

XLINKS' MOROCCO-UK POWER PROJECT

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20[XX] No.[XX]

INFRASTRUCTURE PLANNING

**THE [DRAFT] XLINKS' MOROCCO-UK POWER PROJECT
ORDER 20[XX]**

Made - - - - - ***

Coming into force ***

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

(a) 2008 C.29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of, and Schedule 13 to the Localism Act 2011 (c.20).
(b) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/524, S.I. 2017/572, S.I. 2018/378, S.I. 2019/734, S.I. 2020/1534, S.I. 2020/764, S.I. 2021/978, S.I. 2022/634 and S.I. 2023/1071.

The application has been examined by [a panel of [●] members (“the Panel”)] OR [the single appointed person], appointed pursuant to [Chapter 2]/[Chapter 3] of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(a).

The [Panel] OR [the single appointed person], having examined the application with the documents that accompanied the application, and the representations made and not withdrawn, has, in accordance with [section 74(2)]/[section 83(1)] of the 2008 Act, submitted a report and recommendation to the Secretary of State].

The Secretary of State has considered the representations made and not withdrawn and the report and recommendation of [the Panel] OR [single appointed person], taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(b) and, as a National Policy Statement has effect in relation to the proposed development, has had regard to the documents and matters referred to in section 104(2) of the 2008 Act.

The Secretary of State has decided to make an order granting development consent for the development described in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

Accordingly, the Secretary of State, in exercise of the powers in sections 114, 115, 117, 120, 122 and 123 of the 2008 Act, makes the following Order.

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Xlinks’ Morocco-UK Power Project Order 202[] and comes into force on [date] 202[].

Interpretation

2.—(1) In this Order unless the context requires otherwise—

“1961 Act” means the Land Compensation Act 1961(c);

“1965 Act” means the Compulsory Purchase Act 1965(d);

“1980 Act” means the Highways Act 1980(e);

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

“1984 Act” means the Road Traffic Regulation Act 1984(g);

“1989 Act” means the Electricity Act 1989(h);

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

(a) S.I. 2010/103, amended by S.I. 2012/635.

(b) S.I. 2017/572, amended by S.I. 2017/1012, 2018/695, 2018/834, 2018/942, 2018/1232, 2020/764, 2020/904 and 2020/1534.

(c) 1961 c. 33.

(d) 1965 c. 56.

(e) 1980 c. 66.

(f) 1981 c. 66.

(g) 1984 c. 27.

(h) 1989 c.29

(i) 1990 c. 8.

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

“2003 Act” means the Communications Act 2003(b);

“2008 Act” means the Planning Act 2008(c)

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

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

“2017 Regulations” means the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(f);

“apparatus” has the same meaning as in Part 3 of the 1991 Act except that, unless otherwise provided, it further includes pipelines, aerial markers, cathodic protection test posts, field boundary markers, transformer rectifier kiosks, electricity cables, telecommunications equipment (including masts and cables), electricity cabinets and any pipe sleeves, ducts and culverts in which any apparatus is lodged;

“authorised development” means the development described in Schedule 1 (authorised development) and any other development within the meaning of section 32 (meaning of “development”) of the 2008 Act authorised by this Order;

“bank holiday” means a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(g);

“book of reference” means the document of that name identified in the table at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the book of reference for the purposes of this Order;

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

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

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

“commence” means the carrying out of any material operation (as defined in section 155(2) (when development begins) of the 2008 Act) forming part of the authorised development other than the pre-commencement operations and “commencement” and “commenced” are to be construed accordingly;

“converter station” means all buildings, apparatus, high voltage equipment, access roads and ancillary equipment and connections within the access roads required to convert direct current into alternating current for onward transmission as set out in Work No.1;

“converter site” means the site containing the converter stations, associated apparatus, ancillary equipment, landscaping, access, fencing and connection works as set out in Work No. 1;

“converter site parameter plan” means the document of that name identified at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the converter site parameter plan for the purposes of this Order;

“deemed marine licence” means the marine licence granted by article 45 (deemed marine licence);

“electric line” has the meaning set out in section 235(1) of the 2008 Act which includes but is not limited to new pylons, foundations and steelwork, conductors, insulators and fittings, fibre optic earthwire conductors, joint boxes, joint pits, joint bays, cables, cable ducts and link pillars;

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- (a) 1991 c. 22.
 - (b) 2003 c.21.
 - (c) 2008 c. 29.
 - (d) 2009 c. 23.
 - (e) S.I. 2016/1154.
 - (f) S.I. 2017/572.
 - (g) S.I. 2017/572.

“electronic transmission” means a communication transmitted by means of an electronic communications network or by other means provided it is in electronic form;

“emergency” means a situation where, if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences that in the reasonable opinion of the undertaker would outweigh the adverse effects to the public (whether individuals, classes or generally as the case may be) of taking that action;

“environmental statement” means the document of that name identified in the table at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the environmental statement for the purposes of this Order;

“footway” and “footpath” have the same meaning as in section 329(1) of the 1980 Act and include part of a footway or footpath;

“group company” has the meaning as in section 479(4)(a) of the Companies Act 2006^(a) and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c) of the Companies Act 2006, as a member of another company even if its shares in that other company are registered in the name of: (a) another person (or its nominee) by way of security or in connection with the taking of security; or (b) its nominee;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“horizontal directional drilling” and “HDD” means a trenchless installation technique for installing an underground duct between two locations without the need to excavate and back-fill a trench;

“HVAC” means high voltage alternating current;

“HVDC” means high voltage direct current;

“joint bay” means the underground location between sections of cable containing the cable joint and ancillary equipment and parts required to make the joint;

“land plans” means the plans of that name identified at Schedule 13 (certified documents) and which are certified by the Secretary of State as the land plans for the purposes of this Order;

“link box” means an underground metal box placed within a pit where the outer sheath of the cable is connected to earth and allows for a point of connection to the sheath with manhole access cover;

“main river” has the same meaning as in Part IV of the Water Resources Act 1991^(b)

“maintain” includes inspect, repair, test, adjust, alter, remove, renew, relay, reconstruct, refurbish, landscape, preserve, make safe, dismantle and clear provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement, and any derivative of “maintain” is to be construed accordingly;

“MMO” means the Marine Management Organisation;

“offshore works” means all parts of the authorised development within the UK marine area;

“onshore works” means all parts of the authorised development outside of the UK marine area;

“operational use” means the relevant part of the authorised development being in operation after construction and commissioning is complete;

“Order land” means the land shown on the land plans and described in the book of reference;

“Order limits” means the Order limits shown on the works plans;

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

(a) 2006 c.46.

(b) 1991 c. 57.

(c) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

“permit schemes” means any scheme made under part 3 of the Traffic Management Act 2004(a) as in force at the date on which this Order is made including the Devon County Council (Traffic Management) Permit Scheme 2020;

“pre-commencement operations” means operations consisting of engineering investigations and surveys, environmental (including archaeological) investigations and monitoring, surveys and monitoring for assessing ground conditions, diversion, laying and connection of services, site clearance, environmental mitigation measures, remediation in respect of any contamination or other adverse ground conditions, erection of temporary contractor and site welfare facilities, receipt and erection of construction plant and equipment, erection of any temporary means of enclosure or temporary demarcation fencing marking out site boundaries, site security, temporary accesses including temporary traffic signs and the temporary display of site notices or advertisements;

“rights of way and streets and access plans” means the plans of that name identified in the table at Schedule 13 (certified documents) and which are certified by the Secretary of State as the rights of way and streets and access plans for the purposes of this Order;

“relevant planning authority” means the local planning authority for the land in question, being the authority or any successor to it as local planning authority;

“requirements” means the requirements listed in Schedule 2 (requirements), and any reference to a numbered requirement is to be construed accordingly;

“special category land plans” means the plans of that name identified in the table at Schedule 13 (certified documents) and which are certified by the Secretary of State as the special category land plans for the purposes of this Order;

“statutory undertaker” means any person falling within section 127(8) (statutory undertakers’ land) of the 2008 Act;

“street” means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes any footpath and part of a street;

“street authority” in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act(b);

“table of parameters” means the parameters listed in the table at Schedule 4 (onshore parameters);

“temporary construction works” means the temporary construction works described in Schedule 1 (authorised development) to the Order;

“traffic” has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act;

“traffic authority” has the same meaning as in section 121A(c) (traffic authorities) of the 1984 Act;

“transitional joint bay” or “transition joint bay” means the underground bay where the marine HVDC cables are jointed to the onshore HVDC cables;

“tree and hedgerow schedule” means the plans of that name identified in the table at Schedule 13 (certified documents) and which are certified by the Secretary of State as the tree and hedge schedule for the purposes of this Order;

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

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

(a) 2004 c.18

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

(c) Section 121A was inserted by section 168(1) of, and paragraph 70 of Schedule 8 to, the 1991 Act, and amended by section 1(6) of, and paragraph 95(2) and (3) of Schedule 1 to, the Infrastructure Act 2015 (c. 7) and S.I. 2001/1400. There are other amendments to section 121A which are not relevant to this Order.

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

“UK marine area” has the meaning given to it in section 42 (UK marine area) of the 2009 Act;

“undertaker” means Xlinks 1 Ltd (company number 13481017) or such group company that the Secretary of State agrees or anyone who has the benefit of this Order in accordance with article 7 (benefit of the Order);

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

“works plans” means the onshore works plans and offshore works plans identified in the table at Schedule 13 (certified documents) and which are certified by the Secretary of State as the works plans for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or restrain, to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants in respect of land are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or over which rights are created and acquired under this Order or is otherwise comprised in the Order limits.

(3) All distances, directions, levels, lengths and volumes referred to in this Order, are approximate. Distances between points on a work comprised in the authorised development and shown on the works plans are taken to be measured along that work.

(4) All areas described in square metres in the book of reference are approximate.

(5) References in this Order to numbered works are references to the works comprising the authorised development as numbered in Schedule 1 (authorised development) and shown on the works plans and a reference in this Order to a work designated by a number, or by a combination of letters and numbers, is a reference to the work so designated in that Schedule.

(6) References in this Order to any statutory body include the successors to that body’s functions which are relevant to this Order.

