STATUTORY INSTRUMENTS

2026 No. 0000

INFRASTRUCTURE PLANNING

The North Falls Offshore Wind Farm Order 2026

Made - - - - *14th May 2026*

Coming into force - - *5th June 2026*

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008 ("the 2008 Act)(**a**), and in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009(**b**) for an order granting development consent.

The application was examined by the Examining Authority, appointed by the Secretary of State pursuant to section 61(**c**) and section 65(**d**) 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(**e**). The Examining Authority has submitted a report to the Secretary of State under section 74(2)(**f**) of the 2008 Act.

The Secretary of State has considered the representations made and not withdrawn, the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(**g**) and, as a national policy statement has effect in relation to the

(**a**) 2008 c. 29. Section 37 was amended by Chapter 6 of Part 6 of, and Schedule 13 to, the Localism Act 2011 (c. 20).
(**b**) S.I. 2009/2264.
(**c**) Section 61 was amended by section 128(2) and Schedule 13, paragraph 18 to the Localism Act 2011 (c. 20) and by section 26 of the Infrastructure Act 2015 (c. 7).
(**d**) Section 65 was amended by Schedule 13 paragraph 22(2) and Schedule 25, paragraph 1 to the Localism Act 2011 (c. 20) and by section 27(1) of the Infrastructure Act 2015 (c. 7).
(**e**) S.I. 2010/103, amended by S.I. 2012/635.
(**f**) 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 (c. 20).
(**g**) S.I. 2017/572.

proposed development, has had regard to the documents and matters referred to in section 104(2)(**a**) of the 2008 Act.

The Secretary of State is satisfied that open space within the Order land forming special category land specified in the land plans and special category land plan (as defined in article 2 of this Order), 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 in whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public, and that, accordingly, section 132(2)(**b**) of the 2008 Act applies.

The Secretary of State, having decided the application, has determined to make an Order granting development consent for the development described in the application with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 120, 122, 123, 132, 140 and 149A of the 2008 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the North Falls Offshore Wind Farm Order 2026 and comes into force on 5th June 2026.

Interpretation

2.—(1) In this Order—

"the 1961 Act" means the Land Compensation Act 1961(**c**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**d**);

"the 1980 Act" means the Highways Act 1980(**e**);

"the 1981 Act" means the Compulsory Purchase (Vesting Declarations) Act 1981(**f**);

"the 1984 Act" means the Road Traffic Regulation Act 1984(**g**);

"the 1989 Act" means the Electricity Act 1989(**h**);

"the 1990 Act" means the Town and Country Planning Act 1990(**i**);

"the 1991 Act" means the New Roads and Street Works Act 1991(**j**);

"the 2000 Act" means the Countryside and Rights of Way Act 2000(**k**);

"the 2003 Act" means the Communications Act 2003(**l**);

(**a**) 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 (c. 20).
(**b**) Section 132 was amended by section 24(3) of the Growth and Infrastructure Act 2013 (c. 27).
(**c**) 1961 c. 33.
(**d**) 1965 c. 56.
(**e**) 1980 c. 66.
(**f**) 1981 c. 66.
(**g**) 1987 c. 27.
(**h**) 1989 c. 29.
(**i**) 1990 c. 8.
(**j**) 1991 c. 22.
(**k**) 2000 c. 37.
(**l**) 2003 c. 21.

"the 2004 Act" means the Energy Act 2004(**a**);

"the 2008 Act" means the Planning Act 2008(**b**);

"the 2009 Act" means the Marine and Coastal Access Act 2009(**c**);

"the 2016 Regulations" means the Environmental Permitting (England and Wales) Regulations 2016(**d**);

"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 40 (certification of plans and documents, etc.);

"address" includes any number or address used for the purposes of electronic transmission;

"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;

"apparatus" has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act;

"archaeological mitigation strategy" means the document certified as the archaeological mitigation strategy by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"authorised development" means the development and associated development described in Part 1 of Schedule 1 (authorised development) and any other development authorised by this order that is development within the meaning of section 32 of the 2008 Act;

"bank holiday" means a day that is a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971;

"biodiversity net gain strategy" means the document certified as the biodiversity net gain strategy by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"the book of reference" means the document certified by the Secretary of State as the "book of reference" for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"build option 1" means the scenario in which the undertaker only constructs those works required for the North Falls Offshore Wind Farm grid connection and does not construct Work Nos. 6B or 12B;

"build option 2" means build option 2A or build option 2B";

"build option 2A" means the scenario in which the authorised development will deliver works to support grid connection co-ordination, including the laying of onshore cable ducts (Work Nos. 6B and/or 12B), for transfer to and/or use by Five Estuaries or transmission licence holder under the 1989 Act, as part of co-ordination for grid connection works for offshore generation;

"build option 2B" means the scenario in which the undertaker pulls cables through onshore cable ducts constructed by Five Estuaries or transmission licence holder under the 1989 Act, as part of co-ordination for grid connection works for offshore generation;

"build option 3" means the scenario in which the undertaker constructs only Work No.1 and Work No. 2;

"buoy" means any floating device used for navigational purposes or measurement purposes, including LIDAR, wave buoys and guard buoys;

"business day" means Monday to Friday excluding bank holidays and other public holidays;

(**a**) 2004 c. 20.
(**b**) 2008 c. 29.
(**c**) 2009 c. 23.
(**d**) S.I. 2016/1154.

"cable circuit" means a number of electrical conductors necessary to transmit electricity between two points, comprising one or more conductors which may be bundled as one cable or take the form of separate cables, and in either case the circuit may include one or more auxiliary cables for the purpose of control, monitoring, protection or general communications;

"cable crossings" means the crossing of existing cables, pipelines or other existing infrastructure by the cables authorised by this Order together with cable protection;

"cable ducts" means conduits for the installation of cables;

"cable protection" means physical measures for the protection of cables including but not limited to concrete mattresses, split pipe system, and/or rock placement (including material used for cable crossings);

"carriageway" has the same meaning as in the 1980 Act;

"Chart Datum" means the level below which the tide will not normally fall at a given location, usually the lowest astronomical tide;

"commence" means—

(a) in relation to works seaward of MHWS, the first carrying out of any licenced marine activities authorised by the deemed marine licences, save for operations consisting of preconstruction surveys and monitoring approved under the deemed marine licences; or

(b) in respect of any other works comprised in the authorised development, the first carrying out of any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised development other than onshore site preparation works,

and the words "commencement" and "commenced" must be construed accordingly;

"commissioning" means the process of assuring that all systems and components of the authorised development are tested to verify that they function and are operable in accordance with the specifications and operational requirements of the undertaker;

"crown land plan" means the document certified as the crown land plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"deemed marine licences" means the marine licences set out in Schedules 8 (deemed marine licence under the 2009 Act – generation assets), 9 (deemed marine licence under the 2009 Act – transmission assets), and 10 (deemed marine licence under the 2009 Act – transmission assets – offshore converter station);

"deep water route cable installation area (future dredging depths) Plan" means the document certified as such by the Secretary of State under article 40 (certification of plans, etc.) for the purposes of this Order;

"design vision" means the document certified as the design vision by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"discharging authority" for the purposes of Part 3 (requirements) and Part 4 (procedure for discharge of requirements) of Schedule 1 means Essex County Council;

"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 40 (certification of plans and documents, etc.);

"environmental statement" means the documents listed in Part 1 and Part 2 of Schedule 12 (documents forming the environmental statement) and certified as the environmental statement by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"Five Estuaries" means the nationally significant infrastructure project known as Five Estuaries Offshore Wind Farm, being an offshore electricity generating station approximately 37 kilometres (km) from the coast of Suffolk, and being the authorised development consented by the Five Estuaries Offshore Wind Farm Order 2025;

"foundation" means any of monopile, mono suction bucket, multi-leg pin pile jacket or multi-leg suction bucket jacket foundations;

"Galloper recommended route" means the recommended shipping routing measure included as part of the Sunk area traffic routeing scheme adopted by resolution of the International Maritime Organization during the 82nd session of the Maritime Safety Committee and recorded in circular COLREG.2/ Circ.58 Annex II., to enable ferry traffic sailing to and from the Port of Oostende an option to enter and leave the SUNK Outer Precautionary Area, and connecting the following geographical positions—

(1) *Latitude*	*(2)* *Longitude*
51º 44′.93N	001º 50′.93E
51º 41′.33N	002º 00′.03E

"groundwater risk assessment and monitoring plan – private water supplies and licenced abstractions" means the document certified as such by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"highway" and "highway authority" have the same meaning as in the 1980 Act(**a**);

"Historic England" means the Historic Buildings and Monuments Commission for England;

"HVAC" means high voltage alternating current;

"HVDC" means high voltage direct current;

"inter-array cables" means the network of offshore subsea cables connecting the wind turbine generators in Work No. 1 with each other and with the offshore substation platform(s) and/or offshore converter platform forming part of Work No. 2;

"jacket foundation" means a lattice type structure constructed of steel and additional equipment such as, J-tubes, corrosion protection systems and access platforms attached to the seabed at 3 or more points with pin piles or suction buckets;

"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 land plans by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"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 and installed within a ground level manhole or inspection chamber to allow access to the link box for regular maintenance or fault-finding purposes;

"maintain" includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace any component of any offshore work including any cable, and the onshore works described in Part 1 of Schedule 1 (authorised development), not including removal, reconstruction or replacement of foundations and buildings associated with the onshore substation, to the extent assessed in the environmental statement and any derivative of maintain must be construed accordingly;

"Marine Management Organisation" or "MMO" means the Marine Management Organisation, Marine Licensing Team, Tyneside House, Skinnerburn Road, Newcastle Business Park, Newcastle upon Tyne, NE4 7AR who is the body created under the 2009 Act and who is responsible for the monitoring and enforcement of the deemed marine licences;

"MCA" means the Maritime and Coastguard Agency;

"mean high water springs" or "MHWS" means the average throughout the year, of two successive high waters, during a 24- hour period in each month when the range of the tide is at

(**a**) "highway" is defined in section 328(1), "highway authority" is described in section 1. Section 1 was amended by sections 8 and 102 and Schedules 4, paragraph 1 and Schedule 17 to 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). There are other amendments which are not relevant to this Order.

its greatest (Spring tides) "mean low water springs" or "MLWS" means the lowest level which spring tides reach on average over a period of time;

"monopile foundation" means a steel pile, driven and/or drilled into the seabed and associated equipment including J-tubes, corrosion protection systems and access platforms and equipment;

"monopile 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 additional equipment such as J-tubes, corrosion protection systems and access platforms;

"MSC" means the International Maritime Organization's Maritime Safety Committee, or any successor body or committee of the International Maritime Organization performing an equivalent function;

"National Grid" means National Grid Electricity Transmission Plc, Company Number (02366977, and having its registered office at 1 - 3 Strand, London, WC2N 5EH;

"New National Grid Substation" means the substation to be constructed by National Grid within plots 16-006, 16-007 and 16-008 of the land plans, as part of the NTT project, and into which the authorised development will connect;

"offshore converter platform" means a structure above MHWS and attached to the seabed by means of a foundation, with equipment to convert three-phase HVAC power generated by the wind turbine generations into HVDC power;

"offshore in-principle monitoring plan" means the plan or plans certified by the Secretary of State as the offshore in-principle monitoring plan for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"offshore order limits and boundary co-ordinates plan" means the plan or plans certified by the Secretary of State as the offshore order limits and boundary co-ordinates plan for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"offshore platform" means the offshore substation platform(s) and/or the offshore converter platform;

"offshore substation platform" means a structure above MHWS and 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 works" means Work Nos. 1 to 4B and any related further associated development in connection with those works;

"onshore outline written scheme of investigation" means the document certified as such by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"onshore site preparation works" means operations consisting of site clearance including vegetation clearance, pre-planting of landscaping works, ecological mitigation works, archaeological investigations, intrusive and other environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, preparatory works to existing infrastructure and diversion and laying of services, erection of any temporary means of enclosure, site security works, creation of temporary hardstanding creation of temporary means of access and the temporary display of site notices or advertisements;

"onshore works" means Work Nos. 4B to 14 and any related further associated development in connection with those works;

"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;

"the Order limits" means the limits shown on the works plans within which the authorised development may be carried out;

“outline cable specification and installation plan” means the document certified as the outline cable specification and installation plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

“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 40 (certification of plans and documents, etc.);

“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 40 (certification of plans and documents, etc.);

“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 40 (certification of plans and documents, etc.);

“outline guillemot and razorbill compensation implementation and monitoring plan” or “outline guillemot and razorbill CIMP” means the document certified as the outline guillemot and razorbill compensation implementation and monitoring plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

“outline horizontal directional drill method statement and contingency plan” means the document certified as the outline horizontal directional drill method statement and contingency plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

“outline kittiwake compensation implementation and monitoring plan” or “outline kittiwake CIMP” means the document certified as the outline kittiwake compensation implementation and monitoring plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

“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 40 (certification of plans and documents, etc.);

“outline LBBG compensation implementation and monitoring plan” or “outline LBBG CIMP” means the document certified as the outline LBBG compensation implementation and monitoring plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

“outline navigation and installation plan” means the document certified by the Secretary of State as the outline navigation and installation plan for the purposes of this Order under article 40 (certification of plans and documents, etc.);

“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 40 (certification of plans and documents, etc.);

“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 40 (certification of plans and documents, etc.);

“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 40 (certification of plans and documents, etc.);

“outline operational drainage strategy” means the document certified as the outline operational drainage strategy by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

“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 40 (certification of plans and documents, etc.);

“outline public rights of way management plan” means the document certified as the outline public rights of way management plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"outline red throated diver compensation and implementation plan" means the document certified as the outline red throated diver compensation and implementation plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents etc.);

"outline sediment disposal management plan" means the document certified as the outline sediment disposal management plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"outline site integrity plan for the southern north sea special area of conservation" means the document certified as the outline site integrity plan for the southern north sea special area of conservation by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"outline skills and employment plan" means the document certified as the outline skills and employment plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"outline vessel traffic monitoring plan" means the document certified as the outline vessel traffic monitoring plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc);

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

"platform interconnector cable" means a cable circuit between the offshore platforms;

"public holiday" means Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday in England;

"public rights of way plan" means the plan or plans certified as the public rights of way plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"relevant planning authority" means Tendring District Council, or any successor to it as the planning authority for the land in question;

"requirements" means, or a reference to a numbered requirement is a reference 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, or rock and gravel placement;

"SNCB" means statutory nature conservation body, being the appropriate nature conservation body as defined in Regulation 5 of the Conservation of Habitats and Species Regulations 2017(**a**) or its equivalent in the Conservation of Offshore Marine Habitats and Species Regulations 2017(**b**);

"special category land" means the land shown on the special category land plan and described in the book of reference;

"special category land plan" means the plan certified as such by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"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(**c**), together with land on the verge of a street or between two carriageways, and includes any footpath and any part of a street;

"street authority", in relation to a street, has the same meaning as in Part 3 of the 1991 Act(**d**);

(**a**) S.I. 2017/1012.
(**b**) S.I. 2017/1013.
(**c**) Section 48 was amended by section 124(2) of the Local Transport Act 2008 (c. 26).
(**d**) "street authority" is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act (c. 7).

"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 40 (certification of plans and documents, etc.);

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

"temporary traffic regulation order plan" means the plan or plans certified as the temporary traffic regulation order plan or plans by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"transition joint bay" means the underground concrete bays in Work No. 4D where the offshore export cable circuits 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 by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"trenchless installation techniques" means the installation of electrical cable circuits by means of boring techniques for installing cable ducts including horizontal directional drilling, pipe jacking/horizontal auger boring and micro-boring;

"Trinity House" means the Corporation of Trinity House of Deptford Strond;

"undertaker" means, subject to article 5 (benefit of the Order), North Falls Offshore Wind Farm Limited (company number 12435947);

"Upper Tribunal" means the Lands Chamber of the Upper Tribunal;

"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, ditches, drains, cuts, culverts, dykes, sluices, basins, sewers and passages through which water flows except a public sewer;

"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;

"working day" means a day which is not a weekend, bank holiday or public holiday in England;

"works plans" means the works plans (offshore) and the works plans (onshore);

"works plans (offshore)" means the plan or plans certified as the works plans (offshore) by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.); and

"works plans (onshore)" means the plan or plans certified as the works plans (onshore) by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.).

(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 airspace above its surface and to any trusts or incidents (including restrictive covenants) to which the land is subject 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 the land which is acquired under this Order or which is an interest otherwise comprised in the Order land.

(3) All distances, directions, capacities, volumes and lengths referred to in this Order are approximate save in respect of the parameters referred to in—

(a) requirements 2, 6, and 17 in Part 3 of Schedule 1 (requirements);

(b) conditions 10 and 11 in Part 2 of Schedule 8 (deemed marine licence under the 2009 Act – generation assets);

(c) conditions 10 to 12 in Part 2 of Schedule 9 (deemed marine licence under the 2009 Act – transmission assets); and

(d) conditions 10 and 11 in Part 2 of Schedule 10 (deemed marine licence under the 2009 Act –transmission assets (offshore converter platform)).

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

(6) 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.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by this Order

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) Work Nos. 1 to 4B must be constructed within the Order limits seaward of MHWS and Work Nos. 4C to 14 must be constructed within the Order limits landward of MHWS.

Power to maintain the authorised development

4.—(1) Subject to paragraph (2), the undertaker may at any time maintain the authorised development, 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.

Benefit of the Order

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

(2) Subject to paragraph (1) 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 (excluding 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 this Order (excluding the deemed marine licences) and such related statutory rights as may be so agreed.

except where paragraph (7) applies, in which case the consent of the Secretary of State is not required.

(3) Subject to paragraph (1) the undertaker may with the written consent of the Secretary of State—

(a) transfer to the transferee the whole of any of the deemed marine licences and such related statutory rights as may be agreed between the undertaker and the transferee; or

(b) transfer to the lessee for the duration of the period mentioned in paragraph (2)(b), the whole of any of the deemed marine licences and such related statutory rights as may be so agreed, except where paragraph (7) applies, in which case the consent of the Secretary of State is not required.

(4) Where an agreement has been made in accordance with paragraph (2) or (3), references in this Order to the undertaker, except in paragraphs (6), (8) and (10), include references to the transferee or the lessee.

(5) The Secretary of State must 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) or (3)—

(a) the benefit transferred or granted ("the transferred benefit") includes any rights that are conferred, or any obligations that are imposed, by virtue of the provisions to which the benefit relates;

(b) the transferred benefit resides exclusively with the transferee or, as the case may be, the lessee and the transferred benefit is not enforceable against the undertaker save in the case of a deemed marine licence transferred or granted in respect of any breach of an obligation by the undertaker which occurs prior to the transfer or grant or which occurs as a result of any activity carried out by the undertaker on behalf of the transferee; and

(c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraphs (2) or (3) 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 paragraphs (2) or (3) except where—

(a) the transferee or lessee is the holder of a licence under section 6 (licences authorising supply, etc) of the 1989 Act;

(b) in relation to the transfer or lease of any or all of Work No. 9 or any other works within a highway, the transferee or lessee is a highway authority responsible for the relevant highway; or

(c) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have lapsed 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 full and 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 is 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) The notice required under paragraph (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 (7)(c), will apply to the person exercising the powers transferred or granted; and

(v) where paragraph (8) does not apply, confirmation of the availability and adequacy of funds for compensation associated with the compulsory acquisition of the Order land; and

(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 notice given under paragraph (9) 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 and the date specified under paragraph 9(a)(ii) must not be earlier than the expiry of fourteen days from the date of receipt by the Secretary of State of the notice.

(11) Section 72(7) and (8) of the 2009 Act (variation, suspension, revocation and transfer) do not apply to a transfer or grant of the whole of the benefit of the provisions of the deemed marine licences to another person by the undertaker pursuant to an agreement under paragraph (3) save that the MMO may amend any deemed marine licence granted under Schedule 8, Schedule 9 or Schedule 10 of the Order to correct the name of the undertaker to the name of the transferee or lessee under this article 5 (benefit of the Order).

Application and modification of legislative provisions

6. The following provisions are modified to the extent specified, or do not apply, in relation to the construction or works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised development—

(a) regulation 6 of the Hedgerows Regulations 1997(**a**) is modified so as to read for the purposes of this Order only as if there were inserted after paragraph (1)(j) the following—

"or

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

(b) the provisions of the Neighbourhood Planning Act 2017(**b**) insofar as they relate to the temporary possession of land under article 30 (temporary use of land for carrying out the authorised development) and article 31 (temporary use of land for maintaining the authorised development) of this Order.

(c) regulation 12 (requirement for an environmental permit) of the 2016 Regulations in respect of a flood risk activity only;

(d) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 of the Water Resources Act 1991 that require consent or approval for carrying out the works;

(e) section 23 (prohibition on obstructions etc. in watercourses)of the Land Drainage Act 1991 (prohibition of obstructions etc. in watercourses);

(**a**) S.I. 1997/1160.
(**b**) 2017 c. 20.

(f) sections 6 (grass verges etc) and 30 (unauthorised structures on seashore) of the Essex Act 1987(**a**);

(g) Holland Haven Country Park local nature reserve byelaws made by Tendring District Council on 5 July 1995 under sections 20, 21(4) and 106 of the National Parks and Access to the Countryside Act 1949(**b**) in accordance with section 236 of the Local Government Act 1972(**c**); and

(h) the provisions of any byelaws made under section 66 of the Land Drainage Act 1991 (power to make byelaws) that require consent or approval for the carrying out of works.

Defence to proceedings in respect of statutory nuisance

7.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 (summary proceedings by persons aggrieved by statutory nuisances) in relation to a nuisance falling within paragraphs (d), (fb), (g) and (ga) of section 79(1) (statutory nuisances and inspections therefor) of that Act no order is to be made, and no fine is to be imposed, under section 82(1) 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 development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1947; or

(ii) is a consequence of the construction, maintenance or decommissioning of the authorised development and that it cannot reasonably be avoided; or

(b) the defendant shows that the nuisance—

(i) relates to premised used by the undertaker for the purposes of or in connection with the use of the authorised development and that the nuisance is attributable to the use of the authorised development which is being used in compliance with requirement 17 (control of noise during operational stage); or

(ii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

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

PART 3

STREETS

Street works

8.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 2 (streets and public rights of way subject to street works) as is within the Order limits and may—

(**a**) 1987 c. xx.

(**b**) 1949 c. 97. Section 20 was amended by Schedule 11 to the Natural Environment and Rural Communities Act 2006 (c.16), There are other amendments which are not relevant to this Order. Sections 21 and 106 were amended by Schedule 11 to the Natural Environment and Rural Communities Act 2006 (c.16) and Schedule 20 to the Local Government Act 1972 (c. 70). There are other amendments which are not relevant to this Order.

(**c**) 1972 c. 20. Section 236 was amended by section 84 of the Local Government Act 1985 (c.51), Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009 and section 55 of the Levelling-up and Regeneration Act 2023. There are other amendments which are not relevant to this Order.

(a) break up or open the street, or any sewer, drain or tunnel within or under it;

(b) tunnel or bore under the street;

(c) remove or use all earth and materials in or under the street;

(d) place and keep apparatus in or under the street;

(e) maintain apparatus in or under the street or change its position; and

(f) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (e).

(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.

Application of the 1991 Act

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 closure, temporary alteration or temporary diversion of a street by the undertaker under article 11 (temporary closure of public rights of way) and article 12 (temporary restriction of use of streets),

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

(2) The provisions of the 1991 Act(**a**) 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 a street authority);

(e) section 69 (works likely to affect other apparatus in the street);

(f) section 76 (liability for cost of temporary traffic regulations);

(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).

(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 closure, alteration of diversion (as the case may be) required in a case of emergency.

Construction and maintenance of new or altered highway

10.—(1) Any highway to be constructed under this Order must be completed to the reasonable satisfaction of the relevant highway authority and, unless otherwise agreed in writing with the highway authority, the highway including any culverts or other structures laid under it must be maintained by and at the expense of the relevant highway authority from its completion.

(2) Where a highway is altered or diverted under this Order, the altered or diverted part of the highway must be completed to the reasonable satisfaction of the relevant highway authority and, unless otherwise agreed in writing with the relevant highway authority, that part of the highway including any culverts or other structures laid under it must be maintained by and at the expense of the relevant highway authority from its completion.

(**a**) Sections 55, 57, 60, 68 and 69 were amended by the Traffic Management Act 2004 (c. 18).

(3) In this article "relevant highway authority" means the highway authority in which the highway that is constructed, altered or diverted is situated.

Temporary closure of public rights of way

11.—(1) The undertaker may, in connection with the carrying out of the authorised development, temporarily close each of the public rights of way specified in column (1) of Part 2 (public rights of way to be temporarily closed or restricted) of Schedule 3 (traffic regulation) to the extent specified in column (2), by reference to the letters shown on the temporary closure of public rights of way plan.

(2) The public rights of way specified in Part 2 (public rights of way to be temporarily closed or restricted) of Schedule 3 may not be temporarily closed under this article unless a diversion for the closed section of that public right of way, is first provided by the undertaker to the standard defined in the public access management plan forming part of the code of construction practice to be approved in accordance with the requirements, to the reasonable satisfaction of the highway authority.

(3) The relevant diversion route provided under paragraph (2) will be subsequently maintained by the undertaker until the re-opening of the relevant right of way specified in paragraph (1).

(4) Any person who suffers loss by the suspension of any private 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.

Temporary restriction of use of streets

12.—(1) The undertaker, during and for the purposes of constructing or maintaining the authorised development, may temporarily close, restrict, alter or divert any street and may for any reasonable time—

(a) divert the traffic or a class of traffic from the street;

(b) authorise the use of motor vehicles on classes of highway where, notwithstanding the provisions of this article, there is otherwise no public right to use motor vehicles; and

(c) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limiting paragraph (1), the undertaker may use any street temporarily closed 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 closure, 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 close, restrict, alter or divert the streets specified in Schedule 3 (streets to be temporarily closed or restricted) to the extent specified in column (2), by reference to the numbers shown on the street works and access to works plan.

(5) The undertaker must not temporarily close, restrict, 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 private 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 56 days of receiving an application for consent under paragraph (6), that street authority is deemed to have granted consent.

Access to works

13.—(1) The undertaker may, for the purposes of the authorised development—

(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 4 (access to works); and

(b) with the approval of the relevant planning authority after consultation with the highway authority in accordance with requirement 10 (permanent 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 development.

(2) If the relevant planning authority fails to notify the undertaker of its decision within 56 days of receiving an application for approval under paragraph (1)(b) that relevant planning authority is deemed to have been granted.

Traffic regulation

14.—(1) Subject to the provisions of this article, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with, or in consequence of, the construction of the authorised development, temporarily—

(a) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;

(b) make provision as to the direction or priority of vehicular traffic on any road;

(c) place traffic signs and signals in the extents of the road specified in column (2) of Part 1 (streets to be temporarily closed or restricted), column (2) of Part 2 (public rights of way to be temporarily close or restricted) and column (3) of Part 3 (speed limits) of Schedule 3 (traffic regulation), and the placing of those traffic signs and signals is deemed to have been permitted by the traffic authority for the purposes of section 65 of the 1984 Act and the Traffic Signs Regulations and General Directions 2016(**a**).

(2) The undertaker must notify the chief officer of police and the traffic authority in whose area the road is situated of the intended date of commencement of development under this Order and the intended date of commencement of any works where the exception set out in paragraph (1) will apply not less than 14 days before such work are commenced.

(3) On and after the date notified by the undertaker in accordance with paragraph (4) no person is to drive any motor vehicle at a speed exceeding the limit specified in column (3) of Part 3 (speed limits) of Schedule 3 along the lengths of road identified in the corresponding row of column (2) of that Part. No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011(**b**) when in accordance with regulation 3(5) of those regulations.

(4) The undertaker must notify the chief officer of police and the traffic authority in whose area the road is situated of the date upon which paragraph (3) takes effect not less than 14 days before that date.

(5) Before exercising the power conferred by paragraph (1) the undertaker must—

(a) consult with the chief officer of police in whose area the road is situated;

(b) obtain the written consent of the traffic authority in whose area the road concerned is situated; and

(c) consult such persons as it considers necessary and appropriate and must take into consideration any representations made to it by any such person.

(**a**) S.I. 2016/362.
(**b**) S.I. 2011/935.

(6) Without limitation on the scope of paragraph (1), and subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the undertaker may, for the purposes of the authorised development revoke, amend or suspend in whole or in part any order not listed in Schedule 4 (access to works) made, or having effect as if made, under the 1984 Act, either at all times or at times, on days or during such periods as may be specified by the undertaker.

(7) The power conferred by paragraph (6) may be exercised at any time prior to the expiry of 12 months from the commencement of operation of the authorised development but subject to paragraph (9) any prohibition, restriction or other provision made under this article may have effect both before and after the expiry of that period.

(8) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (9).

(9) Unless otherwise stated, the undertaker must not exercise the powers conferred by this article unless it has—

(a) given to the chief officer of police and to the traffic authority in whose area the road is situated not less than—

(i) 12 weeks' notice in writing of its intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or

(ii) 4 weeks' notice in writing of its intention so to do in the case of a prohibition, restriction or other provision intended to have effect temporarily, and

(b) advertised its intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(i), or within 7 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(ii).

(10) Any prohibition, restriction or other provision made by the undertaker under this article—

(a) has effect as if duly made by, as the case may be—

(i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or

(ii) the local authority in whose area the road is situated, as an order under section 32 (power of local authorities to provide parking places) of the 1984 Act,

and the instrument by which it is effected may specify specific savings and exemptions to which the prohibition, restriction or other provision is subject; and

(b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(**a**).

(11) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by this article within a period of 24 months from the commencement of operation of the authorised development.

(12) In this article, expressions used in this article and in the 1984 Act have the same meaning.

(13) The powers conferred on the undertaker by this article with respect to any road have effect subject to any agreement entered into by the undertaker with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

(14) Save for any application made to National Highways, if the traffic authority fails to notify the undertaker of its decision within 56 days of receiving an application for consent under this article, the traffic authority is deemed to have granted consent.

Agreements with street authorities

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

(**a**) 2004 c. 18. There are amendments to this Act not relevant to this Order.

(a) any temporary closure, alteration or diversion of a street authorised by this Order; or

(b) the carrying out in the street of any works referred to in article 8 (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.

Power to alter layout etc. of streets

16.—(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 or 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 the street including any kerb, footway, cycle track or verge; and

(b) make and maintain passing place(s).

(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.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

17.—(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 development 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(**a**) (right to communicate with public sewers).

(3) The undertaker must not discharge any water into any watercourse or any 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

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

(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 beds or banks of, or construct any works in, under, over or within 8 metres of, any watercourse forming part of a main river as defined under section 113(1) of the Water Resources Act 1991, or within 16 metres of a tidally influenced main river without the prior written consent of the Environment Agency.

(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 any water discharge or groundwater activity for which an environmental permit is required by regulation 12 (requirement for an environmental permit) of the 2016 Regulations.

(8) In this article—

(a) "public sewer or drain" means a sewer or drain which either 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 2016 Regulations 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.

Protective works to buildings

18.—(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 which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

(a) at any time before or during the carrying out of any part of the authorised development in the vicinity of the building; or

(b) after the completion of that part of the authorised development 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 development is commissioned.

(3) For the purposes 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 purposes 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) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (5)(c) or (5)(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 41 (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 development carried out in the vicinity of the building is commissioned 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 development,

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 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 that 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.

(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 development; 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 development.

Authority to survey and investigate the land onshore

19.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or any land which may be affected by the authorised development and—

(a) survey or investigate the land;

(b) without prejudice to the generality of sub-paragraph (a), make trial holes or bore holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil and groundwater and remove soil and groundwater 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, bore holes or trenches.

(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 and 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, bore holes or trenches.

(4) No trial holes, bore holes or trenches may be made under this article—

(a) in land located within the highway boundary without the consent of the highway authority; or

(b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld or delayed.

(5) Following completion of any activities being undertaken pursuant to this article the undertaker must remove all apparatus placed on the land in connection with such activities as soon as practicable, and the land must be restored to its original condition.

(6) 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.

(7) 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)(a) in the case of a highway authority; or

(b) under paragraph (4)(b) in the case of a street authority;

that authority is deemed to have granted consent.

(8) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, 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.

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

20.—(1) The undertaker may acquire compulsorily so much of the Order land as is required to carry out the authorised development, or to facilitate it, or as is incidental to it.

(2) This article is subject to article 22 (time limit for exercise of authority to acquire land compulsorily), article 23(2) (compulsory acquisition of rights etc.), article 27 (acquisition of subsoil only), article 29 (rights under or over streets), article 30 (temporary use of land for carrying out the authorised development), article 31 (temporary use of land for maintaining the authorised development), (article 45 (Crown rights) and article 46 and Schedule 14 (protective provisions).

Compulsory acquisition of land: minerals

21. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981 are incorporated in this Order, subject to the following modifications—

(a) paragraph 8(3) is not incorporated;

(b) for "acquiring authority" substitute "undertaker"; and

(c) for "undertaking" substitute "authorised development".

Time limit for exercise of authority to acquire land compulsorily

22.—(1) The applicable period for the purposes of section 4 of the 1965 Act (time limit for giving notice to treat) and section 5A of the 1981 Act (time limit for general vesting declaration) is seven years beginning on the day on which this Order is made.

(2) No notice to treat is to be served under Part 1 (compulsory purchase under the Acquisition of Land Act of 1946) of the 1965 Act and no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 25 (application of the 1981 Act) after the end of the applicable period in relation to any part of the Order land, including any extension to the applicable period pursuant to those Acts.

(3) The authority conferred by article 30 (temporary use of land for carrying out the authorised development) must not be used after the end of the applicable period referred to in paragraph (1), save that if an application is made under section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent) the applicable period is to be extended by—

(a) a period equivalent to the period beginning on the day the application is made and ending on the day it is withdrawn or finally determined; or

(b) if shorter, one year.

(4) An application is not finally determined for the purposes of paragraph (3)(a) if an appeal in respect of the application—

(a) could be brought (ignoring any possibility of an appeal out of time with permission); or

(b) has been made and not withdrawn or finally determined.

(5) Nothing in paragraph (3) 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.

Compulsory acquisition of rights etc.

23.—(1) Subject to paragraph (2), the undertaker may acquire compulsorily such rights over the Order land or impose such restrictive covenants affecting the Order land as may be required for any purpose for which that land may be acquired under article 20 (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 35 (private rights) and article 43 (statutory undertakers), in the case of the Order land specified in column (1) of Schedule 5 (land in which only new rights etc., may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of existing rights over land and the creation and acquisition of the 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 not in notice to treat) as substituted by paragraph 5(8) of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights), where the undertaker creates a new interest or acquires an existing right over land or imposes a restrictive covenant under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights) 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 creation of a new right or the imposition of a restrictive covenant.

(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 and impose such restrictions 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.

(7) Subject to the modifications set out in Schedule 6 the enactments for the time being in force with respect to compensation for the compulsory purchase of land are to apply in the case of a compulsory acquisition under this Order in respect of a right by the creation of a new right or imposition of a restriction as they apply to the compulsory purchase of land and interests in land.

(8) Subject to article 45 (Crown rights), so much of the special category land as is required for the purposes of exercising the powers acquired by the undertaker pursuant to this article is discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconsistent with the exercise of those rights.

Private rights

24.—(1) Subject to the provisions of this article, all private rights and restrictions over land subject to compulsory acquisition under this Order are extinguished—

(a) as from the date of acquisition of the land by the undertaker, whether compulsorily, by agreement or through the grant of a 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 (power of entry),

whichever is earliest.

(2) Subject to the provisions of this article, all private rights and restrictions over land subject to compulsory acquisition of rights or the imposition of restrictions under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restriction—

(a) as from the date of the acquisition of the right or the imposition of the restriction by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of a 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 (powers of entry) in pursuance of the right,

whichever is the earliest.

(3) Subject to the provisions of this article, all private rights or restrictions 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) Subject to the provisions of this article, all private rights over any part of the Order land that is owned by, vested in or acquired by the undertaker are extinguished on commencement of any activity authorised by this Order which interferes with or breaches those rights and where the undertaker gives notice of such extinguishment.

(5) Any person who suffers loss by the extinguishment or suspension of any private right or restriction 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).

(6) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of right, and removal of apparatus, of statutory undertakers etc.) or article 32 (statutory undertakers) applies.

(7) 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 restrictions 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 or restriction specified in the notice; or

(b) any agreement made at any time between the undertaker and the person in or to whom the right or restriction in question is vested, belongs to or benefits.

(8) If an agreement referred to in paragraph (7)(b)—

(a) is made with a person in or to whom the right or restriction is vested, belongs or benefits; 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.

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

Application of the 1981 Act

25.—(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 any 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) In Section 5B(1) (extension of time limit during challenge) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)" substitute "section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)";"

(6) 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".

(7) 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)".

(8) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute—

"(2) But see article 27(1) (acquisition of subsoil only) of the North Falls Offshore Wind Farm Order 2026, which excludes the acquisition of subsoil only from this Schedule.".

(9) 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 (as modified by article 28 (modification of Part 1 of the 1965 Act) to the compulsory acquisition of land under this Order.

Statutory authority to override easements and other rights

26.—(1) The carrying out or use of the authorised development and the doing of anything else authorised by the Order is authorised for the purpose specified in section 158(2) (nuisance: statutory authority) of the 2008 Act, notwithstanding that it involves—

(a) an interference with an interest or right to which this article applies; or

(b) a breach of a restriction as to use of land arising by virtue of contract.

(2) The undertaker must pay compensation to any person whose land is injuriously affected by—

(a) an interference with an interest or right to which this article applies; or

(b) a breach of a restriction as to the use of land arising by virtue of contract,

authorised by virtue of this Order and the operation of section 158 (nuisance: statutory authority) of the 2008 Act.

(3) The interests and rights to which this article applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and any restrictions as to the use of land arising by virtue of a contract.

(4) Subsection (2) of section 10 (further provisions as to compensation for injurious affection) of the 1965 Act applies to paragraph (2) by virtue of section 152(5) of the 2008 act (compensation in case where no right to claim in nuisance).

(5) Any rule or principle applied to the construction of section 10 of the 1965 Act must be applied to construction of paragraph (2) (with any necessary modifications).

Acquisition of subsoil only

27.—(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 20 (compulsory acquisition of land) or article 23 (compulsory acquisition of rights etc.) 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 the subsoil only—

(a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) of the 1965 Act as modified by Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights);

(b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and

(c) Section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

(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 factory.

Modification of Part 1 of the 1965 Act

28.—(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.

(2) In Section 4A(1) (extension of time limit during challenge), for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)" substitute, "section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)".

(3) In Section 11A (powers of entry: further notices of entry)—

(a) in subsection (1)(a), after "land" insert "under that provision"; and

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

(4) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

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

"(2) But see article 27(3) (acquisition of subsoil only) of the North Falls Offshore Wind Farm Order 2026, which excludes the acquisition of subsoil only from this Schedule."; and

(b) at the end insert—

"PART 4

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 18 (protective works to buildings), article 19 (authority to

survey and investigate the land onshore), article 30 (temporary use of land for carrying out the authorised development) or article 31 (temporary use of land for maintaining the authorised development) of the North Falls Offshore Wind Farm Order 2026.".

Rights under or over streets

29.—(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 development and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised development.

(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 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out the authorised development

30.—(1) The undertaker may, in connection with the carrying out of the authorised development, but subject to article 22 (time limit for exercise of authority to acquire land compulsorily)—

(a) enter on or take temporary possession of—

(i) the land specified in columns (1) of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (2) of that Schedule relating to the part of the authorised development specified 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 the land;

(c) construct temporary works (including the provision of means of access and footpaths), haul roads, security fencing, bridges, services, signage, 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 development;

(e) construct any works, or use the land, as specified in relation to that land in column (3) of Schedule 7 (land of which temporary possession may be taken), or any mitigation works in connection with the authorised development;

(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 Part 3 of Schedule 1 (requirements).

(2) 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 and explain the purpose for which entry is taken in respect of land specified under paragraph (1)(a)(ii)

(3) The undertaker must not remain in possession of the land under this article for longer than is reasonably necessary and in any event, without the agreement of the owners of the land, remain in possession of any land under this article—

(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 development specified in relation to that land in column (3) of Schedule 7; 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 development 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 a 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 or otherwise agreed with the owners of the land, 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 and public rights of way subject to street works) or any new footpath surface or other enhancements carried out under this article to any footpath or any improvements carried out under this article to any bridge;

(d) remove any fencing or boundary treatments installed by the undertaker under this article to replace or enhance existing fencing or boundary treatments; or

(e) 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 of 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 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 development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this article 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 the land listed under article 23 (compulsory acquisition of rights etc.) to the extent that such land is listed in column (1) of Schedule 5 (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 27 (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 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent 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).

(11) Nothing in this article prevents the taking of temporary possession more than once in relation to any land specified in Schedule 7.

(12) Subject to article 45 (Crown rights), so much of the special category land as is required for the purposes of exercising the powers pursuant to this article is temporarily discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconstant with the exercise of those powers, and only for such time as any special category land is being used under this article.

Temporary use of land for maintaining the authorised development

31.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

(a) enter on or take temporary possession of any of the Order land if such possession is reasonably required for the purpose of maintaining the authorised development;

(b) enter on any of the Order land for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and

(c) 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 development 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 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 development, 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 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent 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).

(11) In this article "the maintenance period", in relation to any part of the authorised development means the period of five years beginning with the date on which the authorised development is brought into commercial operation.

(12) So much of the special category land as if required for the purposes or exercising the powers pursuant to this article is temporarily discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconsistent with the exercise of those powers, and only for such time as any special category land is being used under this article.

Statutory undertakers

32. Subject to the provisions of Schedule 14 (protective provisions) the undertaker may—

(a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plans (onshore) within the Order land and described in the book of reference; and

(b) extinguish or suspend the rights of, or restrictions for the benefit of, or remove, relocate or reposition the apparatus belonging to statutory undertakers over or within the Order land.

Recovery of costs of new connections

33.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 32 (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 supply is given.

(2) Paragraph (1) does not apply in the case of removal of a public sewer but where such a sewer is removed under article 32 (statutory undertakers), any person who is—

(a) the owner or occupier of the premises the drains of which communicated with that sewer; or

(b) 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 sewerage 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 2003 Act; and

"public utility undertaker" means a gas, water, electricity or sewerage undertaker.

PART 6

OPERATIONS

Operation of a generating station

34.—(1) The undertaker is authorised to use and operate the authorised development for which development consent is granted by this Order.

(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 the authorised development.

Deemed marine licences under the 2009 Act

35. The deemed marine licences set out in Schedule 8 (deemed marine licence under the 2009 Act – generation assets), Schedule 9 (deemed marine licence under the 2009 Act – transmission assets) and Schedule 10 (deemed marine licence under the 2009 Act – transmission assets – offshore converter platform) respectively, are deemed to be granted to the undertaker under Part 4 (marine licences) of the 2009 Act for the licenced marine activities set out in Part 1, and subject to the conditions set out in Part 2, of each of those Schedules.

PART 7

MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

36.—(1) This article applies to—

(a) any agreement for leasing to any person the whole or any part of the authorised development 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 development, 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.

(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 and 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 least of any obligation of any other party under the lease.

Operational land for the purposes of the 1990 Act

37. 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).

Felling or lopping of trees and removal of hedgerows

38.—(1) Subject to paragraph (3) and article 39 (trees subject to tree preservation orders), the undertaker may fell or lop or cut back the roots of any tree or shrub within or encroaching upon land within the Order limits, if the undertaker reasonably believes it to be necessary to do so to prevent the tree or shrub—

(a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or

(b) from constituting a danger to persons within the authorised development.

(2) Without limitation to the scope of paragraph (1) the undertaker may, for the purpose of the authorised project—

(a) remove the hedgerows specified in Schedule 11, Part 1 (removal of hedgerows) to the extent and for the purpose specified; and

(b) remove the important hedgerows within the Order limits and specified in Schedule 11, Part 2 (removal of important hedgerows) to the extent and for the purpose specified.

(3) In carrying out any activity authorised by paragraph (1) or (2), the undertaker must—

(a) do no unnecessary damage to any tree or shrub; and

(b) pay compensation to any person for any loss or damage arising from such activity.

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

(5) In this article "hedgerow" and "important hedgerow" have the same meaning as in the Hedgerow Regulations 1997(**a**).

Trees subject to tree preservation orders

39.—(1) The undertaker may fell or lop or cut back the roots of any tree within or overhanging land within the Order limits subject to a tree preservation order, if it reasonably believes it to be necessary to do so in order to prevent the tree from obstructing or interfering with construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development.

(2) In carrying out any activity authorised by paragraph (1)—

(a) the undertaker must do no unnecessary damage to any tree and must 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 does not apply.

(3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, will be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) In this article, "tree preservation order" has the same meaning as in section 198 (power to make tree preservation orders) of the 1990 Act.

Certification of plans and documents, etc.

40.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of all of the documents listed in Schedule 12 (documents to be certified) for certification that they are true copies of the documents referred to in this Order.

(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**) S.I. 1997/1160.

(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 this Order as made,

the reference in the plan or document concerned must be construed for the purpose of this Order as referring to the provision (if any) corresponding to that provision in this Order as made.

Arbitration

41.—(1) Subject to article 44 (saving provisions for Trinity House), any difference under any provision of this Order, unless otherwise provided for, must 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 will not be subject to arbitration.

Requirements, appeals, etc.

42. Part 4 of Schedule 1 (procedure for discharge of requirements) has effect.

Abatement of works abandoned or decayed

43. Where any of the offshore works 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, issue a written notice requiring 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 or any relevant part of them and, without prejudice to any notice served under section 105(2) of the 2004 Act, restore the site to a safe and proper condition, to such an extent and within such limits as may be specified in the notice.

Saving provisions for Trinity House

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

Crown rights

45.—(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 lessee or 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 His 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 His 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 His 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.

Protective provisions

46. Schedule 14 (protective provisions) has effect.

Funding

47.—(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any Order land unless it has first put in place in relation to that land 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 pursuant to the provisions referred to in paragraph (2); 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 pursuant to the provisions referred to in paragraph (2).

(2) The provisions are—

(a) article 20 (compulsory acquisition of land);

(b) article 23 (compulsory acquisition of rights etc.);

(c) article 24 (private rights);

(d) article 27 (acquisition of subsoil only);

(e) article 29 (rights under or over streets);

(f) article 30 (temporary use of land for carrying out the authorised development);

(g) article 31 (temporary use of land for maintaining the authorised development); and

(h) article 32 (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.

No double recovery

48. Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or rule of law, or under two or more different provisions of this Order.

Service of notices

49.—(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 (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—

(a) in the case of the secretary or 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 the 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) the notice or document is 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 will 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.

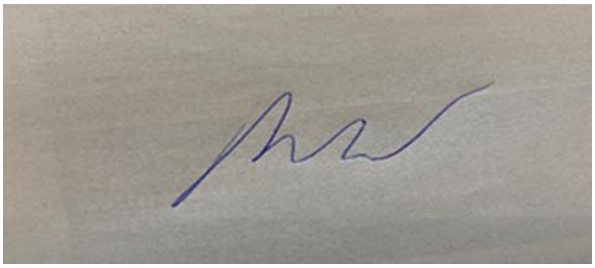
(9) This article does not exclude the employment of any method of service not expressly provided for by it.

(10) In this article "legible in all material respects" means that the information contained in the notice of 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.

Compensation provisions

50. Schedule 15 (compensation to protect the coherence of the national site network) has effect.

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



David Wagstaff OBE
Deputy Director for Energy Infrastructure Planning
Department for Energy Security and Net Zero

14/05/2026

SCHEDULES

SCHEDULE 1

Article 2

AUTHORISED DEVELOPMENT

PART 1

AUTHORISED DEVELOPMENT

A nationally significant infrastructure project as defined in sections 14 (nationally significant infrastructure projects: general) and 15 (generating stations) of the 2008 Act which is located in the Southern North Sea approximately 40 kilometres from the East Anglian coast at its nearest point, comprising—

Work No. 1—

(a) an offshore wind turbine generating station with a gross electrical output capacity of over 100 megawatts comprising up to 57 wind turbine generators each fixed to the seabed by one of the following foundation types: monopile, mono suction bucket, multi-leg pin pile jacket or multi-leg suction bucket jacket; and

(b) 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) of the 2008 Act comprising—

Work No. 2—

(a) up to two offshore substation platforms each fixed to the seabed by one of the following foundation types: monopile, multi-leg pin pile jacket or a multi-leg suction bucket jacket and a platform interconnector cable including one or more cable crossings; and

(b) up to one offshore converter platform fixed to the seabed by one of the following foundation types: monopile, multi-leg pin pile jacket or a multi-leg suction bucket jacket.

Work No. 3—up to two cable circuits between Work No. 2 and Work No. 4A, including one or more cable crossings;

Work No. 4A—up to two cable circuits and associated ducting between Work No. 3 and Work No. 4B including up to three drilling exit pits for trenchless installation techniques, one or more cable crossings and a temporary work area for vessels to carry out anchoring and positioning.

Between MHWS and MLWS and in the County of Essex and District of Tendring

Work No. 4B—landfall connection works comprising up to two cable circuits and associated ducting between Work No. 4A and Work No. 4C, including trenchless installation technique works.

In the County of Essex and the District of Tendring

Work No. 4C—onshore connection works comprising up to two cable circuits and associated ducting between Work No. 4B and Work No. 4D.

Work No. 4D—onshore connection works comprising—

(a) up to two cable circuits and associated ducting connecting Work No. 4C and Work No. 6;

(b) up to three drilling entry pits for trenchless installation techniques;

(c) up to two transition joint bays;

(d) working areas and laydown areas and means of access.

Work No. 5—temporary compound including temporary working areas and laydown areas.

Work No. 6—onshore connection works comprising—

Work No. 6A—

(a) up to two cable circuits and associated ducting between Work No. 4D and Work No. 12 including working areas and laydown areas and means of access; or

(b) up to two cable circuits to be pulled through existing ducts between Work No. 4D and Work No. 12 including working areas and laydown areas and means of access; and

Work No. 6B—cable ducting for two additional cable circuits for later installation of additional electrical connections between Work No. 4D and Work No. 12 including working areas and laydown areas and means of access.

Work No. 7—temporary compounds including temporary working areas and laydown areas and means of access.

Work No.8—temporary means of access including creation and improvement of accesses and visibility splays and vegetation clearance.

Work No. 9—works to permanently widen and improve the junction between Bentley Road and the A120 and to permanently widen and improve Bentley Road from A120 to Works No. 6, including temporary provision of area for non-motorised user access.

Work No. 10—permanent means of access including creation and improvement of accesses and visibility splays and vegetation clearance.

Work No. 11—an onshore substation including platform or foundations, electrical equipment including switch gear, power transformers, reactive compensation equipment, filters, cooling equipment, control and welfare buildings, lightning rods, internal roads, security fencing and other associated equipment, structures and buildings including noise-attenuation works and permanent security fencing and security gate.

Work No. 12—onshore substation compound including—

Work No. 12A—

(a) up to two cable circuits and associated ducting between Work No. 6 and Work No. 14 including working areas and laydown areas and means of access;

(b) up to two cable circuits to be pulled through existing ducts between Work No. 6 and Work No. 14 including working areas and laydown areas and means of access;

(c) land re-profiling, groundworks and creation of platforms and foundations;

(d) landscaping;

(e) drainage works including connections to existing drainage and creation of new sustainable drainage including attenuation pond(s);

(f) temporary and permanent means of access including creation and improvement of accesses and visibility splays and vegetation clearance;

(g) temporary compounds including working areas and laydown areas; and

(h) temporary and permanent ecological and environmental mitigation works including habitat creation.

Work No. 12B—cable ducting for two additional cable circuits for later installation of additional electrical connections between Work No. 6 and Work No. 14.

Works No. 13—Groundworks, drainage works, outfall and planting including working areas and laydown areas and means of access.

Work No. 14—Electrical works to connect to a National Grid substation including—

(a) works needed to connect the authorised development to the new National Grid substation including but not limited to cabling, cable sealing ends, circuit breakers, surge arrestors, dis-connectors, transformers, busbars and busbar clamp measuring equipment, relay marshalling rooms and electrical earthing works;

(b) connection works comprising up to two buried 400kV cable circuits and associated ducting between Work No. 12 and the National Grid substation including electrical engineering works within and around the National Grid substation buildings and compound;

(c) temporary and permanent means of access including creation and improvement of accesses and visibility splays and vegetation clearance;

(d) temporary compounds including working areas and laydown areas.

In connection with Work Nos. 1, 2, 3 and 4A, 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—

(i) scour protection around the foundations of the offshore structures;

(ii) cable protection measures such as rock placement and the placement of rock and/or concrete mattresses, with or without frond devices;

(iii) dredging;

(iv) the removal of material from the seabed required for the construction of Work Nos. 1, 2, 3 and 4A and the disposal of inert material of natural origin and/or dredged material within the Order limits produced during construction drilling, seabed preparation for the installation of the foundations of the offshore structures, during seabed preparation for cable laying, and excavation of drilling pits for trenchless installation techniques;

(v) creation and use of temporary vessel laydown areas, use of cable anchors and buoys;

(vi) removal of static fishing equipment; and

(vii) lighting,

and in connection with such Work Nos. 4B, 4C, 4D, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 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—

(i) haul roads, ramps, watercourse and other temporary crossings, means of access and other vehicular and/or pedestrian means of access, including creation of new tracks and footpaths, and/or widening, upgrades, alterations and improvements of existing roads, tracks and footpaths;

(ii) bunds, embankments, swales, landscaping, signage, fencing and boundary treatments and alteration of groynes;

(iii) provision of temporary and permanent ecological and environmental mitigation, enhancement and compensation works;

(iv) spoil storage and associated control measures;

(v) jointing bays, link boxes, cable ducts, works for trenchless installation technique crossings, cable protection, joint protection, manholes, marker posts, underground cable markers, tiles and tape, and lighting and other works associated with laying cables and/or pulling cables through cable ducts;

(vi) works for the provision of apparatus including cabling, water and electricity supply works, foul drainage provision, surface water management systems, temporary drainage during installations of cables and culverting;

(vii) works to alter the position of apparatus, including mains, sewers, drains and cables;

(viii) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;

(ix) landscaping works and habitat creation including installation of bird and bat boxes, creation of hibernacula and reinforcement of existing planting to provide habitat;

(x) works for the benefit or protection of land affected by the authorised development;

(xi) working sites in connection with the carrying out of the authorised development, lay down areas and compounds and storage compounds;

(xii) works of restoration;

(xiii) fencing or other means of enclosure; and

(xiv) such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development.

PART 2

ANCILLARY WORKS

Works within the Order limits which fall within the scope of the work assessed by the environmental statement comprising—

(a) intrusive ground investigations including the making of bore holes and trial pits;

(b) temporary landing places, moorings or other means of accommodating vessels in the construction, maintenance and/or decommissioning of the authorised development;

(c) marking buoys, beacons, fenders and other navigational warning or ship impact protection works; and

(d) temporary works for the benefit or protection of land, watercourses or structures affected by the authorised development.

PART 3

REQUIREMENTS

Time limits

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

Offshore design parameters

2.—(1) The wind turbine generators to be constructed or operated within Work No.1 of the authorised development must be located within the area delineated by the co-ordinates in the following table and shown on sheet 3a of the offshore order limits and boundary co-ordinates plan—

(1) *Point*	*(2)* *Latitude*	*(3)* *Longitude*
36	51° 46.18399’N	01° 51.52207’E
37	51° 46.45215’N	01° 51.46739’E
38	51° 47.79417’N	01° 56.0602’E
39	51° 45.96006’N	01° 54.98406’E
40	51° 44.20008’N	01° 56.16270’E
41	51° 43.43466’N	01° 58.08954’E

42	51° 44.92260'N	02° 02.79174'E
43	51° 44.20590'N	02° 02.65992'E
44	51° 44.16756'N	02° 02.36766'E
45	51° 43.89822'N	02° 01.62702'E
46	51° 43.70418'N	02° 01.18500'E
47	51° 43.46172'N	02° 00.54066'E
48	51° 42.90816'N	01° 59.73738'E
49	51° 42.25464'N	01° 58.18482'E
50	51° 41.80842'N	01° 58.22082'E
51	51° 38.66118'N	01° 54.67986'E
52	51° 37.76189'N	01° 52.32853'E
53	51° 39.03140'N	01° 52.10085'E
54	51° 40.08359'N	01° 52.71647'E
55	51° 40.32461'N	01° 52.55921'E
56	51° 40.41888'N	01° 52.66356'E
57	51° 40.36970'N	01° 52.53295'E
58	51° 40.36967'N	01° 52.52982'E
59	51° 40.80925'N	01° 52.24298'E
60	51° 41.18441'N	01° 51.71421'E
61	51° 41.78502'N	01° 51.60623'E
62	51° 45.61162'N	01° 51.61163'E

(2) The offshore works must be constructed in accordance with the parameters set out in the following table—

(1) *Parameter*	*(2)* *Value*
Maximum number of wind turbine generators	57
Maximum total rotor swept area (m^2)	3,032,694.06
Maximum height of wind turbine generators when measured from MHWS to the tip of the vertical blade (m)	377.39
Maximum rotor diameter of each wind turbine generator (m)	337
Minimum distance from MHWS to the lowest point of the rotating blade for each wind turbine generator (m)	27
Minimum distance between wind turbine generators (downwind) measured from the centre point of each wind turbine generator) (m)	1180
Minimum distance between wind turbine generators (crosswind) measured from the centre point of each wind turbine generator) (m)	944
Maximum pile diameter of single pile structures (m)	17
Maximum pile diameter of two or more pile structures for wind turbine generator (m)	6
Maximum pile diameter of two or more pile structures for offshore platform (m)	3.5
Maximum total seabed footprint for installed wind turbine generators (excluding scour protection) (m^2)	94,729
Maximum total seabed footprint for installed	2,709,162

wind turbine generators (including scour protection) (m^2)	
Maximum total scour protection volume for wind turbine generator foundations (m^3)	4,882,186
Maximum total length of inter-array cables (km)	170
Maximum inter-array cable protection area (m^2)	204,000
Maximum inter-array cable protection volume (m^3)	119,000
Maximum dimensions of offshore substation platforms:	
Height when measured from MHWS (m) (including cranes and helideck)	61.68
Length (m)	60
Topside area (m^2)	2,400
Maximum dimensions of offshore converter platform:	
Height when measured from MHWS (m) (including cranes and helideck)	111.62
Length (m)	130
Topside area (m^2)	10,400
Maximum total seabed footprint for two offshore substation platforms:	
(excluding scour protection) (m^2)	5890
(including scour protection) (m^2)	166,715
scour protection volume (m^3)	50,316
Maximum total length of export cables (km)	125.4
Maximum export cables cable protection area (m^2)	75,240
Maximum export cables cable protection volume (m^3)	43,890
Maximum total length of platform interconnector cable (km)	20
Maximum platform interconnector cable protection area (m^2)	24,000
Maximum platform interconnector cable protection volume (m^3)	14,000

(3) Any part of the authorised development located within the following areas shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan, must be designed, installed, operated and maintained at a level which would not preclude or impede dredging:

(a) of the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer, to a level of 22 metres below Chart Datum;

(b) of the area shown shaded in pink and labelled Trinity – Trinity DW Buffer, to a level of 22 metres below Chart Datum;

(c) of the area shown shaded in green and labelled Sunk B – Sunk DW Buffer, to a level of 19 metres below Chart Datum; and

(d) of the area shown shaded in blue and labelled Sunk Pilotage Area – Sunk Pilot Diamond Buffer, to a level of 22 metres below Chart Datum.

