, in relation to the SIP for the NNSSR, the JNCC.

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#### Commencement Information

**I306** Sch. 14 para. 14 in force at 22.1.2021, see [art. 1](#)

**15.** No cable installation work in Work No, 2(c) and (d), Work No, 3(c) and (d) and Work No. 5 may be commenced until the KIMP for the FFC as described in Part 1 of this Schedule has been approved in writing by the Secretary of State.

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#### Commencement Information

**I307** Sch. 14 para. 15 in force at 22.1.2021, see [art. 1](#)

**16.** The measures in the SIPs must be carried out in accordance with the timetable in the relevant SIP as approved by the Secretary of State. In particular no cable installation works in Work No. 2(c) and (d), Work No. 3(c) and (d) and Work No. 5 may be commenced unless the measures set out in paragraph 13(c) have been completed.

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#### Commencement Information

**I308** Sch. 14 para. 16 in force at 22.1.2021, see [art. 1](#)

**17.** No later than four months prior to each deployment of cable protection, except where otherwise stated or unless otherwise agreed in writing by the MMO, the undertaker must submit the following documents for approval by the MMO:

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- (a) A decommissioning feasibility study on the proposed cable protection to be updated at intervals of not more than every ten years throughout the operational phase of the project; and
- (b) A monitoring plan including appropriate surveys of cables situated within WNNC and NNSR that are subject to cable protection to assess the integrity and condition of that cable protection and determine the appropriate extent of the feasibility of the removal of such cable protection having regard to the condition of the cable protection and feasibility of any new removal techniques at that time, along with a method statement for recovery of cable protection.

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**Commencement Information**

**I309** Sch. 14 para. 17 in force at 22.1.2021, see [art. 1](#)

**18.** A SIP approved under this Schedule, includes any amendments that may subsequently be approved in writing by the Secretary of State. Any amendments to or variations of the approved SIP must be in accordance with the principles and assessments set out in the Sandbanks Compensation Strategy and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in those sandbank compensation strategy.

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**Commencement Information**

**I310** Sch. 14 para. 18 in force at 22.1.2021, see [art. 1](#)

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order grants development consent for, and authorises the construction, operation and maintenance of an offshore wind farm in the North Sea approximately 121 kilometres to the northeast of the north Norfolk coast and approximately 10 kilometres west of the median line between UK and Netherlands waters together with associated development. This Order imposes requirements in connection with the development and authorises the compulsory purchase of land (including rights in land) and the right to use land and to override easements and other rights. This Order also grants deemed marine licences under Part 4 of the Marine and Coastal Access Act 2009 in connection with the wind farms. The marine licences impose conditions in connection with the deposits and works for which they grant consent.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 36 (certification of plans and documents etc) together with a copy of any guarantee or alternative form of security approved by the Secretary of State pursuant to article 43, may be inspected free of charge at the offices of Orsted at 5 Howick Place, London SW1P 1WG.



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

- Sch. 14 para. 3(c) substituted by [S.I. 2024/627 art. 3\(a\)](#)
- Sch. 14 para. 4 substituted by [S.I. 2024/627 art. 3\(b\)](#)