(7) In this Order, the expression “includes” is to be construed without limitation.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

3.—(1) Subject to the provisions of this Order (including the requirements) the undertaker is granted development consent for the authorised development.

Authorisation of operation and use

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

(2) Paragraph (1) does not relieve the undertaker of any need to obtain any permit, licence or other obligation under any other legislation that may be required from time to time to authorise the operation of any part of the authorised development.

Maintenance of the authorised development

5.—(1) 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) This article does not—

- (a) authorise the carrying out of any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the environmental statement or in any environmental information supplied under the 2017 Regulations;
- (b) relieve the undertaker of any requirement to obtain any further licence under Part 4 of the 2009 for works in the UK marine area not covered by the deemed marine licence.

Parameters

6.—(1) Subject to the provisions of this Order, the authorised development must be carried out within the Order limits and—

- (a) the onshore works must be carried out in accordance with—
 - (i) Works Nos 1 to 5 (save for those elements of Work No. 5 located within the UK marine area) and Works Nos 7 to 11 as shown on the onshore works plans;
 - (ii) the table of parameters in Schedule 4 (onshore parameters); and
 - (iii) the requirements, and
- (b) the offshore works must be carried out in accordance with—
 - (i) Works Nos 5 and 6 (save for those elements of Work No. 5 located outside of the UK marine area);
 - (ii) the deemed marine licence.

(2) The converter halls within Work No. 1 are to be carried out within the limits of deviation shown on the works plans and the converter site parameter plan and the undertaker may deviate to any extent downwards as the undertaker considers necessary or convenient.

(3) The maximum parameters specified in this article and in the table of parameters, works plans and the converter site parameter plan do not apply where it is demonstrated by the undertaker to the relevant planning authority's satisfaction and the relevant planning authority, following consultation with any other person the relevant planning authority considers appropriate having regard to the proposed deviation in question and the statutory roles and responsibilities of such person, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

Benefit of the Order

7.—(1) Subject to the remaining paragraphs of this article the provisions of this Order have effect solely for the benefit of the undertaker in respect of the authorised development.

(2) Paragraph (3) applies in any case where the benefit of a provision of this Order is required by a statutory undertaker for the purpose of—

- (a) the installation, connection, removal or alteration of the position of services and apparatus including overhead cables and lines and above ground or below ground pipes, pipelines, sewers, watercourses, drains and cables and other conducting media and any pipe sleeves, ducts and culverts in which any apparatus is lodged (in each aforementioned case) comprised in Schedule 1 (authorised development); or
- (b) diverting, replacing or protecting apparatus of that statutory undertaker.

(3) An undertaker with the benefit of a provision to which paragraph (2) refers may—

- (a) transfer to a statutory undertaker to which paragraph (2) refers any or all of the benefit of the provision and such related statutory rights as may be agreed between the undertaker and the statutory undertaker;
- (b) grant to such a statutory undertaker for a period agreed between the undertaker and the statutory undertaker any or all of the benefit of the provision and such related statutory rights as may be so agreed between the undertaker and the statutory undertaker.

(4) The consent of the Secretary of State is required for the purposes of paragraph (3) where the provision to be transferred or granted to the statutory undertaker is listed in paragraph (6) except where the transfer or grant is to—

- (a) a licence holder within the meaning of Part 1 of the 1989 Act;
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986;
- (c) a water undertaker or sewerage undertaker for the purposes of the Water Act 1989; or
- (d) the operator of an electronic communications code network.

(5) An undertaker with the benefit of any provision of this Order may pursuant to this paragraph—

- (a) transfer to any person any or all of the benefit of the provision (excluding the deemed marine licence) and such related statutory rights as may be agreed between the undertaker and that person;
- (b) grant to any person for a period agreed between the undertaker and that person any or all of the benefit of the provision (excluding the deemed marine licence) and such related statutory rights as may be so agreed between the undertaker and that person,

except this paragraph does not apply to any provision listed in paragraph (6).

(6) The list of provisions in this paragraph to which paragraphs (3) and (4) refer is as follows—

- (a) article 21 (protective works);
- (b) article 22 (authority to survey and investigate the land);
- (c) article 24 (compulsory acquisition of land);
- (d) article 25 (compulsory acquisition of rights and restrictive covenants);
- (e) article 26 (acquisition of subsoil or airspace only);
- (f) article 27 (temporary use of land for carrying out the authorised development);
- (g) article 28 (temporary use of land for maintaining the authorised development);
- (h) article 34 (acquisition of part of certain properties); and
- (i) article 43 (statutory undertakers).

(7) An undertaker with the benefit of any provision of the deemed marine licence may pursuant to this sub-paragraph, with the consent of the Secretary of State—

- (a) transfer to any person any or all of the benefit of the provision and such related statutory rights as may be agreed between the undertaker and that person;
- (b) grant to any person for a period agreed between the undertaker and that person any or all of the benefit of the provision and such related statutory rights as may be so agreed between the undertaker and that person,

but the Secretary of State must consult the MMO before giving such consent to the transfer or grant to another person of the benefit of the provision and such related statutory rights.

(8) Any transfer or grant under paragraph (7) does not take effect until the undertaker has given notice to the MMO stating—

- (a) the name and contact details of the person to whom the benefit of the provision will be transferred or granted;
- (b) the date on which the transfer or grant will take effect (which must be at least 28 days after the date on which the notice is given); and
- (c) the provision to be transferred or granted,

and providing a copy of the consent given by the Secretary of State to the transfer or grant and a copy of the transfer or grant itself; and the MMO may update its records in respect of the deemed marine licence accordingly.

(9) Section 72(7) and (8) (variation, suspension, revocation and transfer) of the 2009 Act do not apply to a transfer or grant of the benefit of any provision of the deemed marine licence pursuant to paragraph (7).

(10) Paragraph (7) does not prevent an application to the MMO pursuant to section 72(7) of the 2009 Act to transfer the deemed marine licence to another person and vary it accordingly.

(11) An undertaker may, with the 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 and such related statutory rights as may be agreed between the undertaker and the transferee;
- (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 and such related statutory rights as may be so agreed between the undertaker and the lessee.

(12) Where a transfer or grant has been made in accordance with this article references in this Order to the undertaker, except in paragraph (13), include references to the person to whom the benefit of provisions of this Order have been transferred or granted to the extent that the person has the benefit of such provisions and paragraph (13) applies to that person.

(13) Where the undertaker has transferred any benefit (“transferor”), or for the duration of any period during which the undertaker has granted any benefit (“grantor”), under this article the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant, is subject to the same restrictions, liabilities and obligations under this Order as would apply if those benefits or rights were exercised by the transferor or grantor.

(14) Where a transfer or grant has been made in accordance with this article—

- (a) the benefit transferred or granted (“the transferred benefit”) includes any rights that are conferred, and any obligations that are imposed by virtue of the provisions to which the benefit relates; and
- (b) the transferred benefit resides exclusively with the person to whom the benefit has been transferred or, as the case may be, granted and the transferred benefit will not be enforceable against the undertaker.

(15) Where more than one undertaker has the benefit in relation to the same land of—

- (a) article 21 (protective works);
- (b) article 22 (authority to survey and investigate the land);
- (c) article 27 (temporary use of land for constructing the authorised development); or
- (d) article 28 (temporary use of land for maintaining the authorised development),

each undertaker may exercise the powers conferred by the article in question on its terms at the same time on such terms as they may agree with each other in writing and the exercise of such a power by an undertaker on its terms does not prevent subsequent exercise of it on its terms by another undertaker.

(16) No person can be—

- (a) held liable in any manner for breaching or otherwise failing to comply with a term of this Order except where they are the person who (as applicable) has carried out, or caused to be carried out, that part of the authorised development to which the breach or failure relates or has exercised, or caused to be exercised, the provision of this Order to which the breach or failure relates;
- (b) required to comply with a term of this Order except where they are the person who (as applicable) has carried out, or caused to be carried out, that part of the authorised development to which the term relates or has exercised, or caused to be exercised, the provision of this Order to which the term relates.

Application of the 1990 Act

8.—(1) In respect of the temporary construction works, section 57(2) (planning permission required for development) of the 1990 Act applies as if the development consent granted by this Order were planning permission granted for a limited period.

(2) Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land) of the 1990 Act.

(3) In the exercise of the power under paragraph (1) of article 12 (street works) the undertaker is to be deemed to be the highway authority for the purposes of section 55(2)(b) of the 1990 Act.

(4) For the purposes of this Order, sections 91(3A) and (3B) (general condition limiting duration of planning permission) of the 1990 Act apply in the circumstances set out in those provisions to extend the time limit specified in paragraph (1) of article 33 (time limit for exercise of powers to acquire land and rights compulsorily or to possess land temporarily) and paragraph 2 (time limit for commencement of the authorised development) of Schedule 2 (requirements) as if this Order were a planning permission to develop land in England pursuant to the 1990 Act.

Application of the Community Infrastructure Levy Regulations 2010

9. Notwithstanding the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 of the Community Infrastructure Levy Regulations 2010 (a) any building comprised in the authorised development is deemed to be—

- (a) a building into which people do not normally go; or
- (b) building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

Application, exclusion and modification of legislative provisions

10.—(1) The following provisions do not apply in relation to activities carried out for the purpose of, or in connection with, the construction, maintenance or use of the authorised development—

- (a) Section 23 (prohibition on obstructions, etc. in watercourses) of the Land Drainage Act 1991(b);
- (b) The provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991(c);
- (c) The provisions of any byelaws made under, or having effect as if made under, paragraph 5 of Schedule 25 (byelaw – making powers of the appropriate agency) to the Water Resources Act 1991(d);
- (d) Section 42 (certain future local Acts etc. to be subject to the planning enactments etc. except as otherwise provided) of the Local Government (Miscellaneous Provisions) Act 1976(e) will not apply to the extent that it would make provisions to this Order authorising the authorised development subject to other provisions;

(a) S.I. 2010/948.

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

(c) Section 66 was amended by paragraphs 38 of Schedule 2 to the Flood and Water Management Act 2010 and section 86 of the Water Act 2014 (c.21).

