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STATUTORY INSTRUMENTS

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**2021 No. 1414**

**The Norfolk Boreas Offshore Wind Farm Order 2021**

**PART 1**

**Preliminary**

**Interpretation**

**2.—(1)** In this Order —

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

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

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

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981**(4)**;

“the 1989 Act” means the Electricity Act 1989**(5)**;

“the 1990 Act” means the Town and Country Planning Act 1990**(6)**;

“the 1991 Act” means the New Roads and Street Works Act 1991**(7)**;

“the 2003 Act” means the Communications Act 2003**(8)**;

“the 2004 Act” means the Energy Act 2004**(9)**;

“the 2008 Act” means the Planning Act 2008**(10)**;

“the 2009 Act” means the Marine and Coastal Access Act 2009**(11)**;

“the 2016 Regulations” means the Environmental Permitting (England and Wales) Regulations 2016**(12)**;

“access to works plan” means the plan certified as the access to works plan by the Secretary of State for the purposes of this Order under article 37;

“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;

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(1) 1961 c. 33.  
(2) 1965 c. 56.  
(3) 1980 c. 66.  
(4) 1981 c. 66.  
(5) 1989 c. 29.  
(6) 1990 c. 8.  
(7) 1991 c. 22.  
(8) 2003 c. 21.  
(9) 2004 c. 20.  
(10) 2008 c. 29.  
(11) 2009 c. 23.  
(12) S.I. 2016/1154.

“authorised development” means the development and associated development described in Part 1 of Schedule 1 (authorised development), which is development within the meaning of section 32 of the 2008 Act;

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

“book of reference” means the book of reference certified by the Secretary of State under article 37 as the book of reference for the purposes of this Order;

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

“business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(13);

“cable” means any onshore or offshore cable and in respect of any onshore cable includes direct lay cables and/or cables pulled through cable ducts;

“cable ducts” means conduits for the installation of cables and/or fibre optic cables;

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

“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 pre-construction surveys and monitoring approved under the deemed marine licences or, (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 operations consisting of site clearance, demolition work, 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, temporary hard standing, the temporary display of site notices or advertisements and the words “commencement” and “commenced” must be construed accordingly;

“converter building” means the building housing the principal electrical equipment comprised in Work No. 8A;

“deemed marine licences” means the marine licences set out in Schedules 9, 10, 11,12 and 13;

“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;

“design and access statement” means the document certified as the design and access statement by the Secretary of State for the purposes of this Order under article 37;

“development principles” means the document certified as the ‘development principles: layout design rules’ by the Secretary of State for the purposes of the Order under article 37;

“draft marine mammal mitigation protocol” means the document certified as the draft marine mammal mitigation protocol by the Secretary of State for the purposes of this Order under article 37;

“draught height” means the distance between the lowest point of the rotating blade of a wind turbine generator and MHWS;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order under article 37;

“gravity base” 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 materials and equipment including scour protection, J-tubes, transition

piece, corrosion protection systems, fenders and maintenance equipment, boat access systems, access ladders and access and rest platform(s) and equipment;

“HAT” means highest astronomical tide;

“highway” has the same meaning as in section 328(1) of the 1980 Act;

“highway authority” means Highways England or Norfolk County Council (as appropriate);

“horizontal directional drilling” means a trenchless technique for installing an underground duct between two points without the need to excavate vertical shafts;

“Hornsea Three Offshore Wind Farm Development Consent Order” means the development consent order made by the Secretary of State in relation to the Hornsea Three offshore wind farm on 31st December 2020(14);

“important hedgerows plan” means the document certified as the important hedgerows plan by the Secretary of State for the purposes of this Order under article 37;

“in principle Norfolk Boreas Southern North Sea Special Area of Conservation site integrity plan” means the document certified as the in principle Norfolk Boreas Southern North Sea Special Area of Conservation Site Integrity plan by the Secretary of State for the purposes of this Order under article 37;

“interface cables” means buried onshore cables and fibre optic cables which connect the onshore project substation to the National Grid substation;

“jacket foundation” means a steel jacket/lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel pin piles or steel suction caissons and associated materials and equipment including scour protection, J-tubes, transition piece, corrosion protection systems, fenders and maintenance equipment, boat access systems, access ladders and access and rest platform(s) and equipment;

“jointing pit” means an excavation formed to enable the jointing of high voltage power cables and fibre optic cables;

“jointing works” means a process by which two or more cables or fibre optic cables are connected to each other by means of cable joints within a jointing pit;

“landfall” means the location at which the offshore cables and fibre optic cables come ashore;

“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 37;

“LIDAR” means light detection and ranging;

“limits of deviation” means the limits of deviation referred to in article 4 (limits of deviation) for the overhead line modification works comprised in Work No. 11B;

“main river” has the same meaning as is in the Water Resources Act 1991(15);

“maintain” includes inspect, upkeep, repair, adjust, and alter, and further includes remove, reconstruct and replace (but only in relation to any of the ancillary works in Part 2 of Schedule 1 (ancillary works), any cable, any component part of any wind turbine generator, offshore electrical substation, offshore service platform, meteorological mast, and the onshore transmission works described in Part 1 of Schedule 1 (authorised development) not including the removal, reconstruction or replacement of foundations and buildings associated with the onshore project substation), to the extent assessed in the environmental statement; and “maintenance” is construed accordingly;

“MCA” means the Maritime and Coastguard Agency;

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(14) S.I. 2020/1656.