Aviation safety

3.—(1) The undertaker must exhibit such lights, with such shape, colour and character and at such times as are required by Air Navigation Order 2016 (with any reference to the territorial sea being read as a reference to the Renewable Energy Zone established under section 84 of the 2004

Act) and/or determined necessary for aviation safety as directed in writing by the Civil Aviation Authority, in consultation with the Defence Infrastructure Organisation Safeguarding.. Lighting installed specifically to meet Ministry of Defence aviation safety requirements must remain operational for the life of the authorised development unless otherwise agreed with the Ministry of Defence.

(2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, at least 14 days prior to the commencement of the offshore works, of the following—

(a) the date of the commencement of construction of the offshore works;

(b) the date any wind turbine generators are intended to be brought into use;

(c) the maximum height of any construction equipment to be used;

(d) the maximum heights of any wind turbine generator, meteorological mast and offshore substation platforms and/or offshore converter platform to be constructed;

(e) the latitude and longitude of each wind turbine generator, meteorological mast and offshore substation platforms and/or offshore converter platform to be constructed; and

(f) 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 offshore works.

(3) The lights installed in accordance with sub-paragraph (1) will be operated at the lowest permissible lighting intensity level.

Stages of authorised development onshore

4.—(1) The onshore works must not be commenced until notification has been submitted to the discharging authority detailing whether the onshore works will be constructed—

(a) in a single stage; or

(b) in two or more stages.

(2) The onshore works may not be commenced until written details of the stages of the onshore works have been submitted to the discharging authority.

(3) The construction of the onshore works must follow the written details provided under sub-paragraph (2) of this requirement.

Substation works

5.—(1) Construction of Work No. 11 (onshore substation) must not commence until written details of that Work have been submitted to and approved by the discharging authority, and the written details submitted must include—

(a) the layout;

(b) scale;

(c) proposed finished ground levels;

(d) external hard surfacing materials;

(e) the dimensions, external colour and materials used for the buildings;

(f) security fencing, height, colour and materials;

(g) vehicular and pedestrian access, parking and circulation areas;

(h) operational external lighting; and

(i) proposed and existing functional services above and below ground, including drainage, surface water drainage, power and communications cables and pipelines, manholes and supports.

(2) The written details submitted under sub-paragraph (1) of this requirement must be in accordance with requirement 6 (detailed design parameters onshore) and in accordance with the design vision including the design and consultation process set out in sections 1.4 and 1.5 thereof

and any design guide. The design review process must accord with sub-paragraph (3) of this requirement.

(3) The details submitted under sub-paragraph (1) of this requirement must not be submitted to the discharging authority for approval until an independent design review panel has reviewed the details and made any written recommendations to the undertaker about those details. Any recommendations received by the undertaker from the independent design review panel must accompany the details submitted to the discharging authority for approval under sub-paragraph (1) of this requirement.

(4) Work No. 11 must be carried out in accordance with the approved written details.

Detailed design parameters onshore

6.—(1) The onshore works must not exceed the parameters set out in the following table and sub-paragraph (2)—

(1) *Parameter*	*(2)* *Value*
Maximum number of landfall transition joint bays	2

(2) In relation to Work No. 11 (onshore substation)—

(a) the highest part of any building, any external electrical equipment or enclosure, excluding lightning rods, must not exceed a height of 13m above Ordnance Datum;

(b) the total area of the fenced compound (excluding its accesses) must not exceed 58,800m^2; and

(c) the lightning rods within the fenced compound must not exceed a height of 18m above Ordnance Datum.

Provision of landscaping

7.—(1) Work No. 11 must not commence until a written landscaping scheme and associated work programme in accordance with the outline landscape and ecological management strategy for Work No. 11 has been submitted to and approved by the discharging authority in consultation with the relevant SNCB.

(2) The written landscaping scheme must include details of all proposed hard and soft landscaping works including—

(a) location, number, species, size and planting density of any proposed planting including any trees; and

(b) implementation timetables for all landscaping works within Work No. 11.

(3) The landscaping must be carried out in accordance with the approved written landscaping scheme.

Code of construction practice

8.—(1) No stage of the onshore works may commence until a code of construction practice (which must accord with the outline code of construction practice) for that stage has been submitted to and approved by the discharging authority in consultation with the relevant SNCB and the Environment Agency.

(2) The onshore works must be constructed in accordance with the approved code of construction practice.

Construction traffic management plan

9.—(1) No stage of the onshore works may commence until for that stage a construction traffic management plan (which must accord with the outline construction traffic management plan) for that stage has been submitted to and approved by the discharging authority in consultation with National Highways.

(2) The onshore works must be carried out in accordance with the approved construction traffic management plan.

Permanent highway accesses

10.—(1) No new permanent means of access to a highway to be used by vehicular traffic, or any permanent alteration to an existing means of access to a highway used by vehicular traffic may be formed until written details of the design, layout and siting of that new or altered access have been submitted to and approved by the discharging authority in consultation with the relevant highway authority.

(2) The highway accesses must be constructed in accordance with the approved written details.

Onshore archaeology

11.—(1) Geoarchaeological and archaeological evaluation and mitigation must be carried out in accordance with the archaeological mitigation strategy.

(2) No stage of the onshore works may commence until, for that stage, an archaeological written scheme(s) of investigation in accordance with the onshore outline written scheme(s) of investigation as appropriate for the relevant stage has been submitted to and approved by the discharging authority in consultation with Historic England.

(3) The onshore works must be carried out in accordance with the written scheme(s) of investigation as applicable in each stage as approved under sub-paragraph (2).

(4) Intrusive onshore site preparation works must not take place until an archaeological or geoarchaeological written scheme(s) of investigation, as appropriate, in accordance with the outline written scheme(s) of investigation has been submitted to and approved by the discharging authority in consultation with Historic England. The archaeological or geoarchaeological written scheme(s) of investigation required under this sub-paragraph must be implemented as approved.

(5) The archaeological post investigation assessment must be completed in accordance with the programme set out in the archaeological mitigation strategy and any relevant written scheme of investigation, and provision made for analysis, publication, and dissemination of results and archive deposition.

(6) For the purposes of this requirement "intrusive" in relation to onshore site preparation works means works within the onshore Order limits that require the breaking of the surface of the land.

Ecological management plan

12.—(1) No stage of the onshore works may commence until for that stage an ecological management plan in accordance with the outline landscape and ecological management strategy as appropriate for the relevant stage, has been submitted to and approved by the discharging authority in consultation with the relevant SNCB and the Environment Agency.

(2) The ecological management plan(s) submitted under sub-paragraph (1) must include an implementation timetable and must be implemented as approved.

(3) Onshore site preparation works must only take place in accordance with the relevant details set out in the outline landscape and ecology management strategy as certified in accordance with article 41 (certification of plans and documents, etc).

Soil management plan

13.—(1) No stage of the onshore works may commence until for that stage a soil management plan in accordance with the measures set out in the code of construction practice as appropriate for the relevant stage, has been submitted to and approved by the discharging authority in consultation with the relevant SNCB.

(2) The onshore works must be carried out in accordance with the approved soil management plan(s).

European protected species: onshore

14.—(1) No stage of the onshore works other than surveying and investigation necessary to comply with this requirement may commence until, for that stage, 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 any part of that stage of the onshore works.

(2) Where a European protected species is shown to be present, the relevant stage of the onshore works likely to affect the species must not commence until a scheme of protection and mitigation measures for that stage has been submitted to and approved by the discharging authority or a European protected species licence is granted by the relevant SNCB.

(3) Each stage of the onshore works which requires a scheme of protection and mitigation measures in accordance with sub-paragraph (2) of this requirement must be carried out in accordance with the approved scheme as applicable in each stage.

(4) In this paragraph, "European protected species" has the same meaning as in regulations 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017.

Groundwater monitoring

15.—(1) No stage of the onshore works for which a groundwater monitoring plan is required in accordance with the "groundwater risk assessment and monitoring plan – private water supplies and licenced abstractions", must be commenced until, for that stage, a groundwater monitoring plan produced in accordance with the Groundwater Risk Assessment and Monitoring Plan – Private Water Supplies and Licenced Abstractions (certified in accordance with article 40) has been submitted to and approved by the discharging authority in consultation with the Environment Agency.

(2) Sub-paragraph (1) does not apply to any works or surveying and investigation necessary to inform the preparation of a groundwater monitoring plan.

(3) Any plan approved under sub-paragraph (1) must be implemented as approved.

Restoration of land used temporarily for construction

16. Unless provided for in requirement 20, any land landward of MLWS within the Order limits which is used temporarily for construction of the onshore works and not ultimately incorporated in permanent works or approved landscaping must be reinstated within twelve months of completion of the relevant stage of the onshore works

Control of noise during operational stage

17.—(1) The noise rating level for the standard operation of Work No. 11 (the onshore electrical substation) must not exceed—

(a) 33dB $L_{Ar,Tr}$ at any time at a free field location immediately adjacent to the following noise sensitive locations—

(i) Normans Farm (grid reference 608446 228492);

(ii) Mulberry Lodge (grid reference 608753 228577);

(iii) Jubilee Villa (grid reference 609061 228932); and

(b) 32dB $L_{Ar,Tr}$ at any time at a free field location immediately adjacent to Hollylodge Farm (grid reference 609483 229368); and

(c) 31dB $L_{Ar,Tr}$ at any time at a free field location immediately adjacent to Grange Farm (grid reference 608681 230164).

(2) Prior to the commencement of operation of Work No. 11, a noise investigation protocol must be submitted to and approved by the discharging authority. The protocol must set out a process for the investigation of cumulative operational noise from the proposed National Grid substation and the Five Estuaries substation as and when one or both becomes operational.

(3) The determination of $L_{Ar,Tr}$ must be in accordance with BS 4142:2014+A1:2019. The reference method set out in Annex D to BS 4142:2014+A1:2019 (or any successor thereto) must be used in the assessment of whether tonal penalties apply. The noise investigation protocol must identify—

(a) the required meteorological and other conditions under which the measurements will be taken, acknowledging that data obtained during emergency operation or testing of certain plant and equipment is not to be taken into account, and

(b) suitable monitoring locations (and alternative locations if appropriate).

(4) Within 12 months of commencement of operation of Work No. 11, the undertaker must carry out noise evaluations at the noise sensitive locations listed in sub-paragraphs (1)(a), (1)(b) and (1)(c) and submit the results to the relevant discharging authority. If the noise rating levels are found to be exceeded, the undertaker must provide details of further noise monitoring and mitigation to be agreed in writing by the relevant discharging authority.

(5) For the purposes of this requirement "standard operation" means the ordinary operation of the substations excluding emergency operation and the testing of plant and equipment associated with emergency operation.

Skills and Employment Plan

18.—(1) No stage of the authorised development may commence until a skills and employment plan, in accordance with the outline skills and employment plan has been submitted to and approved by the discharging authority, after consultation with Suffolk County Council.

(2) The skills and employment plan must be implemented as approved.

Onshore build options

19.—(1) Subject to sub-paragraph (2), the undertaker may commence onshore works or exercise powers of compulsory acquisition under Part 5 of this Order, in relation to only either—

(a) build option 1; or

(b) build option 2.

(2) Other than Work No. 9, the onshore works must not commence, nor powers of compulsory acquisition under Part 5 of this Order be exercised, until notification has been submitted to the discharging authority as to whether the undertaker intends to commence build option 1 or build option 2. The undertaker may commence or exercise powers of compulsory acquisition under Part 5 of this Order in relation only to either build option 1 or build option 2.

Reuse of temporary works with the onshore works for Five Estuaries

20.—(1) In the event that any temporary works which have been constructed pursuant to the Five Estuaries development consent order are proposed to be reused by the undertaker in connection with the authorised development, such reuse must not be commenced until a written scheme which accords with sub-paragraph (2) has been submitted to and approved by the discharging authority.

(2) The written scheme to be submitted for approval under sub-paragraph (1) must include details of the temporary works to be reused and a timetable for their reuse, restoration or reinstatement. The written scheme must be implemented as approved.

(3) Where in the event that any temporary works which have been constructed pursuant to this Order are to be subsequently used for the purposes of construction of Five Estuaries, the undertaker will not be required to maintain, restore or reinstate any such temporary works.

Biodiversity net gain

21.—(1) Work No. 11 and Work No. 12 must not be commenced until a biodiversity net gain assessment report (which must accord with the approach outlined in the biodiversity net gain strategy) in relation to that stage has been submitted to and approved by the discharging authority in consultation with the relevant SNCB.

(2) The biodiversity net gain assessment report must be implemented as approved.
Operational Drainage Strategy

22.—(1) No part of Work No. 11 or Work No. 12 may commence until an operational drainage strategy for operation of that part has been submitted to and approved by the discharging authority in consultation with the Environment Agency.

(2) The operational drainage strategy must be in accordance with the outline operational drainage strategy.

(3) The operational drainage strategy must be implemented as approved.

Horizontal directional drilling method statement

23.—(1) No part of Work Nos. 4B, 4C, 4D, 6 or 12 may commence until a horizontal directional drill method statement and contingency plan for that part has been submitted to and approved by the discharging authority in consultation with the relevant SNCB and the Environment Agency.

(2) The horizontal directional drill method statement and contingency plan must accord with the principles set out in the outline horizontal directional drill method statement and contingency plan.

Public rights of way

24.—(1) No stage of the onshore works may commence until a public rights of way management plan for any sections of public rights of way shown to be temporarily closed on the streets plan, access to works plan and public rights of way plan for that stage has been submitted to and approved by the discharging authority.

(2) The public rights of way management plan must be in accordance with the outline public rights of way management plan.

(3) The public rights of way management plan must be implemented as approved.

Offshore decommissioning

25.—(1) The offshore works must not be commenced until a written decommissioning programme in compliance with any notice served upon the undertaker by the Secretary of State pursuant to section 105(2) (requirement to prepare decommissioning programmes) of the 2004 Act has been submitted to the Secretary of State for approval.

(2) The undertaker must provide a copy of the written decommissioning programme submitted to the Secretary of State for approval under sub-paragraph (1) to the MMO.

Onshore decommissioning

26.—(1) A written scheme of decommissioning for the onshore works must be submitted to and approved by the discharging authority at least six months prior to any decommissioning works commencing.

(2) The written scheme of decommissioning for the onshore works must include a code of construction practice and the approved scheme must be implemented as approved in the carrying out of any decommissioning works or relevant part of it.

Requirement for written approval

27. Where under any of the above requirements the approval or agreement of the Secretary of State, the discharging authority or another person is required, that approval or agreement must be given in writing.

Amendments to approved details

28. With respect to any requirement which requires the authorised development to be carried out in accordance with the written details, plan, strategy, scheme or other document approved under this Schedule, the approved written details, plan, strategy, scheme or other document are taken to include any amendments that may subsequently be approved or agreed by the Secretary of State, the discharging authority or another person.

Obstacle free zone for navigational safety

29.—(1) Unless otherwise agreed with the MCA, no wind turbine generator or offshore platform shall be installed within the area defined by the coordinates as specified in the table in sub-paragraph (3).

(2) If agreement with the MCA is obtained pursuant to sub-paragraph (1) the undertaker must install any infrastructure in accordance with the details approved under sub-paragraph (1).

(3) The coordinates referred to in sub-paragraph (1) are specified in the table—

(1) *Point*	*(2)* *Latitude*	*(3)* *Longitude*
A	51° 45.7956’ N	001° 51.5983’ E
B	51° 46.4522’ N	001° 51.4674’ E
C	51° 47.7942’ N	001° 56.0600’ E
D	51° 47.5410’ N	001° 55.9115’ E
E	51° 46.7564’ N	001° 53.2251’ E
F	51° 42.5994’ N	001° 51.7675’ E
G	51° 40.9325’ N	001° 52.0693’ E
H	51° 41.1844’ N	001° 51.7142’ E
I	51° 41.7850’ N	001° 51.6062’ E
J	51° 39.0314’ N	001° 52.1008’ E
K	51° 39.4391’ N	001° 52.3393’ E
L	51° 37.8725’ N	001° 52.6222’ E
M	51° 37.7619’ N	001° 52.3285’ E

Galloper recommended route

30.—(1) Unless otherwise agreed by the Secretary of State in consultation with the MCA, the undertaker must not commence any part of Work No. 1 or Work No. 2 until the MSC has ratified the proposal to remove the Galloper recommended route.

(2) Unless otherwise agreed by the Secretary of State in consultation with the MCA, the undertaker must not install any surface-piercing infrastructure forming part of Work No. 1 or

Work No. 2 until the MSC resolution to remove the Galloper recommended route has come into force.

31. Farmland Bird Compensation

31.—(1) No part of Work No. 11 must be commenced until a FBCP has been submitted to and approved by the Secretary of State in consultation with the local planning authority for the area in which the compensation measure is to be provided.

(2) The FBCP must include—

(a) an updated assessment of the impact (if any) that Work No. 11 is likely to have on corn bunting based on the detailed design of Work No. 11 to include loss or displacement of territories;

(b) where off-site habitat compensation is proposed to be taken forward to offset any impact identified in the updated assessment required under sub paragraph (a)—

(i) a calculation of the quantum of compensation required to offset any impact identified in the updated assessment required under sub-paragraph (a) to be proportionate to the scale of likely impact;

(ii) the location(s) where the compensation measures will be delivered and the suitability of that location or locations (including why the location(s) is appropriate ecologically and likely to support successful compensation), and confirmation that the necessary landowner agreement(s) are in place, including a review mechanism to provide for the scenario where it is necessary to amend the location(s) where the compensation measures will be delivered;

(iii) details of the capacity and ability of the compensation areas to compensate for the impact of the authorised development on corn bunting;

(iv) an implementation timetable for delivery including any arrangements made with a third party for implementation of the measures;

(v) details for the ongoing management and maintenance of the compensation measures;

(vi) details for the ongoing monitoring and reporting of the effectiveness of the compensation measures identified in the FBCP including survey methods, survey programmes, success criteria, and timescales for the monitoring reports to be delivered;

(vii) details of any adaptive management measures, with details of the factors used to trigger any alternative and/or adaptive management measures; and

(viii) details of how survey and monitoring data will be shared in the appropriate formats with the relevant Local Environmental Records Centre(s) and relevant national/regional environmental recording schemes, and any potential research collaborations;

(c) provision for the option to be exercised by the undertaker, following consent in writing from the discharging authority, to pay a financial contribution to the Nature Restoration Fund wholly or partly in substitution for the provision of off-site habitat compensation or as an adaptive management measure for the purposes of sub-paragraph (b)(vii) above. The sum of the contribution is to be agreed between the undertaker and Defra or other Government body responsible for the operation of the Nature Restoration Fund;

(d) provision for the option to be exercised by the undertaker, following consent in writing from the discharging authority, to pay a financial contribution towards the establishment of compensation measures by another party wholly or partly in substitution for the provision of off-site habitat compensation or as an adaptive management measure for the purposes of sub-paragraph (b)(vii) above. The sum of the contribution is to be agreed between the undertaker and the discharging authority; and

(e) provision for the option to be exercised by the undertaker, following consent in writing from the discharging authority, to collaborate with another party in the delivery of compensation measures wholly or partly in substitute for the provision of off-site habitat

compensation or as an adaptive management measure for the purposes of sub-paragraph (b)(vii) above.

(3) The undertaker must implement the measures set out in the FBCP approved by the discharging authority, unless otherwise agreed by the discharging auth**o**rity following consultation with the local planning authority for the area in which the compensation measure is to be provided.

(4) Results from the monitoring and reporting scheme referred to in paragraph (2)(b)(vi) must be submitted to the discharging authority in accordance with the approved FBCP and any adaptive management measures (if any are required) referred to in paragraph 2(b)(vii) must be implemented by the undertaker in accordance with the approved FBCP.

(5) The FBCP approved under paragraph (1) includes any amendments that may subsequently be approved in writing by the discharging authority, including any amendments to the location where the compensation measures will be delivered as referred to in paragraph (2)(b)(ii).

(6) This requirement ceases to have effect on the date that the onshore decommissioning of the authorised development is commenced.

(7) In this requirement—

(a) "Defra" means the Department for Environment, Food and Rural Affairs;

(b) "FBCP" means Farmland Bird Compensation Plan; and

(c) "Nature Restoration Fund" means any fund established by Defra or a Government body for the purpose of implementing strategic mitigation measures to offset the adverse environmental impacts from development.

PART 4

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Interpretation

32. In this Part "application" means an application for any consent, agreement or approval required by a requirement whether or not the application seeks to discharge a requirement in whole or in part.

Applications made under requirements

33.—(1) Where an application has been made to the discharging authority for any agreement or approval required pursuant to a requirement included in this Order, the discharging authority must give notice to the undertaker of their decision, including the reasons, on the application, within a period of 8 weeks beginning with—

(a) the day immediately following that on which the application is received by the discharging authority;

(b) where further information is requested under paragraph 35, the day immediately following that on which further information has been supplied by the undertaker; or

(c) such longer period as may be agreed by the undertaker and the discharging authority.

(2) In determining any application made to the discharging authority for any consent, agreement or approval required by a requirement contained in Part 3 of Schedule 1 (requirements) to this Order, the discharging authority may—

(a) give or refuse its consent, agreement or approval; or

(b) give its consent, agreement or approval either subject to reasonable conditions, or unconditionally,

and when consent, agreement or approval is refused or granted subject to conditions the discharging authority must provide its reasons for that decision with notice of the decision.

(3) In the event that the discharging authority does not determine an application within the period set out in sub-paragraph (1), the discharging authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

Further information

34.—(1) Where an application has been made under paragraph 33I the discharging authority has the right to request such reasonable further information from the undertaker as is necessary to enable it to consider the application.

(2) If the discharging authority considers further information is needed, and the requirement does not specify that consultation with a requirement consultee is required, it must, within 21 days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement indicates that consultation must take place with a consultee the discharging authority must issue the consultation to the requirement consultee within five working days of receipt of the application. Where the consultee requires further information they must notify the discharging authority in writing specifying the further information required within 14 days of receipt of the consultation. The discharging authority must notify the undertaker in writing specifying any further information requested by the consultee within five working days of receipt of such a request.

(4) In the event that the discharging authority does not give such notification as specified in sub-paragraphs (2) or (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

Provision of information by Consultees

35.—(1) Any consultee who receives a consultation under paragraph 34(3) must respond to that request within 28 days from receipt unless sub-paragraph (2) of this paragraph applies.

(2) Where any consultee requests further information in accordance with the timescales set out in paragraph 34(3) then they must respond to the consultation within ten working days from the receipt of the further information requested.

Fees

36.—(1) Where an application is made to the discharging authority for agreement or approval in respect of a requirement the fee for the discharge of conditions as specified in the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(**a**) (or any regulations replacing the same) is to be paid by the undertaker to the discharging authority in accordance with these regulations unless a bespoke arrangement has been agreed between the Applicant and discharging authority and legally secured.

Appeal

37.—(1) The undertaker may appeal to the Secretary of State in the event that

(a) the discharging authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions

(b) within the time period specified in sub-paragraph (2).

(2) Any appeal by the undertaker must be made within 42 days of the date of the notice of the decision or determination, or (where no determination has been made) the expiry of the time period set out in paragraph 33 giving rise to the appeal referred to in sub-paragraph (1).

(3) The appeal process is to be as follows—

(**a**) S.I. 2012/2920.

(a) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the discharging authority and any consultee required to be consulted pursuant to the requirement which is the subject of the appeal (together with the undertaker, these are the "appeal parties");

(b) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person (the "appointed person") to determine the appeal and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for their attention should be sent, the date of such notification being the "start date" for the purposes of this sub-paragraph (2);

(c) the discharging authority and any consultee required to be consulted pursuant to the requirement which is the subject of the appeal must submit written representations to the appointed person in respect of the appeal within fifteen working days of the start date and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;

(d) the appeal parties must make any counter-submissions to the appointed person within ten working days of receipt of written representations pursuant to sub-paragraph (c); and

(e) the appointed person must make their decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within 30 working days of the deadline for the receipt of counter-submissions pursuant to sub-paragraph (d).

(4) The appointment of the person pursuant to sub-paragraph (3)(b) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(5) In the event that the appointed person considers that further information is necessary to consider the appeal, the appointed person must notify the appeal parties in writing specifying the further information required and the date by which the information is to be submitted and the appointed person must make any notification and set the date for the receipt of such further information having regard to the timescales in sub-paragraph (2).

(6) Any further information required under sub-paragraph (5) must be provided by the appeal party from whom the further information was requested to the appointed person and other appeal parties, the discharging authority and any consultee required to be consulted pursuant to the requirement the subject of the appeal on the date specified by the appointed person (the "specified date"), and the appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within ten working days of the specified date but otherwise is to be in accordance with the process and time limits set out in sub-paragraphs (3)(c) to (3)(e).

(7) On an appeal under this sub-paragraph, the appointed person may—

(a) allow or dismiss the appeal; or

(b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not).

(8) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the relevant time limits.

(9) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case and may deal with the application as if it had been made to the appointed person in the first instance.

(10) The decision of the appointed person on an appeal is to be final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(11) If an approval is given by the appointed person pursuant to this paragraph, it is to be deemed to be an approval for the purpose of Part 3 of this Schedule as if it had been given by the discharging authority. The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to

give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person's determination.

(12) Save where a direction is given pursuant to sub-paragraph (13) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person must be met by the undertaker.

(13) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to relevant guidance on the Planning Practice Guidance website or any official circular or guidance which may from time to time replace it.

SCHEDULE 2

Article 8

STREETS AND PUBLIC RIGHTS OF WAY SUBJECT TO STREET WORKS

(1) *Street or public right of way*	*(2)* *Extent as shown on the street plan or public rights of way plan*
Private Access Track	Approximately 746 metres of Private Access Track as shown between points marked 1a and 1b on the streets plan
Private Access Track	Approximately 119 metres of Private Access Track as shown between points marked 1c and 1d on the streets plan
Footpath Great Clacton FP29	Approximately 455 metres of Great Clacton FP29 between points marked 1a and 1b on sheet 1 of the public rights of way plan
Footpath Frinton and Walton FP41	Approximately 24 metres of Frinton and Walton FP41 between points marked 1b and 1c on sheet 1 of the public rights of way plan
Footpath Frinton and Walton FP3	Approximately 822 metres of Frinton and Walton FP3 between points marked 1d and 1e on sheet 1 of the public rights of way plan
Bridleway Frinton and Walton BR2	Approximately 41 metres of Frinton and Walton BR2 between points marked 1f and 1g on sheet 1 of the public rights of way plan
Private Access Track	Approximately 90 metres of Private Access Track as shown between points marked 2a and 2b on the streets plan
B1032 (Clacton Road)	Approximately 412 metres of B1032 (Clacton Road) as shown between points marked 2c and 2d on the streets plan
Little Clacton Road	Approximately 123 metres of Little Clacton Road as shown between points marked 3a and 3b on the streets plan
Footpath Frinton and Walton FP6	Approximately 2 metres of Frinton and Walton FP6 between points marked 3a and 3b on the public rights of way plan
Footpath Frinton and Walton FP38	Approximately 148 metres of Frinton and Walton FP38 between points marked 3c and 3d on sheet 3 of the public rights of way plan
Footpath Frinton and Walton FP11	Approximately 166 metres of Frinton and Walton FP11 between points marked 3e and 3f on sheet 3 of the public rights of way plan
B1033 (Thorpe Road)	Approximately 352 metres of B1033 (Thorpe Road) as shown between points marked 5a and 5b on the streets plan
Footpath Thorpe Le Soken FP13	Approximately 283 metres of Thorpe Le Soken FP13 between points marked 5a and 5b on the public rights of way plan
B1034 (Sneating Hall Lane)	Approximately 332 metres of B1034 (Sneating Hall Lane) as shown between points marked 5c and 5d on the streets plan

Damant's Farm Lane	Approximately 329 metres of Damant's Farm Lane as shown between points marked 5e and 5f on the streets plan
B1414 (Landermere Road)	Approximately 345 metres of B1414 (Landermere Road) as shown between points marked 6a and 6b on the streets plan
Footpath Thorpe Le Soken FP7	Approximately 27 metres of Thorpe Le Soken FP7 between points marked 6a and 6b on sheet 6 of the public rights of way plan
Golden Lane	Approximately 249 metres of Golden Lane as shown between points marked 7a and 7b on the streets plan
Private Access Track	Approximately 100 metres of Private Access Track as shown between points marked 7c and 7d on the streets plan
Footpath Thorpe Le Soken FP3	Approximately 125 metres of Thorpe Le Soken FP3 between points marked 7i and 7j on sheet 7 of the public rights of way plan
Footpath Thorpe Le Soken FP1	Approximately 92 metres of Thorpe Le Soken FP1 between points marked 7k and 7l on sheet 7 of the public rights of way plan
B1035 (Tendring Road)	Approximately 243 metres of B1035 (Tendring Road) as shown between points marked 8a and 8b on the streets plan
B1035 (Tendring Road)	Approximately 80 metres of B1035 (Tendring Road) as shown between points marked 8c and 8d on the streets plan
Swan Road	Approximately 11 metres of Swan Road as shown between points marked 8e and 8f on the Streets Plan
Swan Road	Approximately 60 metres of Swan Road as shown between points marked 8f and 8g on of the streets plan
Swan Road	Approximately 12 metres of Swan Road as shown between points marked 8f and 8h on of the streets plan
B1035 (Thorpe Road)	Approximately 222 metres of B1035 (Thorpe Road) as shown between points marked 8i and 8j on the streets plan
Footpath Thorpe Le Soken FP18	Approximately 212 metres of Thorpe Le Soken FP18 between points marked 8a and 8b on sheet 8 of the public rights of way plan
Footpath Beaumont Cum Moze FP18	Approximately 25 metres of Beaumont Cum Moze FP18 between points marked 8b and 8c on sheet 8 of the public rights of way plan
Lodge Lane	Approximately 222 metres of Lodge Lane as shown between points marked 9a and 9b on the streets plan
Footpath Tendring FP22	Approximately 137 metres of Tendring FP22 between points marked 9a and 9b on sheet 9 of the public rights of way plan
Footpath Tendring FP8	Approximately 94 metres of Tendring FP8 between points marked 9h and 9i on sheet 9 of the public rights of way plan
Footpath Tendring FP25	Approximately 91 metres of Tendring FP25 between points marked 10a and 10b on sheets 9

	and 10 of the public rights of way plan
Wolves Hall Lane	Approximately 238 metres of Wolves Hall Lane as shown between points marked 10a and 10b on the streets plan
Footpath Tendring FP1	Approximately 132 metres of Tendring FP1 between points marked 10c and 10d on sheet 10 of the public rights of way plan
Stones Green Road	Approximately 366 metres of Stones Green Road as shown between points marked 10c and 10d on the streets plan
Private Access Track	Approximately 105 metres of Private Access Track as shown between points marked 11a and 11b on the streets plan
A120	Approximately 96 metres of A120 as shown between points marked 11c and 11d on the streets plan
Private Access Track	Approximately 15 metres of Private Access Track as shown between points marked 11e and 11f on the streets plan
Footpath Wix FP31	Approximately 140 metres of Wix FP31 between points marked 11a and 11b on sheet 11 of the public rights of way plan
Footpath Wix FP32	Approximately 105 metres of Wix FP32 between points marked 11c and 11d on sheet 11 of the public rights of way plan
B1035 (Clacton Road)	Approximately 310 metres of B1035 (Clacton Road) as shown between points marked 12a and 12b on the Streets Plan
Private Access Track	Approximately 99 metres of Private Access Track as shown between points marked 12c and 12d on the Streets Plan
Private Access Track	Approximately 101 metres of Private Access Track as shown between points marked 12e and 12f on the streets plan
B1035 (Clacton Road)	Approximately 350 metres of B1035 (Clacton Road) as shown between points marked 12g and 12h on the streets plan
Bentley Road	Approximately 1484 metres of Bentley Road as shown between points marked 13a and 13b on the streets plan
A120	Approximately 237 metres of A120 as shown between points marked 13c and 13d on the streets plan
Payne's Lane	Approximately 172 metres of Payne's Lane as shown between points marked 13e and 13f on the streets plan
Spratts Lane	Approximately 185 metres of Spratts Lane as shown between points marked 14a and 14b on the streets plan
Barlon Road	Approximately 171 metres of Barlon Road as shown between points marked 14c and 14d on the streets plan
Private Access Track	Approximately 130 metres of Private Access Track as shown between points marked 15a and 15b on the streets plan
Footpath Little Bromley FP17	Approximately 96 metres of Little Bromley

	FP17 between points marked 14a and 14b on sheet 14 of the public rights of way plan
Footpath Little Bromley FP16	Approximately 130 metres of Little Bromley FP16 between points marked 15a and 15b on sheet 15 of the public rights of way plan
Ardleigh Road	Approximately 523 metres of Ardleigh Road as shown between points marked 15c and 15d on the streets plan
Grange Road	Approximately 154 metres of Grange Road as shown between points marked 16a and 16b on the streets plan
Grange Road	Approximately 458 metres of Grange Road as shown between points marked 16c and 16d on the streets plan

SCHEDULE 3

Articles 11, 12 and 14

TRAFFIC REGULATION

PART 1

STREETS TO BE TEMPORARILY CLOSED OR RESTRICTED

(1) *Street to be temporarily closed or restricted*	*(2)* *Extent as shown on the streets plan*
Private Access Track	Approximately 746 metres of Private Access Track as shown between points marked 1a and 1b on the streets plan
Private Access Track	Approximately 119 metres of Private Access Track as shown between points marked 1c and 1d on the streets plan
Private Access Track	Approximately 90 metres of Private Access Track as shown between points marked 2a and 2b on the streets plan
B1032 (Clacton Road)	Approximately 412 metres of B1032 (Clacton Road) as shown between points marked 2c and 2d on the streets plan
Little Clacton Road	Approximately 123 metres of Little Clacton Road as shown between points marked 3a and 3b on the streets plan
B1033 (Thorpe Road)	Approximately 352 metres of B1033 (Thorpe Road) as shown between points marked 5a and 5b on the streets plan
B1034 (Sneating Hall Lane)	Approximately 332 metres of B1034 (Sneating Hall Lane) as shown between points marked 6a and 6b on the streets plan
Damant's Farm Lane	Approximately 329 metres of Damant's Farm Lane as shown between points marked 6c and 6d on the streets plan
B1414 (Landermere Road)	Approximately 345 metres of B1414 (Landermere Road) as shown between points marked 7a and 7b on the streets plan
Golden Lane	Approximately 249 metres of Golden Lane as shown between points marked 8a and 8b on the streets plan
Private Access Track	Approximately 100 metres of Private Access Track as shown between points marked 8c and 8d on the Streets Plan
B1035 (Tendring Road)	Approximately 243 metres of B1035 (Tendring Road) as shown between points marked 9a and 9b on the streets plan
B1035 (Tendring Road)	Approximately 80 metres of B1035 (Tendring Road) as shown between points marked 9c and 9d on the streets plan
Swan Road	Approximately 11 metres of Swan Road as shown between points marked 9e and 9f on the streets plan

Swan Road	Approximately 60 metres of Swan Road as shown between points marked 9f and 9g on of the streets plan
Swan Road	Approximately 12 metres of Swan Road as shown between points marked 9f and 9h on of the streets plan
B1035 (Thorpe Road)	Approximately 222 metres of B1035 (Thorpe Road) as shown between points marked 9i and 9j on the streets plan
Lodge Lane	Approximately 222 metres of Lodge Lane as shown between points marked 10a and 10b on the streets plan
Wolves Hall Lane	Approximately 238 metres of Wolves Hall Lane as shown between points marked 11a and 11b on the streets plan
Stones Green Road	Approximately 366 metres of Stones Green Road as shown between points marked 12a and 12b on the streets plan
Private Access Track	Approximately 105 metres of Private Access Track as shown between points marked 12c and 12d on the streets plan
A120	Approximately 96 metres of A120 as shown between points marked 12e and 12f on the streets plan
Private Access Track	Approximately 15 metres of Private Access Track as shown between points marked 12g and 12h on the streets plan
B1035 (Clacton Road)	Approximately 310 metres of B1035 (Clacton Road) as shown between points marked 13a and 3b on the streets plan
Private Access Track	Approximately 99 metres of Private Access Track as shown between points marked 13c and 13d on the streets plan
Private Access Track	Approximately 101 metres of Private Access Track as shown between points marked 13e and 13f on the streets plan
B1035 (Clacton Road)	Approximately 350 metres of B1035 (Clacton Road) as shown between points marked 14a and 14b on the streets plan
Bentley Road	Approximately 1484 metres of Bentley Road as shown between points marked 15a and 16a on the streets plan
Payne's Lane	Approximately 172 metres of Payne's Lane as shown between points marked 15b and 15c on the streets plan
A120	Approximately 237 metres of A120 as shown between points marked 16b and 16c on the streets plan
Spratts Lane	Approximately 185 metres of Spratts Lane as shown between points marked 17a and 17b on the streets plan
Barlon Road	Approximately 171 metres of Barlon Road as shown between points marked 17c and 17d on the streets plan
Private Access Track	Approximately 130 metres of Private Access Track as shown between points marked 17e and

	17f on the streets plan
Ardleigh Road	Approximately 523 metres of Ardleigh Road as shown between points marked 18a and 18b on the streets plan
Grange Road	Approximately 154 metres of Grange Road as shown between points marked 18c and 18d on the streets plan
Grange Road	Approximately 458 metres of Grange Road as shown between points marked 18e and 18f on the streets plan

PART 2

PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED OR RESTRICTED

(1) *Public right of way to be temporarily closed or restricted*	*(2)* *Extent as shown on the public rights of way plan*
Footpath Great Clacton FP29	Approximately 455 metres of Great Clacton FP29 between points marked 1a and 1b on the public rights of way plan
Footpath Frinton and Walton FP41	Approximately 24 metres of Frinton and Walton FP41 between points marked 1b and 1c on the public rights of way plan
Footpath Frinton and Walton FP3	Approximately 822 metres of Frinton and Walton FP3 between points marked 1d and 1e on the public rights of way plan
Bridleway Frinton and Walton BR2	Approximately 41 metres of Frinton and Walton BR2 between points marked 1f and 1g on the public rights of way plan
Footpath Frinton and Walton FP6	Approximately 2 metres of Frinton and Walton FP6 between points marked 3a and 3b on sheet 3 of the public rights of way plan
Footpath Frinton and Walton FP38	Approximately 148 metres of Frinton and Walton FP38 between points marked 3c and 3d on sheet 3 of the public rights of way plan
Footpath Frinton and Walton FP11	Approximately 166 metres of Frinton and Walton FP11 between points marked 3e and 3f on sheet 3 of the public rights of way plan
Footpath Thorpe Le Soken FP13	Approximately 283 metres of Thorpe Le Soken FP13 between points marked 5a and 5b on sheet 5 of the public rights of way plan
Footpath Thorpe Le Soken FP7	Approximately 27 metres of Thorpe Le Soken FP7 between points marked 6a and 6b on sheet 6 of the public rights of way plan
Footpath Thorpe Le Soken FP4	Approximately 40 metres of Thorpe Le Soken FP4 between points marked 7a and 7b on sheet 7 of the public rights of way plan
Footpath Thorpe Le Soken FP4	Approximately 30 metres of Thorpe Le Soken FP4 between points marked 7c and 7d on sheet 7 of the public rights of way plan
Footpath Thorpe Le Soken FP4	Approximately 192 metres of Thorpe Le Soken FP4 between points marked 7e and 7f on sheet 7 of the public rights of way plan
Footpath Thorpe Le Soken FP3	Approximately 15 metres of Thorpe Le Soken

	FP3 between points marked 7g and 7h on sheet 7 of the public rights of way plan
Footpath Thorpe Le Soken FP3	Approximately 125 metres of Thorpe Le Soken FP3 between points marked 7i and 7j on sheet 7 of the public rights of way plan
Footpath Thorpe Le Soken FP1	Approximately 92 metres of Thorpe Le Soken FP1 between points marked 7k and 7l on sheet 7 of the public rights of way plan
Footpath Thorpe Le Soken FP18	Approximately 212 metres of Thorpe Le Soken FP18 between points marked 8a and 8b on sheet 8 of the public rights of way plan
Footpath Beaumont Cum Moze FP18	Approximately 25 metres of Beaumont Cum Moze FP18 between points marked 8b and 8c on sheet 8 of the public rights of way plan
Footpath Tendring FP22	Approximately 131 metres of Tendring FP22 between points marked 9a and 9b on sheet 9 of the public rights of way plan
Footpath Tendring FP22	Approximately 6 metres of Tendring FP22 between points marked 9c and 9d on sheet 9 of the public rights of way plan
Footpath Tendring FP17	Approximately 13 metres of Tendring FP17 between points marked 9d and 9e on sheet 9 of the public rights of way plan
Footpath Tendring FP8	Approximately 117 metres of Tendring FP8 between points marked 9f and 9g on sheet 9 of the public rights of way plan
Footpath Tendring FP8	Approximately 94 metres of Tendring FP8 between points marked 9h and 9i on sheet 9 of the public rights of way plan
Footpath Tendring FP25	Approximately 91 metres of Tendring FP25 between points marked 10a and 10b on sheet 10 of the public rights of way plan
Footpath Tendring FP1	Approximately 132 metres of Tendring FP1 between points marked 10c and 10d on sheet 10 of the public rights of way plan
Footpath Wix FP31	Approximately 140 metres of Wix FP31 between points marked 11a and 11b on sheet 11 of the public rights of way plan
Footpath Wix FP32	Approximately 105 metres of Wix FP32 between points marked 11c and 11d on sheet 11 of the public rights of way plan
Footpath Wix FP15	Approximately 15 metres of Wix FP15 between points marked 11e and 11f on sheet 11 of the public rights of way plan
Footpath Wix FP37	Approximately 91 metres of Wix FP37 between points marked 12a and 12b on sheet 12 of the public rights of way plan
Footpath Little Bromley FP17	Approximately 96 metres of Little Bromley FP17 between points marked 14a and 14b on sheet 14 of the public rights of way plan
Footpath Little Bromley FP16	Approximately 130 metres of Little Bromley FP16 between points marked 15a and 15b on sheet 15 of the public rights of way plan
Footpath Little Bromley FP15	Approximately 28 metres of Little Bromley FP15 between points marked 15c and 15d on sheet 15 of the public rights of way plan

PART 3

SPEED LIMITS

(1) *Area*	*(2)* *Road name, number and length*	*(3)* *Speed limit*
District of Tendring	Approximately 1,408 metres of B1033 (Thorpe Road/Frinton Road) as shown between points marked 5a and 5b on the temporary traffic regulation order plan	40 miles per hour
District of Tendring	Approximately 955 metres of Golden Lane as shown between points marked 7a and 7b on the temporary traffic regulation order plan	40 miles per hour
District of Tendring	Approximately 1,138 metres of B1035 (Thorpe Road/Tendring Road) as shown between points marked 7c and 8a on the temporary traffic regulation order plan	40 miles per hour
District of Tendring	Approximately 160 metres of Whitehall Lane as shown between points marked 8b, 8c and 8d on the temporary traffic regulation order plan	40 miles per hour
District of Tendring	Approximately 91 metres of Swan Road as shown between points marked 8e, 8f and 8g on the temporary traffic regulation order plan	40 miles per hour
District of Tendring	Approximately 528 metres of the B1035 (Clacton Road) as shown between points marked 12a and 12b on the temporary traffic regulation order plan	40 miles per hour
District of Tendring	Approximately 1,586 metres of Bentley Road as shown between points marked 13a and 13b on the temporary traffic regulation order plan	40 miles per hour
District of Tendring	Approximately 1,201 metres of Ardleigh Road / Little Bromley Road as shown between points marked 16a and 16b on the temporary traffic regulation order plan	30 miles per hour

SCHEDULE 4

Article 13

ACCESS TO WORKS

(1) *Street*	*(2)* *Location of access*	*(3)* *Purpose for which access is required*
Church Lane	The point marked OA-1 on sheet 2 of the access to works plan	Vehicular access for operational and maintenance access
B1032 (Clacton Road)	The point marked AC-1 on sheet 2 of the access to works plan	Vehicular access for construction access
B1032 (Clacton Road)	The point marked OA-2 on sheet 2 of the access to works plan	Vehicular access for operational and maintenance access
B1032 (Clacton Road)	The point marked AC-2 on sheet 2 of the access to works plan	Vehicular access for construction access
B1032 (Clacton Road)	The point marked OA-3 on sheet 2 of the access to works plan	Vehicular access for operational and maintenance access
Little Clacton Road	The point marked OA-4 on sheet 3 of the access to works plan	Vehicular access for operational and maintenance access
Little Clacton Road	The point marked CR-1 on sheet 3 of the access to works plan	Vehicular access for construction crossing
Little Clacton Road	The point marked OA-5 on sheet 3 of the access to works plan	Vehicular access for operational and maintenance access
Pork Lane	The point marked OA-6 on sheet 4 of the access to works plan	Vehicular access for operational and maintenance access
Pork Lane	The point marked OA-7 on sheet 4 of the access to works plan	Vehicular access for operational and maintenance access
Thorpe Park Lane	The point marked OA-8 on sheet 4 of the access to works plan	Vehicular access for operational and maintenance access
B1033 (Thorpe Road)	The point marked AC-3A on sheet 5 of the access to works plan	Vehicular access for construction access
B1033 (Thorpe Road)	The point marked OA-9 on sheet 5 of the access to works plan	Vehicular access for operational and maintenance access
B1033 (Thorpe Road)	The point marked AC-3B on sheet 5 of the access to works plan	Vehicular access for construction access
B1033 (Thorpe Road)	The point marked OA-10 on sheet 5 of the access to works plan	Vehicular access for operational and maintenance access
B1034 (Sneating Hall Lane)	The point marked OA-11 on	Vehicular access for

	sheet 5 of the access to works plan	operational and maintenance access
B1034 (Sneating Hall Lane)	The point marked CR-2 on sheet 5 of the access to works plan	Vehicular access for construction crossing
B1034 (Sneating Hall Lane)	The point marked OA-12 on sheet 5 of the access to works plan	Vehicular access for operational and maintenance access
Dament's Farm Lane	The point marked OA-13 on sheet 5 of the access to works plan	Vehicular access for operational and maintenance access
Dament's Farm Lane	The point marked CR-3 on sheet 5 of the access to works plan	Vehicular access for construction crossing
Walton Road	The point marked OA-14 on sheet 6 of the access to works plan	Vehicular access for operational and maintenance access
the B1414 (Landermere Road)	The point marked OA-15 on sheet 6 of the access to works plan	Vehicular access for operational and maintenance access
the B1414 (Landermere Road)	The point marked CR-4 on sheet 6 of the access to works plan	Vehicular access for construction crossing
the B1414 (Landermere Road)	The point marked OA-16 on sheet 6 of the access to works plan	Vehicular access for operational and maintenance access
Golden Lane	The point marked OA-17 on sheet 7 of the access to works plan	Vehicular access for operational and maintenance access
Golden Lane	The point marked CR-5 on sheet 7 of the access to works plan	Vehicular access for construction crossing
Golden Lane	The point marked OA-18 on sheet 7 of the access to works plan	Vehicular access for operational and maintenance access
B1035 (Tendring Road)	The point marked AC-4 on sheet 8 of the access to works plan	Vehicular access for construction access
B1035 (Tendring Road)	The point marked OA-19 on sheet 8 of the access to works plan	Vehicular access for operational and maintenance access
B1035 (Thorpe Road)	The point marked AC-5 on sheet 8 of the access to works plan	Vehicular access for construction access
Swan Lane	The point marked OA-20 on sheet 8 of the access to works plan	Vehicular access for operational and maintenance access
Swan Lane	The point marked OA-21 on sheet 8 of the access to works plan	Vehicular access for operational and maintenance access
Lodge Lane	The point marked CR-6 on sheet 9 of the access to works plan	Vehicular access for construction crossing
Lodge Lane	The point marked OA-22 on sheet 9 of the access to works plan	Vehicular access for operational and maintenance access

Wolves Hall Lane	The point marked OA-23 on sheet 9 of the access to works plan	Vehicular access for operational and maintenance access
Wolves Hall Lane	The point marked OA-24 on sheet 10 of the access to works plan	Vehicular access for operational and maintenance access
Wolves Hall Lane	The point marked OA-25 on sheet 10 of the access to works plan	Vehicular access for operational and maintenance access
Wolves Hall Lane	The point marked CR-7 on sheet 10 of the access to works plan	Vehicular access for construction crossing
Wolves Hall Lane	The point marked OA-26 on sheet 10 of the access to works plan	Vehicular access for operational and maintenance access
Stones Green Road	The point marked CR-8A on sheet 11 of the access to works plan	Vehicular access for construction crossing
Stones Green Road	The point marked CR-8B on sheet 11 of the access to works plan	Vehicular access for construction crossing
Stones Green Road	The point marked OA-27 on sheet 11 of the access to works plan	Vehicular access for operational and maintenance access
Colchester Road	The point marked OA-28 on sheet 11 of the access to works plan	Vehicular access for operational and maintenance access
B1035 (Clacton Road)	The point marked AC-6 on sheet 12 of the access to works plan	Vehicular access for construction access
B1035 (Clacton Road)	The point marked AC-7 on sheet 12 of the access to works plan	Vehicular access for construction access
B1035 (Clacton Road)	The point marked OA-29 on sheet 12 of the access to works plan	Vehicular access for operational and maintenance access
B1035 (Clacton Road)	The point marked AC-8A on sheet 12 of the access to works plan	Vehicular access for construction access
B1035 (Clacton Road)	The point marked AC-8B on sheet 12 of the access to works plan	Vehicular access for construction access
B1035 (Clacton Road)	The point marked OA-30 on sheet 12 of the access to works plan	Vehicular access for operational and maintenance access
Bentley Road	The point marked AC-9 on sheet 13 of the access to works plan	Vehicular access for construction access
Bentley Road	The point marked AC-10 on sheet 13 of the access to works plan	Vehicular access for construction access
Bentley Road	The point marked AC-11 on sheet 13 of the access to works plan	Vehicular access for construction access
Bentley Road	The point marked OA-31 on sheet 13 of the access to works	Vehicular access for operational and maintenance

	plan	access
Paynes Lane	The point marked OA-32 on sheet 14 of the access to works plan	Vehicular access for operational and maintenance access
Paynes Lane	The point marked CR-9 on sheet 14 of the access to works plan	Vehicular access for construction crossing
Paynes Lane	The point marked OA-33 on sheet 14 of the access to works plan	Vehicular access for operational and maintenance access
Paynes Lane	The point marked CR-9A on sheet 14 of the access to works plan	Vehicular access for construction crossing
Spratts Lane	The point marked CR-10 on sheet 14 of the access to works plan	Vehicular access for construction crossing
Paynes Lane	The point marked OA-34 on sheet 14 of the access to works plan	Vehicular access for operational and maintenance access
Spratts Lane	The point marked CR-10A on sheet 14 of the access to works plan	Vehicular access for construction crossing
Barlon Road	The point marked OA-35 on sheet 15 of the access to works plan	Vehicular access for operational and maintenance access
Barlon Road	The point marked CR-11 on sheet 15 of the access to works plan	Vehicular access for construction crossing
Barlon Road	The point marked OA-36 on sheet 15 of the access to works plan	Vehicular access for operational and maintenance access
Barlon Road	The point marked CR-11A on sheet 15 of the access to works plan	Vehicular access for construction crossing
Ardleigh Road	The point marked OA-38 on sheet 16 of the access to works plan	Vehicular access for operational and maintenance access
Ardleigh Road	The point marked AC-12 on sheet 16 of the access to works plan	Vehicular access for construction access
Ardleigh Road	The point marked OA-39 on sheet 16 of the access to works plan	Vehicular access for operational and maintenance access
Ardleigh Road	The point marked OA-37 on sheet 16 of the access to works plan	Vehicular access for operational and maintenance access
Ardleigh Road	The point marked AC-13 on sheet 16 of the access to works plan	Vehicular access for construction access

SCHEDULE 5

Article 23

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

(1) *Number of plot shown on land plans*	*(2)* *Purpose for which rights may be acquired*
Intertidal zone 01-001, 01-002	**Rights** Rights for the purposes of the construction, installation, retention, operation, maintenance and decommissioning of the authorised development to— (a) lay down, install, retain, adjust, alter, construct, operate, erect, use, maintain, repair, renew, upgrade, inspect, remove and replace the electricity cables (including the removal of materials including spoil) in, under, over and/or on the land, together with such telemetry and fibre-optic lines, ducting, jointing bays and other apparatus, protection measures, cable marker posts, chambers and manholes, manhole covers and other equipment which is ancillary to the purposes of transmitting electricity along such electricity cables (all collectively referred to as the "cables"), and in doing so, to use or resort to trenchless installation techniques including (but not limited to) directional drilling beneath sea defences and existing infrastructure; (b) to benefit from continuous vertical and lateral support for the authorised development; (c) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, inspecting, removing and replacing the electrical infrastructure and cables; (d) construct and install and thereafter use the land for all necessary purposes for the commissioning, construction, repair, testing and maintenance of the cables in, on or under the land; (e) place and use plant, machinery, structures and temporary structures within the land for the purposes of the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the ducting, electrical infrastructure and cables, and to erect temporary signage and provide measures for the benefit of public and personnel safety. **Restrictive covenants** A restrictive covenant over the land for the benefit of the

remainder of the Order land to—

(a) prevent anything to be done in or upon the land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the foundations or footings thereto);

(b) prevent anything to be done by way of hard surfacing of the land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed surfacing would not cause damage to the relevant part of the authorised development nor make it materially more difficult or expensive to maintain the authorised development);

(c) prevent anything to be done by way of excavation of any kind in the land nor any activities which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development, alter, increase or decrease ground cover or soil levels in any manner whatsoever without the consent in writing of the undertaker save as are reasonably required for agricultural activities (being ploughing to no deeper than 0.6m for the purposes of arable farming) or are required to be carried out by National Grid in order to exercise their statutory functions or rights in relation to their apparatus (if any) within the land;

(d) to prevent anything being done which may interfere with free flow and passage of electricity or telecommunications through the cables or support for the authorised development;

(e) prevent carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development.

Landfall and Onshore Connection Works

01-003, 01-004, 01-005, 01-006, 01-007, 01-008, 01-009, 01-010

Rights

Rights for the purposes of the construction, installation, retention, operation, maintenance and decommissioning of the authorised development to—

(a) lay down, install, retain, adjust, alter, construct, operate, erect, use, maintain, repair, renew, upgrade, inspect, remove and replace the electricity cables (including the removal of materials including spoil) in, under, over and/or on the land, together with such telemetry and fibre-optic lines, ducting, jointing bays and other apparatus, protection measures, cable marker posts, chambers and manholes, manhole covers and other equipment which is ancillary to the purposes of transmitting electricity along such electricity cables (all collectively referred to as the "cables"), and in doing so, to use or resort to

trenchless installation techniques including (but not limited to) directional drilling beneath sea defences, watercourses and highways;

(b) enter, be on, and break open and break up the surface of the land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of installing, operating and maintaining the cables, transmitting electricity along the cables or use of electrical infrastructure and the cables;

(c) to benefit from continuous vertical and lateral support for the authorised development;

(d) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing the electrical infrastructure and cables;

(e) construct and install and thereafter use the land for all necessary purposes for the commissioning, construction, repair, testing and maintenance of the cables in, on or under the land;

(f) place and use plant, machinery, structures and temporary structures within the land for the purposes of the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the electrical infrastructure and cables, and to erect temporary signage and provide measures for the benefit of public and personnel safety;

(g) erect temporary bridges and supporting or protective structures for the purposes of access to adjoining land and highway;

(h) erect fencing, gates, walls, barriers or other means of enclosure, and create secure working areas and compounds including trenchless installation technique compounds and working areas;

(i) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair or renewal or decommissioning is being carried out;

(j) to use, maintain, renew, improve and alter existing accesses, roads, streets, tracks or ways over the land, providing that such use is not exclusive and exercise of this right must not prevent or unreasonably inhibit use by other parties;

(k) effect access and egress to and from the highway;

(l) make such investigations in or on the land as required;

(m) alter, fell, lop or cut, coppice wood, uproot trees or hedges or shrubs or other vegetation which now or hereafter may be standing on the land or other land which would if not felled, lopped, cut or removed would obstruct or interfere with the operation of the cables and ancillary equipment including ducting;

(n) to take and use, remove and discharge water from the land, and to lay down, install, retain, use, maintain, inspect, adjust, alter, remove, refurbish, reconstruct, upgrade, replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, flues and to drain into and manage waterflows in any drains, watercourses and culverts, install, retain, use, inspect, maintain, adjust, alter, renew, repair, test or cleanse drainage schemes on the land or reinstate the any existing drainage scheme on the land;

(o) lay down, install, alter, re-lay, maintain, protect, adjust, use or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers and providing connection to the authorised development);

(p) erect and remove temporary fencing, gates, walls, barriers or other means of enclosure, remove fences and structures within the land during any period during which construction, maintenance, repair or renewal is being carried out (subject to erection of any temporary stock-proof fencing as is reasonably required and the re-instatement or suitable replacement of the fences or structures following the end of each period of exercise of the rights);

(q) store and stockpile materials (including excavated material);

(r) create boreholes and trial excavation pits for the purposes of intrusively surveying the land and monitoring the use of any trenchless installation technique, to keep in place and monitor the same through construction, maintenance repair, replacement or decommissioning and to reinstate the land;

(s) to excavate materials below ground level, including soils, and to store and re-use or dispose of the same, and in so excavating to undertake any works, including works of protection or removal of archaeological remains as may be required by any written scheme of investigation approved under this Order;

(t) lay out and maintain temporary paths and bridleways for public use as temporary diversions for public rights of way which are interfered with during any

period in which construction, maintenance, repair or renewal decommissioning is being carried out;

(u) to install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works for noise alleviation measures and the installation of temporary barriers for the protection of fauna;

(v) carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the land and/or in accordance with any necessary licences relating to protected species and/or wildlife; and

(w) (in an emergency only when the cables are temporarily unusable) to lay down, install, use, maintain and inspect underground cables, telephone signalling and fibre-optic cables and ancillary equipment, associated works and other conducting media together with conduits or pipes for containing the same in and under the land.