(d) 1991 c. 57. Paragraph 5 was amended by section 100 of the Natural Environment and Rural Communities Act 2006 (c. 16), section 84 of, and paragraph 3 of Schedule 11 to, the Marine and Coastal Access Act 2009 (c. 23), paragraph 49 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and paragraph 32 of Schedule 10 to the Fisheries Act 2020 (c. 22). Paragraph 6 was amended by paragraph 26 of Schedule 15 to the Environment Act 1995 (c. 25), section 224 of, and paragraph 24 of Schedule 16, and Part 5(B) of Schedule 22 to the Marine and Coastal Access Act 2009. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995.

(e) 1976 c. 57

- (e) Regulation 12 (requirement for environmental permit) of the 2016 Regulations in respect of a flood risk activity only; and
- (f) The provisions of the Neighbourhood Planning Act 2017^(a) insofar as they relate to temporary possession of land under articles 27 (temporary use of land for carrying out the authorised development) and 28 (temporary use of land for maintaining the authorised development) of this Order.

(2) For the purposes of regulation 6(1) of the Hedgerows Regulation 1997^(b) the removal of any hedgerow to which those regulations apply is permitted if it is required for the purposes set out in article 49 (felling or lopping) of this Order.

Planning permissions

11.—(1) If planning permission is issued pursuant to the 1990 Act for development any part of which is within the Order limits following publication of this Order that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; and
- (b) required to complete or enable the construction, use or operation of any part of the development authorised by this Order,

then the carrying out, use or operation of such development pursuant to the terms of the planning permission does not constitute a breach of the terms of this Order.

(2) To the extent any development carried out or used pursuant to a planning permission granted under section 57 (planning permission required for development) of the 1990 Act or compliance with any conditions of that permission is inconsistent with the exercise of any power or right under this Order or the authorised development—

- (a) that inconsistency is to be disregarded for the purposes of establishing whether any development which is the subject matter of that planning permission is capable of physical implementation; and
- (b) in respect of that inconsistency, no enforcement action under the 1990 Act may be taken in relation to development carried out or used pursuant to that planning permission whether inside or outside the Order limits.

(3) Any development or any part of a development within the Order limits which is constructed or used under the authority of a planning permission granted under section 57 of the 1990 Act, including permissions falling under sub-paragraph (1) or (2) or otherwise, is deemed not to be a breach of, or inconsistent with, this Order and does not prevent the authorised development being carried out or used or any other power or right under this Order being exercised.

PART 3

STREETS

Street works

12.—(1) Subject to the consent of the street authority, the undertaker may, for the purposes of the authorised development, or for purposes ancillary to it, enter upon so much of any street whether or not within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel within or under it;
- (b) tunnel or bore under the street, or carry out any works to strengthen or repair the carriageway or to provide protection to apparatus installed in or on the street;

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

- (c) remove or use all earth and materials in or under the street;
- (d) place and keep apparatus in the street (including signage);
- (e) maintain, renew or alter apparatus in or on the street or change its position;
- (f) demolish, remove, replace and relocate any street furniture within the street (including any bus shelter and associated bus stop infrastructure);
- (g) execute any works to provide or improve sight lines required by the highway authority;
- (h) execute and maintain any works to provide hard and soft landscaping;
- (i) carry out re-lining and placement of new temporary markings;
- (j) remove and install temporary and permanent signage; and
- (k) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (j) (inclusive) above.

(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.

(3) The undertaker must not construct works to any street under paragraph (1) for which it is not the street authority without the consent of the street authority, which may attach reasonable conditions to any consent and the undertaker must comply with any reasonable conditions so attached.

Application of the permit scheme

13.—(1) The permit schemes apply to the construction and maintenance of the authorised development and have effect in connection with the exercise by the undertaker of any powers conferred by this Part.

(2) For the purposes of this Order—

- (a) a permit may not be refused or granted subject to conditions which relate to the imposition of moratoria;
- (b) a permit may not be granted subject to conditions where compliance with those conditions would constitute a breach of this Order or where the undertaker would be unable to comply with those conditions through the exercise of the powers conferred by this Order;
- (c) a permit may not be refused where the proposed reason for refusal is the inability to impose a condition which does not comply with paragraph (b); and
- (d) where a provisional advance authorisation has been granted to the undertaker in advance of the grant of a permit in relation to the construction of the authorised development, the street authority may not grant a permit for any other works in the location during the time period to which that provisional advance authorisation relates save that nothing restricts the ability of the highway authority to grant a permit for immediate works.

(3) Irrespective of anything which is stated to the contrary within the permit schemes, where the undertaker submits an application for a permit in relation to the construction or maintenance of the authorised development subject to proposed conditions and the highway authority wishes for different conditions to be imposed on the permit, the highway authority must seek to reach agreement with the undertaker on the conditions subject to which the permit is to be granted and provide alternative permit conditions to the undertaker within 10 working days following the date on which the application for the permit is made by the undertaker and must not refuse an application for a permit before the end of the period which is five working days following the date on which the alternative permit conditions are provided to the undertaker.

(4) Where the undertaker confirms its agreement to the alternative permit conditions provided by the highway authority pursuant to paragraph (3) before the expiry of five working days following the date on which any such alternative permit conditions are provided to the undertaker, the highway authority must grant the permit subject to those conditions.

(5) Any alternative permit conditions provided by a highway authority in accordance with paragraph (3) must comply with paragraph (2)(b).

(6) References to moratoria in paragraph (2) mean restrictions imposed under section 58 (restrictions on works following substantial road works) or section 58A (restrictions on works following substantial street works) of the 1991 Act.

(7) Reference to immediate works in paragraph (2)(d) means emergency works as that term is defined in section 52 of the 1991 Act and urgent works as that term is defined in regulation 3(1) of the Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007(a).

(8) Without restricting the undertaker's recourse to any alternative appeal mechanism which may be available under the permit schemes or otherwise, the undertaker may appeal any decision to refuse to grant a permit or to grant a permit subject to conditions pursuant to the permit schemes in accordance with the mechanism set out in Schedule 3 (procedure regarding certain approvals, etc.) of this Order

Application of the 1991 Act

14.—(1) Works carried out under this Order in relation to a highway which consists of or includes a carriageway must be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (highway authorities, highways and related matters) of the 1991 Act; or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 (dual carriageways and roundabouts) of the 1980 Act.

(2) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers of this Order—

- (a) section 56 (directions as to timing);
- (b) section 56A (powers to give directions as to placing of apparatus);
- (c) section 58 (restrictions following substantial road works);
- (d) section 58A (restriction on works following substantial street works);
- (e) section 73A (power to require undertaker to re-surface street);
- (f) section 73B (power to specify timing, etc., of re-surfacing);
- (g) section 73C (materials, workmanship and standard of re-surfacing);
- (h) section 78A (contributions to costs of re-surfacing by undertaker); and
- (i) Schedule 3A (restriction on works following substantial street works).

(3) The provisions of the 1991 Act mentioned in paragraph (4) (which, together with other provisions of that Act, apply in relation to the carrying out of street works) and any regulations made, or code of practice issued or approved under those provisions, apply (with necessary modifications) in relation to any closure, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 15 (power to alter layout, etc. of streets) and article 16 (temporary closure, alteration, diversion or restriction of streets and public rights of way) whether or not the closure, alteration or diversion constitutes street works within the meaning of that Act.

(4) The provisions of the 1991 Act referred to in paragraph (2) are—

- (a) section 54 (advance notice of certain works), subject to paragraph (5);
- (b) section 55 (notice of starting date of works), subject to paragraph (5);
- (c) section 57 (notice of emergency works);

(a) S.I. 2007/1951.

- (d) section 59 (general duty of street authority to co-ordinate works);
- (e) section 60 (general duty of undertakers to co-operate);
- (f) section 68 (facilities to be afforded to street authority);
- (g) section 69 (works likely to affect other apparatus in the street);
- (h) section 71 (materials, workmanship and standard of reinstatement);
- (i) section 76 (liability for cost of temporary traffic regulation)
- (j) section 77 (liability for cost of use of alternative route); and

all such other provisions as apply for the purposes of the provisions mentioned in sub-paragraphs (a) to (j).

(5) Sections 54 and 55 of the 1991 Act as applied by paragraph (2) have effect as if references in section 57 of that Act to emergency works were references to a closure, alteration or diversion (as the case may be) required in a case of emergency.

Power to alter layout, etc. of streets

15.—(1) Subject to paragraph (3), the undertaker may, for the purposes of constructing and maintaining the authorised development, permanently or temporarily alter the layout of any street (and carry out works ancillary to such alterations) whether or not within the Order limits and the layout of any street having a junction with such a street and, without limiting the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track, central reservation or verge within a street;
- (b) alter the level or increase the width of any such street, kerb, footpath, footway, cycle track, central reservation or verge;
- (c) reduce the width of the carriageway of the street;
- (d) execute any works to widen or alter the alignment of pavements;
- (e) make and maintain crossovers and passing places;
- (f) execute any works of surfacing or resurfacing of the street;
- (g) carry out works for the provision or alteration of parking places, loading bays and cycle tracks;
- (h) carry out works necessary to alter or provide facilities for the management or protection of pedestrians;
- (i) execute any works related to signage and street markings;
- (j) execute any works to provide or improve sight lines required by the highway authority.

(2) The undertaker must restore to the reasonable satisfaction of the street authority any street that has been temporarily altered under this article.

(3) The powers conferred by paragraph 15 may not be exercised without the consent of the street authority (such consent not to be unreasonably withheld or delayed).

Temporary closure, alteration, diversion or restriction of streets and public rights of way

16.—(1) During and for the purposes of carrying out the authorised development, the undertaker may temporarily close, alter, divert or prohibit the use of or restrict the use of any street or public right of way and may for any reasonable time—

- (a) divert the traffic from the street or public right of way;
- (b) authorise for the purpose of crossing only the use of motor vehicles on classes of public rights of way 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 or public right of way.

(2) Without limitation on the scope of paragraph (1) the undertaker may, with the consent of the street authority (such consent not to be unreasonably withheld or delayed), use as a temporary working site any street or public right of way which has been temporarily closed, altered or diverted under the powers conferred by this article.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or public right of way affected by the temporary closing, alteration or diversion under this article if there would otherwise be no reasonable access.