(15) 1991 c. 56, “main river” is defined in section 113.

“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;

“measurement buoy” means any floating device used for measurement purposes, including LIDAR buoys and wave buoys;

“meteorological mast” means a mast housing equipment to measure wind speed and other wind characteristics, including a topside housing electrical, communication and associated equipment and marking and lighting;

“MMO” means the Marine Management Organisation;

“mobilisation area” means an area associated with the onshore transmission works including hard standings, lay down and storage areas for construction materials and equipment, areas for spoil, areas for vehicular parking, bunded storage areas, areas for welfare facilities including offices and canteen and washroom facilities, workshop facilities and temporary fencing or other means of enclosure and areas for other facilities required for construction purposes;

“National Grid” means National Grid Electricity Transmission PLC;

“National Grid substation extension” means the extension to the existing 400kV Necton National Grid substation to provide a connection point to the 400kV grid network, including switchgear, circuit breakers and extension to existing busbar structures;

“noise sensitive location” means the location of the relevant Receptor Identifier SSR1–SSR11 in Table 25.27, Chapter 25 of the environmental statement;

“Norfolk Boreas Offshore Wind Farm” means the offshore wind farm authorised pursuant to this Order;

“Norfolk Vanguard Offshore Wind Farm” means the offshore wind farm for which Norfolk Vanguard Limited has sought a development consent order pursuant to an application submitted to the Secretary of State on 26th June 2018;

“Norfolk Vanguard East” means the eastern offshore area within which wind turbine generators will be situated for the Norfolk Vanguard Offshore Wind Farm;

“Norfolk Vanguard Onshore Project Substation” means any facility containing electrical equipment including (but not limited to) power transformers, switchgear, welfare facilities, access, fencing and other associated equipment, structures or buildings that may be built as part of the Norfolk Vanguard Offshore Wind Farm;

“offshore cable crossings” means the crossing of existing sub-sea cables or pipelines or other existing offshore infrastructure by the array, interconnecting and/or export cables and fibre optic cables authorised by this Order together with physical protection measures including concrete mattresses, rock placement or other protection methods;

“offshore electrical platform” means a platform attached to the seabed by means of a foundation, with one or more decks, whether open or fully clad, accommodating electrical power transformers, switchgear, instrumentation, protection and control systems, and other associated equipment and facilities to enable the transmission of electronic communications and for electricity to be collected at, and exported from, the platform;

“offshore in principle monitoring plan” means the document certified as the offshore in principle monitoring plan by the Secretary of State for the purposes of this Order under article 37;

“offshore works” means Work Nos. 1 to 4B and any ancillary works in connection with those works;

“onshore decommissioning plan” means a plan to decommission Work No. 4C to Work No. 12B which includes a programme within which any works of decommissioning must be undertaken;

“onshore project substation” means a facility containing electrical equipment including (but not limited to) power transformers, switchgear, welfare facilities, access, fencing and other associated equipment, structures or buildings;

“offshore service platform” means a platform to house workers offshore and/or provide refuelling facilities and sheltering facilities for helicopters.

“onshore transmission works” means Work Nos. 4C to 12B and any related further associated development in connection with those works and ancillary works described in Schedule 1 Part 1 and Schedule 1 Part 2 respectively;

“OPS Masterplan” means the document certified as the OPS Masterplan by the Secretary of State for the purposes of article 37;

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

“Order limits” means the limits shown on the works 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 (authorised development) of this Order;

“outline access management plan” means the document certified as the outline access management plan by the Secretary of State for the purposes of this Order under article 37;

“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 37;

“outline operational drainage plan” means the document certified as the outline operational drainage plan by the Secretary of State for the purposes of this Order under article 37;

“outline fisheries liaison and co-existence plan” means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State for the purposes of this Order under article 37;

“outline landscape and ecological management strategy” means the document certified as the outline landscape and ecological management strategy by the Secretary of State for the purposes of this Order under article 37;

“outline marine traffic monitoring strategy” means the document certified as the outline marine traffic monitoring strategy by the Secretary of State for the purposes of this Order under article 37;

“outline Norfolk Boreas, Haisborough, Hammond and Winterton Special Area of Conservation Cable Specification Installation and Monitoring Plan” means the document certified as the outline Norfolk Boreas Haisborough, Hammond and Winterton Special Area of Conservation Cable Specification, Installation and Monitoring Plan by the Secretary of State for the purposes of this Order under article 37;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of this Order under article 37;

“outline project environmental management plan” means the document certified as the outline project environmental management plan by the Secretary of State for the purposes of this Order under article 37;