Restrictive covenants

A restrictive covenant over the land for the benefit of the remainder of the Order land to—

(a) prevent anything to be done in or upon the land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the foundations or footings thereto);

(b) prevent anything to be done by way of hard surfacing of the land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed surfacing would not cause damage to relevant part of the authorised development nor make it materially more difficult or expensive to maintain the authorised development);

(c) to prevent anything to be done by way of excavation of any kind in the land nor any activities which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development, alter, increase or decrease ground cover or soil levels in any manner whatsoever without the consent in writing of the undertaker save as are reasonably required for agricultural activities (being ploughing to no deeper than 0.6m for the purposes of arable farming) or are required to be carried out by National Grid in order to exercise their statutory functions or rights in relation to their apparatus (if any) within the land;

(d) to prevent the planting or growing within the land of any trees, shrubs or underwood without the consent

in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised development nor make it materially more difficult or expensive to access the relevant part of the authorised development);

(e) to prevent anything being done which may interfere with free flow and passage of electricity or telecommunications through the cables or support for the authorised development;

(f) to prevent carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development; and

(g) to prevent any activity which would in the reasonable opinion of the undertaker result in the disturbance of ecological mitigation areas or areas of habitat creation or reinstatement including any ploughing or grazing without the prior written consent of the undertaker.

Cable Route Onshore

01-010, 01-012, 01-013, 01-016, 02-001, 02-002, 02-006, 02-009, 02-015, 02-016, 03-004, 03-005, 03-008, 03-009, 03-023, 03-024, 04-006, 04-007, 04-009, 04-010, 04-011, 04-016, 04-022, 05-005, 05-008, 05-009, 05-010, 05-016, 05-017, 05-018, 05-024, 05-026, 06-002, 06-014, 06-017, 06-018, 06-019, 06-020, 07-001, 07-003, 07-007, 07-009, 07-010, 07-011, 07-012, 08-005, 08-006, 08-007, 08-009, 08-011, 08-012, 08-013, 08-014, 08-020, 08-021, 08-022, 09-005, 09-007, 09-008, 09-012, 10-003, 10-006, 10-007, 10-009, 10-019, 10-020, 11-004, 11-005, 12-005, 12-006, 12-010, 12-011, 12-012, 12-020, 12-021, 13-001, 13-002, 13-027, 13-028, 13-046, 13-052, 13-053, 13-054, 13-055, 13-056, 13-057, 13-061, 14-003, 14-004, 14-007, 14-008, 14-009, 14-015, 14-016, 14-017, 14-021, 14-022, 15-001, 15-003, 15-004, 15-005, 15-010, 15-011

Rights

Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—

(a) lay down, install, retain, adjust, alter, construct, operate, erect, use, maintain, repair, renew, upgrade, inspect, remove and replace the electricity cables (including the removal of materials including spoil) in, under, over and/or on the land together with such telemetry and fibre-optic lines, ducting, jointing bays and other apparatus, protection measures, cable marker posts, chambers and manholes, manhole covers and other equipment which is ancillary to the purposes of transmitting electricity along such electricity cables (all collectively referred to as the "cables"), and in doing so, to use or resort to trenchless installation techniques including (but not limited to) directional drilling beneath watercourses, highways and railways;

(b) lay down, install, retain, adjust, alter, construct, operate, erect, use, maintain, repair, renew, upgrade, inspect, remove and replace the additional ducts for electricity cables (including the removal of materials including spoil) in, under, over and/or on the land, allow the installation and use of electrical cables in the additional ducts, together with such telemetry and fibre-optic lines, ducting, jointing bays and other apparatus, protection measures, cable marker posts, chambers and manholes, manhole covers and other equipment which is ancillary to the purposes of transmitting electricity along such electricity cables

(all collectively referred to as the "cables"), and in doing so, to use or resort to trenchless installation techniques including (but not limited to) directional drilling beneath watercourses, highways and railways;

(c) enter, be on, and break open and break up the surface of the land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of installing, operating and maintaining the cables or additional ducts, transmitting electricity along the cables, or use of electrical infrastructure and the cables;

(d) to benefit from continuous vertical and lateral support for the authorised development;

(e) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing the electrical infrastructure and cables and additional ducts;

(f) construct and install and thereafter use the land for all necessary purposes for the commissioning, construction, repair, testing and maintenance of the cables and additional ducts in, on or under the land;

(g) place and use plant, machinery, structures and temporary structures within the land for the purposes of the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the electrical infrastructure and cables and additional ducts, and to erect temporary signage and provide measures for the benefit of public and personnel safety;

(h) erect temporary bridges and supporting or protective structures for the purposes of access to adjoining land and highway;

(i) erect fencing, gates, walls, barriers or other means of enclosure, and create secure working areas and compounds including trenchless installation technique compounds and working areas;

(j) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair or renewal or decommissioning is being carried out;

(k) to use, maintain, renew improve and alter existing accesses, roads, streets, tracks or ways over the land, providing that such use is not exclusive and exercise of this right must not prevent or unreasonably inhibit use by other parties;

(l) effect access and egress to and from the highway;

(m) make such investigations in or on the land as required;

(n) alter, fell, lop or cut, coppice or replant wood, uproot trees or hedges or shrubs or other vegetation which now or hereafter may be standing on the land or other land which would if not felled, lopped, cut or removed would obstruct or interfere with the operation of the cables and ancillary equipment including ducting;

(o) to take and use, remove and discharge water from the land, and to lay down, install, retain, use, maintain, inspect, adjust, alter, remove, refurbish, reconstruct, upgrade, replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, flues and to drain into and manage waterflows in any drains, watercourses and culverts, install, retain, use, inspect, maintain, adjust, alter, renew, repair, test or cleanse drainage schemes on the land or reinstate the any existing drainage scheme on the land;

(p) lay down, install, alter, re-lay, maintain, protect, adjust, use or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus, public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers and providing connection to the authorised development);

(q) erect and remove temporary fencing, gates, walls, barriers or other means of enclosure, remove fences and structures within the land during any period during which construction, maintenance, repair or renewal is being carried out (subject to erection of any temporary stock-proof fencing as is reasonably required and the re-instatement or suitable replacement of the fences or structures following the end of each period of exercise of the rights);

(r) store and stockpile materials (including excavated material);

(s) create boreholes and trial excavation pits for the purposes of intrusively surveying the land and monitoring the use of any trenchless installation technique, to keep in place and monitor the same through construction, maintenance repair, replacement or decommissioning and to reinstate the land;

(t) to excavate materials below ground level, including soils, and to store and re-use or dispose of the same, and in so excavating to undertake any works, including works of protection or removal of archaeological remains as may be required by any written scheme of investigation approved under this Order;

(u) lay out and maintain temporary paths and bridleways for public use as temporary diversions for public rights of way which are interfered with during any period in which construction, maintenance, repair or renewal decommissioning is being carried out;

(v) to install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works for noise alleviation measures and the installation of temporary barriers for the protection of fauna;

(w) carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the land and/or in accordance with any necessary licences relating to protected species and/or wildlife; and

(x) (in an emergency only when the cables are temporarily unusable) to lay down, install, use, maintain and inspect underground cables, telephone signalling and fibre-optic cables and ancillary equipment, associated works and other conducting media together with conduits or pipes for containing the same in and under the land.

Restrictive covenants

A restrictive covenant over the land for the benefit of the remainder of the Order land to—

(a) prevent anything to be done in or upon the land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the foundations or footings thereto);

(b) prevent anything to be done by way of hard surfacing of the land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed surfacing would not cause damage to relevant part of the authorised development nor make it materially more difficult or expensive to maintain the authorised development);

(c) to prevent anything to be done by way of excavation of any kind in the land nor any activities which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development, alter, increase or decrease ground cover or soil levels in any manner whatsoever without the consent in writing of the undertaker save as are reasonably required for agricultural activities (being ploughing to no deeper than 0.6m for the purposes of arable farming) or are required to be carried out by National Grid in order to exercise their statutory functions or rights in relation to their apparatus (if any) within the

land;

(d) to prevent the planting or growing within the land of any trees, shrubs or underwood without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised development nor make it materially more difficult or expensive to access the relevant part of the authorised development);

(e) to prevent anything being done which may interfere with free flow and passage of electricity or telecommunications through the cables or support for the authorised development;

(f) to prevent carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt, or interfere with the exercise of the rights or damage the authorised development; and

(g) to prevent any activity which would in the reasonable opinion of the undertaker result in the disturbance of ecological mitigation areas or areas of habitat creation or reinstatement including any ploughing or grazing without the prior written consent of the undertaker.

Operational and Maintenance Access

01-011, 01-015, 02-004, 02-012, 02-017, 02-018, 02-019, 02-020, 03-001, 03-016, 03-017, 03-020, 03-021, 03-022, 04-002, 04-003, 04-004, 04-005, 04-012, 04-013, 04-014, 04-015, 04-017, 04-018, 05-022, 05-027, 06-001, 06-003, 06-007, 06-012, 07-004, 08-002, 08-010, 08-015, 08-023, 08-024, 09-003, 09-006, 09-009, 09-010, 09-011, 10-008, 10-013, 11-001, 12-014, 13-032, 13-033

Rights

Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—

(a) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of the authorised development, the inspection, use, testing, maintenance, renewal, repair, upgrading, replacement and removal of the cables and connection into any adjacent cables and associated works, to take plant and equipment on to adjoining land and make such investigations in or on the land which is ancillary for the purposes of exercise of the rights;

(b) to construct, use, maintain and improve a permanent means of access including visibility splays, and retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing the land, adjoining land and highway;

(c) retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing adjoining land and highway;

(d) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam,

terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair, renewal or decommissioning is being carried out;

(e) erect temporary bridges and supporting or protective structures for the purposes of access to adjoining land;

(f) place and use plant, machinery, structures and temporary structures within the land, and to erect temporary signage and provide measures for the benefit of public and personnel safety;

(g) alter, fell, lop, cut, coppice wood, uproot trees or hedges or shrubs or other vegetation which now or hereafter may be present on the land for the purpose of enabling the right to pass and re-pass to adjoining land;

(h) repair, improve, renew, remove, relocate and plant trees, woodland, shrubs, hedgerows, seeding, other vegetation and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping;

(i) erect and remove temporary fencing, gates, walls, barriers or other means of enclosure; and

(j) lay out and maintain temporary paths and bridleways for public use as temporary diversions for public rights of way which are interfered with during any period in which construction, maintenance, repair or renewal decommissioning is being carried out.

Restrictive covenants

A restrictive covenant over the land for the benefit of the remainder of the Order land to—

(a) prevent anything to be done in or upon the Land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the foundations footings or other supporting structures thereto); and

(b) prevent the planting or growing within the Land of any trees, shrubs or underwood without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised development nor make it materially more difficult or expensive to access the relevant part of the authorised development).

Substation Drainage
15-002, 15-012, 15-013, 15-015

Rights

Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—

(a) remove and discharge water from the land and to lay down, install, retain, use, maintain, inspect, adjust, alter, remove, refurbish, reconstruct, upgrade, replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, flues and to drain into and manage waterflows in any drains, watercourses and culverts, to lay down, install, adjust, alter, construct, create, use, maintain, repair, renew, upgrade, inspect, remove and replace a drainage scheme on the land (the "drainage works");

(b) inspect, use mechanical excavation (including directional drilling and/or digging), reinstate, remove, move or alter such part or parts of any drainage system on the land for the purposes of the drainage works (including connecting the drainage works to any land drain as at the date of the drainage works);

(c) enter, be on, and break up the surface of the land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of the drainage works;

(d) store and stockpile materials (including excavated material);

(e) make such investigations in or on the land as required for the purposes of the drainage works, include to create boreholes and trail excavation pits for the purposes of intrusively surveying the land;

(f) to excavate materials below ground level, including soils, and to store and re-use or dispose of the same, and in so excavating, to undertake any works, including works of protection or removal of archaeological remains as may be required by any written scheme of investigation approved under this Order;

(g) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of the drainage works;

(h) place and use plant, machinery, structures and temporary structures within the land, and to erect temporary signage and provide measures for the benefit of public and personnel safety for the purposes of the drainage works;

(i) erect fencing, gates, walls, barriers or other means of enclosure, and create secure works areas or compounds and working areas for the purposes of the drainage works;

(j) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair or renewal of any drainage work is being carried out;

(k) effect access and egress to and from the highway;

(l) alter, fell, lop or cut, coppice wood, uproot trees or hedges or shrubs which now or hereafter may be standing on the land or other land which would if not felled, lopped, cut or removed obstruct or interfere with the drainage works;

(m) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers);

(n) to install, execute, implement, retain, repair, improve, renew, relocate, maintain and carry out mitigation, maintenance, remediation works for environmental or ecological mitigation or enhancement works, including temporary works for noise alleviation measures and the installation of temporary barriers for the protection of fauna; and

(o) to carry out such works (together with associated fencing) required by a planning permission and/or consent now or to be granted over the land in accordance with any necessary licences relating to protected species and/or wildlife.

Restrictive covenants

A restrictive covenant over the land for the benefit of the remainder of the Order land to—

(a) prevent anything to be done in or upon the land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the foundations or footings thereto); and

(b) prevent anything to be done by way of hard surfacing of the land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed surfacing would not cause damage drainage works).

National Grid Substation Works
15-015, 16-002, 16-003, 16-004, 16-005, 16-006, 16-007, 16-008

Rights

Rights for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development to—

(a) lay down, install, retain, adjust, alter, construct, operate, erect, use, maintain, repair, renew, upgrade, inspect, remove and replace the electricity cables (including the removal of materials including spoil)

in, under, over and/or on the land, together with such telemetry and fibre-optic lines, ducting, jointing bays and other apparatus, protection measures, cable marker posts, chambers and manholes, manhole covers and other equipment which is ancillary to the purposes of transmitting electricity along such electricity cables (all collectively referred to as the "cables");

(b) enter, be on, and break open and break up the surface of the land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity along the cables;

(c) to benefit from continuous vertical and lateral support for the authorised development;

(d) pass and re-pass with or without vehicles, plant, machinery, apparatus, equipment and materials for the purposes of laying down, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting the authorised development and for removing and replacing the cables;

(e) to use, maintain, renew improve and alter existing accesses, roads, streets, tracks or ways over the land, providing that such use is not exclusive and exercise of this right must not prevent or unreasonably inhibit use by other parties;

(f) construct, lay down, use and remove temporary access roads including any necessary hard standing and other surface materials including (but not limited to) matting, aggregate, trackway, stone, tarmacadam, terram, temporary bridging, culverting or diversion of water courses and drains during any period during which construction, maintenance, repair, renewal or decommissioning is being carried out;

(g) place and use plant, machinery, structures and temporary structures within the land, and to erect temporary signage and provide measures for the benefit of public and personnel safety;

(h) fell, lop, cut, coppice wood, uproot trees or hedges or shrubs or other vegetation which now or hereafter may be present on the land for the purpose of enabling the right to pass and re-pass to adjoining land;

(i) to take and use, remove and discharge water from the land and to lay down, install, retain, use, maintain, inspect, adjust, alter, remove, refurbish, reconstruct, upgrade, replace, protect and improve sewers, drains, pipes, ducts, mains, conduits, flues and to drain into and manage waterflows in any drains, watercourses and culverts, to lay down, install, retain, adjust, alter, construct, create, use, maintain, repair, renew, upgrade, inspect, remove and replace a drainage scheme on the land;

(j) lay down, install, alter, re-lay, maintain, protect, adjust, use or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers); and

(k) effect access and egress to and from the highway.

Restrictive covenants

A restrictive covenant over the land for the benefit of the remainder of the Order land to—

(a) prevent anything to be done in or upon the land or any part thereof for the purpose of the erection of any buildings or construction erection or works of any kind (including the foundations or footings thereto) without the prior written consent of the undertaker;

(b) to prevent the planting or growing within the land of any trees, shrubs or underwood without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised development nor make it materially more difficult or expensive to access the relevant part of the authorised development);

(c) to prevent anything being done which may interfere with free flow and passage of electricity or telecommunications through the cables or support for the authorised development;

(d) to prevent carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt or interfere with the exercise of the rights or damage the authorised development.

SCHEDULE 6

Article 23

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

Compensation enactments

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 imposition of a restrictive covenant as they apply as respects compensation for the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the following modification—

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

"(5A) If—

(a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the Compulsory Purchase Act 1965 (as modified by paragraph 5(5) of Schedule 6 to the North Falls Offshore Wind Farm Order 2026).

(b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the Compulsory Purchase Act 1965 (as substituted by paragraph 5(8) of Schedule 6 to the North Falls Offshore Wind Farm Order 2026) 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 sub-section (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.".

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(**a**) 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 paragraph 5(3) of this Schedule—

(a) for "land is acquired or taken from" substitute "a right or restrictive covenant over land is purchased from or imposed on"; and

(b) for "acquired or taken from him" substitute "over which the right is exercisable or the restrictive covenant enforceable".

Application of Part 1 of the 1965 Act

4.—(1) Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 28 (modification of Part 1 of the 1965 Act) to the acquisition of land under article 20 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 23 (compulsory acquisition of rights etc.)—

(a) with the modifications specified in paragraph 5; and

(**a**) 1973 c. 26.

(b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4 are set out in the following provisions of this Schedule.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be 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 or is to be enforceable.

(3) For section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

"**7**. In assessing the compensation to be paid by the acquiring authority under this Act, regard must 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.".

(4) 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) (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 modified so 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.

(5) Section 11 (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right or restriction, as well as the notice of entry required by sub-section (1) of that section (as it applies to a compulsory acquisition), 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(**a**) (powers of entry: further notices of entry), 11B(**b**) (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.

(6) 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.

(7) Section 22 (interests omitted from purchase) of the 1965 Act is modified so 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, subject to compliance with that section as respects compensation.

(8) For Schedule 2A of the 1965 Act substitute—

(**a**) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).
(**b**) Section 11B was inserted by section 187(2) of the above Act.

"SCHEDULE 2A

Section 8

COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN NOTICE TO TREAT

Introduction

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or a 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 25 (application of the 1981 Act) of the North Falls Offshore Wind Farm Order 2026 in respect of the land to which the notice to treat relates.

(2) But see article 27 (acquisition of subsoil only) of the North Falls Offshore Wind Farm Order 2026 which excludes the acquisition of subsoil only from this Schedule.

2. In this Schedule, "house" 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 acquiring 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 it is to be treated as if it 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.

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 the 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 acquiring authority ought to be required to take.

13. If the Upper Tribunal determines that the acquiring 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 acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of six 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 withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawing of the notice.

15. Any dispute as to the compensation is to be determined by the Upper Tribunal.".

SCHEDULE 7

Article 30

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) *Number of plot shown on land plans*	*(2)* *Purpose for which temporary possession may be taken*	*(3)* *Relevant part of the authorised development*
01-014	Temporary use as a construction working area and for access to facilitate construction of the authorised development at landfall	Work No. 5
02-003, 02-005, 02-007, 02-008, 02-011, 02-013, 02-014, 05-001, 07-014, 08-001, 08-003, 08-004, 08-016, 08-017, 11-002, 12-007 12-017, 12-018, 12-019, 13-024, 13-025, 13-026, 13-030, 13-035, 13-037, 13-039, 13-040, 13-041, 13-042, 13-043, 13-044, 13-045	Temporary use as a construction working area and for access to facilitate construction of the authorised development	Work No. 7
02-003, 02-005, 02-007, 02-008, 02-010, 02-011, 02-013, 02-014, 03-002, 03-003, 03-006, 03-007, 03-010, 03-011, 03-012, 03-013, 03-014, 03-015, 03-018, 03-019, 03-025, 04-001, 04-008, 04-019, 04-020, 04-021, 05-001, 05-002, 05-003, 05-004, 05-006, 05-007, 05-011, 05-012, 05-013, 05-014, 05-015, 05-019, 05-020, 05-021, 05-023, 05-025, 06-004, 06-005, 06-006, 06-008, 06-009, 06-010, 06-011, 06-013, 06-015, 06-016, 07-002, 07-005, 07-006, 07-008, 07-013, 07-014, 08-001, 08-003, 08-004, 08-008, 08-018, 08-019, 08-025, 09-001, 09-002, 09-004, 10-001, 10-002, 10-004, 10-005, 10-010, 10-011, 10-012, 10-014, 10-015, 10-016, 10-017, 10-018, 11-002, 11-003, 12-001, 12-002, 12-003, 12-004, 12-007, 12-008, 12-009, 12-013, 12-015, 12-016, 12-017, 12-018, 13-024, 13-025, 13-026, 13-039, 13-040, 13-041, 13-042, 13-043, 13-044, 13-045, 13-047, 13-048, 13-049, 13-050, 13-051, 13-058, 13-059, 13-060,	Temporary use as access to facilitate construction of the authorised development	Work No. 8

14-001, 14-002, 14-005, 14-006, 14-010, 14-011, 14-012, 14-013, 14-014, 14-018, 14-019, 14-020, 15-006, 15-007, 15-008, 15-009		
13-004, 13-005, 13-006, 13-007, 13-008, 13-009, 13-010, 13-011, 13-012, 13-019, 13-022, 13-025, 13-026, 13-039, 13-040, 13-043, 13-044	Temporary use as access and road widening to facilitate construction of the authorised development	Work No. 9

SCHEDULE 8

Article 35

DEEMED MARINE LICENCE UNDER THE 2009 ACT – GENERATION ASSETS

PART 1

LICENSED MARINE ACTIVITIES

1.—(1) In this licence—

"the 2004 Act" means the Energy Act 2004(**a**);

"the 2008 Act" means the Planning Act 2008(**b**);

"the 2009 Act" means the Marine and Coastal Access Act 2009(**c**);

"the 2017 Regulations" means the Conservation of Offshore Marine Habitats and Species Regulations 2017(**d**);

"aids to navigation management plan" means the aids to navigation management plan to be submitted to the MMO under condition 21 of this licence;

"authorised deposits" means the substances and articles specified in paragraph 4 of this licence;

"authorised development" means Work No. 1 described in paragraph 3 of this licence or any stage of that work;

"buoy" means any floating device used for navigational purposes or measurement purposes, including LIDAR buoys, wave buoys and guard buoys;

"cable circuits" means a number of electrical conductors necessary to transmit electricity between two points, comprising one or more conductors which may be bundled as one cable or take the form of separate cables, and in either case the circuit may include one or more auxiliary cables for the purpose of control, monitoring, protection or general communication;

"cable crossings" means a crossing of existing cables, pipelines or other existing infrastructure by cable circuits authorised by this Order together with cable protection;

"cable protection" means physical measures for the protection of cables including but not limited to concrete mattresses, split pipe system, and/or rock placement (including material used for cable crossings);

"cable protection replenishment" means the restoration to a former level or condition of cable protection lost by natural seabed processes or human activity;

"Chart Datum" means the level below which the tide will not normally fall at a given location, usually the lowest astronomical tide;

"chemical" means a chemical element and will include both substances and preparations;

"commence" means the first carrying out of any licensed marine activities authorised by this marine licence, save for any operations consisting of pre-construction surveys and monitoring approved under this marine licence and the activities set out in paragraph 2(d), and "commenced" and "commencement" must be construed accordingly;

"commissioning" means the process of assuring that all systems and components of the authorised development are tested to verify that they function and are operable in accordance with the specifications and operational requirements of the undertaker;

(**a**) 2004 c. 20.
(**b**) 2008 c. 29.
(**c**) 2009 c. 23.
(**d**) S.I. 2017/13.

"condition" means a condition in Part 2 of this licence;

"Defence Infrastructure Organisation Safeguarding" means Ministry of Defence Safeguarding, Defence Infrastructure Organisation – Safeguarding, St George's House, DIO Head Office, DMS Whittington, Lichfield, Staffordshire, WS14 9PY and any successor body to its functions;

"Defra" means the Department for Environment, Food and Rural Affairs;

"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 40 (certification of plans and documents, etc.);

"dropped object procedure form" means the MMO notification proforma with reference MLDIR1 for reporting the loss or dumping of synthetic materials and other refuse at sea or any other format advised in writing by the MMO;

"enforcement officer" means a person authorised to carry out enforcement duties under Chapter 3 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 under article 40 (certification of plans and documents, etc.);

"habitats of principal importance" means a habitat designated as being of principal importance in accordance with section 41 (biodiversity lists and action (England)) of the Natural Environment and Rural Communities Act 2006(**a**);

"IHO S44ed6 Order 1a" means order 1a from the sixth edition of the International Hydrographic Organisation's Standards for Hydrographic Surveys as updated or amended from time to time;

"jacket foundation" means a lattice type structure constructed of steel, and additional equipment such as J-tubes, corrosion protection systems and access platforms attached to the seabed at 3 or more points with pin piles or suction buckets;

"JNCC" means the Joint Nature Conservation Committee;

"JNCC guidance" means the JNCC Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded from time to time;

"Kingfisher 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;

"Kingfisher Information Service" means the information service from non-departmental government body Seafish;

"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 (including replenishment of cable protection) to the extent assessed in the environmental statement, and "maintenance" must be construed accordingly;

"Marine Management Organisation" or "MMO" means the Marine Management Organisation, Marine Licensing Team, Tyneside House, Skinnerburn Road, Newcastle Business Park, Newcastle upon Tyne, NE4 7AR which is the body created under the 2009 Act and which is responsible for the monitoring and enforcement of this licence;

"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;

"MCA" means the Maritime and Coastguard Agency;

(**a**) 2006 c. 16.

“MGN654” means “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes, as may be updated or amended from time to time;

“MHWS” or “mean high water springs” means the average throughout the year, of two successive high waters, during a 24-hour period in each month when the range of the tide is at its greatest (Spring tides);

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

“offshore converter platform” means a structure, authorised by the deemed marine licence in Schedule 10 to the Order, above MHWS and attached to the seabed by means of a foundation, with equipment to convert three-phase HVAC power generated by the wind turbine generations into HVDC power;

“the offshore Order limits and boundary co-ordinates plan” means the plan certified as such by the Secretary of State for the purposes of the Order under article 40 (certification of plans and documents, etc.);

“offshore platform” means the offshore substation platform(s) and/or the offshore converter platform;

“Offshore Renewables Protocol for Reporting Archaeological Discoveries” means the Offshore Renewables Protocol for Reporting Archaeological Discoveries, the Crown Estate (2014), Protocol for Archaeological Discoveries: Offshore Renewables Projects, Salisbury, Wessex Archaeology as amended, updated or superseded from time to time;

“offshore substation platform” means a structure, authorised by the deemed marine licence in Schedule 9 to the Order, above MHWS and 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;

“operation” means the undertaking of the licensed activities which are not part of the construction, commissioning or decommissioning of the authorised development;

“Order” means the North Falls Offshore Wind Farm Order 2026;

“the Order limits” means the limits shown on the works plans (offshore) within which the authorised development may be carried out, the grid coordinates for the area of which seaward of MHWS are set out in paragraph 5 of Part 1 of this licence;

“outline fisheries liaison and co-existence plan” means the document certified as such by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

“outline offshore in-principle monitoring plan” means the document certified as such by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

“outline offshore operations and maintenance plan” means the document certified as such by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

“outline offshore written scheme of investigation” means the document certified as such by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

“outline project environmental management plan” means the document certified as such by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

“outline sediment disposal management plan” means the document certified as such by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"outline site integrity plan for the southern north sea special area of conservation" means the document certified as such by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"outline vessel traffic monitoring plan" means the document certified as such by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc);

"pathway to the marine environment" means open systems or closed systems that require top up;

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

"preparation" means a mixture or solution composed of two or more substances;

"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, or rock and gravel placement;

"SNCB" means the statutory nature conservation body, being the appropriate nature conservation body as defined in Regulation 5 of the Conservation of Habitats and Species Regulations 2017(**a**) or its equivalent in the 2017 Regulations;

"SNS SAC" means the site designated as the Southern North Sea Special Area of Conservation;

"statutory historic body" means Historic England or its successor in function;

"substance" means a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition;

"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;

"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;

"UK Standard Marking Schedule for Offshore Installations" means the Standard Marking Schedule for Offshore Installations published by the Department of Energy & Climate Change with reference DECC 04/11.

"undertaker" means, subject to article 5 (benefit of the Order), North Falls Offshore Wind Farm Limited (company number 12435947);

"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) (or equivalent structures), transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, and helicopter landing facilities and other associated equipment, fixed to a foundation or transition piece;

"Work No. 1" has the meaning given in paragraph 3 of this licence and includes the further associated development listed;

(**a**) S.I. 2017/1012.

"Work No. 2" has the same meaning as in Part 1 of Schedule 1 to the Order;

"working day" means a day which is not a weekend, bank holiday or public holiday in England; and

"works plans (offshore)" means the plan or plans certified as the works plans (offshore) by the Secretary of State for the purposes of the Order under article 40 (certification of plans and documents, etc.).

(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;

(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) Civil Aviation Authority
Aviation House
Beehive Ring Road
Crawley
West Sussex
RH6 0YR

(b) Historic England
East of England Regional Office
Brooklands
24 Brooklands Avenue
Cambridge
CB2 8BU

(c) Marine Management Organisation
Marine Licensing Team, Tyneside House
Skinnerburn Road
Newcastle Business Park
Newcastle upon Tyne
NE4 7AR Tel: 0300 123 1032;

(d) Marine Management Organisation (Local Office)
Pakefield Road
Lowestoft
NR33 0HT
Tel: 0208 026 0654

(e) Maritime and Coastguard Agency
UK Technical Services Navigation
Spring Place
105 Commercial Road
Southampton
SO15 1EG
Email: navigationsafety@mcga.gov.uk;

(f) Ministry of Defence (as represented by Defence Infrastructure Organisation – Safeguarding)
St George's House
153
DIO Head Office
DMS Whittington
Lichfield
Staffordshire
WS14 9PY;

(g) Natural England
Teville Gate House
25 Railway Approach
Worthing
BN11 1UR
Tel: 0300 060 4911;

(h) Trinity House
Tower Hill
London
EC3N 4DH
Tel: 020 7481 6900;

(i) The United Kingdom Hydrographic Office
Admiralty Way
Taunton
Somerset
TA1 2DN
Tel: 01823 337 900.

(5) Unless otherwise advised in writing by the MMO, the address for electronic communication with the MMO for the purposes of this licence is marine.consents@marinemanagement.org.uk, or where contact to the Local Office if the MMO is required, harwich@marinemanagement.org.uk.

(6) Unless otherwise advised in writing by the MMO, the Marine Case Management System ("MCMS") must be used for all licence returns or applications to vary this licence. The MCMS address is: https://marinelicensing.marinemanagement.org.uk/.

Details of licensed marine activities

2. Subject to the licence conditions in Part 2, this licence authorises the undertaker (and any agent or contractor acting on its 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, at disposal site reference provided by the MMO, within the Order limits seaward of MHWS of the substances and articles specified in paragraph 4 below and within Work No. 1 of up to 22,408,883 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and seabed preparation for cable installation and cable installation (whether by ploughing, jetting, trenching or a combination of installation techniques);

(b) the construction of works in or over the sea and/or on or under the seabed;

(c) dredging for the purposes of seabed preparation for foundation works, preparation for construction vessels and/or electrical circuit works;

(d) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;

(e) boulder clearance works by displacement ploughing or subsea grab technique or any other comparable method;

(f) removal of static fishing equipment;

(g) wet storage; and

(h) site preparation works.

3. Such activities described in paragraph 2 are authorised in relation to the construction, maintenance and operation of—

Work No. 1—

(a) an offshore wind turbine generating station with a gross electrical output capacity of over 100 megawatts comprising up to 57 wind turbine generators each fixed to the seabed by one of the following foundation types: monopile, mono suction bucket, multi-leg pin pile jacket or multi-leg suction bucket jacket; and

(b) a network of cables between the wind turbine generators and between the wind turbine generators and Work No. 2 (as defined in Schedule 1 to the Order), including one or more cable crossings.

And in connection with Work No. 1 and to the extent that they do not otherwise form part of that 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 development 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;

(c) the removal of material from the seabed required for the construction of Work No. 1; and

(d) temporary landing places, moorings or other means of accommodating or anchoring vessels in the construction and/or maintenance of the authorised development and buoys.

4. The substances or articles authorised for deposit at sea are—

(a) iron and steel, copper and aluminium;

(b) stone and rock;

(c) concrete and grout;

(d) sand and gravel;

(e) plastic, synthetic and rubber;

(f) material extracted from the seabed within the offshore Order limits during construction drilling or seabed preparation for foundation works, vessels, cable installation preparation works and cable installation works;

(g) anchors and weights used for the calibration of vessels, consisting of a hessian sack, metal shackles or chains; and

(h) marine coatings, other chemicals and timber.

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 boundary co-ordinates plan—

(1)	*(2)*	*(3)*
Point ID	*Latitude (WGS84 (DDM))*	*Longitude (WGS84 (DDM))*
36	51° 46.18399’N	01° 51.52207’E
37	51° 46.45215’N	01° 51.46739’E

38	51° 47.79417’N	01° 56.0602’E
39	51° 45.96006’N	01° 54.98406’E
40	51° 44.20008’N	01° 56.16270’E
41	51° 43.43466’N	01° 58.08954’E
42	51° 44.92260’N	02° 02.79174’E
43	51° 44.20590’N	02° 02.65992’E
44	51° 44.16756’N	02° 02.36766’E
45	51° 43.89822’N	02° 01.62702’E
46	51° 43.70418’N	02° 01.18500’E
47	51° 43.46172’N	02° 00.54066’E
48	51° 42.90816’N	01° 59.73738’E
49	51° 42.25464’N	01° 58.18482’E
50	51° 41.80842’N	01° 58.22082’E
51	51° 38.66118’N	01° 54.67986’E
52	51° 37.76189’N	01° 52.32853’E
53	51° 39.03140’N	01° 52.10085’E
54	51° 40.08359’N	01° 52.71647’E
55	51° 40.32461’N	01° 52.55921’E
56	51° 40.41888’N	01° 52.66356’E
57	51° 40.36970’N	01° 52.53295’E
58	51° 40.36967’N	01° 52.52982’E
59	51° 40.80925’N	01° 52.24298’E
60	51° 41.18441’N	01° 51.71421’E
61	51° 41.78502’N	01° 51.60623’E
62	51° 45.61162’N	01° 51.61163’E

General provisions

6. This marine licence remains in force until the authorised development 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 (reviews and revisions of decommissioning programmes) of the 2004 Act, and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this marine 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).

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 licence, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to or variations from the approved details, plan or scheme 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.

PART 2

CONDITIONS

Design parameters

10.—(1) The total number of wind turbine generators comprised in the authorised development must not exceed 57.

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

(a) exceed a height of 377.39 metres when measured from MHWS to the tip of the vertical blade;

(b) exceed a rotor diameter of 337 metres;

(c) be less than 27 metres from MHWS to the lowest point of the rotating blade; and

(d) be less than 1180 metres from the nearest wind turbine generator in a downwind direction and 944 metres from the nearest wind turbine generator in a crosswind direction.

(3) The minimum distance in sub-paragraph (2)(d) between each wind turbine generator is to be measured from the centre point of the wind turbine generator.

(4) Wind turbine generator foundation structures forming part of the authorised development must be one of the following foundation options—

(a) monopile foundations;

(b) monopile suction bucket foundations;

(c) multi-leg pin-piled jacket foundations; or

(d) multi-leg suction bucket jacket foundations.

(5) No wind turbine generator with a—

(a) jacket foundation employing pin piles forming part of the authorised development may—

(i) have a pin pile diameter of greater than six metres; and

(ii) employ more than eight pin piles per jacket foundation; and

(b) monopile foundation forming part of the authorised development may not have a diameter greater than 17 metres.

(6) The total seabed footprint area for wind turbine generator foundations must not exceed—

(a) 94,729 square metres excluding scour protection; and

(b) 2,709,162 square metres including scour protection.

(7) The total volume of scour protection material for wind turbine generator foundations must not exceed 4,882,186 cubic metres.

(8) The total volume of drill arisings must not exceed 34,728 cubic metres.

11. The total length of the cable circuits in Work No. 1(b) and the area and volume of their cable protection (including cable crossings) must not exceed the following—

(1) *Parameter*	*(2)* *Value*
Maximum total length	170 km
Maximum protection area	204,000 m^2
Maximum protection volume	119,000 m^3

Maintenance of the authorised development

12.—(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 provide otherwise.

(2) Maintenance works include but are not limited to—

(a) repair, maintenance, refurbishment and replacement of major wind turbine components;

(b) painting and applying other coatings to wind turbine generators and foundations;

(c) bird waste and marine growth removal;

(d) cable remedial burial;

(e) cable repairs and replacement;

(f) cable protection replenishment;

(g) access ladder and boat landing replacement;

(h) wind turbine generator and platform anode replacement; and

(i) J-tube repair/replacement.

(3) In undertaking activities under sub-paragraph (2)(f), the undertaker must not reduce water depth by more than 5% Chart Datum unless agreed with the MMO and the MCA in writing.

(4) An operations and maintenance plan in accordance with the outline offshore operations and maintenance plan shall be submitted to the MMO for approval in consultation with the relevant SNCB at least six months prior to the commencement of operations. All operation and maintenance activities must be carried out in accordance with the approved plan.

Vessels under the undertaker's control

13.—(1) The undertaker must 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 which must be in accordance with the outline project environmental management plan.

(2) The undertaker must 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.

Extension of time periods

14. Any time period given in this licence to either the undertaker or the MMO may be extended with the agreement of the other party in writing such agreement not to be unreasonably withheld or delayed.

Notifications and inspections

15.—(1) The undertaker must ensure that—

(a) a copy of this marine 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 25; and

(ii) the masters and offshore operations managers responsible for the vessels notified to the MMO in accordance with condition 25.

(2) Only those persons and vessels notified to the MMO in accordance with condition 25 are permitted to carry out the licensed activities.

(3) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer 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 and at the office of any offshore operations managers with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The undertaker must ensure that a copy of this marine licence and any subsequent revisions or amendments has been read and understood by the masters of any vessel being used to carry on any licensed activity set out in condition 25(3), and that a copy of this marine licence is held on board any such vessel.

(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 development.

(6) The undertaker must inform the MMO Local Office in writing at least 14 days prior to the commencement of the licensed activities or any part of them and within 14 days of the completion of each licensed activity.

(7) The undertaker must inform the Kingfisher Information Service, by email to kingfisher@seafish.co.uk, of details regarding the vessel routes, timings and locations relating to the construction of the authorised development or relevant stage—

(a) at least fourteen days prior to the commencement of offshore activities, for inclusion in the Kingfisher bulletin and offshore hazard awareness data; and

(b) as soon as reasonably practicable, and in any event no later than 24 hours after completion of construction of all offshore activities,

confirmation of notification must be provided to the MMO in writing within five days.

(8) The undertaker must ensure that a local notification to mariners is issued at least 14 days prior to the commencement of the authorised development or any relevant stage 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, MCA and UK Hydrographic Office within five days of issue.

(9) The undertaker must ensure that local notifications to mariners are updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and the notices must be supplemented with VHF radio broadcasts agreed with the MCA in accordance with the project environmental management plan approved under condition 21(1)(d) and the monitoring plan approved under condition 21(1)(f). Copies of all local notifications must be provided to the MMO and UK Hydrographic Office within five days of issue, save for in the case of a notice relating to operations and maintenance, which must be provided within 24 hours of issue.

(10) The undertaker must notify the UK Hydrographic Office of the commencement (within 14 days), progress and completion of construction (within 14 days) of the licenced activities in order that all necessary amendments to nautical and aeronautical charts are made and the undertaker must send a copy of such notifications to the MMO and MCA within five days of the notification.

(11) In case of damage to, or destruction or decay of, the authorised development seaward of MHWS or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, the MMO Local Office, the MCA, Trinity House, the Kingfisher Information Service and the UK Hydrographic Office.

(12) In case of exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners and inform the Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the MMO, the MCA, Trinity House and the UK Hydrographic Office within five days of notifying mariners.

(13) The undertaker must notify the MMO in writing a minimum of 14 days in advance of the commencement of each discrete incident of cable repair, replacement, or protection replenishment activity or scour protection replacement activity. Any such notification must include proposed timings and a description of proposed methodologies.

(14) The undertaker must ensure that the MMO, the MMO Local Office, local mariners, local fishermen’s organisations and the Source Data Receipt Team at the UK Hydrographic Office,

Taunton, Somerset, TA1 2DN (sdr@ukho.gov.uk) are notified within 14 days of completion of each instance of cable repair, replacement or protection replenishment activity.

(15) Should the undertaker become aware that any of the information on which the granting of this licence was based was materially false or misleading, the undertaker must notify the MMO local office of this fact in writing as soon as is reasonably practicable. The undertaker must explain in writing what information was materially false or misleading and must provide to the MMO the correct information.

Aids to navigation

16.—(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning of the authorised development 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 development to completion of decommissioning of the authorised development seaward of MHWS keep Trinity House and the MMO informed in writing of progress of the authorised development seaward of MHWS including the following—

(a) notice of commencement of construction of the authorised development 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 development.

(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 21(1)(i) 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 development seaward of MHWS notify Trinity House and the MMO in writing 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 15(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.

(6) Any jack up barges or vessels utilised during the licensed activities, when jacked up, must exhibit signals in accordance with the UK Standard Marking Schedule for Offshore Installations.

Colouring of structures

17.—(1) Except as otherwise required by Trinity House, the undertaker must colour all structures yellow (colour code RAL 1023) from at least highest astronomical tide to a height directed by Trinity House.

(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).

Aviation safety

18.—(1) The undertaker must exhibit such lights, with such shape, colour and character as are required in writing by The Air Navigation Order 2016(**a**) (with any reference to the territorial sea being read as a reference to the Renewable Energy Zone established under section 84 of the 2004 Act) and/or determined necessary for aviation safety by the Civil Aviation Authority, in consultation with the Defence Infrastructure Organisation Safeguarding. Lighting installed

(**a**) S.I. 2016/765.

specifically to meet Ministry of Defence aviation safety requirements must remain operational for the life of the authorised development unless otherwise agreed in writing with the Ministry of Defence.

(2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, the Civil Aviation Authority and the MMO, at least 14 days prior to the commencement of the licensed activities, in writing of the following information—

(a) the date of the commencement of the licensed activities;

(b) the date any wind turbine generators are to be installed;

(c) the maximum height of any construction equipment or vessels to be used;

(d) the maximum heights of any wind turbine generator and offshore platform to be constructed (including any antennae); and

(e) the latitude and longitude of each wind turbine generator and offshore platform to be constructed, and

the Defence Infrastructure Organisation Safeguarding and the Civil Aviation Authority must be notified of any changes to the information supplied under this paragraph of this condition and of the completion of the construction of the authorised development. Copies of notifications must be provided to the MMO.

Chemicals, drilling and debris

19.—(1) The undertaker must ensure that any coatings and/or treatments are suitable for use in the marine environment and are used in accordance with relevant guidelines approved by the Health and Safety Executive.

(2) 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.

(3) 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 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(4) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation or seabed preparation for foundations, vessels or cables, or cable installation, and drilling mud is disposed of within the Order limits seaward of MHWS.

(5) The undertaker must ensure that any rock material used in the construction of the authorised development is from a recognised source, free from contaminants and containing minimal fines.

(6) In the event that any rock material used in the construction of the authorised development is misplaced or lost below MHWS, the undertaker must report the loss to the MMO Local Office in writing within 48 hours of becoming aware of it and if the MMO, in consultation with the MCA and Trinity House, 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 at its own expense.

(7) 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 marine environment through the freeing ports.

(8) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported in writing to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 21(1)(d)(i).

(9) Regarding incidents of dropped objects—

(a) Debris or dropped objects within the Order limits which are considered a danger or hazard to navigation must be reported as soon as reasonably practicable but no later than six hours from the undertaker becoming aware of an incident, to the relevant HM

Coastguard Maritime Rescue Co-ordination Centre by telephone (Dover Maritime Rescue Coordination Centre: 0344 382 0593), and the UK Hydrographic Office email: navwarnings@btconnect.com.

(b) All dropped objects, including those in (a), within the Order limits must be reported to the MMO using the dropped object procedure form (including any updated form as provided by the MMO) as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident, unless otherwise agree in writing with the MMO.

(c) On receipt of notification or 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 marine environment at the undertaker's expense if reasonable to do so.

Force majeure

20.—(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 (an "unauthorised deposit"), full details of the circumstances of the deposit must be notified to the MMO in the manner provided in condition 19(9) within 48 hours of the deposit.

(2) Any unauthorised deposit must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Pre-construction plans and documentation

21.—(1) The licensed activities for each stage of construction of the authorised development must not commence until the following (insofar as relevant to that activity or stage of activity) has been submitted to and approved in writing by the MMO, in consultation with, where relevant, Trinity House, the MCA, UK Hydrographic Office and relevant SNCB—

(a) a design plan, at a scale of between 1:25,000 and 1:50,000, or in such other format as may be appropriate, including detailed representation on the most suitably scaled chart, to ensure conformity with the description of Work No. 1 and compliance with conditions 10, 11 and 12, which shows for the relevant stage—

(i) the proposed location, including grid co-ordinates of the centre point of the proposed location for each wind turbine generator, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions discovered post approval under this condition and choice of foundation types for all wind turbine generators;

(ii) the number, specifications and dimensions of the wind turbine generators to be installed;

(iii) the length and arrangement of cables comprising Work No. 1(b);

(iv) the type and dimensions of all foundations; and

(v) any exclusion zones or micro-siting requirements identified in any mitigation plan pursuant to sub-paragraph (2)(d) or relating to any habitats of principal importance identified as part of surveys undertaken in accordance with condition 26;

(b) a construction programme for the relevant stage, unless otherwise agreed in writing with the MMO, 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 and cable circuits comprised in Work No. 1 and the works in paragraph 2 (insofar as not shown in sub-paragraph (ii) above);

(c) a construction method statement in accordance with the construction methods assessed in the environmental statement and including details for the relevant stage 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 cable installation works, and having regard to any mitigation scheme pursuant to sub-paragraph (g);

(ii) contractors; and

(iii) associated ancillary works;

(d) a project environmental management plan covering the period of construction for the relevant stage to include details of—

(i) a marine pollution contingency plan to address the risks, methods and procedures to deal with and report any spills and collision incidents of the authorised development in relation to all activities carried out;

(ii) a chemical risk register for all chemicals that have a pathway to the marine environment and may be used for the licensed activities (with the exception of any chemicals used in the course of normal navigation), submitted to the MMO for approval at least ten weeks prior to the use of such chemicals, to include details of—

(aa) the function of the chemicals;

(bb) the quantities being used and the frequency of use; and

(cc) the physical, chemical and ecotoxicological properties of the chemical (save for any chemicals present on the OSPAR List of Substances Used and Discharged Offshore which Are Considered to Pose Little or No Risk to the Environment (PLONOR));

(iii) a marine biosecurity plan detailing how the risk of introduction and spread of invasive non-native species will be minimised; and

(iv) waste management and disposal arrangements.

(e) a scour protection plan for the relevant stage providing details of the need, type, sources, quantity and installation methods for scour protection, which must be updated and resubmitted in writing for approval if changes to it are proposed following cable laying operations;

(f) details of proposed pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting in accordance with conditions 26, 27 and 28;

(g) in the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol (in accordance with the draft marine mammal mitigation protocol), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant SNCB and which must include details of noise reduction methods through project design (primary measures) and/or, deployment of noise mitigation systems or noise abatement systems (secondary measures) that will be utilised to manage sounds from those piling activities and such protocol must include details and justification for the mitigation chosen or excluded for deployment;

(h) a cable specification and installation plan for the relevant stage, to include—

(i) technical specification of offshore cables (including fibre optic cable) below MHWS within that stage, including a desk-based assessment of attenuation of electromagnetic field strengths, shielding and cable burial depth in accordance with good industry practice;

(ii) a detailed cable laying plan for the Order limits within that stage, 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;

(iii) proposals for the volume and areas of cable protection to be used for each cable crossing, and proposals for timing and methodology for reporting on actual volumes and areas post construction; and

(iv) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised development which includes a risk-based approach to the management of unburied or shallow buried cables;

(i) an aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House, the MCA and the CAA to include details of how the undertaker will comply with the provisions of condition 16 relating to that stage for the lifetime of the authorised development;

(j) an offshore monitoring plan for the relevant stage which accords with the principles set out in the outline offshore in-principle monitoring plan;

(k) a fisheries liaison and co-existence plan for the relevant stage which must include details of any monitoring being undertaken and engagement with commercial fishery stakeholders and which accords with the principles set out in the outline fisheries liaison and co-existence plan;

(l) a vessel traffic monitoring plan for the relevant stage which accords with the principles set out in the outline vessel traffic monitoring plan;

(m) a sediment disposal management plan for the relevant stage which accords with the principles set out in the outline sediment disposal management plan; and

(n) no percussive piling may take place between 1st November to 31st January (inclusive) in any year for the protection of spawning herring unless otherwise agreed in writing with the MMO.

(2) Subject to sub-paragraph (3), the licensed activities or any relevant stage of those activities must not commence unless, no later than six months prior to the commencement, a marine written scheme of archaeological investigation for the stage in construction has been submitted to and approved by the MMO in writing, 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 method statement 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 development, 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, designed in reference to the Offshore Renewables Protocol for Reporting Archaeological Discoveries as set out by the Crown Estate and reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised development; and

(h) 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 method statement produced under the written scheme of investigation specific to the relevant pre-construction activities (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 in consultation with the statutory historic body.

(4) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive monopile foundations must not exceed 6,000kJ and the hammer energy used to drive or part-drive pin pile foundations must not exceed 3,000kJ.

(5) No main installation vessels may undertake pile driving at more than two pile locations at any one time for the licenced activities. There will only be a maximum installation of three monopiles foundations or six pin piles within a 24-hour period.

(6) The undertaker must, before submitting any pre-construction plans and documentation required under this condition, provide a copy of the plans and documentation to any person to whom part of the benefit of the Order applying seaward of MHWS has been transferred or leased pursuant to article 5 (benefit of the order) of the Order.

(7) A person receiving the plans and documents under sub-paragraph (6) must provide any comments on the plans and documentation to the undertaker within 14 days of receipt.

(8) The undertaker must participate in liaison meetings as requested from time to time by the MMO in writing in advance and must consider such matters as are determined by the MMO relating to the efficient operation of a deemed marine licence issued under this Order (including as varied or transferred).

22.—(1) Except where otherwise stated or agreed in writing with the MMO, each programme, statement, plan, protocol or scheme required to be approved under condition 21 (save for that required under condition 21(1)(f)) must be submitted for approval at least six months prior to the intended commencement of the relevant stage of the licensed activities.

(2) The pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting required under conditions 21(1)(f), must be submitted in accordance with the following, unless otherwise agreed in writing with the MMO—

(a) at least six months prior to the first survey of the relevant stage, detail of any pre–construction surveys and an outline of all proposed monitoring;

(b) at least six months prior to construction, detail on construction monitoring; and

(c) at least six months prior to commissioning, detail of postconstruction (and operational) monitoring.

(3) The MMO must determine an application for approval made under condition 21 within a period of six months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker such agreement not to be unreasonably withheld or delayed.

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 21, unless otherwise agreed in writing by the MMO.

(5) The plans, protocols, statements, schemes and details submitted under condition 21 must ensure that any residual effects fall within the scope of those predicted in the environmental statement.

Southern North Sea Special Area of Conservation site integrity plan

23.——(1) No piling activities can take place until a southern north sea special area of conservation site integrity plan, which accords with the principles set out in the outline southern north sea special area of conservation site integrity plan, has been submitted to and approved in writing by the MMO in consultation with the relevant SNCB.

(2) The southern north sea special area of conservation site integrity plan submitted for approval under sub-paragraph (1) must contain a description of the conservation objectives for the SNS SAC, as well as any relevant management measures and it must set out the key SNCB advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the licensed activities.

(3) The southern north sea special area of conservation site integrity plan submitted for approval under sub-paragraph (1) must be submitted in writing to the MMO no earlier than nine months and no later than six months prior to the commencement of piling activities.

(4) In approving the southern north sea special area of conservation site integrity plan under sub-paragraph (1) the MMO must determine whether the licensed activities at the pre-construction stage, in-combination with other plans and projects, would be in line with the JNCC Guidance.

(5) The southern north sea special area of conservation site integrity plan approved by the MMO under sub-paragraph (1) may be amended with the prior written approval of the MMO, in consultation with the relevant SNCB, where the MMO determines that the licensed activities, in-combination with other plans or projects at the pre-construction stage, is in line with the JNCC Guidance.

(6) The licensed activities must be carried out in accordance with the SIP approved under this condition 23, unless otherwise agreed in writing with the MMO.

Offshore safety management

24. No stage of the authorised development may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and adequately addressed all MCA recommendations as appropriate to the authorised development contained within MGN654.

Reporting of engaged agents, contractors and vessels

25.—(1) The undertaker must provide the following information to the MMO—

(a) the name, company number, address and function of any agent, contractor or subcontractor appointed to engage in the licensed activities not less than ten working days prior to such agent or contractor commencing any licensed activity; and

(b) each week during the construction of the authorised development a list of the vessels currently and to be used in relation to the licensed activities, including the master's name, vessel type, vessel IMO number and vessel owner or operating company.

(2) Any changes to the supplied details must be notified to the MMO in writing, as far as practicable, prior to the agent, contractor or vessel engaging in the licensed activities.

(3) The undertaker must notify the MMO in writing not less than 24 hours prior to the commencement of major component exchanges, ladder replacements or cable related works of—

(a) any agents, contractors or subcontractors that will carry out such works; and

(b) any vessel proposed to be used for such works, including the master's name, vessel type, vessel IMO number and vessel owner or operating company.

Pre-construction monitoring and surveys

26.—(1) The undertaker must in discharging condition 21(1)(f) for construction submit a monitoring plan in accordance with the outline offshore in-principle monitoring plan for written approval by the MMO in consultation with the relevant SNCB, which must 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 accordance with the principles set out in the outline offshore 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 survey proposals must comprise, in outline—

(a) a full sea floor coverage swath–bathymetry survey of the Order limits and a buffer outside, that meets the requirements of IHO S44ed6 Order 1a, to—

(i) determine the location, extent and composition of any biogenic or geogenic reef features, as set out within the outline offshore in-principle monitoring plan;

(ii) inform future navigation risk assessments as part of the cable specification and installation plan; and

(iii) inform the identification of any archaeological exclusion zone and post consent monitoring of any such archaeological exclusion zone;

(b) a bathymetric survey that meets the requirements of IHO S44ed6 Order 1a of the area within the Order limits within which it is proposed to carry out construction works.

(3) The pre-construction survey(s) carried out pursuant to sub-paragraphs (2)(a)(i) and (2)(b) must fulfil the requirements of MGN654 and its supporting 'Hydrographic Guidelines for Offshore Renewable Energy Developer' (as relevant).

(4) The undertaker must carry out the surveys specified within the approved monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant SNCB.

(5) Following completion of a survey carried out pursuant to this condition and prior to construction of the relevant stage, the undertaker must provide a report and full density data of the survey outcomes to the MMO, the relevant SNCB, the MCA and UK Hydrographic Office as relevant.

Construction monitoring

27.—(1) The undertaker must, in discharging condition 21(1)(f) in respect of construction monitoring, submit a construction monitoring plan or plans for that stage in accordance with the outline offshore in-principle monitoring plan for written approval by the MMO in consultation with the relevant SNCB, which must 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 accordance with the principles set out in the outline offshore in-principle monitoring plan and must specify the objectives for each survey and explain how the survey 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) If the plan or plans submitted to the MMO under this condition contain survey proposals, the construction monitoring plan must include, in outline—

(a) vessel traffic monitoring by automatic identification system for the duration of the construction period, with provision for a report to be submitted to the MMO, Trinity House, and the MCA annually during the construction period for the authorised development; and

(b) 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 piled foundations of each piled foundation type to be constructed collectively under this licence and the deemed marine licences granted under Schedules 9 and 10 of the Order.

(3) If, in the reasonable opinion of the MMO in consultation with the SNCB the monitoring carried out pursuant to condition 27(2)(b) above shows impacts significantly in excess to those assessed in the environmental statement and there has been a failure of the mitigations set out in the marine mammal mitigation protocol, all piling activity must cease until either contingency measures approved within the marine management mitigation protocol have been implemented or 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 approved construction monitoring plan or plans in accordance with that plan or plans, and provide the approved reports in the format and to timings approved pursuant to sub-paragraph (1), unless otherwise agreed in writing by the MMO in consultation with the relevant SNCB.

(5) If, in the event that the reports provided under sub-paragraph (4) identify significant effects not previously assessed or beyond those predicted within the Environmental Statement,, an adaptive management plan that aims to reduce effects to within what was predicted in the Environmental Statement, unless otherwise agreed with the MMO in writing, must be submitted to the MMO as soon as reasonably practicable after providing to the MMO the report(s) submitted under sub-paragraph (4). The adaptive management plan must be approved by the MMO in consultation with the relevant SNCB. Any such agreed and approved adaptive management or mitigation should be implemented and monitoring undertaken in full to a timetable first agreed in writing with the MMO. In the event that the adaptive management measures require separate consent, the undertaker shall apply for such consent but only be required to undertake the relevant adaptive management once the consent is granted, with the timetable in the plan adjusted accordingly.