(4) Without limitation on the scope of paragraph (1) the undertaker may temporarily close, alter or divert the streets or public rights of way specified in columns (1) and (2) of Parts 1 and 2 of Schedule 5 (streets or public rights of way to be temporarily closed) to the extent specified, by reference to the letters and numbers shown on the rights of way and streets and access plans, in column (3) of that Schedule, and, if it does so in respect of a street or public right of way specified in Part 1 of Schedule 5 (streets or public rights of way to be temporarily closed), must provide the temporary diversion as specified in column (4) of that Part.

(5) Except in the case of an emergency, the undertaker must not temporarily close, alter, divert or restrict —

- (a) any street or public right of way specified as mentioned in paragraph (4) without first consulting the street authority; or
- (b) any other street or public right of way without the consent of the street authority (such consent not to be unreasonably withheld or delayed) which may attach reasonable conditions to any consent.

(6) In the case of an emergency closure, alteration, diversion or restriction under paragraph (5) the undertaker must inform the street authority as soon as reasonably practicable of such closure, alteration, diversion or restriction and explain the reasons for the interference.

(7) Where the undertaker provides a temporary diversion under paragraph (3), the temporary alternative route is not required to be of a higher standard than the temporarily closed street or public right of way in columns (1) and (2) of Parts 1 and 2 of Schedule 5 (streets or public rights of way to be temporarily closed).

(8) 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 of the 1961 Act.

Access to works

17. The undertaker may, for the purposes of the authorised development—

- (a) form and lay out means of access, or improve existing means of access, in the locations specified in column (2) of Schedule 6 (access to works) for the purposes specified in column (4) of Schedule 6;
- (b) with the consent of the relevant planning authority (such consent not to be unreasonably withheld or delayed) after consultation with the highway authority, 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.

Construction, alteration and maintenance of streets and other structures

18.—(1) Any street (other than any private streets) to be constructed under this Order must be completed to the reasonable satisfaction of the street authority and must, unless otherwise agreed with the street authority, be maintained to the same condition (including any culverts or other structures laid under that part of the highway) by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street must be completed to the reasonable satisfaction of the street authority and must, unless otherwise agreed with the street authority, be maintained (including any culverts or other structures laid under that part of the highway) by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(3) Where a footpath or bridleway is altered or diverted under this Order along a vehicular private means of access, the altered or diverted part of the highway must, when completed to the reasonable satisfaction of the highway authority and unless otherwise agreed in writing, be maintained (including any culverts or other structures laid under that part of the highway) by and at the expense of the person or persons with the benefit of the vehicular private means of access.

(4) Where new land not previously part of the public highway is to form part of the public highway further to the provisions of this Order it must unless otherwise agreed with the street authority, be deemed as dedicated as part of the public highway on the expiry of the period of 12 months from completion of the street that has been constructed, altered or diverted and is thereafter to be maintained by and at the expense of the street authority.

(5) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(6) For the purposes of a defence under paragraph (5), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

(7) In determining who is the street authority in relation to a street for the purposes of Part III of the 1991 Act, any obligation of the undertaker to maintain the street under paragraph (1) or (2) is to be disregarded.

Agreements with street authorities

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

- (a) the maintenance of the structure of any bridge or tunnel carrying a street over or under an electric line authorised by this Order;
- (b) any closure, alteration or diversion of a street authorised by this Order;
- (c) the carrying out in the street of any of the works referred to in article 12 (street works) and article 15 (power to alter layout, etc. of streets);
- (d) such other matters as the parties may agree, including such matters as may be included in agreements made pursuant to section 278 (agreements as to execution of works) or section 38 (highways maintainable at public expense) of the 1980 Act.

- (2) Such an agreement may, without limitation on the scope 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 the street authority specifying a reasonable time for the completion of the works;
 - (c) provide for the dedication of any new street as public highway;
 - (d) contain such terms as to payment as the parties consider appropriate; and
 - (e) contain such other terms as the parties may agree.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

20.—(1) Subject to paragraphs (3) and (4), the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out, operation or maintenance of the authorised development, and for that purpose may 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) must be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991^(a).

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

(4) The undertaker must not make any opening into any public sewer or drain 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 or delayed; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out, operating or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The undertaker must, unless otherwise authorised under the provisions of this Order or any environmental permit relating to the discharge of water in connection with the authorised development, take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the 2016 Regulations in respect of a water discharge activity or groundwater activity.

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to Homes England, the Environment Agency, a harbour authority within the meaning of section 57 (interpretation) of the Harbours Act 1964^(b), an internal drainage board, a joint planning

(a) 1991 c. 56. Section 106 was amended by sections 35(1) and (8) and 43(2) of the Competition and Service (Utilities) Act 1992 (c. 43), sections 36 and 99 of the Water Act 2003 (c. 37) and section 49 of, and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c.29).

(b) 1964 c. 40.

board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and

- (b) other expressions, excluding watercourse, used both in this article and in the 2016 Regulations have the same meaning as in those Regulations.

Protective works

21.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any land, building, structure, apparatus or equipment, lying within the Order limits or 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 in the vicinity of the land, building, structure, apparatus or equipment, of any part of the authorised development or works ancillary to it; or
- (b) after the completion of any part of the authorised development in the vicinity of the land, building, structure, apparatus or equipment, 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 first brought into operational use.

(3) For the purpose of determining how the functions under this article are to be exercised, the undertaker may enter and/or survey—

- (a) any land, building, structure, apparatus or equipment, falling within paragraph (1) and any land within its curtilage; and
- (b) where reasonably necessary, any land which is adjacent to the land, building, structure, apparatus or equipment, whether or not within Order limits,

and place on, leave on and remove from the building, structure, apparatus or equipment any apparatus and equipment for use in connection with the survey.

(4) For the purpose of carrying out protective works under this article to any land, building, structure, apparatus or equipment, the undertaker may (subject to paragraphs (5) and (6)—

- (a) enter the land, building or structure and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the land, building or structure but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to any land, building, structure, apparatus or equipment;
- (b) a right under paragraph (3) to enter and/or survey any land, building, structure, apparatus or equipment, and land within its curtilage or any adjacent land;
- (c) a right under sub-paragraph (4)(a) to enter the land, building or structure and land within its curtilage; or
- (d) a right under sub-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 that right and, in a case falling within sub-paragraph (a) or (c), specify the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the land, building, structure, apparatus or equipment 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 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 58 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any land, building, structure, apparatus or equipment, in relation to which rights under this article have been exercised, for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to any land, building, structure, apparatus or equipment; 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 land, building, structure, apparatus or equipment is first brought into operational use it appears that the protective works are inadequate to protect the land, building, structure, apparatus or equipment 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 land, building, structure, apparatus or equipment for any loss or damage sustained by them.

(9) Subject to article 54 (no double recovery), nothing in this article relieves the undertaker from any liability to pay compensation under section 152(a) (compensation in case where no right to claim in nuisance) of the 2008 Act.

(10) Section 13(b) (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 as it applies to the compulsory acquisition of land under this Order by virtue of section 125(c) (application of compulsory acquisition provisions) of the 2008 Act.

(11) Any compensation payable under paragraph (7) or (8) must be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(12) In this article “protective works” in relation to any land, building, structure, apparatus, equipment or the authorised development means—

- (a) underpinning, strengthening, ground strengthening, earthing and any other works the purpose of which is to prevent damage which may be caused to the land, building, structure, apparatus, equipment or the authorised development by the carrying out, maintenance or use of the authorised development;
- (b) any works the purpose of which is to remedy any damage which has been caused to the land, building, structure, apparatus or equipment by the carrying out, maintenance or use of the authorised development; and
- (c) any works the purpose of which is to secure the safe operation of the authorised development or to prevent or minimise the risk to such operation being disrupted.

Authority to survey and investigate the land

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

- (a) survey, monitor or investigate the land (including any watercourses, groundwater, static water bodies or vegetation on the land);
- (b) without prejudice to the generality of sub-paragraph (a), survey, monitor or investigate the land and any buildings on that land for the purpose of investigating the potential effects of the authorised development on that land or buildings on that land or for enabling the construction, use and maintenance of the authorised development;
- (c) without limitation on the scope of sub-paragraph (a) make trial holes, boreholes, excavations or take horizontal cores in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil, groundwater and other materials

(a) Section 152 was amended by S.I. 2009/1307.

(b) Section 13 was amended by sections 62(3) and 139(4) to (9) of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(c) Section 125 was amended by section 190 of, and paragraph 17 of Schedule 16 to, the Housing and Planning Act 2016 (c.22).

below ground level and/or remove soil, rock, water and/or other material samples and discharge water from sampling operations on to the land;

- (d) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations and monitoring on the land, including making any excavations or trial holes on the land for such purposes; and
- (e) place on, leave on and remove from the land apparatus (including but not limited to welfare facilities and apparatus attached to buoys) for use in connection with the survey, monitoring or investigation of land, making of trial holes, boreholes, excavations, cores, and/or the carrying out of ecological or archaeological investigations or monitoring.

(2) The power conferred by paragraph (1) includes without prejudice to the generality of that paragraph the power to take, and process, samples of or from any of the following found on, in or over the land—

- (a) water;
- (b) air;
- (c) soil or rock;
- (d) flora;
- (e) bodily excretions, or dead bodies, of non-human creatures; or
- (f) any non-living thing present as a result of human action.

(3) 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.

(4) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required, before or after entering the land, produce written evidence of their authority to do so;
- (b) must, before entering the land, provide in the notice details of the purpose specified in paragraph (1) to survey and investigate the land; and
- (c) may take onto the land such vehicles and equipment as are necessary to carry out the survey, monitoring or investigation or to make the trial holes, boreholes, excavations, cores, and/or the carrying out of ecological or archaeological investigations or monitoring.

(5) No trial holes, boreholes, excavations or horizontal cores may be made under this article—

- (a) on 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.

(6) As soon as reasonably practicable following the completion of any activities carried out under paragraph (1), the undertaker must remove any apparatus and restore the land to the reasonable satisfaction of the owners of the land.

(7) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers 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.

(8) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to 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.

Removal of human remains

23.—(1) In this article “the specified land” means any land within the Order limits which the undertaker reasonably considers may contain human remains.

