

## SCHEDULE 18

### Offshore Ornithology Compensation Measures

#### PART 3

#### Outer Thames Estuary Special Protection Area: Red-throated diver Compensation Measures

1. In this Part—

“the red-throated diver compensation plan” means Appendix 6 of the Offshore Ornithology Without Prejudice Compensation Measures.

#### Commencement Information

**I1** Sch. 18 Pt. 3 para. 1 in force at 22.4.2022, see [art. 1\(2\)](#)

2. The authorised development may not be commenced until a plan for the work of the red-throated diver compensation steering group (“RTDCSG”) has been submitted to and approved by the Secretary of State. Such plan to include—

- (a) terms of Reference of the RTDCSG;
- (b) details of the membership of the RTDCSG;
- (c) details of the schedule of meetings, timetable for preparation of the [<sup>F1</sup>red-throated diver] implementation and monitoring plan (the “RTDIMP”) and reporting and review periods; and
- (d) the dispute resolution mechanism.

#### Textual Amendments

**F1** Words in [Sch. 18 Pt. 3 para. 2\(c\)](#) substituted (22.12.2022) by [The East Anglia TWO Offshore Wind Farm \(Correction\) Order 2022 \(S.I. 2022/1399\)](#), [art. 1\(2\)](#), [Sch.](#)

#### Commencement Information

**I2** Sch. 18 Pt. 3 para. 2 in force at 22.4.2022, see [art. 1\(2\)](#)

3. Following consultation with the RTDCSG, the RTDIMP must be submitted to the Secretary of State for approval (in consultation with the MMO and the relevant statutory nature conservation body). The RTDCSG must be consulted further as required during the approval process. The RTDIMP must be based on the strategy for red-throated diver compensation set out in the red-throated diver compensation plan and include—

- (a) details of the location where compensation measures will be deployed, why the location is appropriate ecologically and likely to support successful compensation, and details of agreements demonstrating how the vessel route diversions and/or exclusions will or have been secured to deliver the ecology objectives of the RTDIMP;
- (b) an implementation timetable for delivery of the vessel route diversion and/or exclusion compensation measures [<sup>F2</sup>that] ensures that the measures are in place prior to the installation of any tower comprised within a wind turbine generator forming part of the authorised development;

**Changes to legislation:** There are currently no known outstanding effects for the The East Anglia TWO Offshore Wind Farm Order 2022, PART 3. (See end of Document for details)

- (c) details in relation to the monitoring of red-throated diver abundance and distribution using aerial digital surveys in the Outer Thames Estuary SPA and a 10km buffer over two winters. Three surveys should take place each winter (between 1st November and 31st March) with one batch to take place before the installation of the turbines forming part of the authorised development and the other batch to take place after;
- (d) details of the proposed ongoing monitoring of the measures including: survey methods; survey programmes; success criteria; recording of RTDCSG consultations and project reviews; details of the factors used to trigger alternative compensation measures and/or adaptive management measures;
- (e) details in relation to the convening of a partnership with relevant authorities and user representation to—
  - (i) improve understanding of disturbance and displacement effects on red-throated diver within the Outer Thames Estuary SPA;
  - (ii) identify and implement opportunities to reduce these effects; and
  - (iii) ensure stakeholder engagement and liaison to raise awareness and communicate any proposed changes in usage; and
- (f) details of the work in respect of ornithological by-catch measures as set out in Appendix 7 of the Offshore Ornithology Without Prejudice Compensation Measures, that could support practical management measures to reduce ornithological by-catch<sup>F3</sup>...

**Textual Amendments**

- F2** Word in Sch. 18 Pt. 3 para. 3(b) substituted (22.12.2022) by [The East Anglia TWO Offshore Wind Farm \(Correction\) Order 2022 \(S.I. 2022/1399\)](#), art. 1(2), [Sch.](#)
- F3** Words in Sch. 18 Pt. 3 para. 3(f) omitted (22.12.2022) by virtue of [The East Anglia TWO Offshore Wind Farm \(Correction\) Order 2022 \(S.I. 2022/1399\)](#), art. 1(2), [Sch.](#)

**Commencement Information**

- I3** Sch. 18 Pt. 3 para. 3 in force at 22.4.2022, see [art. 1\(2\)](#)

- 4. The undertaker must not commence the authorised development unless it has first—
  - (a) provided a reasonable estimate of the cost of delivery of the compensation measures; and
  - (b) put in place either—
    - (i) a guarantee in respect of the reasonable estimate of costs associated with the delivery of the compensation measures; or
    - (ii) an alternative form of security for that purpose, that has been approved by the Secretary of State.

**Commencement Information**

- I4** Sch. 18 Pt. 3 para. 4 in force at 22.4.2022, see [art. 1\(2\)](#)

5. The undertaker must implement the measures as set out in the RTDIMP approved by the Secretary of State unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory nature conservation body and the relevant local planning authority. No tower comprised within a wind turbine generator forming part of the authorised development may be installed until the implementation of relevant measures as set out in the RTDIMP.

**Commencement Information**

**I5** Sch. 18 Pt. 3 para. 5 in force at 22.4.2022, see [art. 1\(2\)](#)

**6.** The undertaker shall notify the Secretary of State of completion of implementation of the measures set out in the RTDIMP. Once implemented, the measures should remain in place throughout the operational lifetime of the authorised development.

**Commencement Information**

**I6** Sch. 18 Pt. 3 para. 6 in force at 22.4.2022, see [art. 1\(2\)](#)

**7.** Results from the monitoring scheme and aerial digital surveys must be submitted at least annually to the Secretary of State and the relevant statutory nature conservation body. This must include details of any finding that the measures have been ineffective in securing the maintenance of the SPA's conservation objectives and, in such case, proposals to address this. Any proposals to address effectiveness must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant statutory nature conservation body.

**Commencement Information**

**I7** Sch. 18 Pt. 3 para. 7 in force at 22.4.2022, see [art. 1\(2\)](#)

**8.** The RTDIMP 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 RTDIMP must be in accordance with the principles set out in the red-throated diver 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 red-throated diver compensation plan.

**Commencement Information**

**I8** Sch. 18 Pt. 3 para. 8 in force at 22.4.2022, see [art. 1\(2\)](#)

**9.** In the event of any conflict or inconsistency between the terms of the red-throated diver compensation plan and the provisions of this Order, the provisions of this Order shall prevail.

**Commencement Information**

**I9** Sch. 18 Pt. 3 para. 9 in force at 22.4.2022, see [art. 1\(2\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The East Anglia TWO Offshore Wind Farm Order 2022, PART 3.