Post-construction monitoring

28.—(1) The undertaker must, in discharging condition 21(1)(f) in respect of post-construction monitoring, submit a post-construction monitoring plan or plans for that stage in accordance with the outline offshore in-principle monitoring plan for written approval by the MMO in consultation with the relevant SNCB 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 accordance with the principles set out in the outline offshore in-principle monitoring plan and must specify the objectives for each survey and explain how the survey 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) If the plan or plans submitted to the MMO under this condition contain survey proposals, the post-construction survey plan or plans must include, in outline—

(a) 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;

(b) a bathymetric survey to monitor the effectiveness of archaeological exclusion zones. The data will be analysed by an accredited archaeologist as defined in the marine written scheme of archaeological investigation required under condition 21(2);

(c) any ornithological monitoring required by the ornithological monitoring plans submitted in accordance with condition 21(1)(j); and

(d) vessel traffic monitoring by automatic identification system for a duration of three consecutive years following the completion of construction of the authorised

development, unless otherwise agreed in writing by the MMO, with provision for a report to be submitted annually to the MMO, Trinity House, and the MCA.

(3) The undertaker must carry out the surveys specified within the approved post-construction monitoring plan or plans in accordance with that plan or plans and provide the agreed reports in the agreed format, unless otherwise agreed in writing with the MMO in consultation with the relevant SNCB.

(4) Within 12 weeks of completion of any cable repair or replacement works, the undertaker must undertake a post installation survey along the section of cable that has undergone repair or replacement to demonstrate the successful burial of the cable and submit a report to the MMO in writing on its findings.

(5) If, in the event that the reports provided under sub-paragraph (3) identify significant effects not previously assessed or beyond those predicted within the Environmental Statement, an adaptive management plan that aims to reduce effects to within what was predicted in the Environmental, unless otherwise agreed with the MMO in writing, must be submitted to the MMO as soon as reasonably practicable after providing to the MMO the report(s) submitted under sub-paragraphs (3). The adaptive management plan must be approved by the MMO in consultation with the relevant SNCB. Any such agreed and approved adaptive management or mitigation should be implemented and monitoring undertaken in full to a timetable first agreed in writing with the MMO. In the event that the adaptive management measures require separate consent, the undertaker shall apply for such consent but only be required to undertake the relevant adaptive management once the consent is granted, with the timetable in the plan adjusted accordingly.

Timing of monitoring report

29. Any monitoring report compiled in accordance with the monitoring plans provided under conditions 26, 27 and 28 must be provided to the relevant body no later than four months following receipt by the undertaker of the results of monitoring to which it relates, unless otherwise agreed with the relevant body in writing.

Reporting of impact pile driving

30.—(1) In the event that driven or part–driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the marine noise registry—

(a) no less than six months prior to the commencement of each stage of construction of the licensed activities, information on the expected location, start and end dates of impact pile driving to satisfy the marine noise registry's Forward Look requirements;

(b) within two weeks after commencement of each stage of construction of the licensed activities, information on the location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements; and

(c) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the marine noise registry's Close Out requirements by 7 April for winter season October – March inclusive and 7 October for summer season April – September inclusive; or within 12 weeks of completion of impact pile driving, whichever is earlier.

(2) The undertaker must notify the MMO in writing of the successful submission of Forward Look or Close Out data pursuant to sub-paragraph (1) above within 7 days of the submission.

(3) In this condition, "Forward Look" and "Close Out" mean the requirements as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) as amended, updated or superseded from time to time.

Maintenance reporting

31.—(1) An annual maintenance report must be submitted to the MMO in writing within one month following the first anniversary of the date of commencement of operations, and every year thereafter until the permanent cessation of operations.

(2) The report must provide a record of the licensed activities as set out in condition 12 during the preceding year, the timing of activities and methodologies used.

(3) Every fifth year, the undertaker must submit to the MMO in writing, within one month of that date, a consolidated maintenance report, which will—

(a) include a review of licensed activities undertaken during the preceding five years with reference to the reports submitted in accordance with sub-paragraph (1) of this condition; and

(b) reconfirm the applicability of the methodologies and frequencies of the licensable activities permitted by this licence for the remaining duration of this licence.

Stages of construction

32.—(1) The licenced activities must not be commenced until a written scheme setting out the stages of construction of the authorised development seaward of MHWS has been submitted to and approved by the MMO in writing.

(2) The scheme must be implemented as approved.

(3) The written scheme referred to in sub-paragraph (1) must be submitted to the MMO in writing four months prior to the planned commencement of the licenced activities.

Completion of construction

33.—(1) The undertaker must submit a close out report in writing to the MMO and the relevant SNCB within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the following details—

(a) the final number of installed wind turbine generators; and

(b) the installed wind turbine generator parameters relevant for ornithological collision risk modelling.

(2) Following completion of construction, no further construction activities can be undertaken under this licence.

34. The undertaker must submit a close out report to the MCA, Trinity House and the UK Hydrographic Office within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the following—

(a) the final number of installed wind turbine generators;

(b) a plan of the layout of installed wind turbine generators; and

(c) latitude and longitude coordinates of the centre point of the location of each wind turbine generator, provided as Geographical Information System data referenced to WGS84 datum.

Cable and Scour Reporting

35.—(1) Not more than four months following completion of the construction of the authorised development, the undertaker must provide the MMO and the relevant statutory nature conservation bodies with a report setting out details of the cable protection and scour protection used for the licensed activities.

(2) The report must include the following information—

(a) the location of cable protection and scour protection;

(b) the volume of cable protection and scour protection; and

(c) any other information relating to the cable protection and scour protection as agreed between the MMO and the undertaker.

Deployment of cable protection

36. Any cable protection authorised under this licence must be deployed within 10 years from the date the Order comes into force unless otherwise agreed by the MMO in writing.

Placement of infrastructure in proximity to Kentish Knock East Marine Conservation Zone

37.—(1) Unless otherwise agreed in writing by the MMO in consultation with the relevant SNCB, no part of the works specified in sub-paragraphs (1)(a), (b) or (c) shall be installed within 50 metres of the boundary of the site designated as the Kentish Knock East Marine Conservation Zone—

(a) the foundations fixing the wind turbine generators to the seabed which form part of Work No. 1;

(b) the network of cables between the wind turbine generators and between the wind turbine generators and Work No. 2, including any cable crossings which form part of Work No. 1; and

(c) cable protection measures which are associated development for the works specified in sub-paragraph (a) or (b).

(2) If agreement with the MMO is obtained pursuant to sub-paragraph (1), the undertaker must install any infrastructure in accordance with the details approved under sub-paragraph (1).

SCHEDULE 9

Article 35

DEEMED MARINE LICENCE UNDER THE 2009 ACT – TRANSMISSION ASSETS

PART 1

LICENSED MARINE ACTIVITIES

1.—(1) In this licence—

"the 2004 Act" means the Energy Act 2004(**a**);

"the 2008 Act" means the Planning Act 2008(**b**);

"the 2009 Act" means the Marine and Coastal Access Act 2009(**c**);

"the 2017 Regulations" means the Conservation of Offshore Marine Habitats and Species Regulations 2017(**d**);

"aids to navigation management plan" means the aids to navigation management plan to be submitted to the MMO under condition 22(1)(i) of this licence;

"Areas of Interest" means any part of those areas shown shaded orange, pink, green or blue on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan;

"authorised deposits" means the substances and articles specified in paragraph 4 of this licence;

"authorised development" means Work Nos. 2, 3, 4A and 4B as described in paragraph 3 of this licence or any stage of that work;

"buoy" means any floating device used for navigational purposes or measurement purposes, including LIDAR buoys, wave buoys and guard buoys;

"cable circuits" means a number of electrical conductors necessary to transmit electricity between two points, comprising one or more conductors which may be bundled as one cable or take the form of separate cables, and in either case the circuit may include one or more auxiliary cables for the purpose of control, monitoring, protection or general communication;

"cable crossings" means a crossing of existing cables, pipelines or other existing infrastructure by cable circuits authorised by this Order together with cable protection;

"cable protection" means physical measures for the protection of cables including but not limited to concrete mattresses, split pipe system, and/or rock placement (including material used for cable crossings);

"cable protection replenishment" means the restoration to a former level or condition of cable protection lost by natural seabed processes or human activity;

"Chart Datum" means the level below which the tide will not normally fall at a given location, usually the lowest astronomical tide;

"chemical" means a chemical element and will include both substances and preparations;

"commence" means the first carrying out of any licensed marine activities authorised by this marine licence, save for any operations consisting of pre-construction surveys and monitoring approved under this marine licence and the activities set out in paragraph 2(e), and "commenced" and "commencement" must be construed accordingly;

(**a**) 2004 c.20.
(**b**) 2008 c.29.
(**c**) 2009 c.23.
(**d**) S.I. 2017/13.

"commissioning" means the process of assuring that all systems and components of the authorised development are tested to verify that they function and are operable in accordance with the specifications and operational requirements of the undertaker;

"condition" means a condition in Part 2 of this licence;

"Defence Infrastructure Organisation Safeguarding" means Ministry of Defence Safeguarding, Defence Infrastructure Organisation – Safeguarding, St George's House, DIO Head Office, DMS Whittington, Lichfield, Staffordshire, WS14 9PY and any successor body to its functions;

"Defra" means the Department for Environment, Food and Rural Affairs;

"Deep Water Route Cable Installation Area (Future Dredging Depths) Plan" means the document certified as such by the Secretary of State under article 40 (certification of plans, etc.) for the purposes of this Order;

"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 40 (certification of plans and documents, etc.);

"dropped object procedure form" means the MMO notification proforma with reference MLDIR1 for reporting the loss or dumping of synthetic materials and other refuse at sea or any other format advised in writing by the MMO;

"enforcement officer" means a person authorised to carry out enforcement duties under Chapter 3 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 under article 40 (certification of plans and documents, etc.);

"habitats of principal importance" means a habitat designated as being of principal importance in accordance with section 41 (biodiversity lists and action (England)) of the Natural Environment and Rural Communities Act 2006(**a**);

"HHA" means the Harwich Haven Authority;

"IHO S44ed6 Order 1a" means order 1a from the fifth edition of the International Hydrographic Organisation's Standards for Hydrographic Surveys as updated or amended from time to time;

"jacket foundation" means a lattice type structure constructed of steel and additional equipment such as, J-tubes, corrosion protection systems and access platforms attached to the seabed at 3 or more points with pin piles or suction buckets;

"JNCC" means the Joint Nature Conservation Committee;

"JNCC Guidance" means the statutory nature conservation body 'Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs' Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded from time to time;

"Kingfisher 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;

"Kingfisher Information Service" means the information service from non-departmental government body Seafish;

"licensed activities" means the activities specified in Part 1 of this licence;

"LGPL" means London Gateway Port Limited (company number 04341592) as harbour authority for the London Gateway Port, pursuant to the London Gateway Port Harbour Empowerment Order 2008(**b**);

"local harbour authorities" means the PLA, HHA, and LGPL;

(**a**) 2006 c. 16.
(**b**) S.I. 2008/1261.

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

“Marine Management Organisation” or “MMO” means the Marine Management Organisation, Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH who is the body created under the 2009 Act and who is responsible for the monitoring and enforcement of this licence;

“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;

“MCA” means the Maritime and Coastguard Agency;

“MGN654” means “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes, as may be updated or amended from time to time;

“MHWS” or “mean high water springs” means the average throughout the year, of two successive high waters, during a 24-hour period in each month when the range of the tide is at its greatest (Spring tides);

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

“offshore converter platform” means a structure, authorised by the deemed marine licence in Schedule 10 to the Order, above MHWS and attached to the seabed by means of a foundation, with equipment to convert three-phase HVAC power generated by the wind turbine generations into HVDC power;

“the offshore order limits and boundary co-ordinates plan” means the plan certified as the offshore order limits and boundary co-ordinates plan by the Secretary of State for the purposes of the Order under article 40 (certification of plans and documents, etc.);

“offshore platform” means the offshore substation platform(s) authorised by this licence and/or the offshore converter platform;

“Offshore Renewables Protocol for Reporting Archaeological Discoveries” means the Offshore Renewables Protocol for Reporting Archaeological Discoveries, the Crown Estate (2014), Protocol for Archaeological Discoveries: Offshore Renewables Projects, Salisbury, Wessex Archaeology as amended, updated or superseded from time to time;

“offshore substation platform” means a structure above MHWS and 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;

“operation” means the undertaking of the licensed activities which are not part of the construction, commissioning or decommissioning of the authorised development;

“Order” means the North Falls Offshore Wind Farm Order 2026;

“the Order limits” means the limits shown on the works plans (offshore) within which the authorised development may be carried out, the grid coordinates for the area seaward of MHWS are set out in paragraph 5 of Part 1 of this licence;

“outline cable specification and installation plan” means the document certified as the outline cable specification and installation plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

“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 40 (certification of plans and documents, etc.);

“outline navigation and installation plan” means the document certified as the outline navigation and installation plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"outline offshore in-principle monitoring plan" means the document certified as the outline offshore in-principle monitoring plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"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 40 (certification of plans and documents, etc.);

"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 40 (certification of plans and documents, etc.);

"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 40 (certification of plans and documents, etc.);

"outline sediment disposal management plan" means the document certified as the outline sediment disposal management plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"outline site integrity plan for the southern north sea special area of conservation" means the document certified as the outline site integrity plan for the southern north sea special area of conservation by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"outline vessel traffic monitoring plan" means the document certified as the outline vessel traffic monitoring plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"pathway to the marine environment" means open systems or closed systems that require top up;

"pin piled jacket" means a jacket attached to the seabed using pin piles;

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

"platform interconnector cable" means one or more electricity cables connecting offshore platforms to each other;

"PLA" means the Port of London Authority;

"preparation" means a mixture or solution composed of two or more substances;

"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, or rock and gravel placement;

"SNCB" means the statutory nature conservation body being the appropriate nature conservation body as defined in Regulation 5 of the Conservation of Habitats and Species Regulations 2017(**a**) or its equivalent in the 2017 Regulations;

"SNS SAC" means the site designated as the Southern North Sea Special Area of Conservation;

"statutory historic body" means Historic England or its successor in function;

"substance" means a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition;

"suction caisson (or 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;

(**a**) S.I. 2017/1012.

"suction caisson jacket" means a jacket attached to the seabed using suction caissons (typically one per leg)

"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;

"UK Standard Marking Schedule for Offshore Installations" means the Standard Marking Schedule for Offshore Installations published by the Department of Energy & Climate Change with reference DECC 04/11;

"undertaker" means, subject to article 5 (benefit of the Order), North Falls Offshore Wind Farm Limited (company number 12435947);

"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;

"working day" means a day which is not a weekend, bank holiday or public holiday in England; and

"works plans (offshore)" means the plan or plans certified as the works plans (offshore) by the Secretary of State for the purposes of the Order under article 40 (certification of plans and documents, etc.).

(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) A reference in this licence to a work identified by the number of the work is to be construed as a reference to the work of that number given in paragraph 3 of this licence.

(4) Unless otherwise indicated—

(a) all times are taken to be Greenwich Mean Time; and

(b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(5) 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) Civil Aviation Authority
Aviation House
Beehive Ring Road
Crawley
West Sussex
RH6 0YR

(b) Historic England
East of England Regional Office
Brooklands
24 Brooklands Avenue
Cambridge
CB2 8BU

(c) Marine Management Organisation
Marine Licensing Team
Tyneside House
Skinnerburn Road

Newcastle Business Park
Newcastle upon Tyne
NE4 7AR
Tel: 0300 123 1032

(d) Marine Management Organisation (Local Office)
Pakefield Road
Lowestoft
NR33 0HT
Tel: 0208 026 0654

(e) Maritime and Coastguard Agency
UK Technical Services Navigation
Spring Place
105 Commercial Road
Southampton
SO15 1EG
Email: navigationsafety@mcga.gov.uk

(f) Ministry of Defence (as represented by Defence Infrastructure Organisation – Safeguarding)
St George's House
153
DIO Head Office
DMS Whittington
Lichfield
Staffordshire
WS14 9PY

(g) Natural England
Teville Gate House
25 Railway Approach
Worthing
BN11 1UR Tel: 0300 060 4911

(h) Trinity House
Tower Hill
London
EC3N 4DH
Tel: 020 7481 6900

(i) The United Kingdom Hydrographic Office
Admiralty Way
Taunton
Somerset
TA1 2DN
Tel: 01823 337 900.

(j) Port of London Authority
London River House

Royal Pier Road
Gravesend
7
Kent
DA12 2BG
Tel: 01474 562200

(k) London Gateway Port Limited
London Gateway Port Harbour Master
London Gateway Port Limited
No.1 London Gateway
London Gateway Drive
Stanford-le-Hope
Essex
SS17 9DY

(l) Harwich Haven Authority
Harbour House
The Quay
Harwich
Essex
CO12 3SH

(6) Unless otherwise advised in writing by the MMO, the address for electronic communication with the MMO for the purposes of this licence is marine.consents@marinemanagement.org.uk, or where contact to the Local Office if the MMO is required, harwich@marinemanagement.org.uk.

(7) Unless otherwise advised in writing by the MMO, the Marine Case Management System ("MCMS") must be used for all licence returns or applications to vary this licence. The MCMS address is: https://marinelicensing.marinemanagement.org.uk/.

Details of licensed marine activities

2. Subject to the licence conditions in Part 2, this licence authorises the undertaker (and any agent or contractor acting on its 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, at disposal site reference provided by the MMO, within the Order limits seaward of MHWS of the substances and articles specified in paragraph 4 below and in Work Nos. 2 to 4A of up to 5,139,984 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and seabed preparation for cable installation, cable installation (whether by ploughing, jetting, trenching or a combination of installation techniques), and excavation of drilling pits for trenchless installation techniques;

(b) the construction of works in or over the sea, and/or on or under the seabed;

(c) dredging for the purposes of seabed preparation for foundation works, preparation for construction vessels and/or electrical circuit works;

(d) boulder clearance works by displacement ploughing or subsea grab technique or any other equivalent method;

(e) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;

(f) removal of static fishing equipment;

(g) wet storage; and

(h) site preparation works.

3. Such activities described in paragraph 2 are authorised in relation to the construction, maintenance and operation of—

Work No. 2— up to two offshore substation platforms each fixed to the seabed by one of the following foundation types: monopile, multi-leg pin pile jacket or multi-leg suction bucket jacket and a platform interconnector cable including one or more cable crossings.

Work No. 3— up to two cable circuits between Work No. 2 and Work No. 4A, including one or more cable crossings;

Work No. 4A—up to two cable circuits and associated ducting between Work No. 3 and Work No. 4B including up to three drilling exit pits for trenchless installation techniques, one or more cable crossings and a temporary work area for vessels to carry out anchoring and positioning.

Work No. 4B—landfall connection works comprising up to two cable circuits and associated ducting between Work No. 4A and Work No. 4C, including trenchless installation technique works.

In connection with such Works Nos. 2, 3 4A, and 4B 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 development 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 substation platforms;

(b) cable protection measures such as the placement of rock and/or concrete mattresses;

(c) the removal of material from the seabed required for the construction of Work Nos. 2, 3 and 4A; and

(d) temporary landing places, moorings or other means of accommodating or anchoring vessels in the construction and/or maintenance of the authorised development and buoys.

4. The substances or articles authorised for deposit at sea are—

(a) iron and steel, copper and aluminium;

(b) stone and rock;

(c) concrete and grout;

(d) sand and gravel;

(e) plastic, synthetic and rubber;

(f) material extracted from the seabed within the offshore Order limits during construction drilling or seabed preparation for foundation works, vessels, cable installation preparation works and cable installation works and excavation of drilling pits for trenchless installation techniques;

(g) anchors and weights used for the calibration of vessels, consisting of a hessian sack, metal shackles or chains; and

(h) marine coatings, other chemicals and timber.

5. The grid coordinates within which that part of the authorised development comprising Work Nos. 2, 3 and 4A must be located are specified below and more particularly on the offshore order limits and boundary co-ordinates plan—

(1)	*(2)*	*(3)*
Point ID	*Latitude (WGS84 (DDM))*	*Longitude (WGS84 (DDM)*
1	51° 49.15653’N	01° 14.19781’E

2	51° 48.89411’N	01° 16.00324’E
3	51° 48.93931’N	01° 20.16189’E
4	51° 51.14871’N	01° 26.78016’E
5	51° 52.50692’N	01° 27.14152’E
6	51° 52.57065’N	01° 27.16916’E
7	51° 52.64883’N	01° 27.22273’E
8	51° 52.72182’N	01° 27.29646’E
9	51° 52.78924’N	01° 27.39211’E
10	51° 52.86734’N	01° 27.55868’E
11	51° 53.26911’N	01° 29.04967’E
12	51° 53.29595’N	01° 29.19064’E
13	51° 53.30653’N	01° 29.39203’E
14	51° 53.28761’N	01° 29.59449’E
15	51° 52.70790’N	01° 31.99872’E
16	51° 52.63952’N	01° 32.20092’E
17	51° 52.47783’N	01° 32.62017’E
18	51° 52.44756’N	01° 32.68431’E
19	51° 52.40237’N	01° 32.74776’E
20	51° 51.05315’N	01° 34.25159’E
21	51° 50.81073’N	01° 37.13538’E
22	51° 50.96701’N	01° 38.26250’E
23	51° 51.10934’N	01° 38.88062’E
24	51° 51.46878’N	01° 40.28054’E
25	51° 51.48276’N	01° 40.47097’E
26	51° 51.47070’N	01° 40.63503’E
27	51° 51.43842’N	01° 40.78925’E
28	51° 51.37801’N	01° 40.94765’E
29	51° 51.28360’N	01° 41.08521’E
30	51° 48.92805’N	01° 43.48196’E
31	51° 48.81263’N	01° 43.54037’E
32	51° 47.56548’N	01° 43.88635’E
33	51° 47.50920’N	01° 43.94405’E
34	51° 47.47326’N	01° 44.01182’E
35	51° 47.31551’N	01° 44.55852’E
36	51° 46.18399’N	01° 51.52207’E
36	51° 46.18399’N	01° 51.52207’E
37	51° 46.45215’N	01° 51.46739’E
38	51° 47.79417’N	01° 56.0602’E
39	51° 45.96006’N	01° 54.98406’E
40	51° 44.20008’N	01° 56.16270’E
41	51° 43.43466’N	01° 58.08954’E
42	51° 44.92260’N	02° 02.79174’E
43	51° 44.20590’N	02° 02.65992’E
44	51° 44.16756’N	02° 02.36766’E
45	51° 43.89822’N	02° 01.62702’E
46	51° 43.70418’N	02° 01.18500’E
47	51° 43.46172’N	02° 00.54066’E
48	51° 42.90816’N	01° 59.73738’E
49	51° 42.25464’N	01° 58.18482’E
50	51° 41.80842’N	01° 58.22082’E
51	51° 38.66118’N	01° 54.67986’E
52	51° 37.76189’N	01° 52.32853’E
53	51° 39.03140’N	01° 52.10085’E

54	51° 40.08359’N	01° 52.71647’E
55	51° 40.32461’N	01° 52.55921’E
56	51° 40.41888’N	01° 52.66356’E
57	51° 40.36970’N	01° 52.53295’E
58	51° 40.36967’N	01° 52.52982’E
59	51° 40.80925’N	01° 52.24298’E
60	51° 41.18441’N	01° 51.71421’E
61	51° 41.78502’N	01° 51.60623’E
62	51° 45.61162’N	01° 51.61163’E
62	51° 45.61162’N	01° 51.61163’E
63	51° 46.80531’N	01° 44.27081’E
64	51° 47.02029’N	01° 43.53214’E
65	51° 47.14620’N	01° 43.29432’E
66	51° 47.35775’N	01° 43.07473’E
67	51° 48.70770’N	01° 42.68329’E
68	51° 50.92504’N	01° 40.42289’E
69	51° 50.60854’N	01° 39.20429’E
70	51° 50.44922’N	01° 38.51020’E
71	51° 50.26732’N	01° 37.16414’E
72	51° 50.53831’N	01° 33.91006’E
73	51° 50.55473’N	01° 33.82809’E
74	51° 50.58713’N	01° 33.73900’E
75	51° 50.63161’N	01° 33.66473’E
76	51° 52.05000’N	01° 32.08189’E
77	51° 52.22165’N	01° 31.61943’E
78	51° 52.76395’N	01° 29.36475’E
79	51° 52.4014’N	01° 27.99607’E
80	51° 50.89889’N	01° 27.59335’E
81	51° 50.83063’N	01° 27.54393’E
82	51° 50.76639’N	01° 27.45303’E
83	51° 48.42854’N	01° 20.46655’E
84	51° 48.41280’N	01° 20.40213’E
85	51° 48.40234’N	01° 20.31730’E
86	51° 48.33800’N	01° 14.52722’E
87	51° 48.87115’N	01° 13.61544’E
88	51° 48.98239’N	01° 13.82661’E
89	51° 48.98187’N	01° 13.82982’E
90	51° 49.04064’N	01° 13.94325’E
91	51° 49.03475’N	01° 13.95772’E
92	51° 49.09068’N	01° 14.07320’E
93	51° 49.09716’N	01° 14.07885’E

General provisions

6. This marine licence remains in force until the authorised development 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 (reviews and revisions of decommissioning programmes) of the 2004 Act, and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this marine 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).

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 licence, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to or variations from the approved details, plan or scheme 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.

PART 2

CONDITIONS

Design parameters

10.—(1) The dimensions of any offshore substation platform forming part of the authorised development (including cranes and helideck) must not exceed—

(a) 61.68 metres in height when measured from MHWS;

(b) 60 metres in length; and

(c) 2,400 m^2 topside area.

(2) Offshore substation platform foundation structures forming part of the authorised development must be one of either monopile foundation, multi-leg pin pile jacket foundation or multi-leg suction bucket jacket foundation.

(3) No offshore substation platform—

(a) jacket foundation employing pin piles forming part of the authorised development may—

(i) have a pin pile diameter of greater than 3.5 metres; and

(ii) employ more than 12 pin piles per jacket foundation; and

(b) monopile foundation forming part of the authorised development may not have a diameter greater than 17 metres.

(4) Any part of the authorised development located within the following areas shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan, must be designed, installed, operated and maintained at a level which would not preclude or impede dredging:

(a) of the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer, to a level of 22 metres below Chart Datum;

(b) of the area shown shaded in pink and labelled Trinity – Trinity DW Buffer, to a level of 22 metres below Chart Datum;

(c) of the area shown shaded in green and labelled Sunk B – Sunk DW Buffer, to a level of 19 metres below Chart Datum; and

(d) of the area shown shaded in blue and labelled Sunk Pilotage Area – Sunk Pilot Diamond Buffer, to a level of 22 metres below Chart Datum.

11.—(1) The total number of offshore platforms constructed under this licence and the licence granted under Schedule 10 to the Order must not exceed two.

(2) The total permanent seabed footprint area for offshore platform foundations must not exceed—

(a) 5,890 square metres excluding scour protection; and

(b) 166,715 square metres including scour protection.

(3) The total volume of scour protection material for the offshore platform foundations is 50,316 cubic metres.

(4) The total volume of drill arisings under this licence and the licence granted under Schedule 10 must not exceed 11,451 cubic metres.

12. The total length of the cable circuits in Work Nos. 2, 3 and 4A, and the area and volume of their cable protection (including cable crossings) must not exceed the following—

(1) *Work No.*	*(2)* *Parameter*	*(3)* *Value*
Work No. 2	Maximum total length	20 km
	Maximum protection area	24,000 m^2
	Maximum protection volume	14,000 m^3
Work Nos. 3 and 4A	Maximum total length	125.4 km
	Maximum protection area	75,240 m^2
	Maximum protection volume	43,890 m^3

Maintenance of the authorised development

13.—(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 provide otherwise.

(2) Maintenance works include but are not limited to—

(a) repair, maintenance, refurbishment and replacement of offshore electrical components;

(b) painting and applying other coatings;

(c) bird waste and marine growth removal;

(d) cable remedial burial;

(e) cable repairs and replacement;

(f) cable protection replenishment;

(g) access ladder and boat landing replacement;

(h) replacement of offshore platform anodes; and

(i) J-tube repair/replacement.

(3) In undertaking activities under sub-paragraphs (2)(a), (2)(d), (2)(e) and (2)(f), other than in the Areas of Interest where navigable depth may not be reduced to any extent, the undertaker must not reduce water depth by more than 5% Chart Datum unless agreed with the MMO and the MCA in writing.

(4) An operations and maintenance plan in accordance with the outline offshore operations and maintenance plan shall be submitted to the MMO for approval in consultation with the relevant SNCB, the MCA and (only to the extent that the plan relates to the Areas of Interest) the local harbour authorities at least six months prior to the commencement of operations. All operation and maintenance activities must be carried out in accordance with the approved operations and maintenance plan and the approved cable specification and installation plan.

Vessels under the undertaker's control

14.—(1) The undertaker must 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 which must be in accordance with the outline project environmental management plan.

(2) The undertaker must 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.

Extension of time periods

15. 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 in writing such agreement not to be unreasonably withheld or delayed.

Notifications and inspections

16.—(1) The undertaker must ensure that a copy of this marine licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—

(a) all agents and contractors notified to the MMO in accordance with condition 26; and

(b) the masters and offshore operations managers responsible for the vessels notified to the MMO in accordance with condition 26;

(2) Only those persons and vessels notified to the MMO in accordance with condition 26 are permitted to carry out the licensed activities.

(3) The documents referred to in sub-paragraph (1)(a) must 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 and at the office of any offshore operations managers with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The undertaker must ensure that a copy of this marine licence and any subsequent revisions or amendments have been read and understood by the masters of any vessel being used to carry on any licensed activity set out in condition 26(3), and that a copy of this marine licence is held on board any such vessel.

(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 development.

(6) The undertaker must inform the MMO Local Office in writing at least 14 days prior to the commencement of the licensed activities or any part of them and within 14 days of the completion of each licensed activity.

(7) The undertaker must inform the Kingfisher Information Service, by email to kingfisher@seafish.co.uk, of details regarding the vessel routes, timings and locations relating to the construction of the authorised development or relevant stage—

(a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher bulletin and offshore hazard awareness data; and

(b) as soon as reasonably practicable, and in any event no later than 24 hours after completion of construction of all offshore activities,

confirmation of notification must be provided to the MMO in writing within five days.

(8) The undertaker must ensure that a local notification to mariners is issued at least 14 days prior to the commencement of the authorised development or any relevant stage advising of the start date of the relevant Work No. and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UK Hydrographic Office within five days of issue.

(9) The undertaker must ensure that local notifications to mariners are updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and the notices must be supplemented with VHF radio broadcasts agreed with the MCA in accordance with the project environmental management plan approved under deemed marine licence condition 22(1)(d) and monitoring plan approved under condition 22(1)(f).

Copies of all local notifications must be provided to the MMO and UK Hydrographic Office within five days of issue, save for in the case of a notice relating to operations and maintenance, which must be provided within 24 hours of issue.

(10) The undertaker must notify the UK Hydrographic Office of the commencement (within 14 days), progress and completion of construction (within 14 days) of the licenced activities in order that all necessary amendments to nautical and aeronautical charts are made and the undertaker must send a copy of such notifications to the MMO and MCA within five days of the notification.

(11) In case of damage to, or destruction or decay of, the authorised development seaward of MHWS or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, the MMO Local Office, the MCA, Trinity House, the Kingfisher Information Service and the UK Hydrographic Office.

(12) In case of exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners and inform the Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the MMO, the MCA, Trinity House and the UK Hydrographic Office within five days of notifying mariners.

(13) The undertaker must notify the MMO in writing a minimum of 14 days in advance of the commencement of each discrete incident of cable repair, replacement, or protection replenishment activity or scour protection replacement activity. Such a notification must include proposed timings and a description of proposed methodologies.

(14) The undertaker must ensure that the MMO, the MMO Local Office, local mariners, local fishermen's organisations and the Source Data Receipt Team at the UK Hydrographic Office, Taunton, Somerset, TA1 2DN (sdr@ukho.gov.uk) are notified within 14 days of completion of each instance of cable repair, replacement or protection replenishment activity.

(15) Where any notice required by sub-paragraphs (8) to (14) above relates to any works or any part of the authorised development within the Areas of Interest, the undertaker must also send copies of any such notice to the local harbour authorities.

(16) Should the undertaker become aware that any of the information on which the granting of this licence was based was materially false or misleading, the undertaker must notify the MMO local office of this fact in writing as soon as is reasonably practicable. The undertaker must explain in writing what information was materially false or misleading and must provide to the MMO the correct information.

Aids to navigation

17.—(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning of the authorised development 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 development to completion of decommissioning of the authorised development seaward of MHWS keep Trinity House, the MMO and (only to the extent such relates to the Areas of Interest) the local harbour authorities informed in writing of progress of the authorised development seaward of MHWS including the following—

(a) notice of commencement of construction of the authorised development 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 development.

(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 22(1)(i) 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 development seaward of MHWS notify Trinity House and the MMO in writing 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 16(12) 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.

(6) Any jack up barges or vessels utilised during the licensed activities, when jacked up, must exhibit signals in accordance with the UK Standard Marking Schedule for Offshore Installations.

Colouring of structures

18. Except as otherwise required by Trinity House, the undertaker must colour all offshore substation platform structures yellow (colour code RAL 1023) from at least highest astronomical tide to a height directed by Trinity House.

Aviation safety

19.—(1) The undertaker must exhibit such lights, with such shape, colour and character as are required in writing by The Air Navigation Order 2016(**a**) (with any reference to the territorial sea being read as a reference to the Renewable Energy Zone established under section 84 of the 2004 Act) and/or determined necessary for aviation safety as directed by the Civil Aviation Authority in consultation with the Defence Infrastructure Organisation Safeguarding. Lighting installed specifically to meet Ministry of Defence aviation safety requirements must remain operational for the life of the authorised development unless otherwise agreed in writing with the Ministry of Defence.

(2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, the Civil Aviation Authority and the MMO, at least 14 days prior to the commencement of the licensed activities, in writing of the following information—

(a) the date of the commencement of the licensed activities;

(b) the date any offshore substation platforms are to be installed;

(c) the maximum height of any construction equipment or vessels to be used;

(d) the maximum heights of offshore substation platforms to be constructed (including any antennae); and

(e) the latitude and longitude of each offshore substation platform to be constructed,

and the Defence Infrastructure Organisation Safeguarding and the Civil Aviation Authority must be notified of any changes to the information supplied under this paragraph of this condition and of the completion of the construction of the authorised development. Copies of notifications must be provided to the MMO.

Chemicals, drilling and debris

20.—(1) The undertaker must ensure that any coatings and/or treatments are suitable for use in the marine environment and are used in accordance with relevant guidelines approved by the Health and Safety Executive.

(2) 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.

(3) 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 15 February each year for the

(**a**) S.I. 2016/765.

months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(4) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, vessels or cables or cable installation, and drilling mud is disposed of within the Order limits seaward of MHWS.

(5) The undertaker must ensure that any rock material used in the construction of the authorised development is from a recognised source, free from contaminants and containing minimal fines.

(6) In the event that any rock material used in the construction of the authorised development is misplaced or lost below MHWS, the undertaker must report the loss to the MMO Local Office in writing within 48 hours of becoming aware of it and if the MMO, in consultation with the MCA and Trinity House, 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 at its own expense.

(7) 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 marine environment through the freeing ports.

(8) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported in writing to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 22(1)(d)(i).

(9) Regarding incidents of dropped objects—

(a) Debris or dropped objects within the Order limits which are considered a danger or hazard to navigation must be reported as soon as reasonably practicable but no later than six hours from the undertaker becoming aware of an incident, to the relevant HM Coastguard Maritime Rescue Co-ordination Centre by telephone (Dover Maritime Rescue Coordination Centre: 0344 382 0593), and the UK Hydrographic Office email: navwarnings@btconnect.com;

(b) All dropped objects, including those in (a), within the Order limits must be reported to the MMO using the dropped object procedure form (including any updated form as provided by the MMO) as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident, unless otherwise agreed in writing with the MMO; and

(c) On receipt of notification or 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 marine environment at the undertaker's expense if reasonable to do so.

Force majeure

21.—(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 (an "unauthorised deposit"), full details of the circumstances of the deposit must be notified to the MMO in the manner provided in condition 20(9) within 48 hours.

(2) Any unauthorised deposit must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Pre-construction plans and documentation

22.—(1) The licensed activities for each stage of construction of the authorised development must not commence until the following (insofar as relevant to that activity or stage of activity) has been submitted to and approved in writing by the MMO, in consultation with, where relevant, Trinity House, the MCA, UK Hydrographic Office, relevant SNCB and (in relation to the cable

specification and installation plan, the navigation and installation plan and the sediment disposal management plan (under paragraphs (h), (m) and (n)) only) the local harbour authorities—

(a) A design plan at a scale of between 1:25,000 and 1:50,000, or in such other format as may be appropriate, including detailed representation on the most suitably scaled chart, to ensure conformity with the description of Work Nos. 2, 3 and 4A and compliance with conditions 10, 11, 12 and 13, which shows for the relevant stage—

(i) the proposed location, including grid co-ordinates of the centre point of the proposed location for each offshore substation platform, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions discovered post approval under this condition and choice of foundation types for all offshore platforms;

(ii) the dimensions of each offshore substation platform to be installed, including any antennae;

(iii) the length, depth and arrangement of cables comprising Work Nos. 2, 3 and 4A including cable crossings;

(iv) the type and dimensions of all foundations for the offshore substation platforms;

(v) the proposed layout of all offshore substation platforms including any exclusion zones identified under sub-paragraph (2)(d); and

(vi) any exclusion zones or micro-siting requirements identified in any mitigation plan pursuant to sub-paragraph (2)(d) or relating to any habitats of principal importance identified as part of surveys undertaken in accordance with condition 27;

(b) a construction programme for the relevant stage, unless otherwise agreed in writing with the MMO, 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 substation platforms and cable comprised in the Work Nos. 2, 3 and 4A and the works in paragraph 2 (insofar as not shown in sub-paragraph (ii) above);

(c) a construction method statement in accordance with the construction methods assessed in the environmental statement and including details for the relevant stage 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 cable installation works, and having regard to any mitigation scheme pursuant to paragraph (g);

(ii) contractors; and

(iii) associated ancillary works;

(d) a project environmental management plan covering the period of construction for the relevant stage in accordance with the outline project environmental management plan to include details of—

(i) a marine pollution contingency plan to address the risks, methods and procedures to deal with and report any spills and collision incidents of the authorised development in relation to all activities carried out;

(ii) a chemical risk register for all chemicals that have a pathway to the marine environment and may be used for the licensed activities (with the exception of any chemicals used in the course of normal navigation), submitted to the MMO for approval at least ten weeks prior to the use of such chemicals, to include details of—

(aa) the function of the chemicals;

(bb) the quantities being used and the frequency of use; and

(cc) the physical, chemical and ecotoxicological properties of the chemical (save for any chemicals present on the OSPAR List of Substances Used and Discharged Offshore which Are Considered to Pose Little or No Risk to the Environment (PLONOR);

(iii) a marine biosecurity plan detailing how the risk of introduction and spread of invasive non-native species will be minimised; and

(iv) waste management and disposal arrangements; and

(v) details of a protocol for the protection of red throated divers restricting the laying of the offshore cables within, and in a 2km proximity to, the site designated as the Outer Thames Estuary Special Protection Area between 1 November and 31 March (inclusive) in any year unless otherwise agreed in writing with the MMO in consultation with the relevant SNCB;

(e) a scour protection plan for the relevant stage providing details of the need, type, sources, quantity and installation methods for scour protection, which must be updated and resubmitted in writing for approval if changes to it are proposed following cable laying operations;

(f) details of proposed pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting in accordance with conditions 27, 28 and 29;

(g) in the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol (in accordance with the draft marine mammal mitigation protocol), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant SNCB and which must include details of noise reduction methods through project design (primary measures) and/or, deployment of noise mitigation systems or noise abatement systems (secondary measures) that will be utilised to manage sounds from those piling activities and such protocol must include details and justification for the mitigation chosen or excluded for deployment;

(h) a cable specification and installation plan for the relevant stage, in accordance with the outline cable specification and installation plan, to include—

(i) technical specification of offshore cables (including fibre optic cable) below MHWS within that stage, including a desk-based assessment of attenuation of electromagnetic field strengths, shielding and cable burial depth in accordance with good industry practice;

(ii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment demonstrating compliance with condition 10(4);

(iii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum (excluding the Areas of Interest where navigable depth may not be reduced) and, in the event that any area of cable protection exceeding 5% of navigable depth is identified (in areas other than the Areas of Interest), 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) proposals for the volume, depth and areas of cable protection to be used for each cable crossing, and proposals for timing and methodology for reporting on actual volumes, actual depths and areas post construction; and

(v) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised development which includes a risk based approach to the management of unburied or shallow buried cables;

(i) an aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House, the MCA and the CAA to include details of how the

undertaker will comply with the provisions of condition 17 relating to that stage for the lifetime of the authorised development;

(j) an offshore monitoring plan for the relevant stage which accords with the principles set out in the outline offshore in-principle monitoring plan.

(k) a fisheries liaison and co-existence plan for the relevant stage which must include details of any monitoring being undertaken and engagement with commercial fishery stakeholders and which accords with the principles set out in the outline fisheries liaison and co-existence plan;

(l) a vessel traffic monitoring plan for the relevant stage which accords with the principles set out in the outline vessel traffic monitoring plan;

(m) a navigation and installation plan for the relevant stage which accords with the principles set out in the outline navigation and installation plan and which must include details of any controls over RAM (Restricted Ability to Manoeuvre) vessels concurrently working within the area shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan coloured blue and labelled the Area For Controls For RAM Vessels ;

(n) a sediment disposal management plan for the relevant stage which is in accordance with the principles set out in the outline sediment disposal management plan; and

(o) no percussive piling may take place between 1st November to 31st January (inclusive) in any year for the protection of spawning herring unless otherwise agreed in writing with the MMO.

(2) Subject to sub-paragraph (2), the licensed activities or any relevant stage of those activities must not commence unless no later than six months prior to the commencement a marine written scheme of archaeological investigation for the stage in construction has been submitted to and approved by the MMO in writing, 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 method statement 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 development, 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, designed in reference to the Offshore Renewables Protocol for Reporting Archaeological Discoveries as set out by the Crown Estate and reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised development; and

(h) 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 method statement

produced under the written scheme of investigation specific to the relevant pre-construction activities (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 in consultation with the statutory historic body.

(4) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive monopile foundations must not exceed 6,000kJ and the hammer energy used to drive or part-drive pin pile foundations must not exceed 3,000kJ.

(5) No more than two main vessels may be engaged at any time in activities related to piling for the licenced activities. There will only be a maximum installation of three monopiles foundations or six pin piles within a 24-hour period.

(6) The undertaker must, before submitting any pre-construction plans and documentation required under this condition, provide a copy of the plans and documentation to any person to whom part of the benefit of the Order applying seaward of MHWS has been transferred or leased pursuant to article 5 (benefit of the order) of the Order.

(7) A person receiving the plans and documents under sub-paragraph (6) must provide any comments on the plans and documentation to the undertaker within 14 days of receipt.

(8) The undertaker must participate in liaison meetings as requested from time to time by the MMO in writing in advance and must consider such matters as are determined by the MMO relating to the efficient operation of a deemed marine licence issued under this Order (including as varied or transferred).

23.—(1) Except where otherwise stated or agreed in writing with the MMO, each programme, statement, plan, protocol or scheme required to be approved under condition 22 (save for that required under condition 22(1)(f)) must be submitted for approval at least six months prior to the intended commencement of the relevant stage of the licensed activities.

(2) The pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting required under condition 22(1)(f) must be submitted in accordance with the following, unless otherwise agreed in writing with the MMO—

(a) at least six months prior to the first survey of the relevant stage, detail of any pre–construction surveys and an outline of all proposed monitoring;

(b) at least six months prior to construction, detail on construction monitoring; and

(c) at least six months prior to commissioning, detail of postconstruction (and operational) monitoring.

(3) The MMO must determine an application for approval made under condition 22 within a period of six months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker such agreement not to be unreasonably withheld or delayed.

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 22, unless otherwise agreed in writing by the MMO (provided that before giving any such agreement the MMO must consult with any party that it was required to consult with, or who would have given a prior approval, in relation to a relevant plan, protocol, statement, scheme or details pursuant to condition 22).

(5) The plans, protocols, statements, schemes and details submitted under condition 22 must ensure that any residual effects fall within the scope of those predicted in the environmental statement.

Southern North Sea Special Conservation Area Site Integrity Plan

24.—(1) No piling activities can take place until a southern north sea special area of conservation site integrity plan, which accords with the principles set out in the outline southern north sea special area of conservation site integrity plan, has been submitted to and approved in writing by the MMO in consultation with the relevant SNCB.

(2) The southern north sea special area of conservation site integrity plan submitted for approval under sub-paragraph (1) must contain a description of the conservation objective for the SNS SAC, as well as any relevant management measures and it must set out the key SNCB advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the licensed activities.

(3) The southern north sea special area of conservation site integrity plan submitted for approval under sub-paragraph (1) must be submitted in writing to the MMO no earlier than nine months and no later than six months prior to the commencement of piling activities.

(4) In approving the southern north sea special area of conservation site integrity plan under sub-paragraph (1) the MMO must determine whether the licensed activities at the pre-construction stage, in-combination with other plans and projects, would be in line with the JNCC Guidance.

(5) The southern north sea special area of conservation site integrity plan approved by the MMO under sub-paragraph (1) may be amended with the prior written approval of the MMO, in consultation with the relevant SNCB, where the MMO determines that the licensed activities, in-combination with other plans or projects at the pre-construction stage, is in line with the JNCC Guidance.

(6) The licensed activities must be carried out in accordance with the SIP approved under this condition 24, unless otherwise agreed in writing with the MMO.

Offshore safety management

25. No stage of the authorised development may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and adequately addressed all MCA recommendations as appropriate to the authorised development contained within MGN654.

Reporting of engaged agents, contractors and vessels

26.—(1) The undertaker must provide the following information to the MMO—

(a) the name, company number, address and function of any agent, contractor or subcontractor appointed to engage in the licensed activities not less than ten working days prior to such agent or contractor commencing any licensed activity; and

(b) each week during the construction of the authorised development a list of the vessels currently and to be used in relation to the licensed activities, including the master's name, vessel type, vessel IMO number and vessel owner or operating company.

(2) Any changes to the supplied details must be notified to the MMO in writing, as far as practicable, prior to the agent, contractor or vessel engaging in the licensed activities.

(3) The undertaker must notify the MMO in writing not less than 24 hours prior to the commencement of major component exchanges, ladder replacements or cable related works—

(a) any agents, contractors or subcontractors that will carry out such works; and

(b) any vessel proposed to be used for such works, including the master's name, vessel type, vessel IMO number and vessel owner or operating company.

Pre-construction monitoring and surveys

27.—(1) The undertaker must in discharging condition 22(1)(f) for construction submit a monitoring plan in accordance with the outline offshore in-principle monitoring plan for written approval by the MMO in consultation with the relevant SNCB, which must 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 accordance with the principles set out in the outline offshore 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 postconstruction 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 survey proposals must comprise, in outline—

(a) a full sea floor coverage swath–bathymetry survey of the Order limits and a buffer outside, that meets the requirements of IHO S44ed6 Order 1a, to—

(i) determine the location, extent and composition of any biogenic or geogenic reef features, as set out within the outline offshore in-principle monitoring plan;

(ii) inform future navigation risk assessments as part of the cable specification and installation plan; and

(iii) inform the identification of any archaeological exclusion zone and post consent monitoring of any such archaeological exclusion zone;

(b) a bathymetric survey that meets the requirements of IHO S44ed6 Order 1a of the area within the Order Limits within which it is proposed to carry out construction works.

(3) The pre-construction survey(s) carried out pursuant to sub-paragraphs (2)(a) and (2)(b) must fulfil the requirements of MGN654 and its supporting 'Hydrographic Guidelines for Offshore Renewable Energy Developer' (as relevant).

(4) The undertaker must carry out the surveys specified within the approved monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant SNCB.

(5) Following completion of a survey carried out pursuant to this condition and prior to construction of the relevant stage, the undertaker must provide a report and full density data of the survey outcomes to the MMO, the relevant SNCB, the MCA and UK Hydrographic Office as relevant.

Construction monitoring

28.—(1) The undertaker must, in discharging condition 22(1)(f) in respect of construction monitoring, submit a construction monitoring plan or plans for that stage in accordance with the outline offshore in-principle monitoring plan for written approval by the MMO in consultation with the relevant SNCB, which must 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 accordance with the principles set out in the outline offshore in-principle monitoring plan and must specify the objectives for each survey and explain how the survey 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) If the plan or plans submitted to the MMO under this condition contain survey proposals, the construction monitoring plan must include, in outline—

(a) vessel traffic monitoring by automatic identification system for the duration of the construction period, with provision for a report to be submitted to the MMO, Trinity House, and the MCA annually during the construction period for the authorised development; and

(b) 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 piled foundations of each piled foundation type to be constructed collectively under this licence and the deemed marine licences granted under Schedules 8 and 10 of the Order.

(3) If, in the reasonable opinion of the MMO in consultation with the SNCB the monitoring carried out pursuant to condition 28(2)(b) above shows impacts significantly in excess to those assessed in the environmental statement and there has been a failure of the mitigations set out in the marine mammal mitigation protocol, all piling activity must cease until either contingency measures approved within the marine management mitigation protocol have been implemented or 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 approved construction monitoring plan or plans in accordance with that plan or plans, and provide the approved reports in the format and to timings approved pursuant to sub-paragraph (1), unless otherwise agreed in writing by the MMO in consultation with the relevant SNCB.

(5) If, in the event that the reports provided under sub-paragraph (4) identify significant effects not previously assessed or beyond those predicted within the Environmental Statement, an adaptive management plan that aims to reduce effects to within what was predicted in the Environmental Statement, unless otherwise agreed with the MMO in writing, must be submitted to the MMO as soon as reasonably practicable after providing to the MMO the report(s) submitted under sub-paragraph (4). The adaptive management plan must be approved by the MMO in consultation with the relevant SNCB. Any such agreed and approved adaptive management or mitigation should be implemented and monitoring undertaken in full to a timetable first agreed in writing with the MMO. In the event that the adaptive management measures require separate consent, the undertaker shall apply for such consent but only be required to undertake the relevant adaptive management once the consent is granted, with the timetable in the plan adjusted accordingly.

Post-construction monitoring

29.—(1) The undertaker must, in discharging condition 22(1)(f) in respect of post-construction monitoring, submit a post-construction monitoring plan or plans for that stage in accordance with the outline offshore in-principle monitoring plan for written approval by the MMO in consultation with the relevant SNCB 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 accordance with the principles set out in the outline offshore in-principle monitoring plan and must specify objectives for each survey and explain how the survey 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) If the plan or plans submitted to the MMO under this condition contain survey proposals, the post-construction survey plan or plans must include, in outline—

(a) 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;

(b) a bathymetric survey to monitor the effectiveness of archaeological exclusion zones. The data will be analysed by an accredited archaeologist as defined in the marine written scheme of archaeological investigation required under condition 22(2); and

(c) vessel traffic monitoring by automatic identification system for a duration of three consecutive years following the completion of construction of the authorised development, unless otherwise agreed in writing by the MMO, with provision for a report to be submitted annually to the MMO, Trinity House, and the MCA.

(3) The undertaker must conduct a swath bathymetric survey to IHO S44ed6 Order 1a of the installed export cable route and provide the data and survey report(s) to the MCA and UKHO. The MMO should be notified once this has been done, with a copy of the Report of Survey also sent to the MMO.

(4) The undertaker must carry out the surveys specified within the approved post-construction monitoring plan or plans in accordance with that plan or plans and provide the agreed reports in

the agreed format, unless otherwise agreed in writing with the MMO in consultation with the relevant SNCB.

(5) Within 12 weeks of completion of any cable repair or replacement works, the undertaker must undertake a post installation survey along the section of cable that has undergone repair or replacement to demonstrate the successful burial of the cable, and submit a report to the MMO in writing on its findings.

(6) If, in the event that the reports provided under sub-paragraph (4) identify significant effects not previously assessed or beyond those predicted within the Environmental Statement, an adaptive management plan that aims to reduce effects to within what was predicted in the Environmental Statement, unless otherwise agreed with the MMO in writing, must be submitted to the MMO as soon as reasonably practicable after providing to the MMO the report(s) submitted under sub-paragraph (4). The adaptive management plan must be approved by the MMO in consultation with the relevant SNCB. Any such agreed and approved adaptive management or mitigation should be implemented and monitoring undertaken in full to a timetable first agreed in writing with the MMO. In the event that the adaptive management measures require separate consent, the undertaker shall apply for such consent but only be required to undertake the relevant adaptive management once the consent is granted, with the timetable in the plan adjusted accordingly.

(7) To the extent that a survey under sub-paragraphs (3), (4) or (5) relates to the Areas of Interest, the undertaker must provide a copy of it to the local harbour authorities.

Timing of monitoring report

30. Any monitoring report compiled in accordance with the monitoring plans provided under conditions 27, 28 and 29 must be provided to the relevant body no later than four months following receipt by the undertaker of the results of monitoring to which it relates, unless otherwise agreed with the relevant body in writing.

Reporting of impact pile driving

31.—(1) In the event that driven or part–driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the marine noise registry—

(a) no less than six months prior to the commencement of each stage of construction of the licensed activities, information on the expected location, start and end dates of impact pile driving to satisfy the marine noise registry's Forward Look requirements;

(b) within two weeks after commencement of each stage of construction of the licensed activities, information on the location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements; and

(c) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the marine noise registry's Close Out requirements by 7 April for winter season October – March inclusive and 7 October for summer season April – September inclusive; or within 12 weeks of completion of impact pile driving, whichever is earlier.

(2) The undertaker must notify the MMO in writing of the successful submission of Forward Look or Close Out data pursuant to sub-paragraph (1) above within 7 days of the submission.

(3) For the purpose of this condition, "Forward Look" and "Close Out" mean the requirements as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) as amended, updated or superseded from time to time.

Maintenance reporting

32.—(1) An annual maintenance report must be submitted to the MMO in writing within one month following the first anniversary of the date of commencement of operations, and every year thereafter until the permanent cessation of operation.

(2) The report must provide a record of the licensed activities as set out in condition 13 during the preceding year, the timing of activities and methodologies used.

(3) Every fifth year, the undertaker must submit to the MMO in writing, within one month of that date, a consolidated maintenance report, which will—

(a) include a review of licensed activities undertaken during the preceding five years with reference to the reports submitted in accordance with sub-paragraph (1) of this condition; and

(b) reconfirm the applicability of the methodologies and frequencies of the licensable activities permitted by this licence for the remaining duration of this licence.

Stages of construction

33.—(1) The licenced activities must not be commenced until a written scheme setting out the stages of construction of the authorised development seaward of MHWS has been submitted to and approved by the MMO in writing.

(2) The scheme must be implemented as approved.

(3) The written scheme referred to in sub-paragraph (1) must be submitted to the MMO in writing four months prior to the planned commencement of the licenced activities.

Completion of construction

34.—(1) The undertaker must submit a close out report in writing to the MMO and the relevant SNCB within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the final number of installed offshore substation platforms.

(2) Following completion of construction, no further construction activities can be undertaken under this licence.

Cable and Scour Reporting

35. —(1) Not more than four months following completion of the construction of the licensed activity, the undertaker must provide the MMO and the relevant SNCBs with a report setting out details of the cable protection and scour protection used for the licensed activities.

(2) The report must include the following information—

(a) The location of cable protection and scour protection;

(b) The volume of cable protection and scour protection; and

(c) Any other information relating to the cable protection and scour protection as agreed between the MMO and the undertaker.

36. The undertaker must submit a close out report to the MCA, Trinity House and the UK Hydrographic Office within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the following—

(a) the final number of installed offshore substation platforms;

(b) a plan of the layout of installed offshore substation platforms; and

(c) latitude and longitude coordinates of the centre point of the location of each offshore substation platform, provided as Geographical Information System data referenced to WGS84 datum.

Deployment of cable protection

37. Any cable protection authorised under this licence must be deployed within 10 years from the date the Order comes into force unless otherwise agreed by the MMO in writing.

Placement of cable and cable protection proximate to Margate and Long Sands SAC

38.—(1) Unless otherwise agreed in writing by the MMO in consultation with the relevant SNCB, no cable circuits comprised in Work No. 3 or cable protection measures shall be installed within the area defined by the coordinates as specified in the table in sub-paragraph (3).

(2) If agreement with the MMO is obtained pursuant to sub-paragraph (1), the undertaker must install any cable circuits or cable protection measures in accordance with the details approved under sub-paragraph (1).

(3) The coordinates referred to in sub-paragraph (1) are specified in the table—

(1) *Point*	*(2)* *Latitude*	*(3)* *Longitude*
1	51° 48.36144N	001° 42.77159E
2	51° 48.37295N	001° 42.76875E
3	51° 48.41343N	001° 42.75876E
4	51° 48.66988N	001° 42.69547E
5	51° 48.67455N	001° 42.69432E
6	51° 48.67936N	001° 42.69320E
7	51° 48.69382N	001° 42.69006E
8	51° 48.70770N	001° 42.68329E
9	51° 49.05786N	001° 42.32663E
10	51° 49.07583N	001° 42.30832E
11	51° 49.21771N	001° 42.16377E
12	51° 49.68296N	001° 41.68965E
13	51° 49.72103N	001° 41.65085E
14	51° 50.89144N	001° 40.45719E
15	51° 50.92384N	001° 40.42412E
16	51° 50.90057N	001° 40.57444E
17	51° 50.73624N	001° 40.74293E
18	51° 50.71250N	001° 40.76728E
19	51° 48.88430N	001° 42.64015E
20	51° 48.75971N	001° 42.76767E
21	51° 48.75135N	001° 42.77623E
22	51° 48.74687N	001° 42.78049E
23	51° 48.74223N	001° 42.78428E
24	51° 48.73745N	001° 42.78759E
25	51° 48.73255N	001° 42.79039E
26	51° 48.72755N	001° 42.79267E
27	51° 48.72246N	001° 42.79444E
28	51° 48.71751N	001° 42.79563E
29	51° 48.71659N	001° 42.79576E
30	51° 48.71252N	001° 42.79634E
31	51° 48.70751N	001° 42.79654E
32	51° 48.70246N	001° 42.79632E
33	51° 48.69742N	001° 42.79576E
34	51° 48.61790N	001° 42.78554E
35	51° 48.58695N	001° 42.78167E
36	51° 48.57932N	001° 42.78155E
37	51° 48.51798N	001° 42.78057E
38	51° 48.49747N	001° 42.78025E
39	51° 48.49537N	001° 42.78021E
40	51° 48.44900N	001° 42.77947E
41	51° 48.37184N	001° 42.77338E

42	51° 48.36482N	001° 42.77282E
43	51° 48.36309N	001° 42.77269E
44	51° 48.36148N	001° 42.77256E
45	51° 48.35849N	001° 42.77232E
46	51° 48.35989N	001° 42.77198E

Pre-construction, construction and post-construction monitoring and the local harbour authorities

39.—(1) The undertaker must consult the local harbour authorities on the proposed activities and programme for any pre-construction monitoring, construction monitoring, postconstruction monitoring and related reporting within the Areas of Interest no less than 20 business days before such survey work is programmed to commence. The undertaker must have regard to any request made by the local harbour authorities for reasonable amendment to the proposed activities or programme, which request must be made to the undertaker within 5 business days of receipt of the details of the proposed activities and programme.