(2) Before the undertaker carries out any development or works which will or may disturb any human remains in the specified land it must remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(3) Before any such remains are removed from the specified land the undertaker must give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the specified land; and
- (b) displaying a notice in a conspicuous place on or near to the specified land.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (3) the undertaker must send a copy of the notice to the relevant planning authority.

(5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person’s intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,

and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).

(7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who must remove the remains and as to the payment of the costs of the application.

(8) Subject to paragraph (7), the undertaker must pay the reasonable expenses both of responding to notices under this article and of removing and re-interring or cremating the remains of any deceased person under this article.

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land; or
- (b) such notice is given and no application is made under paragraph (7) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (10) the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves must be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any

reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(11) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation is to be sent by the undertaker to the Registrar General giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) is to be sent by the undertaker to the relevant planning authority mentioned in paragraph (4).

(12) No notice is required under paragraph (3) before the removal of any human remains where the undertaker is satisfied—

- (a) that the remains were interred more than 100 years ago; and
- (b) that no relative or personal representative of the deceased is likely to object to the remains being removed in accordance with this article.

(13) In the case of remains in relation to which paragraph (12) applies, the undertaker—

- (a) may remove the remains;
- (b) must apply for direction from the Secretary of State under paragraph (15) as to their subsequent treatment; and
- (c) must deal with the remains in such manner, and subject to such conditions, as the Secretary of State directs.

(14) In this article—

- (a) references to a relative of the deceased are to a person who—
 - (i) is a husband, wife, civil partner, parent, grandparent, child or grandchild of the deceased; or
 - (ii) is, or is a child of, a brother, sister, uncle or aunt of the deceased.
- (b) references to a personal representative of the deceased are to a person who—
 - (i) is the lawful executor or executrix of the estate of the deceased; or
 - (ii) is the lawful administrator of the estate of the deceased.

(15) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.

(16) Any jurisdiction or function conferred on the county court by this article may be exercised by a district judge of the court.

(17) Section 25 (Offence of removal of body from burial grounds) of the Burial Act 1857^(a) does not apply to a removal carried out in accordance with this article.

(18) The Town and Country Planning (Churches, Places of Religious Worship and Burial Ground) Regulations 1950^(b) does not apply to the authorised development.

(19) Sections 238 (use and development of consecrated land) and 239 (use and development of burial grounds) of the 1990 Act apply—

- (a) in relation to land, other than a right over land, acquired for the purposes of the authorised development (whether or not by agreement), so as to permit use by the undertaker in accordance with the provisions of this Order; and
- (b) in relation to a right over land so acquired (whether or not by agreement), or the temporary use of land pursuant to article 27 (temporary use of land for carrying out the authorised development) and article 28 (temporary use of land for maintaining the authorised development), so as to permit the exercise of that right or the temporary use by

(a) 1857 c.81. Section 25 was substituted by section 2 of the Church of England (Miscellaneous Provisions) Measure 2014 (No.1).

(b) S.I. 1950/792

the undertaker in accordance with the provisions of this Order, without prejudice to the status of the land over which the right is exercised as consecrated land,

and in section 238(1)(b) of the 1990 Act reference to a “planning permission” includes this Order, in section 240(1) of the 1990 Act reference to “regulations made for the purposes of sections 238(3) and (4) and 239(2)” means, so far as applicable to land or a right over land acquired under this Order, paragraphs (2) to (16) of this article and in section 240(3) of the 1990 Act reference to a “statutory undertaker” includes the undertaker and reference to “any other enactment” includes this Order.

PART 5

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Compulsory acquisition of land

24.—(1) The undertaker may—

- (a) acquire compulsorily so much of the Order land described in the book of reference and shown on the land plans as is required for the construction, operation and maintenance of the authorised development, or to facilitate it, or which is incidental to it; and
- (b) use any land so acquired for the purposes authorised by this Order for any other purposes in connection with or ancillary to the construction, operation, or maintenance of the authorised development.

(2) This article is subject to article 25 (compulsory acquisition of rights and restrictive covenants), article 26 (acquisition of subsoil or airspace only), article 27 (temporary use of land for carrying out the authorised development), article 29 (use of subsoil under or airspace over streets), article 33 (time limit for exercise of authority to acquire land and rights compulsorily or to possess land temporarily) and article 40 (Crown rights).

Compulsory acquisition of rights and restrictive covenants

25.—(1) Subject to the provisions of this article, the undertaker may acquire compulsorily the rights, and impose the restrictive covenants, over the Order land, described in the book of reference, by creating them as well as by acquiring rights and the benefits of restrictions already in existence.

(2) This article is subject to article 24 (compulsory acquisition of land), article 27 (temporary use of land for carrying out the authorised development).

(3) Subject to section 8 (other provisions as to divided land) of the 1965 Act as substituted by Schedule 7 to this Order (modification of compensation and compulsory purchase enactments for creation of new rights), where the undertaker acquires a right over land or imposes a restriction under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights) to this Order 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 the creation of a new right or the imposition of a restriction.

(5) This article is subject to article 40 (Crown rights).

Acquisition of subsoil or airspace only

26.—(1) The undertaker may compulsorily acquire so much of, or such rights in, the subsoil of, or the airspace of, the land referred to in article 24 (compulsory acquisition of land) and article 25 (compulsory acquisition of rights and restrictive covenants) as may be required for any purpose

for which that land may be acquired or for which rights over or under the land may be acquired under those provisions instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of or the airspace over 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 subsoil or airspace only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as modified by article 265 (modification of Part 1 of the 1965 Act));
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) section 153(4A)(c) (blighted land: proposed acquisition of part interest; material detriment test) of the Town and Country Planning Act 1990.

(4) Paragraph (2) does not prevent article 34 (acquisition of part of certain properties) from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Temporary possession of land

Temporary use of land for carrying out the authorised development

27.—(1) The undertaker may, in connection with the carrying out of the authorised development—

- (a) enter on and take temporary possession of—
 - (i) so much of the land described in the book of reference and specified in columns (1) and (2) of Schedule 8 (land of which only temporary possession may be taken) for the purpose specified in relation to that land 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 a declaration) of the 1981 Act;
- (b) subject to article 43 (statutory undertakers) remove or reposition the apparatus belonging to statutory undertakers or operators of any electronic communications code network;
- (c) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from the land referred to in sub-paragraph (a);
- (d) install apparatus to enable utility connections to temporary buildings and construct temporary works (including the provision of means of access), haul roads, security fencing, bridges, structures and buildings on the land referred to in sub-paragraph (a);
- (e) use the land referred to in sub-paragraph (a) for the purposes of a temporary working site with access to the working site in connection with the authorised development;
- (f) construct any works specified in relation to that land referred to in sub-paragraph (a)(ii) as are mentioned in Schedule 1 (authorised development); and
- (g) carry out mitigation works required under the requirements in Schedule 2 (requirements) on the land referred to in sub-paragraph (a).

(2) Not less than 14 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 may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land referred to in sub-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 8 (land of which only temporary possession may be taken), or

- (b) in the case of land referred to in sub- paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the works or other purpose for which temporary possession of the land was taken unless the undertaker has, by 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) The undertaker must provide the owners of any land of which temporary possession has been taken under this article with written notice of the date of completion of the works for which temporary possession was taken within 28 days of the completion of those works.

(5) Before giving up possession of land of which only temporary possession has been taken under this article, unless otherwise agreed with the owners of the land, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land, but the undertaker is not required to—

- (a) replace a building, structure, apparatus, equipment, electric line, electrical plant or pylon removed under this article;
- (b) restore the land on which any mitigation works have been carried out under sub-paragraph (1)(f);
- (c) remove any foundations below 1.5 metres which had been placed in that land to support pylons and electric lines constructed upon those foundations;
- (d) remove any permanent work including pylons, electric lines, underground cables, or other permanent services, constructed or installed on, over, under or in that land as part of the authorised development;
- (e) remove any ground-strengthening works which have been placed in that land to facilitate construction of the authorised development;
- (f) remove or reposition any apparatus belonging to statutory undertakers or measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development;
- (g) remove any drainage works;
- (h) remove or reposition necessary mitigation works;
- (i) restore ground levels adjusted as part of the authorised development; or
- (j) breach or fail to comply with a term of this Order.

(6) Any dispute as to the removal of temporary works and restoration of land under paragraph (5) does not prevent the undertaker giving up possession of the land.

(7) 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 the land of the provisions of this article.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(9) Nothing in this article affects any liability to pay compensation under section 152 Act (compensation in case where no right to claim in nuisance) of the 2008 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 (7).

(10) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to 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.

(12) Nothing in this article prevents the undertaker from taking temporary possession more than once in relation to any land specified in paragraph (1)(a).

Temporary use of land for maintaining the authorised development

28. —(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 upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development;
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose; and
- (c) enter on any land within the Order limits for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development.

(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) Except as provided in paragraph (11), not less than 28 days before entering upon 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 that notice must explain the purpose for which entry is taken.

(4) The undertaker may remain in possession of land under this article only 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 the land of the powers conferred by 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 of the 1961 Act.

(8) Subject to article 54 (no double recovery), 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 (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to 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.

(11) Where the undertaker has identified a potential risk to the safety of—

- (a) the authorised development or any part of it; or
- (b) the public; or
- (c) the surrounding environment,

the requirement to serve not less than 28 days' notice under paragraph (3) does not apply and the undertaker may enter the land pursuant to paragraph (1) subject to giving such period of notice (if any) as is reasonably practicable in all the circumstances.

(12) 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 that part of the authorised development is brought into operational use, except where the authorised development is replacement or landscape planting where “the maintenance period” means the period of five

years beginning with the date on which that part of the replacement or landscape planting is completed.

Use of subsoil under or airspace over streets

29.—(1) The undertaker may enter on and use so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development or for any other purpose ancillary to the authorised development and may use the subsoil or airspace for those purposes.

(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 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.

Compensation

Disregard of certain interests and improvements

30.—(1) In assessing the compensation payable to any person on the acquisition from that person of any land or right over any land under this Order, the Tribunal must not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the Tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration as part of the authorised development was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made as part of the authorised development, directly or indirectly concerned.

Set-off for enhancement in value of retained land

31.—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including any subsoil) the Tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which accrues to that person by reason of the construction of the authorised development.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil), under article 25 (compulsory acquisition of rights and restrictive covenants), the Tribunal must set off against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are required; and
- (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,

which accrues to that person by reason of the construction of the authorised development.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2), as if this Order were a local enactment for the purposes of that Act.