“outline scour protection and cable protection plan” means the document certified as the outline scour protection and cable protection plan by the Secretary of State for the purposes of this Order under article 37;

“outline skills and employment strategy” means the document certified as the outline skills and employment strategy by the Secretary of State for the purposes of this Order under article 37;

“outline traffic management plan” means the document certified as the outline traffic management plan by the Secretary of State for the purposes of this Order under article 37;

“outline travel plan” means the document certified as the outline travel plan by the Secretary of State for the purposes of this Order under article 37;

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State for the purposes of this Order under article 37;

“outline written scheme of investigation (onshore)” means the document certified as the outline written scheme of investigation (onshore) by the Secretary of State for the purposes of this Order under article 37;

“overhead line modification” means alteration and repositioning of the overhead line, including removal of part of the overhead line, in respect of the existing Walpole to Norwich Main 400kV overhead line between pylons 4VV123 and 4VV127 on land north east of Necton, Norfolk to allow connection into the National Grid substation extension including connecting into the National Grid sealing end compound;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(16);

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

“private means of access to be permanently stopped up plan” means the plan certified as the private means of access to be permanently stopped up plan by the Secretary of State for the purposes of this Order under article 37;

“relevant drainage authorities” means the drainage board for the area of land to which the relevant provision of this Order applies within the meaning of section 23 of the Land Drainage Act 1991(17);

“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;

“scenario 1” means the scenario in which the Norfolk Vanguard Offshore Wind Farm proceeds to construction and carries out enabling works including the laying of onshore cable ducts, to benefit the Norfolk Boreas Offshore Wind Farm;

“scenario 2” means the scenario in which the Norfolk Vanguard Offshore Wind Farm does not proceed to construction and Norfolk Boreas Offshore Wind Farm is built out as an independent project including the laying of onshore cable ducts;

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

“single offshore phase” means carrying out all offshore works as a single construction operation;

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(16) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1981 Act which are not relevant to this Order.

(17) 1991 c. 59. Section 23 was amended by paragraph 192 of Schedule 22 to, the Environment Act 1995 c. 25, and by paragraph 32 of Schedule 2 to, the Flood and Water Management Act 2010 c. 29.

“single onshore phase” means a single duct laying operation (where relevant under scenario 2), one separate operation to pull the cables through the ducts and one separate operation to fit out the onshore project substation;

“stage” means a defined stage of the authorised development, as described in a scheme submitted to the relevant planning authority pursuant to requirement 15;

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

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act and a public communications provider as defined in section 151 of the 2003 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, 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>(18)</sup>;

“suction caisson” means a large diameter steel cylindrical shell which penetrates the seabed assisted by a hydrostatic pressure differential for fixity of foundations;

“temporary stopping up of public rights of way plan” means the plan 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 37;

“tetrabase foundation” means a tripod shaped steel frame anchored under its own weight or through pin pile or suction bucket anchoring and associated materials and equipment including scour protection, J-tubes, transition piece, corrosion protection systems, fenders and maintenance equipment, boat access systems, access ladders and access and rest platform(s) and equipment;

“transition jointing pit” means an excavation formed to enable the jointing of the offshore export cables and fibre optic cables comprised in Work No. 4B to the onshore transmission works;

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

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

“trenchless installation techniques” means techniques for installing an underground duct between two points, without excavating and back-filling a trench;

“two offshore phases” means carrying out the offshore works as two separate construction operations;

“two onshore phases” means a single duct laying operation (where relevant under scenario 2), two separate operations to pull the cables through the ducts and two separate operations to fit out the onshore project substation;

“undertaker” means Norfolk Boreas Limited (Company No. 03722058) whose registered office is at 5th Floor, 70 St Mary Axe, London EC3A 8BE;

“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;

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

“wind turbine generator” means a structure comprising a tower, rotor with up to three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include

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(18) “street authority” is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act c. 7.

(but is not limited to) corrosion protection systems, helicopter landing facilities and other associated equipment, fixed to a foundation; and

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of this Order under article 37;

(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 and lengths referred to in this Order are approximate, save in respect of the parameters referred to in:

- (a) paragraph (c) and paragraph (e) (disposal volumes in connection with Work Nos. 1 to 4B) under the heading “Further Associated Development” in Part 1, Schedule 1 (authorised development);
- (b) requirements 2 to 11 and requirement 16 in Part 3, Schedule 1 (requirements);
- (c) conditions 1-8 in Part 4 of the deemed marine licences for the generation assets (Schedules 9 and 10);
- (d) conditions 1-3 in Part 4 of the deemed marine licences for the transmission assets (Schedules 11 and 12); and
- (e) condition 2 in Part 4 of the deemed marine licences for the project interconnector assets (Schedule 13);

(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.

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#### **Commencement Information**

**II** Art. 2 in force at 1.1.2022, see [art. 1](#)



**Changes to legislation:**

There are currently no known outstanding effects for the The Norfolk Boreas Offshore Wind Farm Order 2021, Section 2.