(2) The undertaker must notify the local harbour authorities of the final planned programme for any pre-construction monitoring, construction monitoring, postconstruction monitoring within the Areas of Interest no less than 5 business days before such survey work is programmed to begin.

(3) The undertaker must consult the local harbour authorities on any application for marine licensing for the clearance of unexploded ordnance within or which may affect the Areas of Interest before such applications are submitted to the MMO. The undertaker must have regard to any request made by the local harbour authorities for reasonable amendment to the proposed application, which request must be made to the undertaker within 10 business days of receipt of the details of the proposed application.

(4) The undertaker must notify the local harbour authorities of the final programme for any clearance of unexploded ordnance to be undertaken within the Areas of Interest no less than 20 business days before such disposal is programmed to begin.

Remediation

40.—(1) Where, following the installation or maintenance of cables forming Work No. 3, located within the Areas of Interest, it is identified by the undertaker (who shall notify the MMO and the local harbour authorities as soon as reasonably practicable of this fact and in any event within 2 business days) or, following inspection by a local harbour authority (and the same is notified to the undertaker as soon as reasonably practicable), that the level of any cable is such that the condition 10(4) has not been achieved or at any time following installation or maintenance the cable has moved such that the requirements of condition 10(4) are no longer being achieved, then, unless otherwise agreed in writing with the MMO and the local harbour authorities, the undertaker is required to carry out remediation works as specified in the cable specification and installation plan subject to subject to sub paragraph (2) below.

(2) Unless otherwise agreed in writing with the MMO and the local harbour authorities, the undertaker will carry out the following arrangements for the carrying out of the remediation works:

(a) the undertaker will re-bury the cable to the required specification to achieve the requirements of condition 10(4); and

(b) following the completion of the works in sub-paragraph (2)(a), if it is identified by the undertaker or the local harbour authorities (following inspection) that the required specification is not achieved, then the undertaker will remove the cable without unreasonable delay and thereafter relay a new cable pursuant to an updated cable specification and installation plan approved by the MMO and the local harbour authorities which updated cable specification and installation plan specifically identifies and addresses why the previous cable burial was not successful, how that has been addressed and what measures are to be used in relaying the cable to prevent the failure reoccurring.

(3) The steps in this paragraph shall be repeated until the requirement in condition 10(4) is achieved or the cable is permanently removed from the areas referred to in paragraph 38(1).

SCHEDULE 10

Article 5

DEEMED MARINE LICENCE UNDER THE 2009 ACT – TRANSMISSION ASSETS (OFFSHORE CONVERTER PLATFORM)

PART 1

LICENSED MARINE ACTIVITIES

1.—(1) In this licence—

"the 2004 Act" means the Energy Act 2004(**a**);

"the 2008 Act" means the Planning Act 2008(**b**);

"the 2009 Act" means the Marine and Coastal Access Act 2009(**c**);

"2017 Regulations" means the Conservation of Offshore Marine Habitats and Species Regulations 2017(**d**);

"aids to navigation management plan" means the aids to navigation management plan to be submitted to the MMO under condition 21(1)(i) of this licence;

"authorised deposits" means the substances and articles specified in paragraph 4 of Part 1 of this licence;

"authorised development" means Work No. 2(b) as described in paragraph 3 of Part 1 of this marine licence or any stage of that work;

"buoy" means any floating device used for navigational purposes or measurement purposes, including LIDAR buoys, wave buoys and guard buoys;

"cable circuits" means a number of electrical conductors necessary to transmit electricity between two points, comprising one or more conductors which may be bundled as one cable or take the form of separate cables, and in either case the circuit may include one or more auxiliary cables for the purpose of control, monitoring, protection or general communication;

"cable crossings" means a crossing of existing cables, pipelines or other existing infrastructure by cable circuits authorised by this Order together with cable protection;

"cable protection" means physical measures for the protection of cables including but not limited to concrete mattresses, split pipe system, and/or rock placement (including material used for cable crossings);

"cable protection replenishment" means the restoration to a former level or condition of cable protection lost by natural seabed processes or human activity;

"Chart Datum" means the level below which the tide will not normally fall at a given location, usually the lowest astronomical tide;

"chemical" means a chemical element and will include both substances and preparations;

"commence" means the first carrying out of any licensed marine activities authorised by this marine licence, save for any operations consisting of pre-construction surveys and monitoring approved under this marine licence and the activities set out in paragraph 2(e), and "commenced" and "commencement" must be construed accordingly;

(**a**) 2004 c. 20.
(**b**) 2008 c. 29.
(**c**) 2009 c. 23.
(**d**) S.I. 2017/13.

"commissioning" means the process of assuring that all systems and components of the authorised development are tested to verify that they function and are operable in accordance with the specifications and operational requirements of the undertaker;

"condition" means a condition in Part 2 of this licence;

"Defence Infrastructure Organisation Safeguarding" means Ministry of Defence Safeguarding, Defence Infrastructure Organisation – Safeguarding, St George's House, DIO Head Office, DMS Whittington, Lichfield, Staffordshire, WS14 9PY and any successor body to its functions;

"Defra" means the Department for Environment, Food and Rural Affairs;

"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 40 (certification of plans and documents, etc.);

"dropped object procedure form" means the MMO notification proforma with reference MLDIR1 for reporting the loss or dumping of synthetic materials and other refuse at sea or any other format advised in writing by the MMO;

"enforcement officer" means a person authorised to carry out enforcement duties under Chapter 3 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 under article 40 (certification of plans and documents, etc.);

"habitats of principal importance" means a habitat designated as being of principal importance in accordance with section 41 (biodiversity lists and action (England)) of the Natural Environment and Rural Communities Act 2006(**a**);

"IHO S44ed6 Order 1a" means order 1a from the fifth edition of the International Hydrographic Organisation's Standards for Hydrographic Surveys as updated or amended from time to time;

"jacket foundation" means a lattice type structure constructed of steel and additional equipment such as, J-tubes, corrosion protection systems and access platforms attached to the seabed at 3 or more points with pin piles or suction buckets;

"JNCC" means the Joint Nature Conservation Committee;

"JNCC Guidance" means the statutory nature conservation body Guidance for assessing the significance of noise disturbance against Conservation Objectives of harbour porpoise SACs Joint Nature Conservation Committee Report No.654, May 2020 published in June 2020 as amended, updated or superseded from time to time;

"Kingfisher 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;

"Kingfisher Information Service" means the information service from non-departmental government body Seafish;

"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 (including replenishment of cable protection) to the extent assessed in the environmental statement, and "maintenance" must be construed accordingly;

"Marine Management Organisation" or "MMO" means the Marine Management Organisation, Marine Licensing Team, Tyneside House, Skinnerburn Road, Newcastle Business Park, Newcastle upon Tyne, NE4 7AR who is the body created under the 2009 Act and who is responsible for the monitoring and enforcement of this licence;

(**a**) 2006 c. 16.

“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;

“MCA” means the Maritime and Coastguard Agency;

“MGN654” means “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes, as may be updated or amended from time to time;

“MHWS” or “mean high water springs” means the average throughout the year, of two successive high waters, during a 24-hour period in each month when the range of the tide is at its greatest (Spring tides);

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

“offshore converter platform” means a structure above MHWS and attached to the seabed by means of a foundation, with equipment to convert three-phase HVAC power generated by the wind turbine generations into HVDC power;

“the offshore order limits and boundary co-ordinates plan” means the plan certified as the offshore order limits and boundary co-ordinates plan by the Secretary of State for the purposes of the Order under article 40 (certification of plans and documents, etc.);

“offshore platform” means the offshore substation platform(s) and/or the offshore converter platform authorised by this licence;

“Offshore Renewables Protocol for Reporting Archaeological Discoveries” means the Offshore Renewables Protocol for Reporting Archaeological Discoveries, the Crown Estate (2014), Protocol for Archaeological Discoveries: Offshore Renewables Projects, Salisbury, Wessex Archaeology as amended, updated or superseded from time to time;

“offshore substation platform” means a structure, authorised by the deemed marine licence in Schedule 9 to the Order, above MHWS and 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;

“operation” means the undertaking of the licensed activities which are not part of the construction, commissioning or decommissioning of the authorised development;

“Order” means the North Falls Offshore Wind Farm Order 2026;

“the Order limits” means the limits shown on the works plans (offshore) within which the authorised development may be carried out, the grid coordinates for the area seaward of MHWS are set out in paragraph 5 of Part 1 of this licence;

“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 40 (certification of plans and documents, etc.);

“outline offshore in-principle monitoring plan” means the document certified as the outline offshore in-principle monitoring plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

“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 40 (certification of plans and documents, etc.);

“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 40 (certification of plans and documents, etc.);

“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 40 (certification of plans and documents, etc.);

"outline sediment disposal management plan" means the document certified as the outline sediment disposal management plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"outline site integrity plan for the southern north sea special area of conservation" means the document certified as the outline site integrity plan for the southern north sea special area of conservation by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"outline vessel traffic monitoring plan" means the document certified as the outline vessel traffic monitoring plan by the Secretary of State for the purposes of this Order under article 40 (certification of plans and documents, etc.);

"pathway to the marine environment" means open systems or closed systems that require top up;

"pin piled jacket" means a jacket attached to the seabed using pin piles;

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

"preparation" means a mixture or solution composed of two or more substances;

"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, or rock and gravel placement;

"SNCB" means the statutory nature conservation body, being the appropriate nature conservation body as defined in Regulation 5 of the Conservation of Habitats and Species Regulations 2017(**a**) or its equivalent in the 2017 Regulations;

"SNS SAC" means the site designated as the Southern North Sea Special Area of Conversation;

"statutory historic body" means Historic England or its successor in function;

"substance" means a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition;

"suction caisson (or 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;

"suction caisson jacket" means a jacket attached to the seabed using suction caissons (typically one per leg);

"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;

"UK Standard Marking Schedule for Offshore Installations" means the Standard Marking Schedule for Offshore Installations published by the Department of Energy & Climate Change with reference DECC 04/11;

"undertaker" means, subject to article 5 (benefit of the Order), North Falls Offshore Wind Farm Limited (company number 12435947);

"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;

(**a**) S.I. 2017/1012.

"working day" means a day which is not a weekend, bank holiday or public holiday in England; and

"works plans (offshore)" means the plan or plans certified as the works plans (offshore) by the Secretary of State for the purposes of the Order under article 40 (certification of plans and documents, etc.).

(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; and

(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) Civil Aviation Authority
Aviation House
Beehive Ring Road
Crawley
West Sussex
RH6 0YR

(b) Historic England
East of England Regional Office
Brooklands
24 Brooklands Avenue
Cambridge
CB2 8BU

(c) Marine Management Organisation
Marine Licensing Team
Tyneside House
Skinnerburn Road
Newcastle Business Park
Newcastle upon Tyne
NE4 7AR
Tel: 0300 123 1032

(d) Marine Management Organisation (Local Office)
Pakefield Road
Lowestoft
NR33 0HT
Tel: 0208 026 0654

(e) Maritime and Coastguard Agency
UK Technical Services Navigation
Spring Place
105 Commercial Road
Southampton
SO15 1EG

Email: navigationsafety@mcga.gov.uk

(f) Ministry of Defence (as represented by Defence Infrastructure Organisation – Safeguarding)
St George's House
153
DIO Head Office
DMS Whittington
Lichfield
Staffordshire
WS14 9PY

(g) Natural England
Teville Gate House
25 Railway Approach
Worthing
BN11 1UR
Tel: 0300 060 4911

(h) Trinity House
Tower Hill
London
EC3N 4DH
Tel: 020 7481 6900

(i) The United Kingdom Hydrographic Office
Admiralty Way
Taunton
Somerset
TA1 2DN
Tel: 01823 337 900

(5) Unless otherwise advised in writing by the MMO, the address for electronic communication with the MMO for the purposes of this licence is marine.consents@marinemanagement.org.uk, or where contact to the Local Office if the MMO is required, harwich@marinemanagement.org.uk.

(6) Unless otherwise advised in writing by the MMO, the Marine Case Management System ("MCMS") must be used for all licence returns or applications to vary this licence. The MCMS address is: https://marinelicensing.marinemanagement.org.uk/.

Details of licensed marine activities

2. Subject to the licence conditions in Part 2, this licence authorises the undertaker (and any agent or contractor acting on its 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, at disposal site reference provided by the MMO, within the Order limits seaward of MHWS of the substances and articles specified in paragraph 4 below and in Work No. 2(b) of up to 19,242.3 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin produced during construction drilling or seabed preparation for foundation works;

(b) the construction of works in or over the sea, and or on or under the seabed;

(c) dredging for the purposes of seabed preparation for foundation works, preparation for construction vessels and/or electrical circuit works;

(d) boulder clearance works by displacement ploughing or subsea grab technique or any other equivalent method;

(e) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;

(f) removal of static fishing equipment;

(g) wet storage; and

(h) site preparation works.

3. Such activities described in paragraph 2 are authorised in relation to the construction, maintenance and operation of—

Work No. 2(b)—up to one offshore converter platform fixed to the seabed by one of the following foundation types: monopile, multi-leg pin pile jacket or multi-leg suction bucket jacket.

In connection with Work No. 2(b) and to the extent that they do not otherwise form part of that 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 development 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 converter platform;

(b) the removal of material from the seabed required for the construction of Work No. 2(b);

(c) temporary landing places, moorings or other means of accommodating or anchoring vessels in the construction and/or maintenance of the authorised development and buoys.

4. The substances or articles authorised for deposit at sea are—

(a) iron and steel, copper and aluminium;

(b) stone and rock;

(c) concrete and grout;

(d) sand and gravel;

(e) plastic, synthetic and rubber;

(f) material extracted from the seabed within the offshore Order limits during construction drilling or seabed preparation for foundation works, vessels, cable installation preparation works and cable installation works, and excavation of drilling pits for trenchless installation techniques;

(g) anchors and weights used for the calibration of vessels, consisting of a hessian sack, metal shackles or chains; and

(h) marine coatings, other chemicals and timber.

5. The grid coordinates within which that part of the authorised development comprising Work No. 2(b) must be located are specified below and more particularly on the offshore order limits and boundary co-ordinates plan—

(1)	*(2)*	*(3)*
Point ID	*Latitude (WGS84 (DDM))*	*Longitude (WGS84 (DDM))*
36	51° 46.18399’N	01° 51.52207’E
37	51° 46.45215’N	01° 51.46739’E
38	51° 47.79417’N	01° 56.0602’E
39	51° 45.96006’N	01° 54.98406’E
40	51° 44.20008’N	01° 56.16270’E
41	51° 43.43466’N	01° 58.08954’E
42	51° 44.92260’N	02° 02.79174’E
43	51° 44.20590’N	02° 02.65992’E

44	51° 44.16756’N	02° 02.36766’E
45	51° 43.89822’N	02° 01.62702’E
46	51° 43.70418’N	02° 01.18500’E
47	51° 43.46172’N	02° 00.54066’E
48	51° 42.90816’N	01° 59.73738’E
49	51° 42.25464’N	01° 58.18482’E
50	51° 41.80842’N	01° 58.22082’E
51	51° 38.66118’N	01° 54.67986’E
52	51° 37.76189’N	01° 52.32853’E
53	51° 39.03140’N	01° 52.10085’E
54	51° 40.08359’N	01° 52.71647’E
55	51° 40.32461’N	01° 52.55921’E
56	51° 40.41888’N	01° 52.66356’E
57	51° 40.36970’N	01° 52.53295’E
58	51° 40.36967’N	01° 52.52982’E
59	51° 40.80925’N	01° 52.24298’E
60	51° 41.18441’N	01° 51.71421’E
61	51° 41.78502’N	01° 51.60623’E
62	51° 45.61162’N	01° 51.61163’E

General provisions

6. This marine licence remains in force until the authorised development 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 (reviews and revisions of decommissioning programmes) of the 2004 Act, and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this marine 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).

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 licence, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to or variations from the approved details, plan or scheme 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.

PART 2

CONDITIONS

Design parameters

10.—(1) The dimensions of the offshore converter platform forming part of the authorised development (including cranes and helideck) must not exceed—

(a) 111.62 metres in height when measured from MHWS;

(b) 130 metres in length; and

(c) 10,400 m^2 topside area.

(2) Offshore converter platform foundation structures forming part of the authorised development must be one of either monopile foundation, multi-leg pin pile jacket foundation or multi-leg suction bucket jacket foundation.

(3) No offshore converter platform—

(a) jacket foundation employing pin piles forming part of the authorised development may—

(i) have a pin pile diameter of greater than 3.5 metres; and

(ii) employ more than 12 pin piles per jacket foundation; and

(b) monopile foundation forming part of the authorised development may not have a diameter greater than 17 metres.

11.—(1) The total number of offshore platforms constructed under this licence and the licence granted under Schedule 9 of the Order must not exceed two.

(2) The total permanent seabed footprint area for offshore platform foundations must not exceed—

(a) 5,890 square metres excluding scour protection; and

(b) 166,715 square metres including scour protection.

(3) The total volume of scour protection material for the offshore platform foundations is 50,316 cubic metres.

(4) The total volume of drill arisings under this licence and the licence granted under Schedule 9 must not exceed 11,451 cubic metres.

Maintenance of the authorised development

12.—(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 provide otherwise.

(2) Maintenance works include but are not limited to—

(a) repair, maintenance, refurbishment and replacement of offshore electrical components;

(b) painting and applying other coatings;

(c) bird waste and marine growth removal;

(d) cable remedial burial;

(e) cable repairs and replacement;

(f) cable protection replenishment;

(g) access ladder and boat landing replacement;

(h) replacement of offshore platform anodes; and

(i) J-tube repair/replacement.

(3) In undertaking activities under sub-paragraph (2)(f), the undertaker must not reduce water depth by more than 5% Chart Datum unless agreed with the MMO and the MCA in writing.

(4) An operations and maintenance plan in accordance with the outline offshore operations and maintenance plan shall be submitted to the MMO for approval in consultation with the relevant SNCB at least six months prior to the commencement of operations. All operation and maintenance activities must be carried out in accordance with the approved plan.

Vessels under the undertaker's control

13.—(1) The undertaker must 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 which must be in accordance with the outline project environmental management plan.

(2) The undertaker must 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.

Extension of time periods

14. Any time period given in this licence to either the undertaker or the MMO may be extended with the agreement of the other party in writing such agreement not to be unreasonably withheld or delayed.

Notifications and inspections

15.—(1) The undertaker must ensure that a copy of this marine licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—

(a) all agents and contractors notified to the MMO in accordance with condition 24; and

(b) the masters and offshore operations managers responsible for the vessels notified to the MMO in accordance with condition 24.

(2) Only those persons and vessels notified to the MMO in accordance with condition 24 are permitted to carry out the licensed activities.

(3) The documents referred to in sub-paragraph (1)(a) must 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 and at the office of any offshore operations managers with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The undertaker must ensure that a copy of this marine licence and any subsequent revisions or amendments has been read and understood by the masters of any vessel being used to carry on any licensed activity set out in condition 25(3), and that a copy of this marine licence is held on board any such vessel.

(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 development.

(6) The undertaker must inform the MMO Local Office in writing at least 14 days prior to the commencement of the licensed activities or any part of them and within 14 days of the completion of each licensed activity.

(7) The undertaker must inform the Kingfisher Information Service, by email to kingfisher@seafish.co.uk, of details regarding the vessel routes, timings and locations relating to the construction of the authorised development or relevant stage—

(a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Bulletin and offshore hazard awareness data; and

(b) as soon as reasonably practicable, and in any event no later than 24 hours after completion of construction of all offshore activities, confirmation of notification must be provided to the MMO in writing within five days.

(8) The undertaker must ensure that a local notification to mariners is issued at least 14 days prior to the commencement of the authorised development or any relevant stage advising of the start date of Work No. 2(b) and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UK Hydrographic Office within five days of issue.

(9) The undertaker must ensure that local notifications to mariners are updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and the notices must be supplemented with VHF radio broadcasts agreed with the MCA in accordance with the project environmental management plan approved under deemed marine licence condition 21(1)(d) and monitoring plan approved under condition 21(1)(f). Copies of all local notifications must be provided to the MMO and UK Hydrographic Office

within five days of issue, save for in the case of a notice relating to operations and maintenance, which must be provided within 24 hours of issue.

(10) The undertaker must notify the UK Hydrographic Office of the commencement (within 14 days), progress and completion of construction (within 14 days) of the licenced activities in order that all necessary amendments to nautical and aeronautical charts are made and the undertaker must send a copy of such notifications to the MMO and MCA within five days of the notification.

(11) In case of damage to, or destruction or decay of, the authorised development seaward of MHWS or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, the MMO Local Office, the MCA, Trinity House, the Kingfisher Information Service and the UK Hydrographic Office.

(12) In case of exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners and inform the Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the MMO, the MCA, Trinity House and the UK Hydrographic Office within five days of notifying mariners.

(13) The undertaker must notify the MMO in writing a minimum of 14 days in advance of the commencement of each discrete incident of cable repair, replacement, or protection replenishment activity or scour protection replacement activity. Such a notification must include proposed timings and a description of proposed methodologies.

(14) The undertaker must ensure that the MMO, the MMO Local Office, local mariners, local fishermen's organisations and the Source Data Receipt Team at the UK Hydrographic Office, Taunton, Somerset, TA1 2DN (sdr@ukho.gov.uk) are notified within 14 days of completion of each instance of cable repair, replacement or protection replenishment activity.

(15) Should the undertaker become aware that any of the information on which the granting of this licence was based was materially false or misleading, the undertaker must notify the MMO local office of this fact in writing as soon as is reasonably practicable. The undertaker must explain in writing what information was materially false or misleading and must provide to the MMO the correct information.

Aids to navigation

16.—(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning of the authorised development 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 development to completion of decommissioning of the authorised development seaward of MHWS keep Trinity House and the MMO informed in writing of progress of the authorised development seaward of MHWS including the following—

(a) notice of commencement of construction of the authorised development 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 development.

(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 21(1)(a)(i) 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 development seaward of MHWS notify Trinity House and the MMO in writing 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 15(12) 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.

(6) Any jack up barges or vessels utilised during the licensed activities, when jacked up, must exhibit signals in accordance with the UK Standard Marking Schedule for Offshore Installations.

Colouring of structures

17. Except as otherwise required by Trinity House, the undertaker must colour offshore converter platform structure yellow (colour code RAL 1023) from at least highest astronomical tide to a height directed by Trinity House.

Aviation safety

18.—(1) The undertaker must exhibit such lights, with such shape, colour and character and at such times as are required in writing by The Air Navigation Order 2016(**a**) (with any reference in that Order to the territorial sea being read as a reference to the Renewable Energy Zone established under section 84 of the 2004 Act) and/or determined necessary for aviation safety as directed in writing by the Civil Aviation Authority, in consultation with the Defence Infrastructure Organisation Safeguarding. Lighting installed specifically to meet Ministry of Defence aviation safety requirements must remain operational for the life of the authorised development unless otherwise agreed in writing with the Ministry of Defence.

(2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, the Civil Aviation Authority and the MMO, at least 14 days prior to the commencement of the licensed activities, in writing of the following information—

(a) the date of the commencement of the licensed activities;

(b) the date the offshore converter platform is to be installed;

(c) the maximum height of any construction equipment or vessels to be used;

(d) the maximum heights of the offshore converter platform to be constructed (including any antennae); and

(e) the latitude and longitude of the offshore converter platform to be constructed,

and the Defence Infrastructure Organisation Safeguarding and the Civil Aviation Authority must be notified of any changes to the information supplied under this paragraph of this condition and of the completion of the construction of the authorised development. Copies of notifications must be provided to the MMO.

Chemicals, drilling and debris

19.—(1) The undertaker must ensure that any coatings and/or treatments are suitable for use in the marine environment and are used in accordance with relevant guidelines approved by the Health and Safety Executive.

(2) 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.

(3) 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 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(4) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, vessels or cables or cable installation, and drilling mud is disposed of within the Order limits seaward of MHWS.

(**a**) S.I. 2016/765.

(5) The undertaker must ensure that any rock material used in the construction of the authorised development is from a recognised source, free from contaminants and containing minimal fines.

(6) In the event that any rock material used in the construction of the authorised development is misplaced or lost below MHWS, the undertaker must report the loss to the MMO Local Office in writing within 48 hours of becoming aware of it and if the MMO, in consultation with the MCA and Trinity House, 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 at its own expense.

(7) 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 marine environment through the freeing ports.

(8) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported in writing to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 21(1)(d)(i).

(9) Regarding incidents of dropped objects—

(a) Debris or dropped objects within the Order limits which are considered a danger or hazard to navigation must be reported as soon as reasonably practicable but no later than six hours from the undertaker becoming aware of an incident, to the relevant HM Coastguard Maritime Rescue Co-ordination Centre by telephone (Dover Maritime Rescue Coordination Centre: 0344 382 0593), and the UK Hydrographic Office email: navwarnings@btconnect.com;

(b) All dropped objects, including those in (a) within the Order limits must be reported to the MMO using the dropped object procedure form (including any updated form as provided by the MMO) as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident, unless otherwise agreed in writing with the MMO; and

(c) On receipt of notification or 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 marine environment at the undertaker's expense if reasonable to do so.

Force majeure

20.—(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 (an "unauthorised deposit"), within 48 hours full details of the circumstances of the deposit must be notified to the MMO in the manner provided in condition 19(9).

(2) Any unauthorised deposit must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Pre-construction plans and documentation

21.—(1) The licensed activities for each stage of construction of the authorised development must not commence until the following (insofar as relevant to that activity or stage of activity) has been submitted to and approved in writing by the MMO, in consultation with, where relevant, Trinity House, the MCA, UK Hydrographic Office and relevant SNCB—

(a) A design plan at a scale of between 1:25,000 and 1:50,000, or in such other format as may be appropriate, including detailed representation on the most suitably scaled chart, to ensure conformity of the description of Work No. 2(b) and compliance with conditions 10, 11 and 12, which shows for the relevant stage—

(i) the proposed location, including grid co-ordinates of the centre point of the proposed location for the offshore converter platform, subject to any micro-siting required due

to anthropological constraints, environmental constraints or difficult ground conditions discovered post approval under this condition and choice of foundation types for all offshore platforms;

(ii) the dimensions of the offshore converter platform to be installed, including any antennae;

(iii) the type and dimensions of all foundations for the offshore substation platform;

(iv) the proposed layout of the offshore substation platform including any exclusion zones identified under sub-paragraph (2)(d); and

(v) any exclusion zones or micro-siting requirements identified in any mitigation plan pursuant to sub-paragraph (2)(d) or relating to any habitats of principal importance identified as part of surveys undertaken in accordance with condition 26;

(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 the offshore converter platform comprised in the works at paragraphs 2 and 3 of Part 1 (licensed marine activities) of this Part of this Schedule (insofar as not shown in sub-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 for the relevant stage 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 cable installation works, and having regard to any mitigation scheme pursuant to sub-paragraph (g);

(ii) contractors; and

(iii) associated ancillary works.

(d) a project environmental management plan covering the period of construction for the relevant stage to include details of—

(i) a marine pollution contingency plan to address the risks, methods and procedures to deal with and report any spills and collision incidents of the authorised development in relation to all activities carried out;

(ii) a chemical risk register for all chemicals that have a pathway to the marine environment and may be used for the licensed activities (with the exception of any chemicals used in the course of normal navigation), submitted to the MMO for approval at least ten weeks prior to the use of such chemicals, to include details of—

(aa) the function of the chemicals;

(bb) the quantities being used and the frequency of use; and

(cc) the physical, chemical and ecotoxicological properties of the chemical (save for any chemicals present on the OSPAR List of Substances Used and Discharged Offshore which Are Considered to Pose Little or No Risk to the Environment (PLONOR);

(iii) a marine biosecurity plan detailing how the risk of introduction and spread of invasive non-native species will be minimised; and

(iv) waste management and disposal arrangements.

(e) a scour protection plan for the relevant stage providing details of the need, type, sources, quantity and installation methods for scour protection, which must be updated and resubmitted in writing for approval if changes to it are proposed following cable laying operations;

(f) details of proposed pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting in accordance with conditions 26, 27 and 28;

(g) in the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol (in accordance with the draft marine mammal mitigation protocol), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant SNCB and which must include details of noise reduction methods through project design (primary measures) and/or, deployment of noise mitigation systems or noise abatement systems (secondary measures) that will be utilised to manage sounds from those piling activities and such protocol must include details and justification for the mitigation chosen or excluded for deployment;

(h) a cable specification and installation plan for the relevant stage, to include—

(i) technical specification of offshore cables (including fibre optic cable) below MHWS within that stage, including a desk-based assessment of attenuation of electromagnetic field strengths, shielding and cable burial depth in accordance with good industry practice;

(ii) a detailed cable laying plan for the Order limits within that stage, 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;

(iii) proposals for the volume and areas of cable protection to be used for each cable crossing, and proposals for timing and methodology for reporting on actual volumes and areas post construction; and

(iv) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised development which includes a risk based approach to the management of unburied or shallow buried cables;

(i) an aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House, the MCA and the CAA to include details of how the undertaker will comply with the provisions of condition 16 relating to that stage for the lifetime of the authorised development;

(j) an offshore monitoring plan for the relevant stage which accords with the principles set out in the outline offshore in-principle monitoring plan;

(k) a fisheries liaison and co-existence plan for the relevant stage which must include details of any monitoring being undertaken and engagement with commercial fishery stakeholders and which accords with the principles set out in the outline fisheries liaison and co-existence plan;

(l) a vessel traffic monitoring plan for the relevant stage which accords with the principles set out in the outline vessel traffic monitoring plan;

(m) a sediment disposal management plan for the relevant stage which accords with the principles set out in the outline sediment disposal management plan; and

(n) no percussive piling may take place between 1st November to 31st January (inclusive) in any year for the protection of spawning herring unless otherwise agreed in writing with the MMO.

(2) Subject to sub-paragraph (3), the licensed activities or any relevant stage of those activities must not commence unless no later than six months prior to the commencement a marine written scheme of archaeological investigation for the stage in construction has been submitted to and approved by the MMO in writing, 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 method statement 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 development, 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, designed in reference to the Offshore Renewables Protocol for Reporting Archaeological Discoveries as set out by the Crown Estate and reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised development; and

(h) 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 method statement produced under the written scheme of investigation specific to the relevant pre-construction activities (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 in consultation with the statutory historic body.

(4) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive monopile foundations must not exceed 6,000kJ and the hammer energy used to drive or part-drive pin pile foundations must not exceed 3,000kJ.

(5) No more than two main vessels may be engaged at any time in activities related to piling for the licenced activities. There will only be a maximum installation of three monopiles foundations or six pin piles within a 24-hour period.

(6) The undertaker must, before submitting any pre-construction plans and documentation required under this condition, provide a copy of the plans and documentation to any person to whom part of the benefit of the Order applying seaward of MHWS has been transferred or leased pursuant to article 5 (benefit of the order) of the Order.

(7) A person receiving the plans and documents under sub-paragraph (6) must provide any comments on the plans and documentation to the undertaker within 14 days of receipt.

(8) The undertaker must participate in liaison meetings as requested from time to time by the MMO in writing in advance and must consider such matters as are determined by the MMO relating to the efficient operation of a deemed marine licence issued under this Order (including as varied or transferred).

22.—(1) Except where otherwise stated or agreed in writing with the MMO, each programme, statement, plan, protocol or scheme required to be approved under condition 21 (save for that required under condition 21(1)(f)) must be submitted for approval at least six months prior to the intended commencement of the relevant stage of the licensed activities.

(2) The pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting required under condition 21(1)(f) must be submitted in accordance with the following, unless otherwise agreed in writing with the MMO—

(a) at least six months prior to the first survey of the relevant stage, detail of any pre–construction surveys and an outline of all proposed monitoring;

(b) at least six months prior to construction, detail on construction monitoring; and

(c) at least six months prior to commissioning, detail of postconstruction (and operational) monitoring.

(3) The MMO must determine an application for approval made under condition 21 within a period of six months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker such agreement not to be unreasonably withheld or delayed.

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 21, unless otherwise agreed in writing by the MMO.

(5) The plans, protocols, statements, schemes and details submitted under condition 21 must ensure that any residual effects fall within the scope of those predicted in the environmental statement.

Southern North Sea Special Area of Conservation Site Integrity Plan

23. —(1) No piling activities can take place until a southern north sea special area of conservation site integrity plan, which accords with the principles set out in the outline southern north sea special area of conservation site integrity plan, has been submitted to and approved in writing by the MMO in consultation with the relevant SNCB.

(2) The southern north sea special area of conservation site integrity plan submitted for approval under sub-paragraph (1) must contain a description of the conservation objectives for the SNS SAC, as well as any relevant management measures and it must set out the key SNCB statutory nature conservation body advice on activities within the SNS SAC relating to piling as set out within the JNCC Guidance and how this has been considered in the context of the licensed activities.

(3) The southern north sea special area of conservation site integrity plan submitted for approval under sub-paragraph (1) must be submitted in writing to the MMO no earlier than nine months and no later than six months prior to the commencement of piling activities.

(4) In approving the southern north sea special area of conservation site integrity plan under sub-paragraph (1) the MMO must determine whether the licensed activities at the pre-construction stage, in-combination with other plans and projects, would be in line with the JNCC Guidance.

(5) The southern north sea special area of conservation site integrity plan approved by the MMO under sub-paragraph (1) may be amended with the prior written approval of the MMO, in consultation with the relevant SNCB, where the MMO determines that the licensed activities , in-combination with other plans or projects at the pre-construction stage, is in line with the JNCC Guidance.

(6) The licensed activities must be carried out in accordance with the SIP approved under this condition 23, unless otherwise agreed in writing with the MMO.

Offshore safety management

24.—(1) No stage of the authorised development may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and adequately addressed all MCA recommendations as appropriate to the authorised development contained within MGN654.

Reporting of engaged agents, contractors and vessels

25.—(1) The undertaker must provide the following information to the MMO—

(a) the name, company number, address and function of any agent, contractor or subcontractor appointed to engage in the licensed activities not less than ten working days prior to such agent or contractor commencing any licensed activity; and

(b) each week during the construction of the authorised development a list of the vessels currently and to be used in relation to the licensed activities, including the master's name, vessel type, vessel IMO number and vessel owner or operating company.

(2) Any changes to the supplied details must be notified to the MMO in writing, as far as practicable, prior to the agent, contractor or vessel engaging in the licensed activities.

(3) The undertaker must notify the MMO in writing not less than 24 hours prior to the commencement of major component exchanges, ladder replacements or cable related works—

(a) any agents, contractors or subcontractors that will carry out such works; and

(b) any vessel proposed to be used for such works, including the master's name, vessel type, vessel IMO number and vessel owner or operating company.

Pre-construction monitoring and surveys

26.—(1) The undertaker must in discharging condition 21(1)(f) for construction submit a monitoring plan in accordance with the outline offshore in-principle monitoring plan for written approval by the MMO in consultation with the relevant SNCB, which must 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 accordance with the principles set out in the outline offshore 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 survey proposals must comprise, in outline—

(a) a full sea floor coverage swath–bathymetry survey of the Order limits and a buffer outside, that meets the requirements of IHO S44ed6 Order 1a, to—

(i) determine the location, extent and composition of any biogenic or geogenic reef features, as set out within the outline offshore in-principle monitoring plan;

(ii) inform future navigation risk assessments as part of the cable specification and installation plan; and

(iii) inform the identification of any archaeological exclusion zone and post consent monitoring of any such archaeological exclusion zone; and

(b) a bathymetric survey that meets the requirements of IHO S44ed6 Order 1a of the area within the Order Limits within which it is proposed to carry out construction works.

(3) The pre-construction survey(s) carried out pursuant to sub-paragraphs (2)(a)(ii) and (2)(b) must fulfil the requirements of MGN654 and its supporting 'Hydrographic Guidelines for Offshore Renewable Energy Developer' (as relevant).

(4) The undertaker must carry out the surveys specified within the approved monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant SNCB.

(5) Following completion of a survey carried out pursuant to this condition and prior to construction of the relevant stage, the undertaker must provide a report and full density data of the survey outcomes to the MMO, the relevant SNCB, the MCA and UK Hydrographic Office as relevant.

Construction monitoring

27.—(1) The undertaker must, in discharging condition 21(1)(f) in respect of construction monitoring, submit a construction monitoring plan or plans for that stage in accordance with the outline offshore in-principle monitoring plan for written approval by the MMO in consultation with the relevant SNCB, which must 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 accordance with the principles set out in the outline offshore in-principle monitoring plan and must specify the objectives of each survey and explain how the survey 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) If the plan or plans submitted to the MMO under this condition contain survey proposals, the construction monitoring plan must include, in outline—

(a) vessel traffic monitoring by automatic identification system for the duration of the construction period, with provision for a report to be submitted to the MMO, Trinity House, and the MCA annually during the construction period for the authorised development; and

(b) 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 piled foundations of each piled foundation type to be constructed collectively under this licence and the deemed marine licences granted under Schedules 8 and 9 of the Order.

(3) If, in the reasonable opinion of the MMO in consultation with the SNCB the monitoring carried out pursuant to condition 27(2)(b) above shows impacts significantly in excess to those assessed in the environmental statement and there has been a failure of the mitigations set out in the marine mammal mitigation protocol, all piling activity must cease until either contingency measures approved within the marine management mitigation protocol have been implemented or 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 approved construction monitoring plan or plans in accordance with that plan or plans, and provide the approved reports in the format and to timings approved pursuant to sub-paragraph (1), unless otherwise agreed in writing by the MMO in consultation with the relevant SNCB.

(5) If, in the event that the reports provided under sub-paragraph (4) identify significant effects not previously assessed or beyond those predicted within the Environmental Statement, an adaptive management plan that aims to reduce effects to within what was predicted in the Environmental Statement, unless otherwise agreed with the MMO in writing, must be submitted to the MMO as soon as reasonably practicable after providing to the MMO the report(s) submitted under sub-paragraph (4). The adaptive management plan must be approved by the MMO in consultation with the relevant SNCB. Any such agreed and approved adaptive management or mitigation should be implemented and monitoring undertaken in full to a timetable first agreed in writing with the MMO. In the event that the adaptive management measures require separate consent, the undertaker shall apply for such consent but only be required to undertake the relevant adaptive management once the consent is granted, with the timetable in the plan adjusted accordingly.

Post-construction monitoring

28.—(1) The undertaker must, in discharging condition 21(1)(f) in respect of post-construction monitoring, submit a post-construction monitoring plan or plans for that stage in accordance with the outline offshore in-principle monitoring plan for written approval by the MMO in consultation with the relevant SNCB 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 accordance with the principles set out in the outline offshore in-principle monitoring plan and must specify the objectives for each survey and explain how the survey 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) If the plan or plans submitted to the MMO under this condition contain survey proposals, the post-construction survey plan or plans must include, in outline—

(a) 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;

(b) a bathymetric survey to monitor the effectiveness of archaeological exclusion zones. The data will be analysed by an accredited archaeologist as defined in the marine written scheme of archaeological investigation required under condition 21(2); and

(c) vessel traffic monitoring by automatic identification system for a duration of three consecutive years following the completion of construction of the authorised development, unless otherwise agreed in writing by the MMO, with provision for a report to be submitted annually to the MMO, Trinity House, and the MCA.

(3) The undertaker must carry out the surveys specified within the post-construction monitoring plan or plans in accordance with that plan or plans and provide the agreed reports in the agreed format, unless otherwise agreed in writing with the MMO in consultation with the relevant SNCB.

(4) Within 12 weeks of completion of any cable repair or replacement works, the undertaker must undertake a post installation survey along the section of cable that has undergone repair or replacement to demonstrate the successful burial of the cable, and submit a report to the MMO in writing on its findings.

(5) If, in the event that the reports provided to the MMO under sub-paragraph (3) identify significant effects not previously assessed or beyond those predicted within the Environmental Statement, an adaptive management plan that aims to reduce effects to within what was predicted in the Environmental Statement, unless otherwise agreed with the MMO in writing, must be submitted to the MMO as soon as reasonably practicable after providing to the MMO the report(s) submitted under sub-paragraphs (3). The adaptive management plan must be approved by the MMO in consultation with the relevant SNCB. Any such agreed and approved adaptive management or mitigation should be implemented and monitoring undertaken in full to a timetable first agreed in writing with the MMO. In the event that the adaptive management measures require separate consent, the undertaker shall apply for such consent but only be required to undertake the relevant adaptive management once the consent is granted, with the timetable in the plan adjusted accordingly.

Timing of monitoring report

29. Any monitoring report compiled in accordance with the monitoring plans provided under conditions 26, 27 and 28 must be provided to the relevant body no later than four months following receipt by the undertaker of the results of monitoring to which it relates, unless otherwise agreed with the relevant body in writing.

Reporting of impact pile driving

30.—(1) In the event that driven or part–driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the marine noise registry—

(a) no less than six months prior to the commencement of each stage of construction of the licensed activities, information on the expected location, start and end dates of impact pile driving to satisfy the marine noise registry's Forward Look requirements;

(b) within two weeks after commencement of each stage of construction of the licensed activities, information on the location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements; and

(c) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the marine noise registry's Close Out requirements by 7 April for winter season October – March inclusive and 7 October for summer season April – September inclusive; or within 12 weeks of completion of impact pile driving, whichever is earlier.

(2) The undertaker must notify the MMO in writing of the successful submission of Forward Look or Close Out data pursuant to sub-paragraph (1) above within seven days of the submission.

(3) For the purpose of this condition, "Forward Look" and "Close Out" mean the requirements as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) as amended, updated or superseded from time to time.

Maintenance reporting

31.—(1) An annual maintenance report must be submitted to the MMO in writing within one month following the first anniversary of the date of commencement of operations, and every year thereafter until the permanent cessation of operation.

(2) The report must provide a record of the licensed activities as set out in condition 12 during the preceding year, the timing of activities and methodologies used.

(3) Every fifth year, the undertaker must submit to the MMO in writing, within one month of that date, a consolidated maintenance report, which will—

(a) include a review of licensed activities undertaken during the preceding five years with reference to the reports submitted in accordance with sub-paragraph (1) of this licence; and

(b) reconfirm the applicability of the methodologies and frequencies of the licensable activities permitted by this licence for the remaining duration of this licence.

Cable and Scour Reporting

32.—(1) Not more than four months following completion of the construction of the licensed activity, the undertaker must provide the MMO and the relevant SNCBs with a report setting out details of the cable protection and scour protection used for the licensed activities.

(2) The report must include the following information—

(a) The location of cable protection and scour protection;

(b) The volume of cable protection and scour protection; and

(c) Any other information relating to the cable protection and scour protection as agreed between the MMO and the undertaker.

Stages of construction

33.—(1) The licenced activities must not be commenced until a written scheme setting out the stages of construction of the authorised development seaward of MHWS has been submitted to and approved by the MMO in writing.

(2) The scheme must be implemented as approved.

(3) The written scheme referred to in sub-paragraph (1) must be submitted to the MMO in writing four months prior to the planned commencement of the licenced activities.

Completion of construction

34.—(1) The undertaker must submit a close out report in writing to the MMO and the relevant SNCB within three months of the date of completion of construction. The close out report must confirm the date of completion of construction.

(2) Following completion of construction, no further construction activities can be undertaken under this licence.

35. The undertaker must submit a close out report to the MCA, Trinity House and the UK Hydrographic Office within three months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the following—

(a) a plan of the layout of installed offshore converter platform; and

(b) latitude and longitude coordinates of the centre point of the location of the offshore converter platform, provided as Geographical Information System data referenced to WGS84 datum.

SCHEDULE 11

Article 38

HEDGEROWS

PART 1

REMOVAL OF HEDGEROWS

(1) *Extent of and purpose for removal*	*(2)* *Location of hedgerow*
small scale removal for haul road crossing and/or accesses	between points 2a and 2b on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 2c and 2d on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 2e and 2f on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 2o and 2p on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 3a and 3b on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 3e and 3f on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 4o and 4p on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 10c and 10d on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 10e and 10f on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 10g and 10h on the tree preservation order and hedgerow plan
removal for trenched crossing	between points 10i and 10j on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 12a and 12b on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 12c and 12d on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 12e and 12f on the tree preservation order and hedgerow plan
removal for Bentley Road improvement works	between points 13a and 13b on the tree preservation order and hedgerow plan
removal for Bentley Road improvement works	between points 13c and 13d on the tree preservation order and hedgerow plan
removal for Bentley Road improvement works	between points 13e and 13f on the tree preservation order and hedgerow plan
removal for Bentley Road improvement works	between points 13l and 13m on the tree preservation order and hedgerow plan
removal for Bentley Road improvement works	between points 13v and 13w on the tree preservation order and hedgerow plan
removal for Bentley Road improvement works	between points 13z and 13aa on the tree preservation order and hedgerow plan
removal for Bentley Road improvement works	between points 13ab and 13ac on the tree preservation order and hedgerow plan

removal for Bentley Road improvement works	between points 13ae and 13af on the tree preservation order and hedgerow plan
removal for Bentley Road improvement works	between points 13al and 13am on the tree preservation order and hedgerow plan
removal for Bentley Road improvement works	between points 13an and 13ao on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 13ap and 13aq on the tree preservation order and hedgerow plan

PART 2

REMOVAL OF IMPORTANT HEDGEROWS

(1) *Extent of and purpose for removal*	*(2)* *Location of hedgerow*
small scale removal for haul road crossing and/or accesses	between points 1b and 1c on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 2k and 2l on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 2m and 2n on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 3i and 3j on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 3m and 3n on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 4a and 4b on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 4e and 4f on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 4i and 4j on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 5c and 5d on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 6a and 6b on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 6c and 6d on the tree preservation order and hedgerow plan
removal for trenched crossing	between points 6e and 6f on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 6g and 6h on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 6i and 6j on the tree preservation order and hedgerow plan
removal for trenched crossing	between points 6k and 6l on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 7a and 7b on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 7c and 7d on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 7e and 7f on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 7g and 7h on the tree preservation order and hedgerow plan
small scale removal for haul road crossing	between points 7i and 7j on the tree

and/or accesses	preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 7k and 7l on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 7m and 7n on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 7u and 7v on the tree preservation order and hedgerow plan
removal for trenched crossing	between points 7w and 7x on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 8a and 8b on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 8c and 8d on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 8j and 8k on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 8m and 8n on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 8o and 8p on the tree preservation order and hedgerow plan
removal for trenched crossing	between points 8s and 8t on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 8u and 8v on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 9c and 9d on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 10a and 10b on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 10o and 10p on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 11e and 11f on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 12g and 12h on the tree preservation order and hedgerow plan
removal for Bentley Road improvement works	between points 13g and 13h on the tree preservation order and hedgerow plan
removal for Bentley Road improvement works	between points 13n and 13o on the tree preservation order and hedgerow plan
removal for Bentley Road improvement works	between points 13u and 13v on the tree preservation order and hedgerow plan
removal for Bentley Road improvement works	between points 13x and 13y on the tree preservation order and hedgerow plan
removal for Bentley Road improvement works	between points 13ad and 13ae on the tree preservation order and hedgerow plan
removal for Bentley Road improvement works	between points 13af and 13ag on the tree preservation order and hedgerow plan
small scale removal for haul road crossing and/or accesses	between points 14c and 14d on the tree preservation order and hedgerow plan

SCHEDULE 12

Article 40

DOCUMENTS TO BE CERTIFIED

PART 1

DOCUMENTS FORMING THE ENVIRONMENTAL STATEMENT TO BE CERTIFIED

36. The following documents are included in the list referred to in article 40—

(1) *Document Number*	*(2)* *Examination Library Reference*	*(3)* *Name*	*(4)* *Version*	*(5)* *Date*
3.1.1.1	AS-008	Non Technical Summary	Revision 1	October 2024
3.1.2	APP-014	Chapter 0 - Glossary	Revision 0	July 2024
3.1.3	APP-015	Chapter 1 - Introduction	Revision 0	July 2024
3.1.4	APP-016	Chapter 2 - Need for the Project	Revision 0	July 2024
3.1.5	APP-017	Chapter 3 - Policy and Legislative Context	Revision 0	July 2024
3.1.6	APP-018	Chapter 4 - Site Selection and Assessment of Alternatives	Revision 0	July 2024
3.1.7	APP-019	Chapter 5 - Project Description	Revision 0	July 2024
3.1.8	APP-020	Chapter 6 - EIA Methodology	Revision 0	July 2024
3.1.9	APP-021	Chapter 7 - Technical Consultation	Revision 0	July 2024
3.1.10	APP-022	Chapter 8 - Marine Geology, Oceanography and Physical Processes	Revision 0	July 2024
3.1.11	APP-023	Chapter 9 - Marine Water and Sediment Quality	Revision 0	July 2024
3.1.12	APP-024	Chapter 10 - Benthic and Intertidal Ecology	Revision 0	July 2024
3.1.13	APP-025	Chapter 11 - Fish	Revision 0	July 2024

		and Shellfish Ecology		
3.1.14	APP-026	Chapter 12 - Marine Mammals	Revision 0	July 2024
3.1.15	APP-027	Chapter 13 - Offshore Ornithology	Revision 0	July 2024
3.1.16	APP-028	Chapter 14 - Commercial Fisheries	Revision 0	July 2024
3.1.17	APP-029	Chapter 15 - Shipping and Navigation	Revision 0	July 2024
3.1.18	APP-030	Chapter 16 - Offshore and Intertidal Archaeology and Cultural Heritage	Revision 0	July 2024
3.1.19	APP-031	Chapter 17 - Aviation and Radar	Revision 0	July 2024
3.1.20	APP-032	Chapter 18 - Infrastructure and Other Users	Revision 0	July 2024
3.1.21	APP-033	Chapter 19 - Ground Conditions and Contamination	Revision 0	July 2024
3.1.22	APP-034	Chapter 20 - Onshore Air Quality	Revision 0	July 2024
3.1.23	APP-035	Chapter 21 - Water Resources and Flood Risk	Revision 0	July 2024
3.1.24	APP-036	Chapter 22 - Land Use and Agriculture	Revision 0	July 2024
3.1.25	APP-037	Chapter 23 - Onshore Ecology	Revision 0	July 2024
3.1.26	APP-038	Chapter 24 - Onshore Ornithology	Revision 0	July 2024
3.1.27	APP-039	Chapter 25 - Onshore Archaeology and Cultural Heritage	Revision 0	July 2024
3.1.28	APP-040	Chapter 26 - Noise and Vibration	Revision 0	July 2024
3.1.29	APP-041	Chapter 27 - Traffic and Transport	Revision 0	July 2024
3.1.30	APP-042	Chapter 28 - Human Health	Revision 0	July 2024
3.1.31	APP-043	Chapter 29 -	Revision 0	July 2024

		Seascape, Landscape and Visual Impact Assessment		
3.1.32	APP-044	Chapter 30 - Landscape and Visual Impact Assessment	Revision 0	July 2024
3.1.33.1	AS-010	Chapter 31 - Socio-economics	Revision 1	October 2024
3.1.34	APP-046	Chapter 32 - Tourism and Recreation	Revision 0	July 2024
3.1.35	APP-047	Chapter 33 - Climate Change	Revision 0	July 2024
3.1.36.1	AS-012	Chapter 34 - Major Accidents and Disasters	Revision 1	October 2024

PART 2

EXAMINATION DOCUMENTS FORMING PART OF THE ENVIRONMENTAL STATEMENT TO BE CERTIFIED

37. The following documents are included in the list referred to in article 40—

(1) *Document Number*	*(2)* *Examination Library Reference*	*(3)* *Name*	*(4)* *Version*	*(5)* *Date*
3.3.65	REP1-008	Environmental Statement Appendix 27.2 Abnormal Indivisible Load Access Report	Revision 1	February 2025
9.33	REP5-038	Assessment of the Special Qualities of the Suffolk and Essex East Coast and Heaths National Landscape and Suffolk Heritage Coast – Technical Note	Revision 1	May 2025
9.37	REP5-040	Environmental Statement Chapter 23 Onshore Ecology Supplemental Information – Technical Note	Revision 1	May 2025
9.29	REP3-040	Updated	Revision 0	March 2025

		Offshore Ornithology Cumulative Effects Assessment		
9.35	REP3-046	Further Information Regarding Marine Mammals Disturbance due to Vessel Presence	Revision 0	March 2025
9.14	REP1-057	Further Information Regarding Marine Mammals	Revision 0	February 2025
9.45	REP4-031	Addendum to Environmental Statement Chapter 33 Climate Change	Revision 0	April 2025
9.49	REP4-035	Addendum to Environmental Statement Chapter 25 Onshore Archaeology and Cultural Heritage	Revision 0	April 2025
9.81	REP5-069	Marine Mammal Assessment Clarifications	Revision 0	May 2025
9.95	REP7-050	Updated offshore ornithology in-combination tables	Revision 0	July 2025

PART 3

OTHER DOCUMENTS TO BE CERTIFIED

38. The following documents are included in the list referred to in article 40—

(1) *Document Number*	*(2)* *Examination Library Reference*	*(3)* *Name*	*(4)* *Version*	*(5)* *Date*
5.1	APP-196	location plan (onshore)	Revision 0	July 2024
5.2	APP-197	location plan (offshore)	Revision 0	July 2024
5.3.1	AS-018	land plans	Revision 1	October 2024
5.4	REP7-006	Crown land plan	Revision 1	July 2025
5.5	APP-200	special category	Revision 0	July 2024

		land plan		
5.6.1	AS-019	works plans (onshore)	Revision 1	October 2024
5.7.1	AS-020	works plans (offshore)	Revision 1	October 2024
5.8	REP6-004	offshore order limits and boundary co-ordinates plan	Revision 2	June 2025
5.9.1	AS-021	access to works plan	Revision 1	October 2024
5.10	APP-205	streets plan	Revision 0	July 2024
5.11	REP3-006	public rights of way plan	Revision 1	March 2025
5.12	REP3-007	tree preservation order and hedgerow plan	Revision 1	March 2025
5.19	REP1-010	temporary traffic regulation order plan	Revision 1	February 2025
6.3	REP7-009	book of reference	Revision 5	July 2025
7.2.2.1	C3-015	outline LBBG compensation implementation and monitoring plan	Revision 5	February 2026
7.2.4.1	C1-030	outline kittiwake compensation implementation and monitoring plan	Revision 3	December 2025
7.2.5.1	C1-029	outline guillemot and razorbill compensation implementation and monitoring plan	Revision 3	December 2025
7.2.3.1	C1-032	outline red throated diver compensation implementation and monitoring plan	Revision 3	December 2025
7.6	C3-010	outline project environmental management plan	Revision 4	February 2026
7.7	C1-024	draft marine mammal mitigation protocol	Revision 5	December 2025
7.8	REP5-014	outline site integrity plan for the southern north sea special	Revision 1	May 2025

		area of conservation		
7.9	REP7-021	outline fisheries liaison and coexistence plan	Revision 2	July 2025
7.10	C3-013	offshore in principle monitoring plan	Revision 5	February 2026
7.11	REP3-015	outline offshore written scheme of investigation	Revision 2	March 2025
7.12	REP5-016	onshore outline written scheme of investigation	Revision 1	May 2025
7.13	C1-022	outline code of construction practice	Revision 6	December 2025
7.14	C1-020	outline landscape and ecological management strategy	Revision 7	December 2025
7.15	REP8-011	outline horizontal directional drill method statement and contingency plan	Revision 4	July 2025
7.16	REP8-013	outline construction traffic management plan	Revision 5	July 2025
7.17	REP3-023	outline public rights of way management plan	Revision 1	March 2025
7.18	APP-253	outline skills and employment plan	Revision 0	July 2024
7.19	APP-254	outline operational drainage strategy	Revision 0	July 2024
7.20	REP8-023	outline offshore operations and maintenance plan	Revision 3	July 2025
7.21	APP-256	outline vessel traffic monitoring plan	Revision 0	July 2024
7.22	REP8-025	Biodiversity net gain strategy	Revision 2	July 2025
7.24	REP8-027	outline navigation and installation plan	Revision 4	July 2025
2.3	REP5-004	design vision	Revision 1	May 2025
9.52	REP8-045	outline sediment disposal	Revision 3	July 2025

		management plan		
9.53	REP8-047	outline cable specification and installation plan	Revision 4	July 2025
9.57	C1-017	deep water route cable installation areas (future dredging depths) plan	Revision 2	December 2025
9.65	REP5-046	archaeological mitigation strategy	Revision 0	May 2025
9.66	REP5-049	groundwater risk assessment and monitoring plan – private water supplies and licenced abstractions	Revision 0	May 2025
2.5	REP1-004	co-ordination report	Revision 2	February 2025

SCHEDULE 13

Article 41

ARBITRATION RULES

Primary objective

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 four months from the date the arbitrator is appointed pursuant to article 41 (arbitration) of the Order.

(2) The parties must 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 working days of the dispute arising, or such longer period as agreed in writing by the parties, will be subject to arbitration in accordance with the terms of this Schedule.

(3) The arbitration will be deemed to have commenced when a party (the "claimant") serves a written notice of arbitration on the other party (the "respondent").

Time periods

2.—(1) All time periods in these arbitration rules will be measured in working days and this will exclude weekends and bank holidays.

(2) Time periods will be calculated from the day after the arbitrator is appointed which will 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.

Timetable

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 must 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 must 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 element(s) 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 five 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.

Procedure

4.—(1) The arbitrator must 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 two days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(3) Within five days of receiving the last submission, the arbitrator must notify the parties whether a hearing is to be held and the length of that hearing.

(4) Within ten days of the arbitrator advising the parties that he will hold a hearing, the date and venue for the hearing must be fixed by agreement with the parties, save that if there is no agreement the arbitrator must direct a date and venue which he considers is fair and reasonable in all the circumstances. The date for the hearing must 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 must 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 will 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 ten days of the issues being provided; and

(c) the form and content of a joint report will be as directed by the arbitrator and must be provided at least five days before the hearing.

(7) Within ten 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 must take these submissions into account in the award.

(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 four 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 must include reasons. The parties will accept that the extent to which reasons are given is to be proportionate to the issues in dispute and the time available to the arbitrator to deliver the award.