Supplementary

Compulsory acquisition of land – incorporation of the mineral code

32. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981(a) are incorporated into this Order subject to the modifications that—

- (a) paragraph 8(3) is not incorporated;
- (b) for “the acquiring authority” there is substituted “the undertaker”;
- (c) for “undertaking” substitute “authorised development”; and
- (d) for “compulsory purchase order” substitute “this Order”.

Time limit for exercise of authority to acquire land and rights compulsorily or to possess land temporarily

33.—(1) After the end of the period of seven years beginning with the day on which this Order comes into force—

- (a) no notice to treat may be served under Part 1 of the 1965 Act; and
- (b) no declaration may be executed under section 4 of the 1981 Act as applied by article 35 (application of the 1981 Act).

(2) The authority conferred by article 27 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), save that nothing in this paragraph 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.

Acquisition of part of certain properties

34.—(1) This article applies where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or manufactory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 28 days beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat and stating that the owner is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner is required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner is required to sell only the land subject to the notice to treat must, unless the undertaker agrees to take the land subject to the counter-notice, be referred to the Tribunal.

(a) 1981 c. 67. Paragraph 3 of Part 3 of Schedule 2 was amended by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order (S.I. 2009/1307 and paragraph 8 of Part 3 of that Schedule was amended by section 46 of the Criminal Justice Act 1982 (c.48).

(5) If on such a reference the Tribunal determines that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner is required to sell the land subject to the notice to treat.

(6) If on such a reference the Tribunal determines that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat is deemed to be a notice to treat for that part.

(7) If on such a reference the Tribunal determines that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the Tribunal determines that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) the material detriment is not confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.

(9) Where by reason of a determination by the Tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, must pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the Tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or manufactory or of land consisting of a house with a park or garden, the undertaker must pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

Application of the 1981 Act

35.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as so applied, has effect with the following modifications.

(3) In section 1 (application of Act) for subsection (2) there is substituted —

“(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by 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) Section 5A (time limit for general vesting declaration)(a) is omitted.
- (6) In section 5B (extension of time limit during challenge)(b)—
- (a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008”; and
 - (b) for “the applicable period for the purposes of section 5A” substitute “the seven year period mentioned in article 33 (time limit for exercise of authority to acquire land and rights compulsorily or to possess land temporarily) in the Xlinks’ Morocco-UK Power Project Order 202[]”.
- (7) In section 6 (notices after execution of declaration)(c) for subsection (1)(b) there is substituted—
- “(b) on every other person who has given information to the acquiring authority with respect to any of that land further to the invitation published and served under section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008.”
- (8) In section 7 (constructive notice to treat)(d), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration)(e), for paragraph 1(2) substitute—
- “(2) But see article 26(3) (acquisition of subsoil or airspace only) of the Xlinks’ Morocco-UK Power Project Order 202[], which excludes the acquisition of subsoil or airspace only from this Schedule.”
- (10) 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 and as modified by article 36 (application of Part 1 of the 1965 Act) to the compulsory acquisition of land under this Order.

Application of Part 1 of the 1965 Act

36.—(1) Part 1 of the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act is modified as follows.

(2) In section 4 (time limit for giving notice to treat)(f) in section 4(1) for “after the end of the applicable period of 3 years beginning with the day on which the compulsory purchase order becomes operative” substitute “after the end of the period stated in article 33 (time limit for exercise of authority to acquire land and rights compulsorily or to possess land temporarily) of the Xlinks’ Morocco-UK Power Project Order 202[] and omit section 4(2); and

(3) in section 4A(1)(g) (extension of time limit during challenge)—

- (a) for “section 23 of the Acquisition of Land Act 1981 (application to the 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)”; and

-
- (a) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016.
 - (b) Section 5B was inserted by section 202(2) of the Housing and Planning Act 2016 and amended by section 185 the Levelling-up and Regeneration Act 2023 (c.55).
 - (c) Section 6 was amended by section 4 of, and paragraph 52(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016.
 - (d) Section 7(1) was substituted by paragraph 3 of Schedule 18 to the Housing and Planning Act 2016 (c. 22) and amended by section 186 of the Levelling-up and Regeneration Act 2023 (c.55).
 - (e) Schedule A1 was inserted by paragraph 6 of Part 1 of Schedule 18 to the Housing and Planning Act 2016 (c. 22) and amended by section 186 of the Levelling-up and Regeneration Act 2023 (c.55).
 - (f) Section 4 of the 1965 Act was amended by section 185 the Levelling-up and Regeneration Act 2023 (c.55)
 - (g) Section 4A of the 1965 Act was amended by section 185 the Levelling-up and Regeneration Act 2023 (c.55)

- (b) for “the applicable period for the purposes of section 4” substitute “the seven year period mentioned in article 33 (time limit for exercise of authority to acquire land and rights compulsorily or to possess land temporarily) of the Xlinks’ Morocco-UK Power Project Order 202[]”.
- (4) In section 11A (powers of entry: further notice of entry)—
 - (a) in subsection (1)(a), after “land” insert “under that provision”; and
 - (b) in subsection (2), after “land” insert “under that provision”.
- (5) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 33 (time limit for exercise of authority to acquire land and rights compulsorily or to possess land temporarily) of the Xlinks’ Morocco-UK Power Project Order 202[]”.
- (6) 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 26(3) (acquisition of subsoil or airspace only) of the Xlinks’ Morocco-UK Power Project Order 202[], which excludes the acquisition of subsoil or airspace only from this Schedule”; and
 - (b) after paragraph 29, insert

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 21 (protective works), article 27 (temporary use of land for carrying out the authorised development) or article 28 (temporary use of land for maintaining the authorised development) of the Xlinks’ Morocco-UK Power Project Order 202[]”.

Extinguishment and suspension of private rights

37.—(1) Subject to the provisions of this article, all private rights and restrictive covenants over land subject to compulsory acquisition under this Order are extinguished or suspended—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (power of entry)(a) of the 1965 Act,

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights and restrictive covenants over land owned by the undertaker which, being within the Order limits, is required for the purposes of this Order, cease to have effect on the start of any activity authorised by this Order which interferes with or breaches such rights or such restrictive covenants.

(3) Subject to the provisions of this article, all private rights and restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under this Order cease to have effect in so far as their continuance would be inconsistent with the exercise of the right acquired or the burden of the restriction imposed—

- (a) as from the date of the acquisition of the right or the benefit of the restriction by the undertaker, whether compulsorily or by agreement; or

(a) Section 11 was amended by paragraph 14 of Schedule 4 to the Acquisition of Land Act 1981 (c. 67), paragraph 12(1) of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2006 (NO. 1) and sections 186, 187 and 188 of the Housing and Planning Act 2016 (c. 22).

- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right; or
- (c) on commencement of any activity authorised by the Order which interferes with or breaches those rights

whichever is the earlier.

(4) Subject to the provisions of this article all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land and in so far as their continuation would be inconsistent with the exercise of the powers under this Order.

(5) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.)(a) of the 2008 Act or article 43 (statutory undertakers) applies.

(7) Paragraphs (1) to (4) have effect subject to—

(a) any notice given by the undertaker before—

- (i) the completion of the acquisition of the land or rights or the imposition of restrictive covenants over or affecting the land;
- (ii) the undertaker's appropriation of it;
- (iii) the undertaker's entry onto it; or
- (iv) the undertaker's taking temporary possession of it,

that any or all of those paragraphs do not apply to any right specified in the notice; and

(b) any agreement made, in so far as it relates to the authorised development, at any time between the undertaker and the person in or to whom the right or restrictive covenant in question is vested, belongs or benefits.

(8) If any such agreement as is referred to in paragraph (7)(b)—

- (a) is made with a person in or to whom the right is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) A reference in this article to private rights and restrictive covenants over land includes any trust, incident, easement, wayleave, liberty, privilege, right or advantage annexed to land (including any land forming part of a common, open space or fuel or field garden allotment) and adversely affecting other land, including any natural right to support, and including restrictions as to the user of land arising by virtue of a contract.

Power to override easements and other rights

38.—(1) Any authorised activity which takes place on land within the Order limits (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by any servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, 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 the user of land arising by virtue of a contract.

(a) Section 138 was amended by section 23(4) of the Growth and Infrastructure Act 2013 (c. 27) and by S.I. 2017/1285.

(2) In this article “authorised activity” means—

- (a) the erection, construction or maintenance of any part of the authorised development;
- (b) the exercise of any power authorised by this Order; or
- (c) the use of any land (including the temporary use of land).

(3) The interests and rights to which this article applies include any trust, incident, easement, wayleave, liberty, privilege, right or advantage annexed to land (including any land forming part of a common, open space or fuel or field garden allotment) and adversely affecting other land, including any natural right to support, and including restrictions as to the user of land arising by virtue of a contract.

(4) Where an interest, right or restriction is overridden by paragraph (1), compensation—

- (a) is payable under section 7 (measure of compensation in case of severance) or 10 (further provision as to compensation for injurious affection) of the 1965 Act; and
- (b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—
 - (i) the compensation is to be estimated in connection with a purchase under that Act; or
 - (ii) the injury arises from the execution of works on or use of land acquired under that Act.

(5) Where a person deriving title under the undertaker by whom the land in question was acquired—

- (a) is liable to pay compensation by virtue of paragraph (4), and
- (b) fails to discharge that liability,

the liability is to be enforceable against that undertaker.

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1) of this article.

(7) Paragraph (1) has effect subject to—

- (a) any notice given by the undertaker before the authorised activity which—
 - (i) interferes with an interest or right to which this article applies; or
 - (ii) breaches a restriction as to the user of land to which this article applies,

is begun that the paragraph does not apply to any interest, right or restriction as to the user of land specified in the notice; and

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

(8) If any such agreement as is referred to in sub-paragraph (7)(b)—

- (a) is made with a person in or to whom the interest, right or restriction is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

Statutory authority to override easements and other rights

39.—(1) The carrying out or use of development authorised by this Order and the doing of anything else authorised by this Order is authorised by virtue of section 158 (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 user 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 user of land arising by virtue of contract,

authorised by virtue of this Order and the operation of section 158 of the 2008 Act.

