

SCHEDULE 17

Protective Provisions

PART 9

For the protection of Norfolk Vanguard Limited

Compensation

105.—(1) Subject to sub-paragraphs (2), (3) and (4), if by reason or in consequence of the construction of any such works authorised herein 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 the provisions herein or any subsidence resulting from any of these works), any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of the statutory undertaker, or there is any interruption in any service provided, or in the supply of any goods, by the statutory undertaker, or the statutory undertaker becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay on demand the cost reasonably incurred by the statutory undertaker in making good such damage or restoring the supply; and
- (b) compensate the statutory undertaker for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from the statutory undertaker, by reason or in consequence of any such damage or interruption or the statutory undertaker becoming liable to any third party in accordance with the provisions of this part.

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

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

(4) The statutory undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise may be made without first consulting the undertaker and considering their representations (such representations not to be unreasonably withheld or delayed).

(5) The statutory undertaker 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 compensation under this paragraph 105 applies. If requested to do so by the undertaker, the statutory undertaker shall provide an explanation of how the claim has been minimised. The undertaker shall only be liable under this paragraph 105 for claims reasonably incurred by the statutory undertaker.

Commencement Information

II Sch. 17 para. 105 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, Paragraph 105.