Arbitrator's powers

5.—(1) The arbitrator has all the powers of the Arbitration Act 1996(**a**), including the non-mandatory sections, save where modified by these rules.

(2) There will be no discovery or disclosure, except that the arbitrator has the power to order the parties to produce such documents as are reasonably requested by another party no 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.

Costs

6.—(1) The costs of the arbitration must 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.

Confidentiality

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 prevents 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.

(**a**) 1996 c. 23.

SCHEDULE 14

Article 46

PROTECTIVE PROVISIONS

PART 1

PROTECTION FOR ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

1. The provisions of this Part have effect for the protection of utility undertakers referred to in this part of this Schedule (save for any utility undertakers which are specifically protected by any other Part of this Schedule, which will take precedence), unless otherwise agreed in writing between the undertaker and the utility undertaker in question.

2. In this Part—

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

"apparatus" means—

(a) in the case of a utility undertaker within paragraph (a) of the definition of that term, electric lines or electrical plant (as defined in the 1989 Act, belonging to or maintained by that licence holder;

(b) in the case of a utility undertaker within paragraph (b) of the definition of that term, any mains, pipes or other apparatus belonging to or maintained by that gas transporter within the meaning of Part 1 of the Gas Act 1986 (**a**) for the purposes of gas supply;

(c) in the case of a utility undertaker within paragraph (c) of the definition of that term, mains, pipes or other apparatus belonging to or maintained by that water undertaker for the purposes of water supply; and

(d) in the case of a utility undertaker within paragraph (d) of the definition of that term—

(i) 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 a future date) of the Water Industry Act 1991(**b**)

(ii) any drain or works vested in the sewerage undertaker under the Water Industry Act 1991; and

(iii) 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;

"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;

(**a**) 1986 c. 44.
(**b**) 1991 c. 56.

"plan" includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed; and

"utility undertaker" means—

(e) any licence holder within the meaning of Part 1 of the 1989 Act;

(f) a gas transporter within the meaning of Part 1 of the Gas Act 1986;

(g) a water undertaker within the meaning of the Water Industry Act 1991; and

(h) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

for the area of the onshore works, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

On street apparatus and offshore works

3. This Part does not apply to—

(a) apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; and

(b) the offshore works.

Acquisition of land

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

Removal of apparatus

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 or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part, and any right of a utility 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 utility undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 days' 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 a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility 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 utility 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 utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 41 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 41 (arbitration), and after the grant to the utility 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 utility undertaker in question that the undertaker desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility 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.

Facilities and rights for alternative apparatus

6.—(1) Where, in accordance with the provisions of this Part, the undertaker affords to a utility 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 utility undertaker in question or in default of agreement settled by arbitration in accordance with article 41 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in or along the authorised development, the arbitrator must—

(a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus that may be required to prevent interference with any proposed works of the undertaker; and

(b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or along the authorised development for which the alternative apparatus is to be substituted.

(3) 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 utility 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 utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

7.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order 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(2), the undertaker must submit to the utility 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 utility undertaker for the alteration or

otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If a utility undertaker, in accordance with sub-paragraph (3) 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, the provisions of this Part apply as if the removal of the apparatus had been required by the undertaker under paragraph 5(2).

(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 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 utility undertaker in question notice as soon as is reasonably practicable and a plan 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.

Expenses and costs

8.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses agreed with the undertaker in advance and reasonably incurred by that utility 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).

(2) The value of any apparatus removed under the provisions of this Part must be deducted from any sum payable under sub-paragraph (1), 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, is not determined by arbitration in accordance with article 41 (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 utility 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 (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus must 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 must 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 a utility 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 utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

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(2) 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 a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

(a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and

(b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility 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 a utility undertaker, its officers, servants, contractors or agents.

(3) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Miscellaneous

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

PART 2

FOR THE PROTECTION FOR OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

11. The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and the operator in question.

12. In this Part—

"electronic communications apparatus" has the same meaning as in the electronic communications code;

"the electronic communications code" has the same meaning as in section 106(**a**) (application of the electronic communications code) of the 2003 Act;

"electronic communications code network" means—

(a) so much of an electronic communications network or infrastructure 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 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;

"infrastructure system" has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7 (infrastructure system) of that code; and

"operator" means the operator of an electronic communications code network.

(**a**) Section 106 was amended by section 4 of the Digital Economy Act 2017 (c. 30).

13. The exercise of the powers conferred by article 32 (statutory undertakers) are subject to Part 10 (undertaker's works affecting electronic communications apparatus) of the electronic communications code.

14.—(1) Subject to sub-paragraphs (2) to (4), if as a result of the authorised development or its construction, or of any subsidence resulting from the authorised development—

(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 the authorised development), 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 agreed by the undertaker in advance and reasonably incurred by the operator in making good such damage or restoring the supply and must make reasonable compensation to that operator for any loss sustained by it, and must indemnify the operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, that operator 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 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 is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has 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 Part must be referred to and settled by arbitration under article 41 (arbitration).

(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 project.

(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 in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF THE ENVIRONMENT AGENCY

15. The following provisions apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

16. In this Part of this Schedule—

"the Agency" means the Environment Agency;

"construction" includes execution, placing, altering, replacing, relaying and removal and excavation and "construct" and "constructed" are to be construed accordingly;

"drainage work" means (i) any main river and includes any land which provides flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring and (ii) any sea defence;

"emergency" means an occurrence which presents a risk of—

(a) serious flooding which presents an immediate risk to health, life, property or environment;

(b) serious detrimental impact on drainage which presents an immediate risk to health, life, property or environment; or

(c) serious harm to the environment which presents an immediate risk of an incident which is likely to cause an impact to a species or habitats.

"fishery" means any waters containing fish and fish in, or migrating to or from, such waters and the spawn, spawning ground, habitat or food of such fish;

"main river" has the same meaning given in section 113 of the Water Resources Act 1991;

"non-tidal main river" has the meaning given in paragraph 2(1) of Part 1 of Schedule 25 to the 2016 Regulations;

"plans" includes plans, sections, elevations, drawings, specifications, programmes, calculations, method statements and descriptions;

"remote defence" means any berm, wall or embankment that is constructed for the purposes of preventing or alleviating flooding from, or in connection with, any main river;

"sea defence" means any bank, wall, embankment (and any berm, counter wall or cross-wall connected to any such bank, wall or embankment), barrier, tidal sluice and other defence, whether natural or artificial, against the inundation of land by sea water or tidal water, including natural or artificial high ground which forms part of or makes a contribution to the efficiency of the defences of the Agency's area against flooding, but excludes any sea defence works which are for the time being maintained by a coast protection authority under the provisions of the Coast Protection Act 1949(**a**) or by any local authority or any navigation, harbour or conservancy authority;

"specified work" means—

(d) so much of any work or operation authorised by this Order as is in, on, under, over or within—

(i) 16 metres of the base of a sea defence which is likely to—

(aa) endanger the stability of, cause damage or reduce the effectiveness of that sea defence;

(bb) interfere with the Agency's access to or along that sea defence or the Agency's ability to undertake works to ensure the efficacy of that sea defence; or

(ii) 8 metres of the base of a remote defence which is likely to endanger the stability of, cause damage or reduce the effectiveness of that remote defence, or interfere with the Agency's access to or along that remote defence;

(iii) 16 metres of a drainage work involving a tidal main river;

(iv) 8 metres of a drainage work involving a non-tidal main river;

(v) any distance of a drainage work and is likely to—

(aa) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;

(bb) affect the flow, purity or quality of water in any main river;

(cc) cause obstruction to the free passage of fish or damage to any fishery;

(dd) affect the conservation, distribution or use of water resources; or

(ee) affect the conservation value of the main river and habitats in its immediate vicinity; or

(e) so much of any work or operation authorised by this Order as is in, on under, over or within 16 metres of a sea defence which is likely to endanger the stability of, cause

(**a**) 1949 c. 74

damage to or reduce the effectiveness of that sea defence, or interfere with the Agency's access to or along that sea defence;

(f) work which involves an activity that includes dredging, raising or taking of any sand, silt, ballast, clay, gravel or other materials from or off the bed or banks of a drainage work (or causing such materials to be dredged, raised or taken), including hydrodynamic dredging or desilting; and

(g) work which involves an activity any quarrying or excavation within 16 metres of a drainage work which is likely to cause damage to or endanger the stability of the banks or structure of that drainage work; and

"tidal main river" has the meaning given in paragraph 2(1) of Part 1 of Schedule 25 to the 2016 Regulations.

Submission and approval of plans

17.—(1) Before beginning to construct any specified work, the undertaker must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 28 days of the receipt of the plans reasonably request.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 29.

(3) Any approval of the Agency required under this paragraph—

(a) must not be unreasonably withheld or delayed;

(b) subject to sub-paragraph 17(4), is deemed to have been refused if it is neither given nor refused within 2 months of the submission of the plans or such later date as is agreed between the Agency and the undertaker, and if, further particulars have been requested by the Agency for approval pursuant to sub-paragraph (1) the period between the making of this request and the provision of further particulars in response to it shall not be taken into account in the calculation of the 2 months for the purposes of this sub-paragraph; and

(c) may be given subject to such reasonable requirements as the Agency may have for the protection of any drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution, or the prevention of environmental harm, or for nature conservation or in the discharge of its environmental duties.

(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

(5) If the Agency refuses any approval required under this paragraph then the refusal must be accompanied by a statement of the grounds for refusal.

Construction of protective works

18. Without limiting paragraph 17, but subject always to the provisions of that paragraph as to reasonableness the requirements which the Agency may have under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (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;

(b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased; or

(c) by reason of any specified work.

Timing of works and service of notices

19.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 18, must be constructed—

(a) without unreasonable delay in accordance with the plans approved under this Part of this Schedule; and

(b) to the reasonable satisfaction of the Agency, and

(c) the Agency is entitled by its officer to watch and inspect the construction of such works.

(2) The undertaker must give to the Agency not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than seven days after the date on which it is completed.

(3) If the Agency reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of any specified work to which the protective works relate.

Works not in accordance with this Part of this Schedule

20.—(1) If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the Agency may by notice in writing require the undertaker at the undertaker's own expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the Agency 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 Agency reasonably requires.

(2) Subject to sub-paragraph (3), if, within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (1) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice, and any expenditure incurred by the Agency in so doing shall be recoverable from the undertaker.

(3) In the event of any dispute as to whether sub-paragraph (1) 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 Agency shall not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (2) until the dispute has been finally determined in accordance with paragraph 29.

Maintenance of works

21.—(1) Subject to sub-paragraph (7) the undertaker must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the Order limits and on land held by the undertaker for the purposes of or in connection with the specified works, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency 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 Agency 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 Agency reasonably requires.

(3) Subject to sub-paragraph (5), 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 requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is reasonably necessary for such compliance and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(4) If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the Agency in accordance with this Part of this Schedule and where the Agency (acting

reasonably) considers it necessary to avoid any of the risks specified in sub-paragraph (5), the Agency may serve written notice requiring the undertaker to cease all or part of the specified works as may be specified within the notice within such reasonable period specified in the notice, and the undertaker must cease the specified works or part thereof until it has obtained the consent or complied with the condition unless the cessation of the specified works or part thereof would cause greater damage than compliance with the written notice.

(5) The risks specified in sub-paragraph (4) are—

(a) risk of flooding;

(b) risk of harm to the environment;

(c) risk of detrimental impact on drainage; and

(d) damage to the fishery.

(6) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 29.

(7) This paragraph does not apply to—

(a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of the Order from doing so; 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 of this Schedule.

Remediating impaired drainage work

22. 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 that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Agency and if the undertaker fails to do so, the Agency may make good the impairment or damage and recover any expenditure reasonably incurred by the Agency in so doing from the undertaker.

Agency access

23. If by reason of the construction of any specified work the Agency's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must notify the Agency as soon as reasonably practicable and provide such alternative means of access that will allow the Agency to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction occurred, and such alternative access must be made available as soon as reasonably practicable after the undertaker becoming aware of such obstruction, except in the case of an emergency in which case the undertaker must provide such alternative means of access on demand.

Free passage of fish

24.—(1) The undertaker must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in the fishery during the construction of any specified work.

(2) If by reason of—

(a) the construction of any specified work; or

(b) the failure of any such work,

damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the undertaker requiring it to take such steps as may be reasonably practicable to make good the damage, or, as the case may be, to protect the fishery against such damage.

(3) If within such time as may be reasonably practicable for that purpose after the receipt of written notice from the Agency of any damage or expected damage to a fishery, the undertaker fails to take such steps as are described in the notice served under sub-paragraph (2), the Agency may take those steps and any expenditure incurred by the Agency in so doing are recoverable from the undertaker.

(4) In any case where immediate action by the Agency is reasonably required in an emergency in order to secure that the risk of damage to the fishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from the undertaker any expenditure incurred in so doing provided that notice specifying those steps is served on the undertaker as soon as reasonably practicable after the Agency has taken, or commenced to take, the steps specified in the notice.

Monitoring of Sea Defence

25.—(1) Prior to commencing any work using any trenchless installation technique forming part of Work Nos. 3 or 4A within plots 01-001, 01-002, 01-004, 01-005 and 01-006, the undertaker must obtain the approval in writing of the Agency of a plan specifying the monitoring of the sea defence which is to be carried out by the undertaker.

(2) The plan required under sub-paragraph (1) must set out how monitoring on the seawall of the sea defence during construction to measure any movement will be carried out including—

(a) the outcomes of detailed ground investigation and baseline monitoring of any preexisting seawall movement work undertaken by the undertaker;

(b) the methodology of the trenchless installation technique to be used under the seawall;

(c) the risk assessment for the selected trenchless installation technique works under the seawall;

(d) details and plans of the proposed works under the seawall including sections;

(e) the equipment to be used to carry out monitoring of the seawall;

(f) the location(s) for the installation of monitoring equipment;

(g) the scope and timing of the monitoring to be carried out; and

(h) a process for the reporting of the results of the monitoring to the Agency by the undertaker.

(3) Any work to which sub-paragraph (1) applies may not be commenced unless and until the monitoring plan has been approved by the Agency.

(4) Any approval of the Agency required under this paragraph—

(a) must not be unreasonably withheld or delayed;

(b) is deemed to have been approved if it is neither given nor refused within 2 months of the submission of the monitoring plan required by sub-paragraph (1).

(c) may be given subject to such reasonable requirements as the Agency may have for the protection of any drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution or for nature conservation or in the discharge of its environmental duties.

(5) If the Agency refuses any approval required under this paragraph then the refusal must be accompanied by a statement of the grounds for refusal.

Heavy vehicle movements during construction

26.—(1) Access for the undertaker over plot 01-001 and 01-004 during the construction of the relevant authorised works must not be used by vehicles that exceed a maximum gross weight of 7.5 tonnes unless otherwise agreed in writing, including details of any additional protection measures, between the undertaker and the agency (acting reasonably).

(2) The undertaker is not required to comply with sub-paragraph (1) in the case of an emergency.

As built drawings

27. As soon as reasonably practicable following the completion of the construction of Works Nos. 4B or 4C within plots 01-001, 01-002, 01-004, 01-005 and 01-006, the undertaker must provide to the Agency as-built drawings in a form and scale to be agreed in writing between the undertaker and the Agency (acting reasonably) to show location and depths of the cable ducts as installed which must include identification markings on the sea defence.

Indemnity

28.—(1) The undertaker indemnifies the Agency in respect of all costs, charges and expenses which the Agency may reasonably incur—

(a) in the examination or approval of plans under this Part of this Schedule;

(b) in the inspection of the construction of the specified works or any protective works required by the Agency under this Part of this Schedule; and

(c) in the carrying out of any surveys or tests by the Agency which are reasonably required in connection with the construction of the specified works.

(2) The undertaker is responsible for and indemnifies the Agency against all costs and losses, liabilities, claims and demands, not otherwise provided for in this Part of this Schedule which may be reasonably incurred or suffered by the Agency by reason of—

(a) the construction, operation or maintenance of any specified works comprised within the authorised development or the failure of any such works comprised within them; or

(b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction, operation or maintenance of the authorised development or dealing with any failure of the authorised development.

(3) For the avoidance of doubt, in sub-paragraph (1)—

(a) "costs" includes—

(i) expenses and charges;

(ii) staff costs and overheads; and

(iii) legal costs;

(b) "losses" includes physical damage.

(4) For the avoidance of doubt, in sub-paragraph (3)—

(a) "claims" and "demands" include as applicable—

(i) costs (within the meaning of sub-paragraph (2)) incurred in connection with any claim or demand; and

(ii) any interest element of sums claimed or demanded;

(b) "liabilities" includes—

(i) contractual liabilities;

(ii) tortious liabilities (including liabilities for negligence or nuisance);

(iii) liabilities to pay statutory compensation or for breach of statutory duty; and

(iv) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).

(5) The Agency must give to the undertaker reasonable written notice of any such claim or demand as is referred to in sub-paragraph (1) as soon as reasonably practicable after it becomes aware of such claim or demand, and no settlement or compromise of any such claim or demand is to be made without the prior agreement of the undertaker and that agreement must not be unreasonably withheld or delayed.

(6) The Agency must, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(7) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, must not relieve the undertaker from any liability under the provisions of this Part of this Schedule.

(8) Nothing in this paragraph imposes any liability on the undertaker with respect to any costs, charges, expenses, damages, claims, demands or losses to the extent that they are attributable to the neglect or default of the Agency, its officers, servants, contractors or agents.

Disputes

29. Any dispute arising between the undertaker and the Agency under this Part of this Schedule will, if the parties agree, be determined by arbitration under article 41 (arbitration), but failing agreement will be determined by the Secretary of State for the Environment, Food and Rural Affairs or its successor and the Secretary of State for Energy Security and Net Zero or its successor acting jointly on a reference to them by the undertaker or the Agency, after notice in writing by one to the other.

PART 4

FOR THE PROTECTION OF DRAINAGE AUTHORITIES

30. The provisions of this Part of this Schedule have effect for the protection of the drainage authority unless otherwise agreed in writing between the undertaker and the drainage authority.

31. In this Part of this Schedule—

"construction" includes execution, placing, altering, replacing, relaying and removal and excavation and "construct" and "constructed" are to be construed accordingly;

"drainage authority" means, in relation to an ordinary watercourse, the drainage board concerned within the meaning of section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991(**a**);

"drainage work" means any ordinary watercourse and includes any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence in connection with an ordinary watercourse within the jurisdiction of the drainage authority;

"emergency" means a situation where, if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences;

"independent review" means a review carried out by a third party confirming the findings of the undertaker in the assessment of the impact of the proposed specified work on flood risk;

"ordinary watercourse" has the meaning given by section 72 (interpretation) of the Land Drainage Act 1991;

"plans" includes any information reasonably required by the drainage authority including location details, grid references, sections, drawings, specifications, assessments and method statements; and

"specified work" means so much of any work or operation authorised by this Order as is in, on, under, over or within 9 metres of a drainage work and which comprises any of the following works carried out in relation to or which may affect any ordinary watercourse—

(a) the erection of any mill, dam, weir, or other similar obstruction to the flow of an ordinary watercourse, or raising or otherwise altering any such obstruction;

(b) the construction or installation of a bridge or other structure;

(c) the erection of a culvert in an ordinary watercourse; and

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(**a**) 1991 c. 59.

(d) the alteration of an ordinary watercourse or a culvert or other form of drainage infrastructure in a manner that would be likely to affect the flow of an ordinary watercourse.

32.—(1) Before commencing construction of a specified work, the undertaker must submit to the drainage authority plans of the specified work, including an independent review and such further particulars available to it as the drainage authority may within 21 days of the submission of the plans reasonably request.

(2) The undertaker must not commence construction of the specified work until approval, unconditionally or conditionally, has been given as provided in this paragraph.

(3) A 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 this paragraph.

(4) 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 56 days of the submission of the plans for approval, or submission of further particulars (where required by the drainage authority under sub-paragraph (1)) whichever is the later; and

(c) may be given subject to such reasonable requirements as the drainage authority may make for the protection of any drainage work, for the protection of any ordinary watercourse or for the prevention of flooding.

(5) Any refusal under this paragraph must be accompanied by a statement of the reasons for refusal.

(6) "Reasonable" in this paragraph means appropriate in the circumstances and, for the avoidance of doubt any recommendation or requirement from the drainage authority relating to health and safety shall be considered reasonable.

33. Without limiting paragraph 32, 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 by reason of any specified work; or

(b) to secure that the efficiency of any drainage work for flood defence and land drainage purposes is not impaired, and that the risk of flooding is not otherwise increased, by reason of any specified work.

34.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 33, must be constructed—

(a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part of this Schedule; 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 of completion.

(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 to which the protective works relate.

(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 of this Schedule, the drainage authority may by notice in writing require the undertaker at the undertaker's expense to

comply with the requirements of this Part of this Schedule 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 agreed, 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) and paragraphs 38 and 39, 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 reasonable 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 an emergency exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined in accordance with paragraph 44.

35.—(1) Subject to sub-paragraph (5), the undertaker must from the commencement of the construction of the specified work maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation on land held by the undertaker for the purpose 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.

(2) If any drainage work which 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 the 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 specified work and restore the site to its former condition, to such extent and within such limits as the drainage authority reasonably requires.

(3) Subject to sub-paragraph (4) and paragraphs 38 and 39, 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 reasonably necessary for such compliance and may recover any reasonable 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 in accordance with paragraph 44.

(5) This paragraph does not apply to—

(a) drainage works which are vested in the drainage authority, or which 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 of this Schedule provided that any obstruction is removed as soon as reasonably practicable.

36. Subject to paragraphs 38 and 39 and paragraph 35(5)(b), 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 or land drainage is impaired, or that drainage work is otherwise damaged, such 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 any expenditure incurred by the drainage authority in so doing from the undertaker.

37. If by reason of the construction of the specified work the drainage authority's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must provide such alternative means of access that will allow the drainage authority to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction within 24 hours of the undertaker becoming aware of such obstruction.

38. The undertaker must make reasonable compensation for costs, charges and expenses which the drainage authority may reasonably incur—

(a) in the examination or approval of plans under this Part of this Schedule;

(b) in the inspection of the construction of the specified works or any protective works required by the drainage authority under this Part of this Schedule; and

(c) in the carrying out of any surveys or tests by the drainage authority which are reasonably required in connection with the construction of the specified works.

39.—(1) Without limiting the other provisions of this Part of this Schedule, the undertaker must make reasonable compensation to the drainage authority from costs and losses which may be reasonably incurred or suffered by the drainage authority by reason of—

(a) any damage to any drainage work;

(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 lands,

caused by the construction of any specified work or any act or omission of the undertaker, its contractors, agents or employees whilst engaged upon the construction of the specified work.

(2) The drainage authority must take such steps as are reasonable in the circumstances to mitigate in whole or in part and to minimise any costs, expenses, loss, claims, damages, demands, proceedings and penalties to which the indemnity under this paragraph applies where it is within the drainage authority's reasonable gift and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of the drainage authority's control. If reasonably requested to do so by the undertaker, the drainage authority must provide a written explanation of how any claim has been mitigated or minimised or where mitigation or minimisation is not possible an explanation as to why.

40.—(1) The drainage authority must give to the undertaker reasonable notice of any such claim or demand. The undertaker may at its own expense conduct all negotiations for the settlement of the same and any litigation that may arise therefrom. No settlement or compromise may be made to such claim or any admission made which might be prejudicial to the claim without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

(2) The drainage authority must, at the request of the undertaker, afford all reasonable assistance for the purpose of contesting any such claim or action and is entitled to be repaid its reasonable expenses reasonably incurred in so doing.

41. The fact that any act or thing may have been done by the drainage authority on behalf of the undertaker or in accordance with a plan approved or deemed to have been approved by the drainage authority or in accordance with any requirement of the drainage authority or under its supervision does not, subject to paragraph 40(2), excuse the undertaker from liability under the provisions of paragraph 39(1) unless the drainage authority fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

42. Nothing in paragraph 39(1) imposes any liability on the undertaker with respect to any damage or loss to the extent that it is attributable to the act, neglect or default of the drainage authority, its officers, servants, contractors or agents.

43. 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 of this Schedule.

44. Any dispute arising between the undertaker and the drainage authority under this Part of this Schedule, if the parties agree, is to be determined by arbitration under article 41 (arbitration), but otherwise is to be determined by the Secretary of State for Energy Security and Net Zero on a reference to them by the undertaker or the drainage authority, after notice in writing by one to the other.

PART 5

FOR THE PROTECTION OF RAILWAY INTERESTS

45. The 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 9, of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

46. In this Part of this Schedule—

"asset protection agreement" means an agreement to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail;

"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"the engineer" means an engineer appointed by Network Rail for the purposes of this Order;

"network licence" means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act l993(**a**);

"Network Rail" means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at Waterloo General Office London SE1 8SW) 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) 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 and any successor to Network Rail Infrastructure Limited's railway undertaking;

"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 or a tenant or licensee of Network Rail for the purposes of such railway or works, apparatus or equipment;

"regulatory consents" means any consent or approval required under—

(c) the Railways Act 1993;

(d) the network licence; and/or

(e) any other relevant statutory or regulatory provisions;

(**a**) 1993 c. 43.

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development; and

"specified work" means so much of any of the authorised development 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 maintenance of such works under the powers conferred by article 4 (power to maintain the authorised development) and article 31 (temporary use of land for maintaining the authorised development) in respect of such works.

47.—(1) Where under this Part of this Schedule 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

(b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

48.—(1) The undertaker must not exercise powers conferred by—

(a) article 3 (development consent etc. granted by the Order);

(b) article 4 (power to maintain the authorised development);

(c) article 17 (discharge of water);

(d) article 19 (authority to survey and investigate the land onshore);

(e) article 20 (compulsory acquisition of land);

(f) article 21(compulsory acquisition of land: minerals);

(g) article 23 (compulsory acquisition of rights etc.);

(h) article 26 (statutory authority to override easements and other rights);

(i) article 27 (acquisition of subsoil only);

(j) article 29 (rights under or over streets);

(k) article 30 (temporary use of land for carrying out the authorised development);

(l) article 31 (temporary use of land for maintaining the authorised development);

(m) article 32 (statutory undertakers);

(n) article 38 (felling or lopping of trees and removal of hedgerows);

(o) article 39 (trees subject to tree preservation orders);

(p) the powers conferred by section 11(3) (power of entry) of the 1965 Act);

(q) the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016;

(r) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016; and

(s) any powers in respect of the temporary possession of land under the Neighbourhood Planning Act 2017,

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 24 (private rights), article 26 (statutory authority to override easements) or article 32 (statutory undertakers) in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

(5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.

(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions but it shall never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion).

(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.

49.—(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.

(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 their disapproval of those plans and the grounds of such 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 shall be 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 their approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion 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 the same (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 works), and such protective works as may be reasonably necessary for those purposes must 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 works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.

50.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 49(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 9;

(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 shall be caused by the carrying out of the construction of, or in consequence of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must 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 of this Schedule 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 itsservants, contractors or agents.

51. 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 they may reasonably require with regard to a specified work or the method of constructing it.

52. 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 of this Schedule 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.

53.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction or completion of a specified 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 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) 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.

(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 paragraph49(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 54(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.

54. The undertaker must repay 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 49(3) or in constructing any protective works under the provisions of paragraph 49(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 shall be 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, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution of 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 works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

55.—(1) In this paragraph—

"EMI" means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development 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 development) 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 such EMI is not attributable to any change to Network Rail's apparatus carried out after approval of plans under paragraph 49(1) for the relevant part of the authorised development 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 development 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 paragraph49(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 only reasonably be prevented by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but the means of prevention and the

method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 49(1) has effect subject to the sub-paragraph.

(6) Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such 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) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such 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 such EMI;

(b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI;

(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 such EMI; and

(d) the undertaker shall not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

(a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus; and

(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 50.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 59(1) applies to the costs and expenses reasonably incurred, or losses suffered, by Network Rail through the implementation of the provisions of this paragraph (including costs 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 sub-paragraph 54(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 41 (arbitration) to the Institution of Civil Engineers shall be read as a reference to the Institution of Engineering and Technology.

56. 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.

57. 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.

58. 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 must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

59.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to article 48 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—

(a) by reason of the construction, maintenance or operation of a specified work or the failure thereof;

(b) by reason of 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;

(c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development;

(d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;

(e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development;

and the undertaker must 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 engineer's supervision 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 paragraph (1).

(3) Network Rail must—

(a) give the undertaker reasonable written notice of any such claims or demands;

(b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker; and

(c) take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands.

(4) The sums payable by the undertaker under sub-paragraph (1) shall, if relevant, include a sum equivalent to the relevant costs.

(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 shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(7) In this paragraph—

"the relevant costs" means the costs, losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work, including but not limited to, 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.

60. 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 of this Schedule (including the amount of the relevant costs mentioned in paragraph59) 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 of this Schedule (including any claim relating to those relevant costs).

61. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account 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 of this Schedule or increasing the sums so payable.

62. 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 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.

63. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

64. 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 and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

(a) the nature of the application to be made;

(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.

65. 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 40 (certification of plans and documents, etc.) are certified by the Secretary of State, provide a set of those plans to Network Rail in a format specified by Network Rail.

66. In relation to any dispute arising under this Part of this Schedule (except for those disputes referred to in paragraph55(11) any such dispute, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institution of Civil Engineers.

PART 6

FOR THE PROTECTION OF NATIONAL HIGHWAYS

Application etc.,

67. The provisions of this Part of this Schedule apply for the protection of National Highways and have effect unless otherwise agreed in writing between the undertaker and National Highways.

Interpretation

68.—(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with sub-paragraph (3) the latter prevail.

(2) Where any provision of this Part of this Schedule requires National Highways to act reasonably, then for the avoidance of doubt, any recommendation, request for information or condition for approval that relates to health and safety of the highway network within National Highways' jurisdiction will be considered reasonable.

(3) In this Part of this Schedule—

"as built information" means one electronic copy of the following information (in so far as it is relevant to the works concerned)—

(a) as constructed drawings in both PDF and AutoCAD DWG formats for any SRN work designed by the undertaker; in compliance with Interim Advice Note 184 or any successor document, and for the cable works, showing the location and depth of the cable as installed and any ancillary or protective measures installed within the strategic road network;

(b) list of suppliers and materials used, as well as any relevant test results and CCTV surveys (if required to comply with DMRB standards);

(c) product data sheets and technical specifications for all materials used;

(d) as constructed information for any utilities discovered or moved during the works;

(e) method statements for the works carried out;

(f) in relation to road lighting, signs, and traffic signals any information required by Series 1300 and 1400 of the Specification for Highway Works or any replacement or modification of it;

(g) organisation and methods manuals for all products used;

(h) as constructed programme;

(i) test results and records as required by the detailed design information and during construction phase of the project;

(j) a stage 3 road safety audit subject to any exceptions to the road safety audit standard as agreed by the undertaker and National Highways;

(k) the health and safety file; and

(l) such other information as is reasonably required by National Highways to be used to update all relevant databases and to ensure compliance with National Highway's Asset Data Management Manual as is in operation at the relevant time.

"the bond sum" means the sum equal to 200% of the cost of carrying out the SRN works (to include all costs) plus 100% of the commuted sum or such other sum as is agreed;

"cable works" means any works under this Order which consist of the installation of cables, cable ducts, tunnels for cables and cable ducts and related or associated works to those operations, all under the strategic road network and to be installed through the use of trenchless installation techniques where no works are required to or on the operational carriageway;

"cash surety" means the sum equal to 200% of the cost of carrying out the SRN works (to include all costs) or such other sum as is agreed;

"the commuted sum" means the sum agreed as being the necessary contribution by the undertaker to the increase in costs incurred by National Highways of maintaining new strategic highway assets constructed as SRN works under this Order for ten years from the issue of the final certificate;

"condition survey" means a survey of the condition of National Highways structures and assets within the Order limits that may be affected by the SRN works and cable works;

"contractor" means any contractor or subcontractor appointed by the undertaker to carry out the works;

"defects period" means the period from the date of the provisional certificate to the date of the final certificate which may be no less than 12 months from the date of the provisional certificate;

"detailed design information" means such of the following drawings specifications and calculations as are relevant—

for the SRN works—

(m) site clearance details;

(n) boundary, environmental and mitigation fencing;

(o) road restraints systems and supporting road restraint risk appraisal process assessment;

(p) drainage and ducting as required by DMRB CD 535 Drainage asset data and risk management and DMRB CS551 Drainage surveys – standards for Highways;

(q) earthworks including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk and any required strengthened earthworks appraisal form certification;

(r) pavement, pavement foundations, kerbs, footways and paved areas;

(s) traffic signs and road markings;

(t) traffic signal equipment and associated signal phasing and timing detail;

(u) road lighting (including columns and brackets);

(v) regime of California Bearing Ratio testing;

(w) electrical work for road lighting, traffic signs and signals;

(x) motorway communications as required by DMRB;

(y) highway structures and any required structural approval in principle;

(z) landscaping;

(aa) proposed departures from DMRB standards;

(bb) walking, cycling and horse riding assessment and review report;

(cc) stage 1 and stage 2 road safety audits and exceptions agreed;

(dd) utilities diversions;

(ee) topographical survey;

(ff) maintenance and repair strategy in accordance with DMRB GD304 Designing health and safety into maintenance or any replacement or modification of it; or

for the cable works—

(gg) earthworks including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk and any required strengthened earthworks appraisal form certification;

(hh) health and safety information including any asbestos survey required by GG105 or any successor document; and

(ii) other such information that may be required by National Highways to be used to inform the detailed design of the cable works;

"DMRB" means the Design Manual for Roads and Bridges or any replacement or modification of it;

"final certificate" means the certificate relating to those aspects of the SRN works that have resulted in any alteration to the strategic road network to be issued by National Highways pursuant to paragraph 80;

"the health and safety file" means the file or other permanent record containing the relevant health and safety information for the authorised development required by the Construction Design and Management Regulations 2015 (or such updated or revised regulations as may come into force from time to time);

"highway operations and maintenance contractor" means the contractor appointed by National Highways under the DBFO contract;

"nominated persons" means the undertaker's representatives or the contractor's representatives on site during the carrying out of the cable works or SRN works as notified to National Highways from time to time;

"programme of works" means a document setting out the sequence and timetabling of the cable works or SRN works;

"provisional certificate" means the certificate of provisional completion relating to those aspects of either the cable works or the SRN works that have resulted in any alteration to the strategic road network to be issued by National Highways in accordance with paragraph 75 or 76 as appropriate when it considers the SRN works or cable works are substantially complete;

"road safety audit" means an audit carried out in accordance with the road safety audit standard;

"road safety audit standard" means DMRB Standard HD GG119 or any replacement or modification of it;

"road space booking" means road space bookings in accordance with National Highways' Asset Management Operational Requirements (AMOR) including Network Occupancy Management System (NOMS) used to manage road space bookings and network occupancy;

"SRN works" means so much of any work authorised by this Order which involve works to the carriageway or verge of any part of the strategic road network, or to operational assets ancillary thereto including highway drainage, and specifically including the alteration of a junction as authorised as part of Work No. 9, and including any maintenance of that work, as is on, in, or over the strategic road network for which National Highways is the highway authority;

"Specification for Highways Works" means the specification for highways works forming part of the manual of contract documents for highway works published by National Highways and setting out the requirements and approvals procedures for work, goods or materials used in the construction, improvement or maintenance of the strategic road network;

"strategic road network" means any part of the road network including trunk roads, special roads or streets for which National Highways is the highway authority including drainage infrastructure, street furniture, verges and vegetation and all other land, apparatus and rights located in, on, over or under the highway;

"utilities" means any pipes wires cables or equipment belonging to any person or body having power or consent to undertake street works under the 1991 Act; and

"winter maintenance" means maintenance of the road surface to deal with snow and ice.

(4) References to any standards, manuals, contracts, Regulations and Directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

General

69. No works in carrying out, maintaining or diverting the cable works may be carried out under the strategic road network at a distance within 4 metres of the lowest point of the ground.

70. In respect of a road that is managed under a DBFO contract both National Highways and the highway operations and maintenance contractor shall have the benefit of this Part of this Schedule but for the purposes of any approvals required under this Part of this Schedule the undertaker shall liaise directly with National Highways.

Works outside the Order limits

71. If the undertaker proposes to carry out works to the strategic road network that are outside of the Order Limits in connection with the authorised development, the undertaker must enter into an agreement with National Highways in respect of the carrying out of those works prior to the commencement of those works.

Prior approvals

72.—(1) The SRN works must not commence until—

(a) a stage 1 and stage 2 road safety audit has been carried out and all recommendations raised by them or any exceptions are approved by National Highways (acting reasonably);

(b) the programme of works has been approved by National Highways (acting reasonably);

(c) the detailed design of the SRN works comprising of the following details, insofar as considered relevant by National Highways, has been submitted to and approved by National Highways (acting reasonably)—

(i) the detailed design information, incorporating all recommendations and any exceptions approved by National Highways under paragraph (a);

(ii) details of the proposed road space bookings;

(iii) the identity and suitability of the contractor and nominated persons;

(iv) a process for stakeholder liaison, with key stakeholders to be identified and agreed between National Highways and the undertaker; and

(v) information demonstrating that the process undertaken by the undertaker in relation to the SRN works has been adhered to in accordance with DMRB GG142 – Designing for walking, cycling and horse riding;

(d) a scheme of traffic management has been submitted by the undertaker and approved by National Highways, such scheme to be capable of amendment by agreement between the undertaker and National Highways from time to time;

(e) stakeholder liaison has taken place in accordance with the process for such liaison agreed between the undertaker and National Highways under sub-paragraph (c)(iv) above;

(f) National Highways has approved the audit brief and CVs for all road safety audits and exceptions to items raised in accordance with the road safety audit standard;

(g) the undertaker has agreed the estimate of the commuted sum with National Highways;

(h) the scope of all maintenance operations (routine inspections, incident management, reactive and third party damage) to be carried out by the undertaker during the construction of the SRN works (which may include winter maintenance if relevant) has been agreed in writing by National Highways;

(i) the undertaker has procured to National Highways collateral warranties in a form approved by National Highways (acting reasonably) from the contractor and designer of the SRN works in favour of National Highways to include covenants requiring the contractor and designer to exercise all reasonable skill, care and diligence in designing

and constructing the SRN works, including in the selection of materials, goods, equipment and plant; and

(j) a condition survey and regime of monitoring of any National Highways assets or structures that National Highways reasonably considers will be affected by the SRN works, has been agreed in writing by National Highways.

(2) The cable works must not commence until—

(a) the detailed design of the cable works including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk and any required strengthened earthworks appraisal form certification, has been submitted to and approved by National Highways; and

(b) a condition survey and regime of monitoring of any National Highways assets or structures that National Highways reasonably considers will be affected by the SRN works, has been agreed in writing by National Highways.

(3) National Highways must prior to the commencement of the cable works and SRN works inform the undertaker of the identity of the person who will act as a point of contact on behalf of National Highways for consideration of the information required under sub-paragraph (1).

(4) Any approval of National Highways required under this paragraph—

(a) must not be unreasonably withheld;

(b) must be given in writing;

(c) will be deemed to have been refused if neither given nor refused within 2 months of the receipt of the information for approval or where further particulars are requested by National Highways, within 2 months of receipt of the information to which the request for further particulars relates; and

(d) may be subject to any conditions as National Highways acting reasonably considers necessary.

(5) Any change to the identity of the contractor and/or designer of the SRN works will be notified to National Highways immediately and details of their suitability to deliver the SRN works will be provided on request along with collateral warranties in a form agreed by National Highways.

(6) Any change to the detailed design of the SRN works must be approved by National Highways in accordance with paragraph (1) of this Part of this Schedule.

Construction of the cable works and SRN works

73.—(1) The undertaker must give National Highways 14 days' notice in writing of the date on which the cable works and/or the SRN works will start unless otherwise agreed by National Highways.

(2) The undertaker must comply with National Highways' road space booking procedures prior to and during the carrying out of the SRN works and no SRN works for which a road space booking is required may commence without a road space booking having first been secured from National Highways.

(3) The cable works and SRN works must be carried out by the undertaker to the reasonable satisfaction of National Highways in accordance with—

(a) the relevant detailed design information and programme of works approved pursuant to paragraph 72(1) or 72(2) above or as subsequently varied by agreement between the undertaker and National Highways;

(b) the DMRB, the Manual of Contract Documents for Highway Works, including the Specification for Highway Works, together with all other relevant standards as required by National Highways to include, inter alia; all relevant interim advice notes, the Traffic Signs Manual and the Traffic Signs Regulations and General Directions 2016 save to the extent that exceptions from those standards apply which have been approved by National Highways; and

(c) all aspects of the Construction (Design and Management) Regulations 2015 or any statutory amendment or variation of the same.

(4) The undertaker must permit and must require the contractor to permit at all reasonable times persons authorised by National Highways (whose identity must have been previously notified to the undertaker by National Highways) to gain access to the cable works and SRN works for the purposes of inspection and supervision of those works.

(5) If any part of the cable works or SRN works is constructed—

(a) other than in accordance with the requirements of this Part of this Schedule; or

(b) in a way that causes damage to the highway, highway structure or asset or any other land of National Highways,

(c) National Highways may by notice in writing require the undertaker, at the undertaker's own expense, to comply promptly with the requirements of this Part of this Schedule or remedy any damage notified to the undertaker under this Part of this Schedule, to the reasonable satisfaction of National Highways.

(6) If during the carrying out of the authorised development the undertaker or its appointed contractors or agents causes damage to the strategic road network then National Highways may by notice in writing require the undertaker, at its own expense, to remedy the damage.

(7) In constructing the cable works and SRN works, the undertaker must at its own expense divert or protect all utilities and all agreed alterations and reinstatement of highway over existing utilities must be constructed to the reasonable satisfaction of National Highways.

(8) The undertaker must notify National Highways if it fails to complete the SRN works in accordance with the agreed programme pursuant to paragraph 72(1)(b) of this Part of this Schedule or suspends the carrying out of any SRN work beyond 14 days and National Highways reserves the right to withdraw any road space booking granted to the undertaker to ensure compliance with its network occupancy requirements.

Payments

74.—(1) The undertaker must pay to National Highways a sum equal to the whole of any reasonable costs and expenses which National Highways reasonably incurs (including costs and expenses for using internal or external staff) in relation to the cable works and SRN works and in relation to any approvals sought under this Order, or otherwise incurred under this Part of this Schedule, including—

(a) the checking and approval of the information required under paragraphs 72(1) and 72(2);

(b) the supervision of the cable works and SRN works;

(c) the checking and approval of the information required to determine approvals under this Order;

(d) costs in relation to the transfer of any land required for the SRN works and cable works;

(e) all legal and administrative costs and disbursements reasonably incurred by National Highways in connection with paragraphs (a)-(d) of this sub-paragraph; and

(f) any value added tax which is payable by National Highways only in respect of such costs and expenses arising under this paragraph and for which it cannot obtain reinstatement from HM Revenue and Customs,

together comprising "the NH costs".

(2) National Highways must provide the undertaker with a schedule showing its estimate of the NH costs prior to the commencement of the cable works and SRN works. Where the undertaker accepts that the estimate of costs is reasonable, the undertaker must pay to National Highways the estimate of the NH costs prior to commencing the SRN works or cable works. Where the undertaker does not accept that the estimate of costs is reasonable, escalation under sub-paragraph (6) will apply.

(3) If at any time after the payment referred to in this sub-paragraph has become payable, National Highways reasonably believes that the NH costs will exceed the estimated NH costs it

may give notice to the undertaker of the amount that it believes the NH costs will exceed the estimate of the NH costs (the excess). Where the undertaker accepts that the estimate of the excess is reasonable, the undertaker must pay to National Highways the estimate of the excess within 30 days of the date of receipt of a properly issued VAT invoice from National Highways addressed to the undertaker for the excess. Where the undertaker does not accept that the estimate of the excess is reasonable, escalation under sub-paragraph (6) will apply.

(4) National Highways must give the undertaker a final account of the NH costs referred to in sub-paragraph (1) above within 30 days of the issue of the provisional certificate issued pursuant to paragraphs 75(4) or 76(3).

(5) Within 30 days of the issue of the final account—

(a) if the final account shows a further sum as due to National Highways the undertaker must pay to National Highways the sum shown due to it; and

(b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by National Highways, National Highways must refund the difference to the undertaker.

(6) Where the undertaker does not agree that an estimate provided by National Highways under this paragraph is reasonable, the undertaker must notify National Highways of that within 15 days of receiving the estimate. The undertaker and National Highways will escalate the estimate internally and will each nominate a senior officer to attend a discussion on the estimate. Where the parties fail to reach agreement following such discussion, any difference or dispute over reasonableness of any excess sum shall be determined by expert determination in accordance with paragraph 87.

Provisional Certificate for SRN works

75.—(1) Following any closure or partial closure of any of the strategic road network for the purposes of carrying out the SRN works, National Highways will carry out a site inspection to satisfy itself that the strategic road network is, in its opinion, safe for traffic and the undertaker must comply with any requirements of National Highways prior to reopening the strategic road network.

(2) As soon as the undertaker considers that the provisional certificate may be properly issued it must apply to National Highways for the provisional certificate.

(3) Following an application for a provisional certificate, National Highways must as soon as reasonably practicable—

(a) inspect the SRN works; and

(b) provide the undertaker with a written list of works that are required for the provisional certificate to be issued or confirmation that no further works are required for this purpose.

(4) When—

(a) a stage 3 road safety audit for the SRN works has been carried out and all recommendations raised including remedial works have (subject to any exceptions agreed) been approved by National Highways;

(b) the SRN works incorporating the approved remedial works under sub-paragraph (a) and any further works notified to the undertaker pursuant to sub-paragraph (3)(b) have been completed to the reasonable satisfaction of National Highways;

(c) the as built information has been provided to National Highways; and

(d) the undertaker has paid the commuted sum to National Highways,

National Highways must issue the provisional certificate.

(5) On the issue of the provisional certificate the bond sum shall be reduced to 20% of the total bond sum save insofar as any claim or claims have been made against the bond before that date in which case National Highways will retain a sufficient sum to ensure it does not have to meet any costs for or arising from the SRN works.

(6) The undertaker must submit a stage 4 road safety audit as required by and in line with the timescales stipulated in the road safety audit standard. The undertaker must comply with the findings of the stage 4 road safety audit and must pay all costs of and incidental to such and provide updated as-built information to National Highways.

(7) In this paragraph, 'reasonable satisfaction' means fair, proper and moderate under the circumstances, having regard to the details approved under paragraph 72.

Provisional Certificate for cable works

76.—(1) As soon as the undertaker considers that the provisional certificate for the cable works may be properly issued it must apply to National Highways for the provisional certificate.

(2) Following an application for a provisional certificate, National Highways must as soon as reasonably practicable—

(a) inspect the area of the highway within the strategic road network over the route of the cable works; and

(b) provide the undertaker with a written list of works that are required for the provisional certificate to be issued or confirmation that no further works are required for this purpose.

(3) When the cable works incorporating any further works notified to the undertaker pursuant to sub-paragraph (2)(b) have been completed to the reasonable satisfaction of National Highways, National Highways must issue the provisional certificate.

Opening

77. The undertaker must notify National Highways not less than 14 days in advance of the intended date of opening to the public of the strategic road network and the undertaker must notify National Highways of the actual date the strategic road network will be opened to the public within 14 days of that date.

Final condition survey

78.—(1) The undertaker must, as soon as reasonably practicable after making its application for a provisional certificate pursuant to paragraph 75(2) or 76(1), arrange for any highways structures and assets that were the subject of the condition survey to be re-surveyed and must submit the re-survey to National Highways for its approval. The re-survey will include a renewed geotechnical assessment required by DMRB CD622 for the SRN works, cable works and any other works beneath the strategic road network.

(2) If the re-surveys carried out pursuant to sub-paragraph (1) indicates that any damage has been caused to a structure or asset, the undertaker must submit a scheme for remedial works in writing to National Highways for its approval in writing (acting reasonably) and the undertaker must carry out the remedial works at its own cost and in accordance with the scheme submitted.

(3) If the undertaker fails to carry out the remedial work in accordance with the approved scheme, National Highways may carry out the steps required of the undertaker and may recover any expenditure it reasonably incurs in so doing.

(4) National Highways may, at its discretion, at the same time as giving its approval to the re-surveys pursuant to sub-paragraph (1), give notice in writing that National Highways will remedy any damage identified in the re-surveys and National Highways may recover any expenditure it reasonably incurs in so doing.

(5) The undertaker must make available to National Highways upon request copies of any survey or inspection reports produced pursuant to any inspection or survey of any cable work or SRN work following its completion that the undertaker may from time to time carry out.

Defects Period

79.—(1) The undertaker must at its own expense remedy any defects in the strategic road network resulting from the carrying out of the SRN works as are reasonably required by National Highways to be remedied during the defects period. All identified defects must be remedied in accordance with the following timescales—

(a) in respect of matters of urgency, within 24 hours of receiving notification for the same (urgency to be determined at the absolute discretion of National Highways);

(b) in respect of matters which National Highways considers to be serious defects or faults, within 14 days of receiving notification of the same; and

(c) in respect of all other defects notified to the undertaker, within 4 weeks of receiving notification of the same.

(2) Following the expiry of the defects period National Highways has responsibility for routine maintenance of the strategic road network save for any soft landscaping works which must be established and which must thereafter be maintained for a period of 3 years by, and at the expense of, the undertaker.

Final Certificate

80.—(1) The undertaker must apply to National Highways for the final certificate no sooner than 12 months from the date of the provisional certificate for the SRN works pursuant to paragraph 75(2) and provisional certificate for cable works pursuant to paragraph 76(1).

(2) Following receipt of the application for the final certificate, National Highways must as soon as reasonably practicable—

(a) inspect the strategic road network; and

(b) provide the undertaker with a written list of any further works required to remedy or make good any defect or damage in the strategic road network or confirmation that no such works are required for this purpose.

(3) The undertaker must carry out such works notified to it pursuant to sub-paragraph (2).

(4) When National Highways is satisfied that—

(a) any defects or damage arising from defects during the defects period and any defects notified to the undertaker pursuant to sub-paragraph (2) and any remedial works required as a result of any relevant stage 4 road safety audit have been made good to the reasonable satisfaction of National Highways; and

(b) the NH costs have been paid to National Highways in full;

National Highways must issue the final certificate after which the bond shall be released in full.

(5) The undertaker must pay to National Highways within 30 days of the date of receipt of a properly issued VAT invoice from National Highways addressed to the undertaker, the costs reasonably incurred by National Highways in identifying the defects and supervising and inspecting the undertaker's work to remedy the defects that it is required to remedy pursuant to these provisions.

Security

81. The SRN works may not commence until—

(a) the undertaker procures that the SRN works are secured by a bond from a bondsman first approved by National Highways in the agreed form between the undertaker and National Highways to indemnify National Highways against all losses, damages, costs or expenses arising from any breach of any one or more of the obligations of the undertaker in respect of the SRN works provided that the maximum liability of the bond must not exceed the bond sum; or

(b) the undertaker has provided the cash surety which may be utilised by National Highways in the event of the undertaker failing to meet its obligations to make payments under

paragraph 74 or to carry out works the need for which arises from a breach of one or more of the obligations of the undertaker under the provisions of this Part of this Schedule; or

(c) a combination of a bond and cash surety together totalling 200% of the projected costs of the SRN works.

Commuted sums

82. National Highways must provide to the undertaker an estimate of the commuted sum, calculated in accordance with FS Guidance S278 Commuted Lump Sum Calculation Method dated 18 January 2010 or any successor guidance, prior to the issue of the provisional certificate for the SRN works.

Insurance

83. Prior to the commencement of the cable works and SRN works the undertaker or its contractor must effect public liability insurance with an insurer in the minimum sum of £10,000,000.00 (ten million pounds) in respect of any one claim or series of claims arising from one event against any legal liability for damage loss or injury to any property or any person as a direct result of the execution of the cable works or SRN works or use of the strategic road network by the undertaker.

Indemnity

84.—(1) The undertaker indemnifies National Highways from and against all costs, claims, expenses, damages, losses and liabilities suffered by National Highways arising from the construction of the SRN works or maintenance of the SRN works undertaken (but always excluding any consequential loss or indirect loss suffered by National Highways) before the issue of the final certificate for the SRN works, or any construction, maintenance or decommissioning of the cable works, or exercise of, or failure to exercise, any power under this Order within 30 days of an itemised demand subject to sub-paragraphs (2) to (5).

(2) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of—

(a) any damage to the extent that it is attributable to the neglect or default of National Highways, its officers, servants, contractors or agents; and

(b) any SRN works carried out by National Highways as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 5 (benefit of the Order).

(3) National Highways must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(4) National Highways must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(5) National Highways must use its reasonable endeavours to mitigate and to minimise any costs, claims, expenses, damages, losses and to which the indemnity under this paragraph applies where it is within National Highways' reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties outside of National Highways' control and if reasonably requested to do so by the undertaker National Highways must provide an explanation of how the claim has been minimised, where relevant.

Maintenance of the authorised development

85.—(1) The undertaker must, prior to the commencement of any works of maintenance to the specified cable works, give National Highways 28 days' notice in writing of the date on which those works will start unless otherwise agreed by National Highways, acting reasonably.

(2) If, for the purposes of maintaining the cable works or the SRN works, the undertaker needs to occupy any road space, the undertaker must comply with National Highways' road space booking requirements and no maintenance of any works for which a road space booking is required may commence without a road space booking having first been secured.

(3) The undertaker must comply with any requirements that National Highways may notify to the undertaker, such requirements to be notified to the undertaker not less than 7 days in advance of the planned commencement date of the maintenance works.

(4) The provisions of paragraph 77 will apply to the opening of any part of the strategic road network following occupation of any road space under this paragraph.

Land

86.—(1) Following the issue of the final certificate pursuant to paragraph 80 National Highways may serve notice on the undertaker that it wishes to take a freehold transfer of land within the extent of strategic road network boundary which is not in the ownership of National Highways but has been acquired by the undertaker for the purposes of carrying out the SRN works.

(2) If the undertaker receives notice under sub-paragraph (1) then the undertaker must effect a freehold transfer of the land which is the subject of the notice and complete such transfer as soon as reasonably practicable at no cost to National Highways.

Expert Determination

87.—(1) Article 41 (arbitration) of the Order does not apply to this Part of this Schedule.

(2) Any difference under this Part of this Schedule may be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) On notification by either party of a dispute, the parties must jointly instruct an expert within 14 days of notification of the dispute.

(4) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date that an expert is appointed.

(5) The expert must—

(a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 7 days of the expert's appointment;

(b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;

(c) issue a decision within 7 days of receipt of the submissions under paragraph (b); and

(d) give reasons for the decision.

(6) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 41 (arbitration).

(7) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

PART 7

FOR THE PROTECTION OF FIVE ESTUARIES OFFSHORE WIND FARM LIMITED

88. In this Part of this Schedule—

"apparatus" means any cables, ducts, electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by Five Estuaries or any successor as developer or operator of any part of the Five Estuaries offshore wind farm development onshore grid connection together with any replacement apparatus, and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"Five Estuaries" means Five Estuaries Offshore Wind Farm Limited (and any successor in title, transferee and lessee, as the case may be) as the undertaker with the benefit of all or part of the Five Estuaries Offshore Wind Farm Order 2025;

Application

89. This Part of this Schedule applies for the protection of Five Estuaries and the following provisions, unless otherwise agreed in writing between the undertaker and Five Estuaries, have effect.

90. This Part of this Schedule ceases to have effect where in the event that Five Estuaries is granted a Development Consent Order by the Secretary of State, on the date upon which that Order expires without the development authorised by it having been commenced.

Acquisition of land and protection of apparatus

91. Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to this Order, the undertaker must not acquire any interest in land or any apparatus or override any easement or other interest of Five Estuaries otherwise than by agreement, such agreement not to be unreasonably withheld or delayed.

92. If, in the exercise of the agreement reached in accordance with paragraph 89 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed and any right of Five Estuaries to maintain that apparatus in that land must not be extinguished.

93.—(1) Not less than 56 days (or such lesser period agreed by Five Estuaries, acting reasonably) before commencing the execution of any works authorised by the Order that are near to, will, or may affect any apparatus, the undertaker must submit to Five Estuaries a plan of such works.

(2) In relation to works which will or may be situated on, over, under or within five metres measured in any direction of any apparatus, or involve embankment works within 5 metres of any apparatus, the plan to be submitted to Five Estuaries under sub-paragraph (1) must be detailed including details of the materials and products to be used in the works and describing—

(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, renewal, replacement or upgrade including details of excavation and positioning of plant;

(d) the position of all apparatus; and

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus.

(3) The undertaker must not commence the construction, renewal, replacement or upgrade of any works to which sub-paragraphs (1) or (2) apply until Five Estuaries has given written approval of the plan so submitted.

(4) Any approval of Five Estuaries 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 or delayed.

(5) In relation to a work to which sub-paragraphs (1) or (2) apply, Five Estuaries 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, provided that such modifications are requested within a period of 28 days beginning with the date on which the plan under sub-paragraph (1) is submitted to it (or such lesser period agreed by the statutory undertaker, acting reasonably). For the avoidance of doubt, provided that any further iterations of the plan submitted to Five Estuaries for approval as a result of modifications required under this paragraph are not materially different to the modifications previously requested by Five Estuaries, any further required modifications will be requested by Five Estuaries as soon as reasonably practicable thereafter and in any event within 21 days of receipt of any further plans.

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

(7) Nothing in this paragraph precludes 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 (unless otherwise agreed by Five Estuaries, acting reasonably), a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(8) The undertaker is not 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 Five Estuaries notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (5) and (6) insofar is reasonably practicable in the circumstances.

Access

94. If in consequence of the agreement reached in accordance with paragraph 89 or the powers granted under the Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as enables Five Estuaries to maintain or use the apparatus no less effectively than was possible before such obstruction.

Build option 2A scenario

95.—(1) Where the undertaker determines to proceed with build option 2A and the parties intend for additional ducts to be installed as either or both of Work Nos. 6B and 12B to be transferred to Five Estuaries then—

(a) the undertaker will consult and agree with Five Estuaries on its detailed design and construction methodology, including means of access, before any application for discharge of requirements necessary to carry out either or both of Work Nos. 6B and 12B is made to the relevant planning authority; and

(b) the undertaker will agree the route and specification of any permanent access to be used by both the undertaker and Five Estuaries prior to discharging any requirement for the detailed design of such accesses necessary to construct such access.