(3) The interests and rights to which this article applies include any trust, incident, easement, wayleave, liberty, privilege, right or advantage annexed to land (including any land forming part of a common, open space or fuel or field garden allotment) and adversely affecting other land, including any natural right to support, and including restrictions as to the user of land arising by virtue of a contract.

(4) Subsection (2) of section 10 (further provision as to compensation for injurious affection) of the 1965 Act applies to paragraph (2) by virtue of section 152(5) of the 2008 Act.

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

Crown rights

40.—(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 licensee to take, use, enter on or in any manner interfere with any land or rights of any description (including any part 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) A consent under paragraph (1)—

- (a) may be given unconditionally or subject to terms and conditions; and
- (b) is deemed to have been given in writing where it is sent electronically.

Saving provisions for Trinity House

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

Special category land

42.—(1) So much of the special category land that is required for the purposes of the exercising by the undertaker of the Order rights must be 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 the Order rights.

(2) So far as the temporary use of land under either article 27 (temporary use of land for carrying out the authorised development) and article 28 (temporary use of land for maintaining the authorised development) is concerned, then the discharge in paragraph (1) is only for such time as any land required only temporarily is being used under either of those articles.

(3) In this article—

“Order rights” means the rights exercisable over the special category land by the undertaker under article 25 (compulsory acquisition of rights and restrictive covenants); and

“special category land” means the land identified as forming part of a common, open space, or fuel or field allotment in the book of reference and shown on the special category land plans.

Statutory undertakers

43.—(1) Subject to the provisions of Schedule 11 (protective provisions) the undertaker may—

- (a) further to the power in article 24 (compulsory acquisition of land), acquire compulsorily the Order land belonging to statutory undertakers, and described in the book of reference;
- (b) extinguish or suspend the rights of, remove or reposition apparatus belonging to statutory undertakers where such apparatus is anywhere over or within the Order limits notwithstanding that repositioning may be outside of the Order limits;
- (c) further to the power in article 25 (compulsory acquisition of rights and restrictive covenants), acquire compulsorily existing rights, create and acquire the new rights and impose restrictive covenants over land belonging to statutory undertakers described in the book of reference and indicated on the land plans;
- (d) construct the authorised development in such a way as to cross underneath or over apparatus belonging to statutory undertakers or the operators of any electronic communications code network and other like bodies within the Order limits; and
- (e) construct over existing apparatus belonging to statutory undertakers any necessary track or roadway (whether temporary or permanent) together with the right to maintain or remove the same, and install such service media under or over the existing apparatus needed in connection with the authorised development.

(2) Without prejudice to paragraph (1)(b), paragraphs (3) and (4) apply in relation to apparatus of statutory undertakers not falling within paragraph (1)(b).

(3) Subject to the following provisions of this paragraph, sections 271 to 274 of the 1990 Act power to extinguish rights of statutory undertakers, etc and power of statutory undertakers etc to remove or re-site apparatus apply in relation to land falling outside of the Order limits where it is necessary for the purposes of the authorised development to extinguish the rights of statutory undertakers or to remove or reposition apparatus belonging to the statutory undertakers, and all such other provisions of that Act as apply for the purposes of those provisions (including sections 275 to 278, which contain provisions consequential to the extinguishment of any rights under sections 271 and 272, and sections 279(2) to (4), 280 and 282, which provide for the payment of compensation) have effect accordingly.

(4) In the provisions of the 1990 Act as applied by paragraph (3), references to the appropriate Minister are references to the Secretary of State.

Recovery of costs of new connections

44.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 43 (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 a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer, but where such a sewer is removed under article 43 (statutory undertakers) any person who is—

- (a) the owner or occupier of 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) In this article—

“public communications provider” has the same meaning as in section 151(1) (interpretation of Chapter 1) of the 2003 Act; and

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

PART 6

MISCELLANEOUS AND GENERAL

Deemed marine licence

45. The undertaker is deemed to have been granted the licence under Part 4 of the 2009 Act contained in Schedule 9 (deemed marine licence) to this Order, to carry out the activities described in Part 1 of Schedule 9 (deemed marine licence) and subject to the licence conditions set out in Part 2 of Schedule 9 (deemed marine licence) which are deemed to have been attached to the licence by the Secretary of State under Part 4 of the 2009 Act.

Application of landlord and tenant law

46. —(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 or 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 lease of any obligation of any other party under the lease.

Defence to proceedings in respect of statutory nuisance

47. —(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(a) in relation to a nuisance falling within paragraphs (a), (d), (e), (fb) (g) or (ga) of section 79(1) of that Act no order must be made, and no fine must be imposed, under section 82(2) 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 or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a

(a) 1990 c. 43. Section 82 is amended by section 5 of the Noise and Statutory Nuisance Act 1993, c. 40, and section 103 of the Clean Neighbourhoods and Environment Act 2005, c. 16. There are other amendments to this Act which are not relevant to this Order.

notice served under section 60 (control of noise on construction site) or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974(a); or

- (ii) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with the controls and measures relating to noise as any relevant plans approved pursuant to requirements 7 and 8 or in accordance with the noise levels set out in an environmental permit relating to the operation of the authorised development; or
 - (iii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
 - (iv) is a consequence of complying with a requirement of this Order and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance—
- (i) relates to premises 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 accordance with any relevant management plan approved pursuant to requirements 7 and 8; or
 - (ii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) For the purposes of paragraph (1) above, compliance with the controls and measures relating a nuisance falling within paragraphs (a), (d), (e), (fb) (g) and (ga) described in any relevant management plan approved pursuant to requirements 7 and 8 are sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided.

(3) Where a relevant planning authority is acting in accordance with section 60(4) and section 61(4) of the Control of Pollution Act 1974 in relation to the construction of the authorised development then the local authority must also have regard to the controls and measures relating to a nuisance falling within paragraphs (a), (d), (e), (fb) (g) and (ga) referred to in any relevant management plan approved pursuant to requirements 7 and 8.

(4) 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 or maintenance of the authorised development.

(5) In this article “premises” has the same meaning as in section 79 of the Environmental Protection Act 1990(b).

Traffic regulation

48.—(1) Subject to the provisions of this article, the undertaker may at any time for the purposes of the authorised development or for purposes ancillary to the construction or maintenance of the authorised development—

- (a) prohibit waiting of vehicles and regulate vehicular speed by imposing a speed restriction on vehicles in the manner specified in Schedule 10 (traffic regulation orders) on a road specified in column (2) and along the lengths specified in column (3) in the manner specified in column (4) of that Part of that Schedule; and
- (b) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act in so far as it is inconsistent with any prohibition, restriction or other provision made by the undertaker under this paragraph.

(a) 1974 c. 40. Sections 61 was amended by section 133(2) of and Schedule 7 to, the Building Act 1984 (c. 55) and section 162 of, and paragraph 15(3) of Schedule 15 to, the Environmental Protection Act 1990, c.43. There are other amendments to the 1974 Act which are not relevant to this Order.

(b) 1990 c. 43.

(2) Without limiting the scope of the specific powers conferred by paragraph (1) but 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 or delayed, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with construction or maintenance of the authorised development, or for purposes ancillary to it, at any time—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the maximum speed, direction or priority of vehicular traffic on any road; and
- (e) permit, prohibit or restrict vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) The undertaker must not exercise the powers in paragraphs (1) and (2) unless it has—

- (a) given not less than four weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may specify in writing within seven days of its receipt of notice of the undertaker's intention as provided for in sub-paragraph (a).

(4) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (2)—

- (a) has effect as if duly made by—
 - (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 of the 1984 Act (power of local authorities to provide parking places),
and the instrument by which it is effected may specify savings and exemptions (in addition to those mentioned in Schedule 10 (traffic regulation orders)) 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 to the Traffic Management Act 2004^(a) (road traffic contraventions subject to civil enforcement).

(5) Any prohibition, restriction or other provision made under this article may at any time be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraphs (1) and (2).

(6) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (2) ceases to have effect on the expiry of the period of five years beginning with the date on which the authorised development is first brought into operational use, except where the authorised development is replacement or landscape planting in which case the period of five years begins with the date on which that part of the replacement or landscape planting is completed.

(7) Before complying with the provisions of paragraph (3) the undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated.

(8) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(a) 2004 c. 18.

Felling or lopping

49.—(1) The undertaker may fell, lop, prune, cut, trim, coppice, pollard, or reduce in height or width, any tree, shrub, shrubbery, hedgerow, or important hedgerow under or within or overhanging or near any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree, shrub, shrubbery, hedgerow or important hedgerow—

- (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 constructing, maintaining, or operating the authorised development.

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

- (a) the undertaker must not cause any unnecessary damage to any tree, shrubbery or hedgerow, or important hedgerow;
- (b) the undertaker must pay compensation to any person for any loss or damage arising from such activity;
- (c) the duty in section 206(1) (replacement of trees) of the 1990 Act does not apply; and
- (d) for the purposes of section 9 (requirement of licence for felling) of the Forestry Act 1967
 - (a) any felling comprised in the activity is deemed to be immediately required for the purpose of carrying out development authorised by planning permission granted under the 1990 Act.

(3) Any dispute as to a person’s entitlement to compensation under paragraph (2)(b), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

(4) Subject at all times to paragraph (5), the undertaker must not pursuant to paragraph (1) fell, lop, prune, cut, trim, coppice, pollard, or reduce in height or width a tree within or overhanging the extent of the public highway without the consent of the highway authority.

(5) The consent of the highway authority is not required under paragraph (4) where—

- (a) the tree to be felled, lopped, pruned, cut, trimmed, coppiced, pollarded, or reduced in height or width is described or shown on the tree and hedgerow schedule; and
- (b) the undertaker giving 5 days’ notice to the highway authority of its intention to carry out any of the operations described in sub-paragraph (a).

(6) The power conferred by paragraph (1) removes any obligation upon the undertaker to secure any consent to remove hedgerows under the Hedgerows Regulations 1997.

(7) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerows Regulations 1997.

