

2022 No. 0000

INFRASTRUCTURE PLANNING

The Norfolk Boreas Offshore Wind Farm (Amendment) Order 202*

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>		***

Comment [ERR1]:

The offending text for the following warning is: '****'
Warning only High impact [e00096]
Please ensure the asterisks are replaced by text / dates
Warning only High impact [e00023]
The format of the Made date paragraph is incorrect

Comment [ERR2]:

The offending text for the following warning is: '****'
Warning only High impact [e00096]
Please ensure the asterisks are replaced by text / dates
Warning only High impact [e00024]
The format of the Laid date paragraph is incorrect

Comment [ERR3]:

The offending text for the following warning is: '****'
Warning only High impact [e00096]
Please ensure the asterisks are replaced by text / dates
Warning only High impact [e00026]
The format of the Coming into Force date is incorrect

An application has been made, under paragraph 2 of Schedule 6 to the Planning Act 2008(a), to the Secretary of State in accordance with the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011(b) for non-material changes to the Norfolk Boreas Offshore Wind Farm Order 2021(c).

The Secretary of State, having considered the application, the responses to the publicity and consultation required by regulations 6 and 7 of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011(d), has decided to make the changes on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

Accordingly, the Secretary of State, in exercise of the powers in paragraph 2(1) and (9) of Schedule 6 to the Planning Act 2008, makes the following Order:

Citation and commencement

1. This Order may be cited as The Norfolk Boreas Offshore Wind Farm (Amendment) Order 202* and comes into force on [Date].

Amendment to The Norfolk Boreas Offshore Wind Farm Order 2021

2. The Norfolk Boreas Offshore Wind Farm Order 2021 (“the 2021 Order”) is amended in accordance with this Order.

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- (a) 2008 c. 29. Paragraph 2 was amended by paragraph 4 of Schedule 8 to the Marine and Coastal Access Act 2009 (c. 23), by paragraph 72 of Schedule 13 and paragraph 1 of Schedule 25 to the Localism Act 2011 (c. 20), Section 128 of the Levelling-up and Regeneration Act 2023 (c. 6) and by section 28 of the Infrastructure Act 2015 (c. 7).
- (b) S.I. 2011/2055, as amended by S.I. 2012/635, S.I. 2013/522, S.I. 2015/760, S.I. 2017/314, S.I. 2017/524, S.I. 2018/378, S.I. 2019/734, S.I. 2020/1534 and S.I. 2020/764.
- (c) S.I. 2021/1414.
- (d) S.I. 2011/2055. Regulations 6 and 7 were both amended by S.I. 2012/635, S.I. 2015/760, S.I. 2020/1534 and S.I. 2020/764.

Amendment to Article 2 (Interpretation)

3. In Article 2 (Interpretation), after the definition of “Defence Infrastructure Organisation Safeguarding” insert the following definition ““Defra” means the Department for Environment, Food and Rural Affairs and any successor body to its functions;”.

4. In Article 2 (Interpretation), substitute the definition of “undertaker” with “means subject to article 6, (Benefit of the Order), Norfolk Boreas Limited (Company No. 03722058)”.

Amendments to Part 1 (Authorised Development) of Schedule 1 (Authorised Project)

5. Paragraph 2 of Part 1 (Authorised Development) of Schedule 1 (Authorised Project), is amended as follows:

- (a) Substitute Longitude (DMS) at point 29 with “002° 59’ 17.972” E”;
- (b) Substitute Longitude (DMS) at point 67 with “002° 59’ 02.0169” E”;
- (c) Substitute Latitude (DMS) at point 164 with “52° 50’ 36.142” N”; and
- (d) Substitute Longitude (DMS) at point 164 with “002° 35’ 08.679” E”.

Amendments to Part 3 (Haisborough, Hammond and Winterton Special Area of Conservation: Delivery of measures to compensate for cable installation and protection) of Schedule 19 (Compensation to protect the coherence of the national site network)

6.—(1) Part 3 (Haisborough, Hammond and Winterton Special Area of Conservation: Delivery of measures to compensate for cable installation and protection) of Schedule 19 (Compensation to protect the coherence of the national site network), is amended as follows:

(2) In paragraph 23,

(a) after the definition of “BSG” insert—

““completion report” means the report submitted to the Secretary of State pursuant to paragraph 33;”

(b) after the definition of “HHW SAC” insert—

““Marine Recovery Fund” means the fund to be established and operated by Defra pursuant to section 292 of the Energy Act 2023 for the implementation of strategic compensation or any equivalent fund established by a Government body for that purpose.”

(3) In paragraph 30, omit “In particular, no cable installation works in the HHW SAC may be commenced unless at least 8.3 hectares of marine debris has been removed in accordance with the programme referred to in paragraph 29(d).”;

(4) Substitute the following for paragraph 32,

“Unless otherwise agreed with the Secretary of State, results from the monitoring scheme must be submitted at least annually to the Secretary of State, the MMO and the relevant statutory nature conservation body. This must include details of any finding that the measures have been ineffective in securing an improvement in the condition of the HHW SAC 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 MMO and the relevant statutory nature conservation body.”.

(5) Substitute the following for paragraph 33,

“Subject to paragraph 35 and paragraph 38(b), a report which demonstrates completion of the activities required by the BIMP must be submitted to the Secretary of State within 12 months of completion of such activities.”.

(6) After paragraph 34, insert the following—

“35. In the event that the required area of marine debris is not removed (whether wholly or in part) the undertaker may elect to make a contribution to the Marine Recovery Fund as

Comment [ERR4]:

Warning only High impact [e00035]
This paragraph should probably be in definition paragraph (Def Para) style

Comment [ERR5]:

Warning only High impact [e00035]
This paragraph should probably be in definition paragraph (Def Para) style

an adaptive management measure in substitution for the area of marine debris removal which has not been achieved.

36. The contribution to the Marine Recovery Fund under paragraph 35 will take into account:

- (a) the proportion of the overall area of marine debris removal required where the impact on the HHW SAC is shared with the Norfolk Vanguard Offshore Wind Farm by virtue of the shared cable corridor; and
- (b) the amount of material removed under the BIMP as reported in the most recent document submitted pursuant to paragraph 32 (subject to any reductions already taken into account for any equivalent contribution made for the Norfolk Vanguard Offshore Wind Farm).

37. Where the undertaker has confirmed that it will make a payment to the Marine Recovery Fund there must be no cable installation works within the HHW SAC unless and until—

- (a) an implementation and monitoring plan has been submitted to and approved by the Secretary of State;
- (b) the contribution to the Marine Recovery Fund has been quantified; and
- (c) either such contribution has been paid or has been contractually committed to be paid to the Secretary of State's satisfaction.

38. The undertaker will be discharged from any further obligations under this Part either:

- (a) following approval of the completion report by the Secretary of State, in consultation with the MMO and the statutory nature conservation body; or
- (b) upon payment of the contribution to the Marine Recovery Fund.”

Signed by authority of the Secretary of State for Energy Security and Net Zero

Date Head of Energy Infrastructure Planning Delivery & Innovation
Department for Energy Security and Net Zero

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends The Norfolk Boreas Offshore Wind Farm Order 2021, a development consent order under the Planning Act 2008, following an application made in accordance with the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 for a non-material change under paragraph 2 of Schedule 6 to the Planning Act 2008.