(2) Any agreement required under this paragraph must not be unreasonably withheld or delayed and any requests for amendment must have regard to the scope of the assessment set out in the Environmental Statement.

Collaboration

96. The undertaker and Five Estuaries 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.

Arbitration

97. Any difference or dispute arising between the undertaker and Five Estuaries must, unless otherwise agreed in writing between the undertaker and Five Estuaries, be determined by arbitration in accordance with article 41 (arbitration) of the Order.

PART 8

FOR THE PROTECTION OF ESSEX COUNTY COUNCIL AS LOCAL HIGHWAY AUTHORITY

Application

98. The provisions of this Part of this Schedule have effect in relation to the works (as defined under paragraph 99) unless otherwise agreed in writing between the undertaker and Essex County Council in its capacity as the local highway authority.

Definitions

99. In this Part of this Schedule—

"as built drawings" means—

(a) drawings showing the as constructed local highways in an appropriate format (including digital storage media);

(b) drawings showing the location for utilities installed in the local highway; and

(c) specifications for materials used for the constructed local highway;

"construction period" means for each work, the period from commencement of the relevant work forming part of the authorised development under this Order until the issue of the final certificate for that work;

"detailed design" means drawings and other information comprising the detailed design for the alteration and improvement of local highways comprised in the authorised development;

"detailed information" means drawings, specifications and other information relating to the local highway, as relevant to the works in question (insofar as both parties agree (acting reasonably) are relevant and not already provided for in any document that the undertaker is required to produce under Schedule 2 to this Order) which must be in accordance with the detailed design and include—

(d) information and assessment required to demonstrate compliance of any trenchless crossing works with DMRB Volume 4 section 1 CD 622 (Managing geotechnical risk);

(e) long and cross sectional drawings;

(f) traffic signs and road markings;

(g) landscaping, planting and any boundary features which will form part of the local highway;

(h) a schedule of timings for the works, including dates and durations for any temporary closures of any part of the local highway;

(i) traffic management proposals including any diversionary routes;

(j) a schedule of the existing local highway condition prior to commencement of construction related activities; and

(k) folio drawings in line with the Essex Standard Drawings, or such replacement or modification of the design standards applied to the construction of new roads and alternations to existing roads across the County of Essex;

"DMRB" means the Design Manual for Roads and Bridges published by National Highways, or any replacement or modification of that standard for the time being in force;

"DCM" means the Development Construction Manual published by Essex County Council, or any replacement or modification of that manual for the time being in force.

"final certificate" means the final certificate issued by the local highway authority under paragraph 110 of this Part of this Schedule;

"HPN039" means Highways Practice Note 039 Procedure for Road Safety Audit as published by Essex County Council, or any replacement or modification of that standard for the time being in force.

"local highway" means any public highway including any public right of way which is maintainable, or is intended at the completion of the works in relation thereto to be maintainable, by a local highway authority;

"local highway authority" means Essex County Council;

"maintenance period" means 12 months from the date of the provisional certificate being served under paragraph 107 of this Part of this Schedule unless otherwise agreed in writing between the parties;

"provisional certificate" means the certificate served under paragraph 107 of this Part of this Schedule;

"senior representatives" means the nominated senior representative on behalf of the undertaker and persons notified to the undertaker by the relevant local highway authority as being their senior representatives; and

"works" means any works authorised by this Order undertaken on, to or under any part of the local highway.

Design input and commencement

100.—(1) The undertaker must allow and facilitate an appropriately qualified person or persons duly appointed by the local highway authority (each being a "nominated officer") to participate in the design process for the detailed design for the works. The undertaker agrees to incorporate reasonable representations of the nominated officer in finalising its detailed design proposal (subject to the undertaker being able to refuse implementation of any representation which would cause a breach of this Order or would entail materially new or materially different environmental effects from those reported in the environmental statement).

(2) Participation under sub-paragraph (1) will be in the form of invitations (given at least 20 business days in advance and sent by email and marked 'urgent') to attend design meetings relating to relevant works and the provision to the nominated officer of such drawings, cross/long sections, design proposals and other information as is reasonably required to allow the nominated officer to provide an informed response on the detailed design proposals to the undertaker.

(3) The nominated officer will have no less than 20 business days from the date on which the undertaker supplies information pursuant to sub-paragraph (2) to provide the undertaker with any comments upon any information provided to that officer pursuant to sub-paragraph (2).

(4) No part of the works may commence until the undertaker has provided to the local highway authority the detailed information relating to that part of the works (without prejudice to the undertaker providing parts of the detailed information insofar as it relates to the operation of the local highway at a later date, provided the provision of that information is subject to this sub-paragraph and sub-paragraphs (5) to (7)).

(5) The undertaker will give the local highway authority at least 20 business days to comment and provide representations by email on the detailed information provided to it under sub-paragraph (4).

(6) The undertaker will incorporate any reasonable comments, representations and recommendations made by the local highway authority (acting reasonably) under sub-paragraph (5) (and, without limitation, the undertaker is able to refuse implementation of any representation or recommendation which would cause a breach of this Order, conflict with a permit issued under a permit scheme operated by the local highway authority or would entail materially new or materially different environmental effects from those reported in the environmental statement) and will provide the local highway authority with reasons for non-acceptance of any representation or recommendation as soon as reasonably practicable upon receipt of a request from the local highway authority in writing within 10 business days of its decision.

(7) The works must not be carried out except in accordance with the detailed information (but subject to the process in sub-paragraphs (4) and (5) or as otherwise may be agreed prior to the date of commencement of the relevant works between the undertaker and the local highway authority.

(8) This paragraph does not apply to the works to the extent that would cause an inconsistency with any provision of this Order.

101.—(1) Before commencing the construction of, or the carrying out of any work authorised by this Order which involves works to a local highway the undertaker must use reasonable endeavours to agree with the local highway authority (acting reasonably) a local operating agreement covering the following as relevant to the works in question—

(a) communications and customer care arrangements for communication with stakeholders and the local community including—

(i) the identity of the party responsible for each activity;

(ii) the identity of the representative of the undertaker or the undertaker's contractor responsible for stakeholder engagement and communication;

(iii) defined timescales for contractor responses to communications;

(iv) the form of documentation required under paragraph 100 immediately above;

(v) the relevant email details from time to time under paragraph 100 immediately above;

(vi) road safety audit invitation process under paragraph 104 below; and

(vii) the senior representation process under paragraph 111 below;

(b) definition of the extents for the works areas between the highway boundary, the traffic management lead in tapers, the longitudinal coning and the end of the lead out tapers, zone of influence (being the area which is reasonably affected by those work areas), traffic management and diversion requirements and free recovery areas (as appropriate);

(c) arrangements for the submission to the local highway authority of digital copies (including digital storage media) of all as-built drawings for the relevant work area including identification of any new limits of highway maintainable by the local highway authority in accordance with paragraph 107 of this Part of this Schedule;

(d) where applicable, winter maintenance including anticipated winter treatments and severe weather arrangements to apply during the construction period and the maintenance period;

(e) repair arrangements in relation to local highways directly affected by the construction of the authorised development;

(f) where applicable, continuity of technology arrangements to apply during the construction period and the maintenance period;

(g) arrangements for dealing with and recording incidents during the construction period and the maintenance period including appropriate provision of recovery vehicles; and

(h) traffic management: during relevant works.

(2) Any agreement completed under sub-paragraph (1) must be complied with by the undertaker and continue in force until such time as a final certificate has been issued in respect of the relevant works.

Survey reinstatement

102. The undertaker must reinstate to the reasonable satisfaction of the local highway authority any part of the local highway which has been temporarily used for survey or investigation by the undertaker pursuant to article 18 (protective work to buildings), article 30 (temporary use of land for carrying out the authorised development) of this Order or any other power in this Order to the condition it was in on the date on which the survey or investigation began or such other condition as may be agreed in writing by the local highway authority.

Inspections and testing of materials

103.—(1) The undertaker must allow and facilitate any person acting on behalf of the local highway authority to access and inspect at all reasonable times any part of the works during their construction and before a final certificate has been issued in respect of the relevant works as is reasonably necessary to ensure that the works have been or are being carried out in accordance with the detailed design and to the appropriate standard.

(2) The undertaker must allow any person duly appointed by the local highway authority to enter upon and inspect any part of the works which are in, over, under, or adjacent to any local highway or may affect any highway or any property of the local highway authority, during the carrying out of the works, and the undertaker must give to such officer reasonable facilities for such inspection.

(3) Any testing reasonably requested by the local highway authority of materials used in any works must be carried out at the undertaker's expense and in accordance with the latest version of the Manual of Contract Documents for Highway Works (or any other testing specification agreed by the undertaker and the local highway authority acting reasonably).

(4) The local highway authority (and its contractor or its agent) may test (at the cost of the undertaker) all or any materials used or proposed to be used in any works and the undertaker must provide such information access and materials as is reasonably necessary to facilitate such testing.

(5) The undertaker must, as soon as is reasonably practicable and in any event within 10 business days, provide the local highway authority with a copy of all available test certificates and results relevant to the works that the local highway authority has requested in writing under sub-paragraph (3).

(6) The local highway authority must as soon as is reasonably practicable and in any event within 20 business days, provide the undertaker with a copy of all available test results and certificates relevant to the works carried out under sub-paragraph (4) that the undertaker has requested in writing.

Road Safety Audits

104.—(1) The undertaker must procure that an appropriately qualified RSA team (as defined in HPN039 or DMRB Volume 5 Section 2 Part 2 (GG 119) as advised by the local highway authority (acting reasonably) or any replacement or modification of that standard) undertakes road safety audit in accordance with the standard asset out in HPN039 or DMRB standard GG 119 as advised by the local highway authority (acting reasonably) for works which involve creation, alteration, expansion or other modifications of the local highway but not for works which consist only of trenchless installation beneath highways, and must provide copies of the reports of such audits to the local highway authority within 10 business days of their receipt by the undertaker.

(2) The local highway authority must be invited to participate in the road safety audit conducted under sub-paragraph (1).

(3) No works on a local highway must be commenced until a satisfactory Stage 1 and Stage 2 Road Safety Audit has been carried out and all reasonable recommendations raised by them or any exceptions are approved by the local highway authority (acting reasonably).

(4) Where the report of the stage 3 and 4 road safety audit identifies any recommended measures in respect of the local highway, the undertaker must carry out, at its own expense and to the reasonable satisfaction of the local highway authority, those measures identified as part of stage 3 and 4 audit which the undertaker considers necessary (acting reasonably) and for the avoidance of

doubt any matters related to the health and safety will be considered as reasonable, and which do not give rise to any new or materially different environmental effects in comparison with those identified in the environmental statement.

Defects in local highways constructed by the undertaker

105.—(1) Until such time as a final certificate has been issued in respect of any works, the undertaker must make good any defects in the works constructed by the undertaker to the reasonable satisfaction of the local highway authority.

(2) The undertaker must submit to the local highway authority such details and information relating to making good any defects under sub-paragraph (1) as the local highway authority and the undertaker agree is reasonable in the circumstances.

Provisional Certificate

106.—(1) Subject to sub-paragraph (2), when the undertaker considers that the works have reached completion so that they are available and safe for use by the public it must serve a provisional certificate on the local highway authority and must allow the local highway authority the opportunity to inspect the works to identify any defects or incomplete works (and the undertaker must give proper consideration to any representations and recommendations made by the local highway authority and make good such defects pursuant to paragraph 105 or complete incomplete works).

(2) The undertaker must not serve a provisional certificate on the local highway authority under sub-paragraph (1) until either—

(a) a stage 3 road safety audit has been carried out in respect of the works in question in accordance with HNP039 or GG19 of DMRB as advised by the local highway authority (acting reasonably), and in the opinion of the local highway authority any reasonable recommended measures identified in the audit and which the local highway authority considers to be necessary, have been completed; or

(b) the local highway authority has been provided an opportunity to inspect the works and the undertaker has, in its opinion, completed any further works or measures required to address any safety deficiencies or defects identified as a result of the inspection.

(3) The local highway authority must issue to the undertaker, on request from the undertaker, a counter-signed provisional certificate in relation to any part of the works, after completion of that part of the works once a stage 3 safety audit has been carried out in accordance with sub-paragraph (2).

(4) The undertaker will agree with the local highway authority (such agreement not to be unreasonably withheld or delayed) the date of opening of the works to the public and take appropriate steps to officially record the same.

Maintenance

107.—(1) Subject to sub-paragraph (2), the undertaker must maintain the works throughout the maintenance period to a standard appropriate to their use by the public in accordance with the DMRB.

(2) Nothing in sub-paragraph (1) makes the undertaker responsible for the maintenance of any street works or maintenance works undertaken by any person other than the undertaker or which does not form part of the authorised development during the maintenance period.

Final Certificate

108.—(1) The local highway authority must as soon as reasonably practicable and in any event within 25 business days of the last of sub-paragraphs (a) to (f) of this paragraph being satisfied issue a final certificate in respect of the works where—

(a) the maintenance period has passed;

(b) all incomplete works and identified defects requiring remediation under sub-paragraph 104(1) have been remedied to the local highway authority's reasonable satisfaction;

(c) the undertaker has given the local highway authority a reasonable opportunity to inspect the relevant works in readiness for the issue of a final certificate and has given due consideration and acted accordingly in respect of any representations and recommendations made by the local highway authority in respect of the works;

(d) the undertaker has provided the local highway authority with a health and safety file in respect of the relevant works conforming in all respects to the Construction (Design and Management) Regulations 2015 to the local highway authority's reasonable satisfaction;

(e) the undertaker has provided the local highway authority with traffic signal information (in so far as is relevant);

(f) the undertaker has provided the local highway authority with street lighting information (in so far as is relevant);

(g) in relation to any permanent works only (which for the avoidance of doubt will exclude any maintenance of the street works or maintenance works)—

(i) the undertaker has provided the local highway authority with records of earthworks including source and description of fill material, description of sub grades in cut areas and test results;

(ii) the undertaker has provided the local highway authority with the structural maintenance manual to include soil reports, records of materials tested and revised forms TA1 and design certificates;

(iii) the undertaker has provided the local highway authority with the appropriate maintenance manual or manuals;

(iv) the undertaker has provided the local highway authority with as built drawings and such detailed information as the local highway authority has requested (acting reasonably) in relation to the relevant works as built;

(v) where there are structures required as part of the works the undertaker has provided the local highway authority with the appropriate construction compliance certificate or certificates;

(vi) the undertaker has provided the local highway authority with a complete set of hard copies and a digital copy containing a complete set of as-built drawings for the whole of the Works showing (inter alia) undertakers' plant and equipment such drawings to be to such scale or scales as the local highway authority may reasonably require for the purpose of subsequent maintenance and further works;

(vii) the undertaker has provided the local highway authority with a plan showing edged red the land added to the local highway as public highway; and

(viii) any drains which the local highway authority consider should be constructed to dispose of soil and surface water drainage in connection with the relevant works and in order to make them appropriate for public use have been constructed.

(2) The issue of a final certificate by the local highway authority amounts to an acknowledgment by the relevant local highway authority that the construction, alteration or diversion of a highway has been completed to its reasonable satisfaction for the purposes of article 10 (construction and maintenance of new or altered highway) of this Order.

Emergency Work

109. Nothing in this Part of this Schedule prevents the local highway authority from carrying out any work or taking such action as deemed appropriate forthwith without prior notice to the undertaker in the event of an emergency or danger to the public.

Land interests

110. Following the issuing of the final certificate under paragraph 108 in respect of any part of the local highway, the undertaker must, if requested by the local highway authority, in respect of a local highway which is to be maintainable by the local highway authority following, and as a result of, the completion of those works execute and complete a transfer to the local highway authority at nil consideration and at the cost of the undertaker of any land and rights which have been compulsorily acquired or voluntarily acquired (following a written request by the local highway authority) under this Order and which are necessary for the maintenance and operation of a local highway.

Disputes

111.—(1) In the event of any disagreement between the undertaker and the local highway authority arising out of or in connection with this Part of this Schedule which requires the agreement of the undertaker and the local highway authority jointly or the approval of the local highway authority and which cannot be resolved within 10 business days of the disagreement arising under paragraphs 100, 101, 102, 103 and 105, either party may request a review of the issue in disagreement by the parties giving notice in writing to their senior representatives.

(2) The senior representatives will consider any such request and use all reasonable endeavours in good faith to reach agreement to resolve any disagreement.

(3) Where agreement is not reached by the senior representatives within 20 business days of a request being made under sub-paragraph (1), the disagreement may be determined by arbitration in accordance with article 41 (arbitration) of this Order.

PART 9

FOR THE PROTECTION OF ANGLIAN WATER

Application

112. For the protection of Anglian Water the following provisions have effect, unless otherwise agreed in writing between the undertaker and Anglian Water.

Interpretation

113. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in a manner no less efficient than previously;

"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—

(a) works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;

(b) any drain or works vested in Anglian Water under the Water Industry Act 1991;

(c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act;

(d) any drainage system constructed for the purpose of reducing the volume of surface water entering any public sewer belonging to Anglian Water; and

(e) includes a sludge main, disposal main 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;

and for the purpose of this definition, where words are defined by section 219 of that Act, they must be taken to have the same meaning;

"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 all sections, drawings, specifications and method statements.

Access

114.—(1) Access for Anglian Water or any person acting under its instruction, including access for vehicles and plant, to any apparatus, utilities and services will not be extinguished or prevented and must not be unreasonably restricted or delayed by the undertaker during the construction, operation, maintenance or decommissioning of the authorised development in accordance with this sub-paragraph (1).

(2) Unreasonable delay or restriction in sub-paragraph (1) will not prevent the temporary restriction of access for other users (including access by the public) or the control or marshalling of access to facilitate the safe movement of large vehicles or plant or the carrying out of works to the access route by the undertaker, subject to the provisions of this sub-paragraph (2).

On street apparatus

115. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Anglian Water are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in closed or restricted streets

116. Regardless of the temporary closure, or diversion of any highway under the powers conferred by article 12 (temporary restriction of use of streets), Anglian Water is at liberty at all times to take all necessary access across any such closed highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the closure or diversion was in that highway.

Protective works to buildings

117. The undertaker, in the case of the powers conferred by article 18 (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 Anglian Water (such agreement not to be unreasonably withheld).

Acquisition of land

118. 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.

Removal of apparatus

119.—(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 or requires that Anglian Water's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Anglian Water to maintain that apparatus in that land must not be extinguished, until—

(a) alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Anglian Water in accordance with sub-paragraphs (2) to (8); and

(b) facilities and rights have been secured for that alternative apparatus in accordance with paragraph 120.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Anglian Water 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 an undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Anglian Water 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, 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, Anglian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best 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, or land secured by, the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article 41 (arbitration).

(5) Anglian Water must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 41 (arbitration), and after the grant to Anglian Water of any such facilities and rights as are referred to in sub-paragraphs (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 of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker or to the extent that Anglian Water fails to proceed with that work in accordance with sub-paragraph (5) or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian Water, must be executed by the undertaker without unnecessary delay and to the reasonable satisfaction of Anglian Water.

(7) If Anglian Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such "deemed consent" does not extend to the actual undertaking of the removal works, which must remain the sole responsibility of Anglian Water or its contractors, unless these works are to be carried out by the undertaker in accordance with sub-paragraph (6).

(8) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker must, before taking or requiring any further step in such substitution works, use best endeavours to comply with Anglian Water's reasonable requests for a reasonable period of time to enable Anglian Water to:

(a) make network contingency arrangements; or

(b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

Facilities and rights for alternative apparatus

120.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Anglian Water 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 are to be granted upon such terms and conditions as may be agreed between the undertaker and Anglian Water or in default of agreement settled by arbitration in accordance with article 41 (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 Anglian Water 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 Anglian Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

(3) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to Anglian Water in respect of the apparatus in question, whether under the 2016Regulations or other legislation.

Retained apparatus

121.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus (or any means of access to it) the removal of which has not been required by the undertaker under sub-paragraph (2), the undertaker must submit to Anglian Water 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 Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Anglian Water 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) is submitted to it.

(4) If Anglian Water 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 112 to 114 and 116 to 118 apply as if the removal of the apparatus had been required by the undertaker under paragraph119(2).

(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 must give to Anglian Water notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances, using its reasonable endeavours to keep the impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum.

(7) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph, works are deemed to be in land near Anglian Water's apparatus (where it is a pipe) if those works fall within the following distances measured from the medial line of such apparatus—

(a) 4 metres where the diameter of the pipe is less than 250 millimetres;

(b) 5 metres where the diameter of the pipe is between 250 and 400 millimetres; and

(c) a distance to be agreed on a case-by-case basis where the diameter of the pipe exceeds 400 millimetres.

Expenses and costs

122.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water 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 this Part of this Schedule but always excluding any consequential loss or indirect loss suffered by Anglian Water.

(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 of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(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,

(c) 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 41 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule 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 Anglian Water by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

(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 pipe or 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 Anglian Water 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 Anglian Water 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.

123.—(1) Subject to the following provisions of this paragraph, if by reason or in consequence of the construction of any such works referred to in sub-paragraphs 119(1) or 119(2), or by reason of any subsidence resulting from such development or 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 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, accompanied by an invoice or claim from Anglian Water, in making good such damage or restoring the supply; and

(b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs incurred by Anglian Water,

by reason or in consequence of any such damage or interruption but always excluding any consequential loss or indirect loss arising from such damage or interruption.

(2) The fact that any act or thing may have been done by Anglian Water on behalf of the undertaker or in accordance with a plan approved by Anglian Water or in accordance with any requirement of Anglian Water or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Anglian Water fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(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 unlawful or unreasonable act, neglect or default of Anglian Water, its officers, servants, contractors or agents.

(4) Anglian Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(5) Anglian Water must use reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands and penalties to which the undertaker must bear and pay the costs for.

Cooperation

124. For the avoidance of doubt whenever Anglian Water'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 the undertaker, it must not be unreasonably withheld or delayed.

125. Where in consequence of the proposed construction of any of the authorised development, the undertaker or Anglian Water requires the removal of apparatus under paragraph 119(2) or Anglian Water makes requirements for the protection or alteration of apparatus under paragraph121, the undertaker must use all reasonable 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 Anglian Water's undertaking, using existing processes where requested by Anglian Water, provided it is appropriate to do so, and Anglian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

126. Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it must inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

127. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

128. The undertaker and Anglian Water may by written agreement substitute any period of time for those periods set out in this Part of this Schedule.

PART 10

FOR THE PROTECTION OF AFFINITY WATER

Application

129. The following provisions have effect for the protection of Affinity Water, unless otherwise agreed in writing between the undertaker and Affinity Water.

Interpretation

130. In this Part of this Schedule—

"Affinity Water" means Affinity Water Limited (Company Registration No. 02546950) whose registered office address is at Tamblin Way, Hatfield, Hertfordshire, AL10 9EZ or any wholly- owned subsidiary (as defined in section 1159 of the Companies Act 2006(**a**));

"alternative apparatus" means alternative apparatus adequate to enable Affinity Water to fulfil its statutory functions in a manner no less efficient than previously;

"Affinity Water's apparatus" means—

(a) mains, pipes, connections, reservoirs, or any other apparatus belonging to or maintained by Affinity Water for the purposes of water supply; and

(b) mains, pipes, connections or any other apparatus that is the subject of an agreement to adopt by Affinity Water made under section 51A (agreements to adopt water main or service pipe at future date) of the Water Industry Act 1991(**b**);

"authorised works" means "authorised development" and "ancillary works" as both are defined in article 2 (interpretation) of the Order together with the use and maintenance of such authorised development or ancillary works, which for the avoidance of doubt includes the construction, use and maintenance of any works pursuant to this Part of this Schedule;

"commence" and "commencement" includes the first carrying out of any below ground surveys, monitoring, work operations, remedial work in respect of any contamination or other adverse ground condition, the receipt and erection of construction plant and equipment, intrusive investigations for the purpose of assessing ground conditions, and the first implementation of environmental mitigation, including planting;

"functions" includes powers and duties;

"HAUC Advice Note" means HAUC Advice Note No. 2010/01 (available at https://static.hauc-uk.org.uk/downloads/Advice_Note_No_2010-01.pdf), including the Diversionary Works Calculator HAUC(UK) (hauc-uk.org.uk) (https://www.hauc-uk.org.uk/resources/diversionary- works-calculator) referred to at paragraph 29.4 of that advice note;

"in", in a context referring to Affinity Water's apparatus or alternative apparatus in land, includes a reference to Affinity Water's apparatus or alternative apparatus under, over or upon land;

"plan" includes all descriptions, designs, sections, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

"protective works" means the underpinning, strengthening and any other reasonable works the purpose of which is to prevent damage that may be caused to Affinity Water's apparatus by the carrying out, maintenance, construction or use of the authorised works;

"specified works" means any authorised works under the Order (including any works of maintenance) that—

(c) may in any way adversely affect Affinity Water's apparatus;

(d) are within the following distances of Affinity Water's apparatus measured from the outer surface of such apparatus, the removal of which has not been required by the undertaker under paragraph 135(2) or otherwise—

(i) where the apparatus is a pipe, 2 metres where the diameter of the pipe is less than 150 millimetres;

(**a**) 2006 c. 46.
(**b**) 1991 c. 56. Section 51A was amended by sections 10(2)(a) – (c) of the Water Act 2014 (c. 21) and sections 92(1) and 105(3) of the Water Act 2003 (c. 37).

(ii) where the apparatus is a pipe, 3 metres where the diameter of the pipe is between 150 and 450 millimetres;

(iii) where the apparatus is a pipe, 4 metres where the diameter of the pipe exceeds 450 millimetres; and

(iv) 4 metres of any other apparatus,

unless otherwise agreed in writing with Affinity Water (acting reasonably); and

(e) outside the distances referred to in (d) will or may have electromagnetic or high voltage effects on any of Affinity Water's apparatus, the removal of which has not been required by the undertaker under paragraph 135(2) or otherwise; and

"water main" has the meaning given in the Water Industry Act 1991.

On street apparatus

131. Except for paragraphs 132 (apparatus in closed streets), 137 (specified works), 138 (expenses and costs) and 139 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights of Affinity Water or of Affinity Water's apparatus, the other provisions of this Part of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and Affinity Water are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

Apparatus in closed streets

132. Regardless of the temporary closure, alteration, diversion or restriction of use of any street under the powers conferred by article 12 (temporary restriction of use of streets), Affinity Water is at liberty at all times to take all necessary access across any such closed street and 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 of Affinity Water's apparatus which at the time of the closure or diversion was in that street.

Protective works to buildings

133. The undertaker, in the case of the exercise of the powers conferred by article 18 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access (including access required for maintenance) to, or maintenance of, any of Affinity Water's apparatus unless otherwise agreed in writing with Affinity Water, such agreement not to be unreasonably withheld.

Acquisition of land

134.—(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 must not—

(a) appropriate or acquire any interest in land held by Affinity Water or take temporary possession of any of Affinity Water's apparatus; or

(b) appropriate, acquire, extinguish, interfere with or override any easement or other interest or right of which Affinity Water or Affinity Water's apparatus has the benefit otherwise than with prior written consent of Affinity Water. Such consent may be subject to such conditions as Affinity Water may reasonably require and such conditions may include (but not be limited to)—

(i) provisions to ensure the creation, grant or transfer of such alternative easements, interests or rights for the benefit of Affinity Water's apparatus (including any alternative apparatus) as Affinity Water may reasonably require; and

(ii) where Affinity Water's apparatus is to remain in, on, under or over any authorised works or property of the undertaker that are to be present as a result of any appropriation, acquisition, extinguishment, interference or overriding within

paragraph (b), reasonable provisions in respect of the necessary consent by the undertaker that might otherwise be required from the undertaker under Schedule 13 to the Water Industry Act 1991 in respect of any interference to such authorised works or property of the undertaker resulting from the carrying out of any works or the exercise of any other powers by Affinity Water in respect of such of Affinity Water's apparatus.

(2) The reasonable provisions in sub-paragraph (1)(b)(ii) may include requirements for the undertaker and Affinity Water to determine no later than the date of completion of the authorised works, works or exercise of powers or categories of works or exercise of powers the carrying out or exercise of which by Affinity Water is capable of being consented to in advance by the undertaker. In respect of such works or powers that are capable of being consented to in advance by the undertaker, that advance consent under Schedule 13 of the Water Industry Act 1991 will be given by the undertaker on completion of the authorised works. In respect of those works or powers the carrying out or exercise of which by Affinity Water is not capable of being consented to in advance, the reasonable provisions will set out a process for the giving of the consent under Schedule 13 within specified expedited timescales (such timescales to be agreed between the undertaker and Affinity Water acting reasonably) following any request for such consent by Affinity Water.

Removal of apparatus

135.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any of Affinity Water's apparatus is placed, or over which any access to any of Affinity Water's apparatus is enjoyed, and requires that Affinity Water's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Affinity Water to maintain that apparatus in that land and to gain access to it must not be extinguished, until—

(a) alternative apparatus has been constructed and is in operation, and access to it has been granted to the reasonable satisfaction of Affinity Water in accordance with sub-paragraphs (2) to (9); and

(b) facilities and rights have been secured for that alternative apparatus in accordance with paragraph 136 (facilities and rights for alternative apparatus).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any of Affinity Water's apparatus placed in that land, the undertaker must give to Affinity Water 56 days' 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. In that case (or where, in consequence of the exercise of any of the powers conferred by this Order, Affinity Water reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Affinity Water, in so far as the undertaker has the ability to reasonably grant or transfer them, the necessary facilities and rights and consents, and the benefit of any statutory permits granted to the undertaker in respect of the apparatus in question (whether under the 2016 Regulations or other legislation), for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus. Such rights and consents will include reasonable provisions in respect of the necessary consent by the undertaker that might otherwise be required from the undertaker under Schedule 13 to the Water Industry Act 1991 in respect of any interference to the undertaker's authorised works or property resulting from the carrying out of any works or the exercise of any other powers by Affinity Water in respect of the alternative apparatus.

(3) The reasonable provisions in sub-paragraph (2) may include requirements for the undertaker and Affinity Water to determine no later than the date of completion of the authorised works, works or exercise of powers or categories of works or exercise of powers the carrying out or exercise of which by Affinity Water is capable of being consented to in advance by the undertaker. In respect of such works or powers that are capable of being consented to in advance by the undertaker, that advance consent under Schedule 13 to the Water Industry Act 1991 will be given by the undertaker on completion of the authorised works. In respect of those works or powers the carrying out or exercise of which by Affinity Water is not capable of being consented to in

advance, the reasonable provisions will set out a process for the giving of the consent under Schedule 13 within specified expedited timescales (such timescales to be agreed between the undertaker and Affinity Water acting reasonably) following any request for such consent by Affinity Water.

(4) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker 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, or the benefit of any statutory permits granted to the undertaker, Affinity Water will, on receipt of a written notice to that effect from the undertaker, as soon as reasonably practicable use its reasonable endeavours to obtain the necessary facilities and rights and consents in the land in which the alternative apparatus is to be constructed, and any required statutory permits.

(5) Affinity Water will have an absolute discretion whether or not to use or seek any powers of compulsory acquisition that may be available to Affinity Water for the purposes of sub-paragraph (4).

(6) Any alternative apparatus to be constructed in land of, or land secured by, the undertaker under this Part of this Schedule must be constructed in such manner and in accordance with such plans as may be agreed between Affinity Water and the undertaker or in default of agreement settled by arbitration in accordance with article 41 (arbitration).

(7) Affinity Water must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 41 (arbitration), and subject to any written diversion agreement having been entered into between the parties and after the grant to Affinity Water of any such facilities and rights or statutory permits as are referred to in sub-paragraphs (2) or (4), proceed in accordance with a programme that has been agreed or settled by arbitration in accordance with article 41 (arbitration) to construct and bring into operation the alternative apparatus and subsequently to remove any of Affinity Water's apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(8) Regardless of anything in sub-paragraph (7) if the undertaker gives notice in writing to Affinity Water that the undertaker desires itself to execute any work, or part of any work, in connection with the construction or removal of Affinity Water's apparatus in any land of the undertaker, that work, instead of being executed by Affinity Water, may be executed by the undertaker, with the prior written consent of Affinity Water (which must not be unreasonably withheld or delayed and is to be subject to any conditions as are reasonable and proper to protect Affinity Water's apparatus) in accordance with plans and in a position agreed between Affinity Water and the undertaker, or in default of agreement determined by arbitration in accordance with article 41(arbitration), without unnecessary delay under the superintendence, if given, and to the reasonable approval of Affinity Water.

(9) Following such approval given in writing by Affinity Water, any alternative apparatus will be deemed to be adopted by Affinity Water as though it had been adopted under s.51A (agreements to adopt water main or service pipe at future date) of the Water Industry Act 1991 on the date 28 days after the giving of such approval or such later date as is agreed in writing between Affinity Water and the undertaker.

(10) If Affinity Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then the undertaker shall have recourse to arbitration in accordance with article 41 (arbitration).

(11) In carrying out any work under sub-paragraph (8), the undertaker must comply with all statutory obligations which would have been applicable to the apparatus.

(12) Nothing in sub-paragraph (8) authorises the undertaker to—

(a) execute any work of connection to, or disconnection from, Affinity Water's operational network;

(b) execute the placing, installation, bedding, packing, removal, connection or disconnection of any of Affinity Water's apparatus, or execute any excavation and filling around any of

Affinity Water's apparatus (where the apparatus is laid in a trench) within 600 millimetres of any apparatus to be retained in situ; or

(c) carry out any works in relation to any water mains.

(13) Whenever alternative apparatus is to be or is being substituted for existing Affinity Water's apparatus, the undertaker must, before taking any steps which will trigger the need for those substitution works, use all reasonable endeavours to comply with Affinity Water's reasonable requests for a reasonable period of time to enable Affinity Water to—

(a) make network contingency arrangements; or

(b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

Facilities and rights for alternative apparatus

136.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Affinity Water facilities and rights for the construction, use, maintenance and protection of alternative apparatus in substitution for Affinity Water's apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Affinity Water and must be no less favourable on the whole to Affinity Water than the facilities and rights enjoyed by it in respect of Affinity Water's apparatus to be removed unless otherwise agreed by Affinity Water or in default of agreement settled by expert determination in accordance with paragraph 141 (expert determination) unless otherwise agreed in writing by the parties.

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in the land of the undertaker, any expert will—

(a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised works and for securing any subsequent alterations or adaptions of the alternative apparatus which may be required to prevent interference with the proposed works of the undertaker; and

(b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to Affinity Water's apparatus for which the alternative apparatus is to be substituted.

(3) 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 expert less favourable on the whole to Affinity Water than the facilities and rights enjoyed by it in respect of Affinity Water's apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the expert must make such provision for the payment of compensation by the undertaker to Affinity Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Specified works

137.—(1) Not less than 56 days before commencement of any specified works, the undertaker must submit to Affinity Water a plan in respect of the specified works to be executed.

(2) The plan must provide details of—

(a) the exact position, including level, of the specified works and of all of Affinity Water's apparatus;

(b) a method statement describing the manner of their construction or renewal including details of excavation and positioning of plant;

(c) detailed drawings showing every alteration proposed to be made to or close to any such apparatus;

(d) all expected physical impacts (including but not limited to electromagnetic or high voltage effects) that the construction, maintenance or operation of the specified works

may have on any of Affinity Water's apparatus, the removal of which has not been required by the undertaker under paragraph 135(2) or otherwise; and

(e) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until the plan has been approved by Affinity Water.

(4) Any approval by Affinity Water given under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5)(a); and

(b) must not be unreasonably withheld or delayed.

(5) Affinity Water may require—

(a) such modifications to be made to the plan as may be reasonably necessary for the purpose of securing Affinity Water's apparatus against interference or risk of damage or for the provision of protective works or for the purpose of providing or securing reasonable means of access to Affinity Water's apparatus; and

(b) the undertaker to re-submit the plan as modified, for approval to Affinity Water, and Affinity Water must advise the undertaker within 14 days of submission of the revised plan whether it is approved.

(6) Affinity Water may as part of giving its approval under sub-paragraph (3) require that any part of specified works comprising of the matters listed below is carried out by Affinity Water, not the undertaker, and in which case Affinity Water must proceed with such part of the specified works in accordance with a programme that has been agreed or settled by arbitration in accordance with article 41 (arbitration)—

(a) the placing, installation, bedding, packing, removal, connection or disconnection of any of Affinity Water's apparatus, or execute any excavation and filling around any of Affinity Water's apparatus (where the apparatus is laid in a trench) within 600 millimetres of any apparatus to be retained in situ; or

(b) any works in relation to any water mains.

(7) If the revised plan is not approved within 14 days, the undertaker may require a meeting to be held between the chief engineers of the undertaker and Affinity Water to agree the plan.

(8) If the undertaker and Affinity Water fail to reach an agreement on the plan, the dispute shall be settled by arbitration in accordance with article 41 (arbitration).

(9) Specified works must only be executed in accordance with—

(a) the plan submitted under sub-paragraph (1), as approved or as amended from time to time by agreement between the undertaker and Affinity Water or as otherwise settled by arbitration under sub-paragraph (8); and

(b) all conditions imposed under sub-paragraph (4)(a),

and Affinity Water will be entitled to supervise and inspect the execution of those works where reasonably practicable to do so and in accordance with any relevant health and safety legislation.

(10) Where Affinity Water requires (acting reasonably) any protective works to be carried out by itself or by the undertaker to ensure the safety of Affinity Water's apparatus (whether of a temporary or permanent nature), Affinity Water must specify what these protective works are, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph. The protective works must be carried out to Affinity Water's reasonable satisfaction prior to the commencement of any specified works for which protective works are required and Affinity Water must give notice of its requirement (in writing) for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency) and in that written notice Affinity Water must specify what the protective works are and how these ensure the safety of Affinity Water's apparatus (Affinity Water acting reasonably).

(11) If Affinity Water in accordance with this sub-paragraph (11) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any of Affinity Water's apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to

137(3) and (7) to 137(8) apply as if the removal of the apparatus had been required by the undertaker under sub-paragraph135(2).

(12) Nothing in this paragraph precludes the undertaker from submitting a new plan instead of the plan previously submitted, and the provisions of this paragraph apply to and in respect of the new plan provided that—

(a) where the new plan is materially different from the plan previously submitted, this new plan shall be submitted at least 56 days before commencing the execution of any works; and

(b) where the new plan is not materially different from the plan previously submitted, this new plan shall be submitted at least 28 days before commencing the execution of any works,

unless otherwise agreed with Affinity Water acting reasonably.

(13) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency works, but in that case must give to Affinity Water notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with reasonable requirements of Affinity Water in so far as is reasonably practicable in the circumstances.

(14) In this paragraph, "emergency works" means works which, at the time when they are executed are required in order to put an end to, or to prevent the occurrence of, existing or imminent circumstances (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

(15) Nothing in sub-paragraph (12) authorises the undertaker to carry out the works comprising of the matters listed in sub-paragraph (6) and should any such works need to be undertaken they will be undertaken by Affinity Water, not the undertaker and in which case Affinity Water must proceed with such part of the specified works in accordance with a programme that has been agreed or settled by arbitration in accordance with article 41 (arbitration).

(16) As soon as reasonably practicable after any ground subsidence event attributable to the authorised works the undertaker shall implement an appropriate ground mitigation scheme save that Affinity Water retains the right to carry out any further necessary protective works for the safeguarding of Affinity Water's apparatus and can recover any such costs in line with paragraph 138 (expenses and costs).

Expenses and costs

138.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Affinity Water within 30 days of receipt of an itemised invoice or claim from Affinity Water all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by Affinity Water but excluding any consequential loss or indirect loss, in, or in connection with—

(a) the supervision, inspection, removal, relaying, replacing, alteration or protection of any of Affinity Water's apparatus or the supervision, inspection, adoption and construction of any new apparatus or alternative apparatus which may be required in connection with the authorised works; and

(b) the consideration and approval of any plan as required by this Part of this Schedule.

(2) The costs as referred to in sub-paragraphs (1)(a) and (1)(b) are to include but not be limited to—

(a) any costs reasonably incurred by or compensation properly paid by Affinity Water in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by Affinity Water as a consequence of Affinity Water—

(i) using its own compulsory purchase powers to acquire any necessary rights under paragraph135(4); or

(ii) exercising any compulsory purchase powers in the Order transferred to or benefitting Affinity Water;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;

(c) the cutting off of any of Affinity Water's apparatus from any other of Affinity Water's 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;

(f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works as referred to in this Part of this Schedule;

(g) any costs reasonably necessary in consequence of the execution of any such works as are referred to in this Part of this Schedule; and

(h) any costs incurred as a result of any penalties or fines imposed on Affinity Water by any regulator directly resulting from the execution of or failure to execute in accordance with this Part of this Schedule any such works as are referred to in this Part of this Schedule.

(3) The value of any of Affinity Water's apparatus that is removed and re-used by Affinity Water, or any value recovered by Affinity Water from the scrapping of any apparatus removed and not re-used, under the provisions of this Part of this Schedule must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(4) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed by Affinity Water 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 by Affinity Water 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, is not determined by arbitration in accordance with article 41 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule 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 Affinity Water by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

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

(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;

(b) where it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or to place it at the existing depth, the capacity, dimensions and depth of the apparatus is to be treated as if it has been agreed or so determined; and

(c) 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 an inspection chamber is to be treated as if it also had been agreed or had been so determined.

(6) An amount which apart from this sub-paragraph would be payable to Affinity Water 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 Affinity Water 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.

(7) The amount of the reduction under sub-paragraph (6) must be calculated using the methodology set out in paragraph 29 of HAUC Advice Note and—

(a) the 1991 Act and any regulations made under that Act (including the cost-sharing regulations made under section 85 (sharing of cost of necessary measures) of that Act); and

(b) any other codes of practice or guidance issued under the 1991 Act or regulations made under that Act,

do not apply in respect of any such calculation under sub-paragraph (6).

(8) In relation to any anticipated costs to be payable by the undertaker to Affinity Water pursuant to sub-paragraph 138(1) Affinity Water must provide the undertaker, on receipt of a request from the undertaker, with a schedule showing its estimate 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 paragraph 138.

(9) Affinity Water must give the undertaker a final account of the costs in relation to which a schedule has been provided under sub-paragraph 138(8) and within 30 days of the issue of the final account—

(a) if the final account shows a further sum as due to Affinity Water the undertaker must pay to Affinity Water the sum shown due to it; and

(b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by Affinity Water, Affinity Water must refund the difference to the undertaker.

(10) Where the undertaker does not agree that an estimate provided by Affinity Water under sub-paragraph 138(8) is reasonable, the undertaker must notify Affinity Water of that within 15 days of receiving the schedule of estimate. The undertaker and Affinity Water will escalate the estimate internally and will each nominate a senior officer to attend a discussion on the estimate. Where the parties fail to reach agreement following such discussion, any difference or dispute over reasonableness of any excess sum shall be determined by expert determination in accordance with paragraph 141.

Indemnity

139.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction, operation or maintenance of any of the authorised works or any such works referred to in sub-paragraphs 136(1) or 136(2), or by reason of any subsidence resulting from the authorised works or such works, any damage is caused to any of Affinity Water's apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal pursuant to paragraph 135) or property of Affinity Water, or there is any interruption in any service provided, or in the supply of any goods, by Affinity Water, or, Affinity Water becomes liable to pay any amount to any third party incurred in accordance with the provisions of this paragraph, the undertaker must—

(a) bear and pay the cost reasonably incurred by Affinity Water, accompanied by an invoice, in making good such damage, restoring the supply or ensuring continuity of supply; and

(b) indemnify Affinity Water against all liabilities, claims, demands, losses (excluding any loss of profit), damages, proceedings, penalties, fines, levies, surcharges, or costs which may be made or taken against or recovered from or incurred by Affinity Water,

by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by Affinity Water on behalf of the undertaker or in accordance with a plan approved by Affinity Water under paragraph 137 or in accordance with any requirement of Affinity Water or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Affinity Water fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

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

(4) Affinity Water must give the undertaker reasonable notice of any such claim or demand and, unless payment is required in connection with a statutory compensation scheme, no settlement or compromise is to be made without first consulting the undertaker and considering their representations.

(5) Affinity Water must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) Affinity Water must use 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 applies where it is within Affinity Water's reasonable ability and control to do so but those endeavours expressly exclude any obligation to mitigate liability arising from third parties which is outside of Affinity Water's control. If reasonably requested to do so by the undertaker Affinity Water must provide an explanation of how the claim has been mitigated, where relevant.

Cooperation

140.—(1) Where in consequence of the proposed construction of any of the authorised works, the undertaker or Affinity Water requires the removal of Affinity Water's apparatus under paragraph 135(2) or Affinity Water makes requirements for the protection or alteration of Affinity Water's apparatus under paragraph 136, the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of Affinity Water's undertaking, using existing processes where requested by Affinity Water, provided it is appropriate to do so, and Affinity Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Affinity Water'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 the undertaker, it must not be unreasonably withheld or delayed.

(3) Where the undertaker identifies any apparatus which may belong to or be maintainable by Affinity Water but which has not previously been indicated by Affinity Water as being apparatus belonging to it, the undertaker shall inform Affinity Water of the existence and location of the apparatus as soon as reasonably practicable. If Affinity Water confirms that it owns or maintains the apparatus, that apparatus shall then be afforded the same protection under this Part of this Schedule as other apparatus belonging to Affinity Water.

(4) Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Affinity Water in respect of any of Affinity Water's apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

(5) The undertaker and Affinity Water may by written agreement substitute any periods of time set out in this Part of this Schedule for any other period of time.

Expert Determination

141.—(1) Article 41 (arbitration) of the Order does not apply to paragraph 136 (facilities and rights for alternative apparatus) of this Part of this Schedule.

(2) Any difference under this Part of this Schedule may be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) On notification by either party of a dispute, the parties must jointly instruct an expert within 14 days of notification of the dispute.

(4) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date that an expert is appointed.

(5) The expert must—

(a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 7 days of the expert's appointment;

(b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;

(c) issue a decision within 7 days of receipt of the submissions under sub-paragraph (b); and

(d) give reasons for the decision.

(6) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 41 (arbitration).

(7) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

Access

142. If, in consequence of any agreement reached in accordance with paragraph 134 or of the exercise of the powers conferred by this Order, the access to any of Affinity Water's apparatus is materially obstructed, the undertaker must at all times provide such alternative rights and means of access to such apparatus as will enable Affinity Water to maintain or use Affinity Water's apparatus no less effectively than was possible before such obstruction.

PART 11

FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY TRANSMISSION

Application

143. The provisions of this Part of this Schedule have effect unless otherwise agreed in writing between the undertaker and National Grid.

Interpretation

144. In this Part—

"apparatus" means electric lines or electrical plant (as defined in the 1989 Act, belonging to or maintained by National Grid together with any replacement apparatus, and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"EACN Substation Area" means the land shown in the lands plans as plots 16-006, 16-007 and 16-008, within which National Grid intends to construct the New National Grid Substation;

"Incentive Deduction" means any incentive deduction National Grid Electricity Transmission Plc receives under its electricity transmission licence which is caused by an event on its transmission system that causes electricity not to be supplied to a demand customer and which arises as a result of the authorised development;

"New National Grid Substation" means the substation to be constructed by National Grid within the EACN Substation Area as part of the NTT project, and into which the undertaker will connect as part of the authorised development;

"New National Grid Substation Boundary" means the area forming the new National Grid substation located within the EACN Substation Area, which lies or will lie within the final fenceline of that substation site and within which the connection agreement between the undertaker and National Grid Electricity System Operator applies;

"NTT project" means the Norwich to Tilbury Grid reinforcement project, for which National Grid intends to submit a Development Consent Order application;

"Specified Works" means any of the onshore works or activities undertaken in association with the onshore works which—

(a) will or may be situated over, or within 15 metres measured in any direction of any apparatus; and/or

(b) may in any way adversely affect any apparatus; and/or

(c) includes any of the activities that are referred to in development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines";

"STC" means the System Operator Transmission Owner Code prepared by the electricity Transmission Owners and National Grid Electricity System Operator as modified from time to time;

"STC Claims" means any claim made under the STC against National Grid arising out of or in connection with the de-energisation (whereby no electricity can flow to or from the relevant system through the generator or interconnector's equipment) of a generator or interconnector party solely as a result of the de-energisation of plant and apparatus forming part of National Grid Electricity Transmission Plc's transmission system which arises as a result of the authorised works; and

"Transmission Owner" means as defined in the STC.

Compulsory acquisition of land and rights

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

146. Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to this Order, the undertaker must not acquire any interest in the part or parts of plots 16-006, 16-007 and 16-008 which is or will be within the New National Grid Substation Boundary, provided that notification of the final location of that substation is received from National Grid prior to the exercise of any power to compulsorily acquire rights over plots 16-006, 16-007 and 16-008 being exercised.

147. Where the undertaker acquires any right in land that is subsequently notified to the undertaker as being within the New National Grid Substation Boundary, the undertaker may not exercise, rely on such right within that boundary unless otherwise agreed.

148.—(1) Subject to sub-paragraph (2), the undertaker must not permanently acquire any interest in plots 16-006, 16-007 and 16-008 until the design of the New National Grid Substation has been finalised, and the final location of the undertaker's connection bay has been identified and notified to the undertaker, and the extent of land rights necessary for the connection (cable route location and extent of access rights and easement) has been agreed with National Grid.

(2) Where, before the design of the New National Grid Substation has been finalised and the final location of the undertaker's connection bay has been identified and notified to the undertaker—

(a) it is reasonably necessary to maintain the undertaker's construction programme; or

(b) the expiry of temporary possession powers in plots 16-006, 16-007 and 16-008 means that it is necessary for the undertaker to acquire permanent land rights in plots 16-006, 16-007 and 16-008;

then the undertaker may exercise powers under this Order to compulsorily acquire the necessary rights for the cables and access thereto over all of plots 16-006, 16-007 and 16-008.

149. In so far as National Grid has acquired an interest in plots 16-006, 16-007 and 16-008 and/or is in occupation of any part of those plots, the undertaker may not exercise temporary possession powers over plots 16-006, 16-007 and 16-008 without the prior agreement of National Grid to such exercise being obtained, which consent must not be unreasonably withheld or delayed.

Protection of National Grid apparatus

150.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to this Order, the undertaker may not, under the powers of this Order, adjust, remove, alter, divert or interfere with any apparatus owned by National Grid (including any future electric transmission infrastructure in the vicinity of the Order land which National Grid may require to discharge its statutory duties) otherwise than by agreement.

(2) The undertaker will not seek to acquire or exercise any rights to remove any National Grid apparatus under compulsory powers granted by this Order, including but not limited to the power to install, alter, re-lay, maintain, protect, adjust or remove pipes, cables or conduits or apparatus including but not limited to electricity poles, electricity pylons, electricity masts, overhead electricity lines, telecommunications cables and any ancillary equipment and apparatus public and private drains, watercourses, sewers, ponds or culverts, service media (including the pipes, cables or conduits or apparatus of statutory undertakers), without the prior written consent of National Grid to any such acquisition or exercise being obtained.

151. National Grid's rights, including without limitation rights to retain, access and maintain its apparatus and any future apparatus where that apparatus is located in the vicinity of the Order land, which National Grid may require to discharge its statutory duties, will not be impeded throughout any period of temporary possession or survey works authorised by this Order. In exercising such rights within any area of which the undertaker is in temporary possession, National Grid will have reasonable regard to any request by the undertaker which the undertaker advises National Grid is necessary to comply with health and safety obligations and/or any requirement under the Construction (Design and Management) Regulations 2015 as to how National Grid exercises such rights and carries out any works.

Works in the EACN Substation Area

152. At all times after National Grid has commenced construction and when the undertaker is—

(a) working within plots 16-006, 16-007 and 16-008; and

(b) within any area within the ownership or control of National Grid; and/or

(c) are carrying out any Specified Works; but

(d) (excepting any works which are works regulated by the connection agreement between the undertaker and National Grid Energy Systems Operator (or a successor thereto) and carried out within the New National Grid Substation Boundary which will be governed solely by that agreement and not this Part;

to comply with paragraphs 153 and 154 of this Part.

153.—(1) Not less than 56 days before the commencement of any works to which paragraph 152 applies, the undertaker must submit to National Grid a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity assets.

(2) In relation to works to which paragraph 152 applies, the plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe (in so far as is relevant to those works)—

(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;

(g) an assessment of risks of rise of earth issues; and

(h) a ground monitoring scheme, where required.

(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—

(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 any 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 any cable route;

(f) written details of the operations and maintenance regime for any cable, including frequency and method of access;

(g) assessment of earth rise potential if reasonably required by National Grid Electricity Transmission Plc's engineers; and

(h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of up to and including 26 tonnes in weight.

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

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

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and

(b) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, 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, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (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 (6) 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 will be entitled to watch and inspect the execution of those works.

(8) Where National Grid requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid's reasonable satisfaction prior to the commencement of the work(s) for which protective works are required and National Grid shall

give notice its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (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, sub-paragraphs (6) or (8) apply as if the removal of the apparatus had been required by the undertaker.

(10) Nothing in this paragraph precludes 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 the works to which paragraph 152 applies, 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 either 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 comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (12) at all times.

(12) At all times when carrying out any works to which paragraph 152 applies, the undertaker must comply with National c's policies for development near overhead lines EN43-8 and the Health and Safety Executive's guidance note 6 "Avoidance of Danger from Overhead Lines".

Indemnity

154.—(1) Where paragraph 152 applies, subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction use or maintenance or failure of any works to which paragraph 152 applies 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 of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus 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 must—

(a) bear and pay on demand accompanied by an invoice or claim from National Grid the cost reasonably and properly 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 and including STC Claims or an Incentive Deduction other than arising from any default of National Grid.

(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 or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National Grid 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 accord with the approved plan.

(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/or

(b) any works to which paragraph 152 applies and/or any other works authorised by this Part of this Schedule carried out by National Grid as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the 2008 Act or article 5 (benefit of the Order) subject to the proviso that once such works become apparatus ("new apparatus"), any works to which paragraph 152 applies yet to be executed and not falling within this sub-paragraph 154(3)(b) will be subject to the full terms of this Part of this Schedule including this paragraph154; and/or

(c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) National Grid must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Grid must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Grid must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Grid's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Grid's control and if reasonably requested to do so by the undertaker National Grid must provide an explanation of how the claim has been minimised, where relevant.

155. Any dispute arising between the undertaker and National Grid under this Part of this Schedule, if the parties agree, is to be determined by arbitration under article 41 (arbitration).

PART 12

FOR THE PROTECTION OF CADENT GAS LIMITED

Application

156. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

Interpretation

157. In this Part of this Schedule—

"apparatus" means any gas mains, pipelines, pipes, pressure governors, ventilators, cathodic protection (including transformed rectifiers and any associated groundbeds or cables), cables, marker posts, block valves, hydrogen above ground installations or other apparatus belonging to, or maintained by, Cadent for the purposes of Cadent's undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of Cadent for the purposes of Cadent's undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"authorised works" has the same meaning as is given to the term "authorised development" in article 2 of the Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

"Cadent" means Cadent Gas Limited and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

"Cadent's undertaking" means the rights, duties and obligations of Cadent as a public gas transporter within the meaning of Section 7 of the Gas Act 1986;

"commence" and "commencement" include any below ground surveys, intrusive monitoring or work operations, remedial work in respect of any contamination or other adverse ground condition;

"facilities and rights" for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance, and any necessary rights of access;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by Cadent (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, will require the undertaker to submit for Cadent'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" will include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Cadent including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable 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, proper and sufficient to describe and assess the works to be executed;

"rights" includes rights and restrictive covenants and, in relation to decommissioned apparatus, the surrender of rights, release of liabilities and transfer of decommissioned apparatus; and

"specified works" means any of the authorised works or activities (including maintenance) undertaken in association with the authorised works 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 162(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 162(2) or otherwise; or

(c) include any of the activities that are referred to in CD/SP/SSW/22 Cadent's policies for safe working in proximity to gas apparatus Specification for safe working in the vicinity of Cadent Assets.

On Street apparatus

158.—(1) This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act, except for—

(a) paragraphs 159, 164, 165 and 166; and

(b) where sub-paragraph 158(2) applies, paragraphs 162 and 163.

(2) This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within the existing public highway, notwithstanding that any diversion may be carried out under the provisions of Part 3 of the 1991 Act.

(3) Notwithstanding article 9 (application of the 1991 Act) or any other powers in this Order generally, s85 of the 1991 Act in relation to cost sharing and the regulations made thereunder will not apply in relation to any diversion of apparatus of Cadent under the 1991 Act.

Access to apparatus

159. Notwithstanding the temporary restriction of use of any street under the powers of article 12 (temporary restriction of use of streets), Cadent will be at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as it would have been entitled to do immediately before such temporary alteration, diversion or restriction in respect of any apparatus which at the time of the closure or diversion was in that street.

Protective works to buildings

160.—(1) The undertaker, in the case of the powers conferred by article 18 (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 (which must not be unreasonably 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 or any interruption in the supply of gas by Cadent, as the case may be, is caused, the undertaker must bear and pay on demand the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and, subject to sub-paragraph (2), will pay compensation to Cadent for any loss sustained by it.

(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 or its contractors or workmen; and Cadent will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof must shall be made by Cadent, 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.

Acquisition of land

161.—(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 appropriate or acquire from Cadent any interest in land or appropriate, acquire, extinguish, interfere with or override any easement or other interest in land of Cadent otherwise than by agreement (such agreement not to be unreasonably withheld).

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out or maintenance of any part of the authorised works (or in such other timeframe as may be agreed between Cadent and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of Cadent and/or affects the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to procure and/or secure the consent to and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule 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 and other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Part of this Schedule will prevail.

(4) Any agreement or consent granted by Cadent under paragraph 163 or any other paragraph of this Part of this Schedule, will be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement under sub-paragraph (1) that involves de-commissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement and/or other interest of Cadent in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release Cadent from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any Cadent right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 162 do not apply, the undertaker must, unless Cadent agrees otherwise—

(a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and

(b) (where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of Cadent's easement, right or other interest in relation to such acquired land.

Removal of apparatus

162.—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 161, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of Cadent to maintain that apparatus in that land must not be extinguished or interfered with until alternative apparatus has been constructed, is in operation, and the facilities and rights referred to in sub-paragraph (2) have been provided, to the satisfaction of Cadent and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works 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 advance 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 Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its reasonable satisfaction (taking into account paragraph 163(1)) the necessary facilities and rights—

(a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus);

(b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); and

(c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus).

(3) If 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 may, 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 assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Cadent and the undertaker.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed or settled, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3) have been afforded to Cadent to its satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

163.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) 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 (in Cadent's reasonable opinion) than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed, then the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 169 (arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of Cadent

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

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

(a) the exact position of the specified 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) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until Cadent has given written approval of the plan so submitted (and the ground monitoring scheme if required).

(4) Any approval of Cadent given under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5); and

(b) must not be unreasonably withheld or delayed.

(5) For the purposes of sub-paragraph (4)(b) it will be deemed to be reasonable for any approval to be refused if Cadent considers that the specified works would—

(a) cause material risk of damage to its apparatus; or

(b) prevent access to its apparatus unless alternative means of access to such apparatus is provided in accordance with paragraph 168.

(6) In relation to any work to which sub-paragraphs (1) and/or (2) apply Cadent may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing its apparatus against material risk of damage or for the purpose of providing or securing means of access to maintain or use the apparatus no less effectively than was possible before the specified works.

(7) Works to which this paragraph applies must only be executed in accordance with—

(a) the plan submitted under sub-paragraph (1) and (2) (and where relevant sub-paragraph (4)) (and ground monitoring scheme if required), as approved or as amended from time to time by agreement between the undertaker and Cadent; and

(b) all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works where reasonably practicable to do so and in accordance with any relevant health and safety legislation.

(8) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(9) If Cadent, 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 156 to 158 and 161 to 163 apply as if the removal of the apparatus had been required by the undertaker under paragraph 162(2).

(10) Nothing in this paragraph precludes 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 the specified works, 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.

(11) As soon as reasonably practicable after any ground subsidence event attributable to the specified works (including such an event attributable to its maintenance)—

(a) the undertaker must implement an appropriate ground mitigation scheme; and

(b) Cadent 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 165.

(12) The undertaker is not 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 notice as soon as is reasonably practicable and a plan of those works and must comply with—

(a) the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances; and

(b) sub-paragraph (13) at all times.

(13) At all times when carrying out any works authorised under the Order the undertaker must comply with the Cadent's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of Cadent Assets CAD//SP/SSW/22" and HSE's "HS(~G)47 Avoiding Danger from underground services".

Expenses

165.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent on demand all reasonable charges, costs and expenses anticipated or incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the negotiation and/or acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent;

(i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 162(3) if it elects to do so; and/or

(ii) exercising any compulsory purchase powers under this Order transferred to or benefitting Cadent;

(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;

(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 of this Schedule;

(g) any watching brief pursuant to paragraph 164(7).

(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 of this Schedule 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 of this Schedule—

(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 41 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule 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 statutory undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

(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 Cadent 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 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.

Enactments and agreements

166. Except where this Part of this Schedule provides otherwise, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

167.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or Cadent requires the removal of apparatus under paragraph 162(2) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 164, the undertaker must 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 works and taking into account the need to ensure the safe and efficient operation of Cadent's undertaking and Cadent must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent'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 the undertaker, Cadent's consent must not be unreasonably withheld or delayed.

Access

168. If in consequence of any agreement reached in accordance with paragraph 161(1) or the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

169. Save for differences or disputes arising under paragraphs 162(2), 162(4), 163(1) and 164 any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 41 (arbitration).

PART 13

FOR THE PROTECTION OF EASTERN POWER NETWORKS

Application

170. For the protection of EPN as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and EPN.

Interpretation

171. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable EPN to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means electric lines and electrical plant (as defined in section 64(1) of the 1989 Act (**a**)), belonging to or maintained by EPN;

"EPN" means Eastern Power Networks plc (company number 02366906) whose registered office is at Newington House, 237 Southwark Bridge Road, London SE1 6NP;

"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;

"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 the works to be executed; and

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(**a**) 1989 c. 29.

"specified works" means any of the authorised development which—

(a) will or may be situated within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 176(2) or otherwise; or

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 176(2) or otherwise.

On street apparatus

172. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and EPN are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in restricted streets and public rights of way

173. Regardless of the temporary alteration, diversion or restriction of use of any street or public right of way under the powers of article 11 (temporary closure of public rights of way) and article 12 (temporary restrictions of use of streets), EPN is at liberty at all times to take all necessary access across any such restricted, altered or diverted street or public right of way and to execute and do all such works and things in, upon or under any such street or public right of way as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the restriction, alteration or diversion was in that street or public right of way.

Protective works to buildings

174. The undertaker, in the case of the powers conferred by article 18 (protective works to buildings), must exercise those powers so as not to obstruct or render materially less convenient the access to any apparatus or the ability of EPN to perform its statutory duties (such agreement not to be unreasonably withheld or delayed).

Acquisition of land

175. 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.

Removal of apparatus

176.—(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 or requires that apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule and any right of EPN 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 EPN in accordance with sub-paragraphs (2) to (6).

(2) If, for the purpose of executing any specified works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to EPN no less than 28 days' 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 EPN reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to EPN the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance and use 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, EPN 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 save that this obligation does not extend to the requirement for EPN to use its powers of compulsory acquisition unless it elects to do so.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between EPN and the undertaker or in default of agreement settled by arbitration in accordance with paragraph 184 (arbitration).

(5) EPN must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with paragraph 184 (arbitration), and after the grant to EPN 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 of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to EPN that the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by EPN, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of EPN.

Facilities and rights for alternative apparatus

177.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to EPN necessary facilities and rights in land for the construction and maintenance of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms as may be agreed between the undertaker and EPN and must be no less favourable on the whole to EPN than the facilities and rights enjoyed by it in respect of the apparatus to be removed, unless otherwise agreed by EPN, such agreement not to be unreasonably withheld or delayed.

(2) If the facilities and rights to be afforded by the undertaker and agreed with EPN under sub-paragraph (1) 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 EPN 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 matter may be referred to arbitration in accordance with paragraph 184 (arbitration) and the arbitrator must make such provision for the payment of compensation by the undertaker to EPN as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

178.—(1) Not less than 56 days before the commencement of any specified works, the undertaker must submit to EPN a plan of the works to be executed.

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

(a) the exact position of the works;

(b) the level at which the works are proposed to be constructed or renewed;

(c) the manner of the construction or renewal of the works;

(d) the position of all apparatus; and

(e) by way of detailed drawings, every alteration proposed to be made to such apparatus.

(3) The undertaker must not commence any specified works until EPN has given written approval of the plan and works so submitted.

(4) Any approval of EPN given under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5); and

(b) must not be unreasonably withheld or delayed.

(5) EPN may require such modifications to be made to the plan 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) Specified works must be executed in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (5) by EPN for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and EPN will be entitled to watch and inspect the execution of those works where reasonably practicable to do so and in accordance with any relevant health and safety legislation.

(7) Any requirements made by EPN under sub-paragraph (5) must be made within a period of 28 days beginning with the date on which the plan is submitted to it.

(8) If EPN in accordance with sub-paragraph (5) 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 172 to 174 and 177 to 17979 apply as if the removal of the apparatus had been required by the undertaker under paragraph 176(2).

(9) Nothing in this paragraph precludes 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 specified works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

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

(11) In sub-paragraph (10), works that are carried out "in a case of emergency" means such works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

Expenses and costs

179.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to EPN all expenses reasonably and properly incurred or to be incurred by EPN in, or in connection with—

(a) the inspection, removal, alteration, relaying, replacing or protection of any apparatus or the construction of any alternative apparatus which may be required in consequence of the execution of any specified works;

(b) the acquisition of facilities and rights or exercise of statutory powers for any apparatus or alternative apparatus in consequence of the operation of any of these provisions;

(c) the cutting off of any apparatus from any other apparatus, or the making safe of any redundant apparatus, in consequence of the exercise of any power conferred by this Order affecting EPN's apparatus;

(d) the survey of any land, apparatus or works, the superintendence and monitoring of works and the installation or removal of any temporary works reasonably necessary in consequence of the exercise of any power conferred by this Order affecting EPN's apparatus; and

(e) any other work or thing rendered reasonably necessary in consequence of the exercise of any power conferred by this Order affecting EPN's apparatus.

(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 of this Schedule, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(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, is not determined by arbitration in accordance with paragraph 184 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule 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 EPN by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus must 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 must be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to EPN in respect of works by virtue of sub-paragraph (1), 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 EPN any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

180.—(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 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 EPN, or there is any interruption in any service provided, or in the supply of any goods, by EPN, the undertaker must—

(a) bear and pay the cost reasonably and properly incurred by EPN in making good such damage or restoring the supply; and

(b) indemnify EPN against any other losses, expenses, demands, proceedings, damages, claims, penalty or costs properly incurred by or recovered from EPN, by reason or in consequence of any such damage or interruption or EPN becoming liable to any third party as aforesaid other than arising from any default of EPN.

(2) The fact that any act or thing may have been done by EPN on behalf of the undertaker or in accordance with a plan approved by EPN or in accordance with any requirement of EPN or under its supervision will not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1), unless EPN 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 accord with the approved plan agreed by EPN in accordance with paragraph 176(4) and paragraph 178(3).

(3) Nothing in sub-paragraph (1) will 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 EPN, its officers, servants, contractors or agents;

(b) any part of the specified works carried out by EPN in the exercise of any functions conferred by this Order pursuant to a transfer or grant under article 5 (benefit of the Order); or

(c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) EPN must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must be made without the consent of the undertaker and, if such consent is withheld, the undertaker will have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(5) EPN must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) EPN 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 applies and if reasonably requested to do so by the undertaker EPN must provide an explanation of how the claim has been minimised.

Enactments and agreements

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

Cooperation

182.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or EPN requires the removal of apparatus under paragraph 176(2) or EPN makes requirements for the protection or alteration of apparatus under paragraph 178(4), the undertaker must 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 EPN's undertaking and EPN must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever EPN'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 the undertaker, it must not be unreasonably withheld or delayed.

Access

183. 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 that apparatus as will enable EPN to maintain or use the apparatus no less effectively than was possible before the obstruction.

Arbitration

184. Any difference or dispute arising between the undertaker and EPN under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and EPN, be determined by arbitration in accordance with article 41 (arbitration).

PART 14

FOR THE PROTECTION OF THE PORT OF LONDON AUTHORITY

185. In this part—

"Area of Interest" means any part of those areas shown shaded in orange, pink, green and blue on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan;

"cable specification and installation plan" means the cable specification and installation plan to be approved under condition 22(1)(h) of the deemed marine licence for the transmission assets in Schedule 9;

"construction" includes execution, placing, altering, replacing, relaying, removal, renewal works of maintenance and decommissioning, in its application to a specified work which includes or comprises any operation, means the carrying out of that operation, and "construct" and "constructed" are to be construed accordingly;

"commencement" for the purpose of this Part 14 of Schedule 14 means the first carrying out of any authorised development and survey and monitoring activities;

"Deep Water Routes" mean the Sunk and Trinity deep water routes and the Sunk Pilotage Area;

"installation" has the same meaning as construction and 'installed' is to be construed accordingly;

"operation and maintenance plan" means the operation and maintenance plan to be approved under condition 12(4) of the deemed marine licence for the transmission assets in Schedule 9;

"maintain" has the same meaning as in Article 2 save that it includes monitoring within the Area of Interest and maintenance shall be construed accordingly;

"navigation and installation plan" means the navigation and installation plan to be approved under condition 22(1)(n) of the deemed marine licence for the transmission assets in Schedule 9;

"sediment disposal management plan" means the sediment disposal management plan to be approved under condition 22(1)(o) of the deemed marine licence for the transmission assets in Schedule 9;"

"specified work" means Work No. 3 and any other part of the offshore works forming part of the authorised development (including associated development and ancillary works and which for this purpose includes the maintenance and decommissioning of any part of the authorised development); and

"PLA" means Port of London Authority.

Application

186. The following provisions, unless otherwise agreed in writing between the undertaker and the PLA, have effect, for the protection of the PLA in relation to the construction, operation and maintenance of any specified work.

Approvals and notice

187.—(1) The undertaker will obtain the approval in writing of the PLA on—

(a) any cable specification and installation plan (in so far as that plan relates to any specified work within or which may affect the Area of Interest) before any application for approval of that plan may be submitted by the undertaker in compliance with condition 22(1) of the deemed marine licence for the transmission assets in Schedule 9 and any revisions arising from such application;

(b) any navigation and installation plan (in so far as that plan relates to any specified work within or which may affect the Area of Interest) before any application for approval of that plan may be submitted by the undertaker in compliance with condition 22(1) of the deemed marine licence for the transmission assets in Schedule 9 and any revisions arising from such application;

(c) any sediment disposal management plan (in so far as that plan relates to any specified work within or which may affect the Area of Interest) before any application for approval of that plan may be submitted by the undertaker in compliance with condition 22(1) of the deemed marine licence for the transmission assets in Schedule 9 and any revisions arising from such application; and

(d) any operation and maintenance plan (in so far as that plan relates to any specified work within or which may affect the Area of Interest) before any application for approval of that plan may be submitted by the undertaker in compliance with condition 12(4) of the

deemed marine licence for the transmission assets in Schedule 9 and any revisions arising from such application.

(2) The undertaker will consult the PLA on the proposed activities and programme for any pre-construction monitoring, construction monitoring, post construction monitoring and related reporting within the Area of Interest no less than 20 business days before such survey work is programmed to commence. The undertaker must have regard to any request made by the PLA for reasonable amendment to the proposed activities or programme, which request must be made to the undertaker within five business days of receipt of the details of the proposed activities and programme.

(3) The undertaker must notify the PLA of the final planned programme for any pre-construction monitoring, construction monitoring, and post construction monitoring within the Area of Interest no less than five business days before such survey work is programmed to begin.

(4) The undertaker will consult the PLA on any application for marine licensing for the clearance of unexploded ordnance within or which may affect the Area of Interest before such applications are submitted to the MMO. The undertaker must have regard to any request made by the PLA for reasonable amendment to the proposed application, which request must be made to the undertaker within 10 business days of receipt of the details of the proposed application.

(5) The undertaker must notify the PLA of the final programme for any clearance of unexploded ordnance to be undertaken within, or which may affect, the Area of Interest no less than 20 business days before such disposal is programmed to begin.

(6) The undertaker will consult the PLA on the activities and programme for any specified work to be undertaken under this Order which is not covered by the cable specification and installation plan and which is within or may affect the Area of Interest no less than 20 business days before such specified work is programmed to commence. The undertaker must have regard to any request made by the PLA for reasonable amendment to the activities or programme.

(7) The undertaker must notify the PLA of the final method statement and programme for any specified work to be undertaken under this Order which is not covered by the cable specification and installation plan and which is within or may affect the Area of Interest no less than five business days before such work is programmed to begin.

Cable Specification and Installation Plan

188. The cable specification and installation plan referred to in paragraph 187 must be informed by a cable burial risk assessment for Work No.3 to include—

(a) in so far as it applies to the Deep Water Routes demonstrate compliance with requirement 2(3) that any part of Work No.3, any associated development or ancillary works located within the Area of Interest as shown shaded yellow on the Deep Water Route Cable Installation Area (Future Dredging depths) plan must be installed at a level which would not preclude or impede the dredging of those parts of the Deep Water Routes—

(i) shown shaded in orange and labelled Sunk A – Sunk DW Buffer, to a level of 22 metres below Chart Datum;

(ii) shown shaded in pink and labelled Trinty – Trinity DW Buffer, to a level of 22 metres below Chart Datum;

(iii) shown shaded in green and labelled Sunk B – Sunk B – Sunk DW Buffer, to a level of 19 metres below Chart Datum; and

(iv) shown shaded in blue and labelled Sunk Pilotage Area – Sunk Pilot Diamond Buffer, to a level of 22 metres below Chart Datum;

(b) the proposed cable installation methods and measures for management of construction risks;

(c) additional cable burial depths required or any other forms of cable protection proposed including type, volume and locations;

(d) during construction of the cables and cable protection in the Area of Interest arrangements for the consultation of the PLA in a timely manner, on such matters

regarding those works as the PLA may reasonably request including arrangements for providing the PLA with a point of contact for continuing liaison and co-ordination throughout the construction of these works;

(e) the proposed programme of work for cable installation and arrangements for notification of any changes to the programme to the PLA;

(f) the programme and methodologies for monitoring and the arrangements for the results of these surveys or other construction evidence being made available to the PLA within 10 business days of the undertaker receiving reports of the survey results; together with methods and timescales to rectify any issues which may compromise the level referred to requirement 2(3) or evidence to demonstrate compliance with the depths referred to in requirement 2(3);

(g) methods and timescales to rectify any issues which may compromise the depth referred to in requirement 2(3);

(h) a requirement for a process (subject to Condition 39 Remediation, Schedule 9) and timescales (both the undertaker and the PLA acting reasonably) for cable re-installation should the level of the cable be such that the under keel clearance specified in Outline CSIP cannot be achieved over the lifetime of the authorised development.

Monitoring

189. If following the results of any geophysical surveys carried out using multi-beam echo sounder survey , it is confirmed that cable exposure has occurred within the Area of Interest, the undertaker will notify the PLA as soon as reasonably practicable and in any event no later than 2 business days after the undertaker confirms any exposure has occurred.

Provision of as built details

190. As soon as reasonably practicable following the completion of the installation of cables forming Work No. 3 and after any maintenance of the same, the undertaker must provide (on a strictly confidential basis) to the PLA as built drawings of Work No. 3 in a form and scale to be agreed between the undertaker and the PLA to show the position, depth and any cable protection installed as part of Work No. 3 in relation to the Deep Water Routes provided that the PLA must not disclose (without the written consent of the undertaker) any information that has been provided by the undertaker to the PLA on a confidential basis or which is marked as commercially sensitive and must hold such information on a confidential basis only, except that the PLA may provide the information to contractors and agents acting on its behalf (including but not limited to contractors engaged to carry out dredging operations) provided that such agents and contractors are required by the PLA to treat such information as confidential.

Indemnity

191.—(1) The undertaker will pay to the PLA its proper and reasonable legal costs, professional fees and disbursements incurred in connection with reviewing the details submitted to the PLA pursuant to this Part 14 of Schedule 14.

(2) The undertaker is responsible for and must make good to the PLA all financial costs, charges, damages losses or expenses which may be incurred reasonably or suffered by the PLA by reason of—

(a) the construction or operation of Work no. 3, any specified work or its failure or a failure to adhere to the requirements of this Part 14 of Schedule 14; and

(b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged on the construction or operation of a specified work or Work no. 3 or with any failure, and the undertaker must indemnify the PLA from and against all claims and demands arising out of or in connection with a specified work, Work no. 3 or any such failure, act or omission or any failure to adhere to the requirements of this Part 14 of Schedule 14.

(3) The fact that any act or thing may have been done—

(a) by the PLA on behalf of the undertaker; or

(b) by the undertaker, its employees, contractors or agents in accordance with plans or particulars submitted to or modifications or conditions specified by the PLA, or in a manner approved by the PLA, or under its supervision or the supervision of its duly authorised representative, does not (if it was done or required without negligence on the part of the PLA or its duly authorised representative, employee, contractor or agent) excuse the undertaker from liability under the provisions of this paragraph.

(4) The PLA must give the undertaker reasonable notice of any such claim or demand as is referred to in sub-paragraphs (1) and (2) and no settlement or compromise of it is to be made without the prior consent of the undertaker.

Transfer of the benefit

192. The undertaker must within 7 days after the completion of any sale, agreement or other transaction under article 5 (Benefit of the Order) in relation to which any powers, rights and obligations of the undertaker are transferred to another party, notify the PLA in writing, and the notice must include particulars of the other party to the transaction under article 5, the general nature of the transaction and details of the extent, nature and scope of the works or functions sold, transferred or otherwise dealt with.

Disputes

193. Any dispute arising between the undertaker and the PLA under this part of this Schedule is to be escalated in the first instance to senior representatives from the PLA and the undertaker, and the PLA and undertaker must seek to resolve the dispute through a meeting between the parties promptly and in any event within 10 business days. Where following escalation the dispute is not resolved, it is to be determined by arbitration as provided in article 41 (arbitration) of this Order.

PART 15

FOR THE PROTECTION OF LONDON GATEWAY PORT LIMITED

Interpretation

194. In this part—

"the cable specification and installation plan" means the cable specification and installation plan to be approved under condition 22(1)(h) of the deemed marine licence for the transmission assets in Schedule 9 (deemed marine licence under the 2009 Act – transmission assets);

"London Gateway" means London Gateway Port Limited, Company No. 04341592 as harbour authority for London Gateway Port, pursuant to the London Gateway HEO and includes and person to whom the right to operate the whole of the undertaking is disposed under article 46 of the London Gateway HEO;

"London Gateway HEO" means the London Gateway Port Harbour Empowerment Order 2008(**a**);

"the navigation and installation plan" means the sediment disposal management plan to be approved under condition 22(1)(n) of the deemed marine licence for the transmission assets in Schedule 9 (deemed marine licence under the 2009 Act – transmission assets);

(**a**) S.I. 2008/1261.

"the relevant plans" means the cable specification and installation plan, the navigation and installation plan and the sediment disposal management plan; and

"the sediment disposal management plan" means the sediment disposal management plan to be approved under condition 22(1)(o) of the deemed marine licence for the transmission assets in Schedule 9 (deemed marine licence under the 2009 Act – transmission assets).

Application

195. The following provisions, unless otherwise agreed in writing between the undertaker and the London Gateway, have effect.

Approvals

196.—(1) The undertaker will obtain the approval in writing of London Gateway of each of the relevant plans (in so far as those plans relate to any area or areas of the authorised development which are within the limits of deviation for dredging of London Gateway as defined by the London Gateway HEO) before any application for approval of those plans is submitted by the undertaker in compliance with condition 22 of the deemed marine licence for the transmission assets in Schedule 9 (deemed marine licence under the 2009 Act – transmission assets).

(2) The draft cable specification and installation plan referred to in sub-paragraph (1) must be in accordance with requirement 2(3) and set out for Work No. 3—

(a) the proposed cable burial depth(s);

(b) the proposed cable burial methods;

(c) any cable protection proposed including type, volume and anticipated locations;

(d) the proposed programme of work for cable burial; and

(e) details of how any impacts on shipping to and from London Gateway Port will be minimised so far as reasonably practicable during the carrying out of the works covered by the draft cable specification and installation plan.

Approvals and refusals

197.—(1) London Gateway must issue any approval or refusal of a draft plan submitted to it in accordance with paragraph 196 (1) within 28 days of the date of submission of that draft or of the date of the provision by the undertaker to London Gateway of any further information that London Gateway reasonably requests, unless any other period is agreed with the undertaker.

(2) All decisions of London Gateway under these provisions must be made acting reasonably.

(3) All decisions of London Gateway under these provisions must be issued in writing and the undertaker may provide a copy of any such decision to the Marine Management Organisation or any other regulatory body.

(4) Where London Gateway refuses to approve a draft plan it must provide reasons for refusal in writing to the undertaker at the same time as it issues the refusal.

(5) Where the draft plan is refused, the undertaker must consider the reasons for refusal and redraft the draft plan accordingly, before re-submitting it to London Gateway. The provisions of sub-paragraphs (1) to (4) will then apply to that re-submitted plan.

(6) Where no decision is issued within the 28 day period set out in sub-paragraph (1), the draft plan submitted will be deemed to be refused by London Gateway.

(7) Any difference or dispute arising between the undertaker and London Gateway must, unless otherwise agreed in writing between the undertaker and London Gateway, be determined by arbitration in accordance with article 41 (arbitration) of this Order. The undertaker may not refer any dispute in relation to the refusal of a draft plan to arbitration under article 41 until it has redrafted and resubmitted the draft plan in accordance with sub-paragraph (5) above at least once.

Notification of transfer of the benefit

198. The undertaker must within 28 days of any transfer or grant of any benefit under paragraph (2) or (3) of article 5 (benefit of the order) of this Order notify London Gateway, and such notification must include particulars of the transferee or lessee (as applicable), the general nature of the agreement pursuant to which the transfer and grant has been made, and details of the extent, nature and scope of the works or functions sold or otherwise transferred or granted.

Provision of as built details

199. As soon as reasonably practicable following the completion of the installation of cables forming Work No. 3, and after any maintenance of the same pursuant to condition 13 of the deemed marine licence for transmission assets in Schedule 9 (deemed marine licence under the 2009 Act – transmission assets), the undertaker must provide (on a strictly confidential basis) to London Gateway as built drawings of Work No. 3 in a form and scale to be agreed between the undertaker and London Gateway to show the position, depth and any cable protection installed as part of Work No. 3 in relation to the Areas of Interest provided that London Gateway must not disclose (without the written consent of the undertaker) any information that has been provided by the undertaker to London Gateway on a confidential basis or which is marked as commercially sensitive and must hold such information on a confidential basis only, except that London Gateway may provide the information to contractors and agents acting on its behalf (including but not limited to contractors engaged to carry out dredging operations) provided that such agents and contractors are required by London Gateway to treat such information as confidential.

Protection of London Gateway powers

200. Nothing in this Order affects or restricts the exercise by London Gateway of any powers under the London Gateway HEO nor imposes any liability on London Gateway in respect of any loss or damage that may be caused to any part of the authorised development by virtue of the exercise of any powers under the London Gateway HEO.

SCHEDULE 15

Article 50

COMPENSATION TO PROTECT THE COHERENCE OF THE NATIONAL SITE NETWORK

PART 1

LESSER BLACK BACKED GULL COMPENSATION

1. In this Part 1 of Schedule 15—

"AEoI" means the adverse effects on the integrity of the AOE SPA, being the annual loss of 2.3 adult LBBG from the AOE SPA, as determined by the Secretary of State;

"AOE SPA" means the site designated as the Alde-Ore Estuary Special Protection Area;

"compensation measure" means the breeding enhancement measure to compensate for the AEoI;

"LBBG" means lesser black backed gulls (*Larus fuscus*);

"LBBG CIMP" means the LBBG compensation implementation and monitoring plan for the delivery of measures to compensate for the predicted loss of adult LBBG from the AOE SPA as a result of the authorised development, to be developed in accordance with the outline LBBG CIMP;

"LBCSG" means the Lesser Black-backed gull Compensation Steering Group;

"Marine Recovery Fund" means the fund operated by the MRFO pursuant to the Marine Recovery Funds Regulations 2025(**a**), the Energy Act 2023 or any subordinate legislation made thereto for the implementation of strategic compensation, or any equivalent fund established by a Government body for that purpose;

"Marine Recovery Fund payment" means a contribution to the Marine Recovery Fund to compensate for the AEoI (or a specified portion thereof if the payment is made as partial compensation) as a result of the authorised development, the sum of such payment to be agreed with the MRFO;

"the MRFO" means the Marine Recovery Fund Operator, which is Defra or any other designated operator under the Marine Recovery Fund Regulations 2025; and

"relevant planning authority" means the district local planning authority for the area in which the relevant compensatory measure is to be located.

2.—(1) No offshore works are to commence until the undertaker has confirmed in writing to the Secretary of State that—

(a) it will make a Marine Recovery Fund payment wholly in substitution for the compensation measure and that it has received confirmation from the MRFO that suitable measures are available; or

(b) it will submit a LBBG CIMP to the Secretary of State for approval and it will make a Marine Recovery Fund payment partially in substitution for an agreed proportion of the AEoI and that it has received confirmation from the MRFO that suitable measures are available; or

(c) it will submit a LBBG CIMP to the Secretary of State for approval.

(2) If the undertaker confirms that it intends to make a Marine Recovery Fund payment under either sub-paragraph (1)(a) or (1)(b) then no offshore works are to commence until the Secretary of State has provided consent in writing to the Marine Recovery Fund payment being made either

(**a**) S.I. 2025/1230

wholly in substitution for the compensation measure or in relation to an agreed proportion of the AEoI.

Marine Recovery Fund

3.—(1) Where the undertaker elects to make a Marine Recovery Fund payment under paragraph 2(1)(a) or 2(1)(b), no operation of any wind turbine generator forming part of the authorised development may begin until—

(a) the Marine Recovery Fund payment has been quantified and the undertaker has entered into a contract to make a Marine Recovery Fund payment wholly or partly, to provide compensation for the AEoI (or an agreed proportion thereof);

(b) an implementation and monitoring plan has been submitted to and approved by the Secretary of State; and

(c) the full payment or the first payment in a series of instalments in accordance with the contract in sub-paragraph (a) has been made by the undertaker and the Secretary of State has confirmed in writing that such payment fulfils the requirement for compensation measures.

(2) If the Marine Recovery Fund payment is made wholly in substitution for the compensation measures under sub-paragraph 1(a) then, following receipt of the approvals under sub-paragraph (1) the undertaker shall not be required to implement any further measures to compensate for the AEoI pursuant to this Part of this Schedule but this does not obviate the undertaker from its obligation to continue to comply with any payment schedule or any other conditions that form part of the contract entered into by the undertaker under sub-paragraph 1(a).

LBBG CIMP

4. Where the undertaker elects to submit a LBBG CIMP under paragraph 2(1)(b) or 2(1)(c), the undertaker must form and administer the LBCSG before carrying out any works to deliver the compensation measure under a LBBG CIMP to be approved under this Part 1 of Schedule 15. The undertaker will invite representatives from the following organisations, as a minimum, to participate in the LBCSG—

(a) Marine Management Organisation;

(b) the relevant SNCB;

(c) the relevant planning authority; and

(d) the Royal Society for the Protection of Birds.

5.—(1) The LBCSG will develop a plan for the work of the LBCSG, to be submitted to and approved by the Secretary of State, which is to include—

(a) its terms of reference;

(b) details of its membership;

(c) details of the proposed schedule of meetings, reporting and review periods;

(d) a schedule for the preparation of the LBBG CIMP; and

(e) the dispute resolution mechanism and confidentiality provisions.

(2) The LBCSG must be convened and consulted on the proposed LBBG CIMP before any approval of the LBBG CIMP is sought by the undertaker under this paragraph.

6. Following consultation with the LBCSG the LBBG CIMP must be submitted to, and approved by, the Secretary of State in consultation with the relevant SNCB and the relevant planning authority for the area in which the compensation measure is to be provided prior to the commencement of Work No. 1.

7. The LBBG CIMP must include—

(a) details of the location(s) where the compensation measure will be delivered and the suitability of that location (including details of its ability to accommodate the number of breeding pairs of LBBG needed to compensate for the impact of the authorised development on the population of the AOE SPA) and consideration of relevant pre-construction surveys and data analysis;

(b) details of how any necessary land access rights, licences and approvals have or will be obtained and any biosecurity measures will be or have been secured;

(c) details of how the compensation measure will be delivered and an implementation timetable;

(d) details of survey methodologies, monitoring and maintenance programmes;

(e) success criteria;

(f) survey and reporting programmes for LBBG and predators;

(g) details of any adaptive management measures, with details of the factors used to trigger any such measures;

(h) provision for reports to be delivered to the LBCSG and to the Secretary of State;

(i) a plan for reporting to the LBCSG and consulting the LBCSG on the details of any proposed adaptive management measures and/or amendments to the LBBG CIMP;

(j) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to pay a contribution to the Marine Recovery Fund wholly or partly in substitution for the compensation measure as an adaptive management measure for the purposes of paragraph (g)**Error! Reference source not found.**. The sum of the contribution to be agreed between the undertaker and the MRFO in consultation with the LBCSG; and

(k) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to pay a financial contribution towards the establishment of compensation measures by another party wholly or partly in substitution for the compensation measure or as an adaptive management measure for the purposes of sub-paragraph (g). The sum of the contribution is to be agreed between the undertaker and the other party in consultation with the LBCSG. If this option is exercised the undertaker will be required to submit a revised LBBG CIMP to the Secretary of State for approval containing the information required in sub-paragraph 7(a)-(i) of this Part of the Schedule. The Secretary of State shall consult with the relevant SNCB prior to granting consent in terms of this paragraph.

8. The undertaker must carry out the compensation measure in accordance with the LBBG CIMP as approved by the Secretary of State in consultation with the relevant SNCB and, where appropriate, the MMO and/or the relevant planning authority, unless otherwise provided for in this Part 1 of Schedule 15. The details approved under this paragraph include any amendments that may subsequently be approved in writing by the Secretary of State.

9. No wind turbine generator forming part of Work No. 1 may commence operation until the compensation measure has been implemented for at least three breeding seasons. For the purposes of this paragraph each breeding season is 1 April to 31 August of each year inclusive.

10. The undertaker must notify the Secretary of State of completion of implementation of the compensation measure. The compensation measure implemented in accordance with any final LBBG CIMP must be maintained by the undertaker (or at its expense) for at least the operational lifetime of the authorised development, unless otherwise agreed by the Secretary of State, and must not be decommissioned without written approval of the Secretary of State in consultation with the relevant SNCB.

11. Results from the monitoring and reporting scheme referred to in paragraph 7(h) must be made publicly available and submitted at least annually to the Secretary of State and members of the LBCSG. This must include details of the effectiveness of the compensation measure delivered. If the undertaker, or on receipt of a monitoring report, the Secretary of State, determines that the

compensation measure delivered has been ineffective the undertaker must provide proposals agreed by the LBCSG for any alternative and/or adaptive management measures to address this. Any proposals to address the ineffectiveness of the compensation measure must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant SNCB.

12. Where the compensation measure as approved in the LBBG CIMP includes the installation of predator control fencing, such fencing must be maintained by the undertaker (or at its expense) for at least the operational lifetime of the wind turbine generators erected under Work No. 1 unless otherwise agreed by the Secretary of State. The compensation measures implemented in accordance with any final CIMP must not be decommissioned without written approval of the Secretary of State in consultation with the relevant SNCB.

13. The LBBG CIMP approved under this Part of 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 CIMP must be in accordance with the principles set out in the outline LBBG CIMP 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 new or materially different environmental effects from those considered in the outline LBBG CIMP.

14. In the event of any conflict between the terms of this Order and the LBBG CIMP, the provisions of this Order shall prevail.

PART 2

GUILLEMOT COMPENSATION

15. In this Part 2 of Schedule 15—

"AEoI" means the adverse effects on the integrity of the Farne Islands SPA and FFC SPA, being the annual loss of a total 6.1 adult guillemot from the Farne Islands SPA and FFC SPA, as determined by the Secretary of State;

"compensation measure" means the reduction of recreational disturbance on breeding colonies;

"Farne Islands SPA" means the site designated as the Farne Islands Special Protection Area;

"FFC SPA" means the site designated as the Flamborough and Filey Coast Special Protection Area;

"GCSG" means the Guillemot Compensation Steering Group;

"guillemot CIMP" means the guillemot compensation implementation and monitoring plan for the delivery of measures to compensate for the predicted loss of adult guillemot from the Farne Islands SPA and FFC SPA as a result of the authorised development, to be developed in accordance with the outline guillemot CIMP;

"Marine Recovery Fund" means the fund operated by the MRFO pursuant to the Marine Recovery Funds Regulations 2025, the Energy Act 2023 or any subordinate legislation made thereto for the implementation of strategic compensation, or any equivalent fund established by a Government body for that purpose;

"Marine Recovery Fund payment" means a contribution to the Marine Recovery Fund to compensate for the AEoI (or a specified portion thereof if the payment is made as partial compensation) as a result of the authorised development, the sum of such payment to be agreed with the MRFO;

"the MRFO" means the Marine Recovery Fund Operator, which is Defra or any other designated operator under the Marine Recovery Fund Regulations 2025; and

"relevant planning authority" means the district local planning authority for the area in which the relevant compensatory measure is to be located.

16.—(1) No offshore works are to commence until the undertaker has confirmed in writing to the Secretary of State that—

(a) it will make a Marine Recovery Fund payment wholly in substitution for the compensation measure and that it has received confirmation from the MRFO that suitable measures are available; or

(b) it will submit a guillemot CIMP to the Secretary of State for approval and will make a Marine Recovery Fund payment partially in substitution for an agreed proportion of the AEoI and that it has received confirmation from the MRFO that suitable measures are available; or

(c) it will submit a guillemot CIMP to the Secretary of State for approval.

(2) If the undertaker confirms that it intends to make a Marine Recovery Fund payment under either sub-paragraph (1)(a) or (1)(b) then no offshore works are to commence until the Secretary of State has provided consent in writing to the Marine Recovery Fund payment being made either wholly in substitution for the compensation measure or in relation to an agreed proportion of the AEoI.

Marine Recovery Fund

17.—(1) Where the undertaker elects to make a Marine Recovery Fund payment under paragraph 17(1)(a) or 17(1)(b), no operation of any wind turbine generator forming part of the authorised development may begin until—

(a) the Marine Recovery Fund payment has been quantified and the undertaker has entered into a contract to make a Marine Recovery Fund payment wholly or partly, to provide compensation for the AEoI (or an agreed proportion thereof);

(b) an implementation and monitoring plan has been submitted to and approved by the Secretary of State; and

(c) the full payment or the first payment in a series of instalments in accordance with the contract in sub-paragraph (a) has been made by the undertaker and the Secretary of State has confirmed in writing that such payment fulfils the requirement for compensation measures.

(2) If the Marine Recovery Fund payment is made wholly in substitution for the compensation measures under sub-paragraph (1)(a) then, following receipt of the approvals under sub-paragraph (1) the undertaker shall not be required to implement any further measures to compensate for the AEoI pursuant to this Part of this Schedule but this does not obviate the undertaker from its obligation to continue to comply with any payment schedule or any other conditions that form part of the contract entered into by the undertaker under sub-paragraph (1)(a).

Guillemot CIMP

18. Where the undertaker elects to submit a guillemot CIMP under paragraph 17(1)(b) or 17(b)(c), the undertaker must form and administer the GCSG before carrying out any works to deliver the compensation measure under a guillemot CIMP to be approved under this Part 2 of Schedule 15. The undertaker will invite representatives from the following organisations, as a minimum, to participate in the GCSG—

(a) Marine Management Organisation;

(b) the relevant SNCB;

(c) the relevant planning authority; and

(d) the Royal Society for the Protection of Birds.

19.—(1) The GCSG will develop a plan for the work of the GCSG, to be submitted to and approved by the Secretary of State, which is to include—

(a) its terms of reference;

(b) details of its membership;

(c) details of the proposed schedule of meetings, reporting and review periods;

(d) a schedule for the preparation of the guillemot CIMP; and

(e) the dispute resolution mechanism and confidentiality provisions.

(2) The GCSG must be convened and consulted on the proposed guillemot CIMP before any approval of the guillemot CIMP is sought by the undertaker under this paragraph.

20. Following consultation with the GCSG the guillemot CIMP must be submitted to, and approved by, the Secretary of State in consultation with the relevant SNCB and the relevant planning authority for the area in which the compensation measure is to be provided prior to the commencement of Work No. 1.

21. The guillemot CIMP must include—

(a) details of the location(s) where the compensation measure will be delivered and the suitability of that location (including details of its ability to accommodate the number of breeding pairs of guillemot needed to compensate for the impact of the authorised development on the population of the FFC SPA and Farne Islands SPA) and consideration of relevant site selection surveys, stakeholder consultation and data analysis;

(b) details of how any necessary land access rights, licences and approvals have or will be obtained and any biosecurity measures will be or have been secured;

(c) details of the scale of management interventions (including consideration of compensation ratios) and how this compensation measure will be delivered and an implementation timetable;

(d) details of survey methodologies, monitoring and maintenance programmes;

(e) success criteria;

(f) survey and reporting programmes for guillemot;

(g) details of any adaptive management measures, with details of the factors used to trigger any such measures;

(h) provision for reports to be delivered to the GCSG and to the Secretary of State;

(i) a plan for reporting to the GCSG and consulting the GCSG on the details of any proposed adaptive management measures and/or amendments to the guillemot CIMP;

(j) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to pay a contribution to the Marine Recovery Fund wholly or partly in substitution for the compensation measure as an adaptive management measure for the purposes of paragraph (g). The sum of the contribution to be agreed between the undertaker and the MRFO in consultation with the GCSG; and

22. Provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to pay a financial contribution towards the establishment of compensation measures by another party wholly or partly in substitution for the compensation measure or as an adaptive management measure for the purposes of sub-paragraph (g). The sum of the contribution is to be agreed between the undertaker and the other party in consultation with the GCSG. If this option is exercised the undertaker will be required to submit a revised guillemot CIMP to the Secretary of State for approval containing the information required in sub-paragraph 21(a)-(i) of this Part of the Schedule. The Secretary of State shall consult with the relevant SNCB prior to granting consent in terms of this paragraph. The undertaker must carry out the compensation measure in accordance with the guillemot CIMP as approved by the Secretary of State in consultation with the relevant SNCB and, where appropriate, the MMO and/or the relevant planning authority unless otherwise provided for in this Part 2 of Schedule 15. The details approved under this paragraph include any amendments that may subsequently be approved in writing by the Secretary of State.

23. No wind turbine generator forming part of Work No. 1 may commence operation until the compensation measure has been implemented for at least three breeding seasons. For the purposes of this paragraph each breeding season is 1 March to 31 July of each year inclusive.

24. The undertaker must notify the Secretary of State of completion of implementation of the compensation measure. The compensation measure implemented in accordance with any final GCSG CIMP must be maintained by the undertaker (or at its expense) for at least the operational lifetime of the authorised development, unless otherwise agreed by the Secretary of State and must not be decommissioned without written approval of the Secretary of State in consultation with the relevant SNCB.

25. Results from the monitoring and reporting scheme referred to in paragraph 21(h) must be made publicly available and submitted at least annually to the Secretary of State and members of the GCSG. This must include details of the effectiveness of the compensation measure delivered. If the undertaker, or on receipt of a monitoring report, the Secretary of State, determines that the compensation measure delivered has been ineffective the undertaker must provide proposals agreed by the GCSG for any alternative and/or adaptive management measures to address this. Any proposals to address the ineffectiveness of the compensation measure must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant SNCB.

26. The guillemot CIMP approved under this Part of 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 CIMP must be in accordance with the principles set out in the outline guillemot CIMP 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 new or materially different environmental effects from those considered in the outline guillemot CIMP.

27. In the event of any conflict between the terms of this Order and the guillemot CIMP, the provisions of this Order shall prevail.

PART 3

KITTIWAKE COMPENSATION

28. In this Part 3 of Schedule 15—

"AEoI" means the adverse effects on the integrity of the FFC SPA, being the annual loss of 0.76 adult kittiwake from the FFC SPA, as determined by the Secretary of State;

"compensation measure" means the artificial nesting structure to provide suitable nesting environment for kittiwake;

"FFC SPA" means the site designated as the Flamborough and Filey Coast Special Protection Area;

"KCSG" means the Kittiwake Compensation Steering Group;

"kittiwake CIMP" means the kittiwake compensation implementation and monitoring plan for the delivery of measures to compensate for the predicted loss of adult kittiwake from the FFC SPA as a result of the authorised development, to be developed in accordance with the outline kittiwake CIMP;

"Marine Recovery Fund" means the fund operated by the MRFO pursuant to the Marine Recovery Funds Regulations 2025, the Energy Act 2023 or any subordinate legislation made thereto for the implementation of strategic compensation, or any equivalent fund established by a Government body for that purpose;

"Marine Recovery Fund payment" means a contribution to the Marine Recovery Fund to compensate for the AEoI (or a specified portion thereof if the payment is made as partial compensation) as a result of the authorised development, the sum of such payment to be agreed with the MRFO;

"the MRFO" means the Marine Recovery Fund Operator, which is Defra or any other designated operator under the Marine Recovery Fund Regulations 2025; and

"relevant planning authority" means the district local planning authority for the area in which the relevant compensatory measure is to be located.

29.—(1) No offshore works are to commence until the undertaker has confirmed in writing to the Secretary of State that—

(a) it will make a Marine Recovery Fund payment wholly in substitution for the compensation measure and that it has received confirmation from the MRFO that suitable measures are available; or

(b) it will submit a kittiwake CIMP to the Secretary of State for approval and will make a Marine Recovery Fund payment partially in substitution for an agreed proportion of the AEoI and that it has received confirmation from the MRFO that suitable measures are available; or

(c) it will submit a kittiwake CIMP to the Secretary of State for approval.

(2) If the undertaker confirms that it intends to make a Marine Recovery Fund payment under either sub-paragraph (1)(a) or (1)(b) then no offshore works are to commence until the Secretary of State has provided consent in writing to the Marine Recovery Fund payment being made either wholly in substitution for the compensation measure or in relation to an agreed proportion of the AEoI.

Marine Recovery Fund

30.—(1) Where the undertaker elects to make a Marine Recovery Fund payment under paragraph 30(1)(a) or 30(1)(b), no operation of any wind turbine generator forming part of the authorised development may begin until—

(a) the Marine Recovery Fund payment has been quantified and the undertaker has entered into a contract to make a Marine Recovery Fund payment wholly or partly, to provide compensation for the AEoI (or an agreed proportion thereof);

(b) an implementation and monitoring plan has been submitted to and approved by the Secretary of State; and

(c) the full payment or the first payment in a series of instalments in accordance with the contract in sub-paragraph (a) has been made by the undertaker and the Secretary of State has confirmed in writing that such payment fulfils the requirement for compensation measures.

(2) If the Marine Recovery Fund payment is made wholly in substitution for the compensation measure under sub-paragraph (1)(a) then, following receipt of the approvals under sub-paragraph (1) the undertaker shall not be required to implement any further measures to compensate for the AEoI pursuant to this Part of this Schedule but this does not obviate the undertaker from its obligation to continue to comply with any payment schedule or any other conditions that form part of the contract entered into by the undertaker under sub-paragraph (1)(a).

Kittiwake CIMP

31. Where the undertaker elects to submit a kittiwake CIMP under paragraph 30(1)(b) or 30(b)(c), the undertaker must form and administer the KCSG before carrying out any works to deliver the compensation measure under a kittiwake CIMP to be approved under this Part 3 of Schedule 15. The undertaker will invite representatives from the following organisations, as a minimum, to participate in the KCSG—

(a) Marine Management Organisation;

(b) the relevant SNCB;

(c) the relevant planning authority; and

(d) the Royal Society for the Protection of Birds.

32.—(1) The KCSG will develop a plan for the work of the KCSG, to be submitted to and approved by the Secretary of State, which is to include—

(a) its terms of reference;

(b) details of its membership;

(c) details of the proposed schedule of meetings, reporting and review periods;

(d) a schedule for the preparation of the kittiwake CIMP; and

(e) the dispute resolution mechanism and confidentiality provisions.

(2) The KCSG must be convened and consulted on the proposed kittiwake CIMP before any approval of the kittiwake CIMP is sought by the undertaker under this paragraph.

33. Following consultation with the KCSG the kittiwake CIMP must be submitted to, and approved by, the Secretary of State in consultation with the relevant SNCB and the relevant planning authority for the area in which the compensation measure is to be provided prior to the commencement of Work No. 1.

34. The kittiwake CIMP must include—

(a) details of the location(s) where the compensation measure will be delivered and the suitability of that location (including details of its ability to accommodate the number of breeding pairs of kittiwake needed to compensate for the impact of the authorised development on the population of the FFC SPA);

(b) details of how any necessary land access rights, licences and approvals have or will be obtained and any biosecurity measures will be or have been secured;

(c) details of how the compensation measure will be delivered and an implementation timetable ;

(d) details of survey methodologies, monitoring and maintenance programmes;

(e) success criteria;

(f) survey and reporting programmes for kittiwake;

(g) details of any adaptive management measures, with details of the factors used to trigger any such measures;

(h) provision for reports to be delivered to the KCSG and to the Secretary of State;

(i) a plan for reporting to the KCSG and consulting the KCSG on the details of any proposed adaptive management measures and/or amendments to the kittiwake CIMP;

(j) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to pay a contribution to the Marine Recovery Fund wholly or partly in substitution for the compensation measure as an adaptive management measure for the purposes of paragraph (g). The sum of the contribution to be agreed between the undertaker and the MRFO in consultation with the KCSG; and

(k) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to pay a financial contribution towards the establishment of compensation measures by another party wholly or partly in substitution for the compensation measure or as an adaptive management measure for the purposes of sub-paragraph (g). The sum of the contribution is to be agreed between the undertaker and the other party in consultation with the KCSG. If this option is exercised the undertaker will be required to submit a revised kittiwake CIMP to the Secretary of State for approval containing the information required in sub-paragraph 34(a)-(i) of this Part of the Schedule. The Secretary of State shall consult with the relevant SNCB prior to granting consent in terms of this paragraph.

35. The undertaker must carry out the compensation measure in accordance with the kittiwake CIMP as approved by the Secretary of State in consultation with the relevant SNCB and, where appropriate, the MMO and/or the relevant planning authority, unless otherwise provided for in this Part 3 of Schedule 15. The details approved under this paragraph include any amendments that may subsequently be approved in writing by the Secretary of State.

36. No wind turbine generator forming part of Work No. 1 may commence operation until the compensation measure has been implemented for at least three breeding seasons. For the purposes of this paragraph each breeding season is 1 March to 31 August of each year inclusive.

37. The undertaker must notify the Secretary of State of completion of implementation of the compensation measure. The compensation measure implemented in accordance with any final kittiwake CIMP must be maintained by the undertaker (or at its expense) for at least the operational lifetime of the authorised development, unless otherwise agreed by the Secretary of State, and must not be decommissioned without written approval of the Secretary of State in consultation with the relevant SNCB.

38. Results from the monitoring and reporting scheme referred to in paragraph 35(h) must be made publicly available and submitted at least annually to the Secretary of State and members of the KCSG. This must include details of the effectiveness of the compensation measure delivered. If the undertaker, or on receipt of a monitoring report, the Secretary of State, determines that the compensation measure delivered has been ineffective the undertaker must provide proposals agreed by the KCSG for any alternative and/or adaptive management measures to address this. Any proposals to address the ineffectiveness of the compensation measure 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.

39. The kittiwake CIMP approved under this Part of 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 CIMP must be in accordance with the principles set out in the outline kittiwake CIMP 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 new or materially different environmental effects from those considered in the outline kittiwake CIMP.

40. In the event of any conflict between the terms of this Order and the kittiwake CIMP, the provisions of this Order shall prevail.

PART 4

RED THROATED DIVER COMPENSATION

41. In this Part 4 of Schedule 15—

"AEoI" means the adverse effects on the integrity of the OTE SPA, being the area of 54.5 km^2 of the OTE SPA where disturbance and displacement effects relate to the authorised development alone and the area of 33.91 km^2 where the authorised development is the closest offshore wind project to the OTE SPA, as determined by the Secretary of State;

"compensation measure" means the breeding enhancement measure to compensate for the AEoI;

"Marine Recovery Fund" means the fund operated by the MRFO pursuant to the Marine Recovery Funds Regulations 2025(**a**), the Energy Act 2023 or any subordinate legislation made thereto for the implementation of strategic compensation, or any equivalent fund established by a Government body for that purpose;

"Marine Recovery Fund payment" means a contribution to the Marine Recovery Fund to compensate for the AEoI (or a specified portion thereof if the payment is made as partial compensation) as a result of the authorised development, the sum of such payment to be agreed with the MRFO;

"the MRFO" means the Marine Recovery Fund Operator, which is Defra or any other designated operator under the Marine Recovery Fund Regulations 2025;

"OTE SPA" means the site designated as the Outer Thames Estuary Special Protection Area;

(**a**) S.I. 2025/1230

"relevant planning authority" means the district local planning authority for the area in which the relevant compensatory measure is to be located;

"RTD" means red-throated diver (*Gavia stellata*);

"RTD CIMP" means the RTD compensation implementation and monitoring plan for the delivery of measures to compensate for the effects of predicted disturbance and displacement of RTD from the OTE SPA as a result of the authorised development, to be developed in accordance with the outline RTD CIMP; and

"RTDCSG" means the RTD Compensation Steering Group.

42.—(1) No offshore works are to commence until the undertaker has confirmed in writing to the Secretary of State that—

(a) it will make a Marine Recovery Fund payment wholly in substitution for the compensation measure and that it has received confirmation from the MRFO that suitable measures are available; or

(b) it will submit a RTD CIMP to the Secretary of State for approval and will make a Marine Recovery Fund payment partially in substitution for an agreed proportion of the AEoI and that it has received confirmation from the MRFO that suitable measures are available; or

(c) it will submit a RTD CIMP to the Secretary of State for approval.

(2) If the undertaker confirms that it intends to make a Marine Recovery Fund payment under either sub-paragraph (1)(a) or (1)(b) then no offshore works are to commence until the Secretary of State has provided consent in writing to the Marine Recovery Fund payment being made either wholly in substitution for the compensation measures or in relation to an agreed proportion of the AEoI.

Marine Recovery Fund

43.—(1) Where the undertaker elects to make a Marine Recovery Fund payment under paragraph 42(1)(a) or 42(1)(b), Work No. 1 must not commence until—

(a) the Marine Recovery Fund payment has been quantified and the undertaker has entered into a contract to make a Marine Recovery Fund payment wholly or partly, to provide compensation for the AEoI (or an agreed proportion thereof);

(b) an implementation and monitoring plan has been submitted to and approved by the Secretary of State; and

(c) the full payment or the first payment in a series of instalments in accordance with the contract in sub-paragraph (a) has been made by the undertaker and the Secretary of State has confirmed in writing that such payment fulfils the requirement for compensation measures.

(2) If the Marine Recovery Fund payment is made wholly in substitution for the compensation measure under sub-paragraph (1)(a) then, following receipt of the approvals under sub-paragraph (1) the undertaker shall not be required to implement any further measures to compensate for the AEoI pursuant to this Part of this Schedule but this does not obviate the undertaker from its obligation to continue to comply with any payment schedule or any other conditions that form part of the contract entered into by the undertaker under sub-paragraph (1)(a).

RTD CIMP

44. Where the undertaker elects to submit a RTD CIMP under paragraph 44(1)(b) or 44(b)(c), the undertaker must form and administer the RTDCSG before carrying out any works to deliver the compensation measure under a RTD CIMP to be approved under this Part 4 of Schedule 15. The undertaker will invite representatives from the following organisations, as a minimum, to participate in the RTDCSG—

(a) Marine Management Organisation;

(b) the relevant SNCB;

(c) the relevant planning authority;

(d) the Royal Society for the Protection of Birds; and

(e) NatureScot.

45.—(1) The RTDCSG will develop a plan for the work of the RTDCSG, to be submitted to and approved by the Secretary of State, which is to include—

(a) its terms of reference;

(b) details of its membership;

(c) details of the proposed schedule of meetings, reporting and review periods;

(d) a schedule for the preparation of the RTD CIMP; and

(e) the dispute resolution mechanism and confidentiality provisions.

(2) The RTDCSG must be convened and consulted on the proposed RTD CIMP before any approval of the RTD CIMP is sought by the undertaker under this paragraph.

46. Following consultation with the RTDCSG the RTD CIMP must be submitted to, and approved by, the Secretary of State in consultation with the relevant SNCB and the relevant planning authority for the area in which the compensation measure is to be provided prior to the commencement of Work No. 1.

47. The RTD CIMP must include—

(a) details of the location(s) where the compensation measure will be delivered and the suitability of that location (including details of its ability to accommodate the breeding productivity needed to compensate for the impact of the authorised development on the OTE SPA) and consideration of relevant site selection surveys and data analysis;

(b) details of how any necessary land access rights, licences and approvals have or will be obtained and any biosecurity measures will be or have been secured;

(c) details of how the compensation measure will be delivered and an implementation timetable;

(d) details of survey methodologies, monitoring and maintenance programmes;

(e) success criteria;

(f) survey and reporting programmes for RTD;

(g) details of any adaptive management measures, with details of the factors used to trigger any such measures;

(h) provision for reports to be delivered to the RTDCSG and to the Secretary of State;

(i) a plan for reporting to the RTDCSG and consulting the RTDCSG on the details of any proposed adaptive management measures and/or amendments to the RTD CIMP;

(j) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to pay a contribution to the Marine Recovery Fund wholly or partly in substitution for the compensation measure as an adaptive management measure for the purposes of paragraph (g). The sum of the contribution to be agreed between the undertaker and the MRFO in consultation with the RTDCSG; and

(k) provision for the option to be exercised by the undertaker, following consent in writing of the Secretary of State, to pay a financial contribution towards the establishment of compensation measures by another party wholly or partly in substitution for the compensation measure or as an adaptive management measure for the purposes of sub-paragraph (g). The sum of the contribution is to be agreed between the undertaker and the other party in consultation with the RTDCSG. If this option is exercised the undertaker will be required to submit a revised RTD CIMP to the Secretary of State for approval containing the information required in sub-paragraph 47(a)-(i) of this Part of the Schedule. The Secretary of State shall consult with the relevant SNCB prior to granting consent in terms of this paragraph.

48. The undertaker must carry out the compensation measure in accordance with the RTD CIMP as approved by the Secretary of State in consultation with the relevant SNCB and where appropriate, the MMO and/or the relevant planning authority, unless otherwise provided for in this Part 4 of Schedule 15. The details approved under this paragraph include any amendments that may subsequently be approved in writing by the Secretary of State.

49. No part of Work No. 1 may commence until the compensation measure has been implemented for at least one breeding season unless commencement at an earlier date is approved by the Secretary of State. For the purposes of this paragraph each breeding season is 1 March to 31 August of each year inclusive.

50. The undertaker must notify the Secretary of State of completion of implementation of the compensation measure. The compensation measure implemented in accordance with any final RTD CIMP must be maintained by the undertaker (or at its expense) for at least the operational lifetime of the authorised development, unless otherwise agreed by the Secretary of State, and must not be decommissioned without written approval of the Secretary of State in consultation with the relevant SNCB.

51. Results from the monitoring and reporting scheme referred to in paragraph 47(h) must be made publicly available and submitted at least annually to the Secretary of State and members of the RTDCSG. This must include details of the effectiveness of the compensation measure delivered. If the undertaker, or on receipt of a monitoring report, the Secretary of State, determines that the compensation measure delivered has been ineffective the undertaker must provide proposals agreed by the RTDCSG for any alternative and/or adaptive management measures to address this. Any proposals to address the ineffectiveness of the compensation measure 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.

52. The RTD CIMP approved under this Part of 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 RTD CIMP must be in accordance with the principles set out in the outline RTD CIMP 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 new or materially different environmental effects from those considered in the outline RTD CIMP.

53. In the event of any conflict between the terms of this Order and the RTD CIMP, the provisions of this Order shall prevail.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants development consent for, and authorises the construction, operation, maintenance and decommissioning of an offshore wind farm generating station located approximately 40km from the coast of Essex, 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.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 40 (certification of plans, etc.) together with a copy of any guarantee or alternative form of security approved by the Secretary of State pursuant to article 47 (funding), may be inspected free of charge at the offices of RWE at Windmill Hill Business Park, Whitehill Way, Swindon, Wiltshire, SN5 6PB during normal business hours (Monday to Friday, 9.00am – 5.00pm, excluding public and bank holidays.