Trees subject to tree preservation orders

50.—(1) The undertaker may fell, lop, prune, cut, trim, coppice, pollard, reduce in height or width or cut back the roots of any tree within the Order limits subject to a tree preservation order, if it reasonably believes it to be necessary in order to do so to prevent the tree—

- (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 constructing, maintaining, or operating the authorised development.

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

(a) 1967 c. 10. Section 9 was amended by Schedule 1 to the Forestry Act 1979 (c. 21) and section 4 of, and paragraph 14(1) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). There are other amendments to section 9 that are not relevant to this Order.

- (a) obtain the written approval of the relevant planning authority prior to that activity taking place; and
 - (b) do no unnecessary damage to any tree in respect of which the activity is carried out.
- (3) 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 damage arising from such activity; and
 - (b) the duty in section 206(1) of the 1990 Act (replacement of trees) does not apply.
- (4) The authority given by paragraphs (1) or (2) constitutes a deemed consent under the relevant tree preservation order.
- (5) 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 of the 1961 Act.

Protection of interests

51. Schedule 11 (protective provisions) has effect.

Procedure regarding certain approvals etc.

52.—(1) Where an application or request is submitted to any authority, body or person pursuant to any of the provisions of this Order for any consent, agreement or approval required or contemplated by any of the provisions of this Order such consent, agreement or approval, to be validly given, must be given in writing and must not be unreasonably withheld or delayed.

(2) When any details, plans or other matters have been consented, agreed or approved by the relevant planning authority or highway authority (as relevant) pursuant to a requirement set out in Schedule 2 (requirements) , then they may subsequently be amended by agreement with the relevant planning authority or highway authority (as relevant) provided that no amendments to those details, plans or other matters may be approved where such amendments would—

- (a) permit development (so far as the development falls within a Work No.) outside of the extent of the area shown on the works plans for the Work No. in which that development is comprised; or
- (b) give rise to any materially new or materially different significant effects on the environment that have not been assessed in the environmental statement or in any environmental information supplied under the 2017 Regulations.

(3) Subject to paragraph (4), Schedule 3 (procedure regarding certain approvals, etc.) has effect in relation to all consents, agreements or approvals required or contemplated by any of the provisions of this Order.

(4) Schedule 3 (procedure regarding certain approvals, etc.) does not apply in respect of any consents, agreements or approvals contemplated by the provisions of Schedule 11 (protective provisions) or any difference or dispute under article 21 (protective works) to which, in each case, article 58 (arbitration) instead applies.

(5) If before this Order came into force the undertaker or any other person took any steps that were intended to be steps towards compliance with any provision of Schedule 2 (requirements), those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

Safeguarding

53.—(1) Save in respect of exempt applications, before granting planning permission for development to which this article applies, a relevant planning authority must consult the undertaker.

- (2) This article applies to development which would be wholly or partly within the Order limits.

(3) Where this article requires a relevant planning authority to consult the undertaker before granting planning permission—

- (a) they must give the undertaker notice of the application for planning permission (unless the applicant has served a copy of the application on the undertaker); and
- (b) they may not determine the application before the end of the period of 21 days, beginning two working days after the relevant planning authority has sent the notice to the undertaker by first class post or by such other means of service as may be agreed with the relevant planning authority, which is deemed to be the date on which the undertaker receives the notice or copy of the application.

(4) But a relevant planning authority may determine an application during that period if the undertaker has—

- (a) made representations to the relevant planning authority about the application, or
- (b) notified the relevant planning authority that it does not intend to make representations.

(5) In determining an application for planning permission a relevant planning authority must take into account any representations received in accordance with this article.

(6) The requirement to consult under this article is a local land charge.

(7) In this article—

“exempt applications” means—

- (a) an application for planning permission which relates to development that—
 - (i) consists of an alteration to an existing building, or the change of use of an existing building or land; and
 - (ii) does not involve, or is not likely to involve, any construction engineering or other operations below existing ground level;
- (b) an application for planning permission which is to be determined by a relevant planning authority in the period of 21 days beginning on the day after the date on which the Order comes into force.

No double recovery

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

Amendment of local legislation

55.—(1) Any statutory provision of local application and, in particular, the local enactments specified in Schedule 12 (amendment to local legislation), and any byelaws or other provisions made under any of those enactments, are hereby excluded and do not apply insofar as inconsistent with a provision of, or a power conferred by, this Order.

(2) In particular, a power conferred by this Order may be exercised despite, and without having regard to, a provision made by or by virtue of a specified enactment, or any other statutory provision of local application, that—

- (a) requires or permits a specified road, path, passage, bridge, parapet, fence or other place or structure to be kept open or maintained generally or in a specified manner;
- (b) requires or permits the provision and maintenance of lights or other apparatus or structures generally or in a specified manner;
- (c) prohibits or restricts (or imposes conditions or penalties on or in relation to) the obstruction or removal of, or the causing of damage to, a specified place or structure (or class of places or structures);

- (d) prohibits or restricts (or imposes conditions on or in relation to) the erection of structures, or the undertaking of other works, in a specified place or structure (or class of places or structures);
- (e) permits or requires a specified place or structure to be closed;
- (f) makes provision about the conduct of persons using a specified walkway or other place or structure (or class of places or structures) whether by prohibiting or restricting movement (of persons, vehicles or animals) or otherwise;
- (g) specifies a minimum or maximum depth for, or otherwise restricts or imposes conditions in relation to, the laying of pipes or the carrying out of any other works;
- (h) prohibits the laying of pipes or the carrying out of any other works generally or without the consent of a specified person;
- (i) makes provision about the construction or maintenance of, or any other matter relating to, pipes, drains or other means of connecting with sewers;
- (j) in any other way would or might apply in relation to anything done, or omitted to be done, in the exercise of a power conferred by this Order.

(3) For the purpose of paragraph (1) a provision is inconsistent with the exercise of a power conferred by this Order if and insofar as (in particular)—

- (a) it would make it an offence to take action, or not to take action, in pursuance of the power;
- (b) action taken in pursuance of the power would cause the provision to apply so as to enable a person to require the taking of remedial or other action or so as to enable remedial or other action to be taken;
- (c) action taken in pursuance of a power or duty under the provision would or might interfere with the construction, operation or maintenance of any work authorised by this Order.

(4) Where any person notifies the undertaker in writing that anything done or proposed to be done by the undertaker or by virtue of this Order would amount to a contravention of a statutory provision of local application, the undertaker must as soon as reasonably practicable, and in any event within 14 days of receipt of the notice, respond in writing setting out—

- (a) whether the undertaker agrees that the action taken or proposed does or would contravene the provision of local application;
- (b) if the undertaker does agree, the grounds (if any) on which the undertaker believes that the provision is excluded by this article; and
- (c) the extent of that exclusion.

Certification of documents

56.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the plans and documents identified in Schedule 13 (certified documents) of this Order for certification as true copies of those plans and 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 any plan or document identified in Schedule 13 (certified documents) is required to be amended to reflect the terms of the Secretary of State's decision to make this Order, that plan or document in the form amended to the Secretary of State's satisfaction is the version of the plan or document required to be certified under paragraph (1).

(4) Where a plan or document certified under paragraph (1) —

- (a) Refers to a provision in this Order (including any specified requirement) when it was in draft form; and

- (b) Identifies the provision by number or combination of numbers and letters, which is different from the number or combination of numbers or letters by which the corresponding provision of this Order is identified in the Order as made;

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

(5) The undertaker must, following certification of the plans or documents in accordance with paragraph (1), make those plans or documents available in electronic form for inspection by members of the public.

Service of notices

57.—(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 written consent of the recipient and subject to paragraphs (5) 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 (references to service by post) of the Interpretation Act 1978^(a) 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 a 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 any 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 name or 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 a 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 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 part of that notice or other document, the sender must provide such a copy as soon as reasonably practicable.

(a) 1978 c. 30.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing 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”, in relation to a notice or document, means that the information contained in the notice or 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.

Arbitration

58.—(1) Subject to article 52 (procedure regarding certain approvals, etc.) and except where otherwise expressly provided for in this Order or unless otherwise agreed between the parties, any difference under any provision of this Order 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) by the Secretary of State.

(2) Any matter for which the consent or approval of the Secretary of State is required under any provision of this Order shall not be subject to arbitration.

Funding

59.—(1) Unless the Secretary of State agrees otherwise, the undertaker must not exercise a power conferred by the provisions referred to in paragraph (3) in relation to any land until a form and amount of security has been provided in respect of the liabilities of the undertaker to pay compensation in connection with the exercise of the powers referred to in paragraph (3).

(2) The form and amount of security referred to in paragraph (1) is to be approved by the Secretary of State and may include, without limitation—

- (a) The deposit of a cash sum;
- (b) A payment into court;
- (c) An escrow agreement;
- (d) A bond provided by a financial institution;
- (e) An insurance policy;
- (f) A guarantee by a parent company or companies of the undertaker;
- (g) A guarantee by a person of sufficient financial standing (other than the undertaker).

(3) The provisions referred to in paragraph (1) are—

- (a) article 24 (compulsory acquisition of land);
- (b) article 25 (compulsory acquisition of rights and restrictive covenants);
- (c) article 26 (acquisition of subsoil or airspace only);
- (d) article 27 (temporary use of land for carrying out the authorised development);
- (e) article 28 (temporary use of land for maintaining the authorised development);
- (f) article 29 (use of subsoil under or airspace over streets);
- (g) article 37 (extinguishment and suspension of private rights);
- (h) article 38 (power to override easements and other rights);

(i) article 39 (statutory authority to override easements and other rights); and

(j) article 43 (statutory undertakers).

(4) Any approval of the form of security by the Secretary of State is not to be unreasonably withheld or delayed.

(5) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under this article 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.

(6) Nothing in this article requires a form of security to be in place for more than 15 years after the date on which the relevant power is exercised.

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

Name

[title]

Date

Department for Energy Security and Net Zero

SCHEDULE 1

Article 3

AUTHORISED DEVELOPMENT

Development which is to be treated as development for which development consent is required as directed by the Secretary of State in the direction issued pursuant to section 35 of the 2008 Act dated 26 September 2023 and associated development within the meaning of section 115(2) of that Act for which the onshore development is located within North Devon between the Cornborough Range and Alverdiscott and the offshore development is located within the UK Exclusive Economic Zone, comprising—

Work No. 1 — Converter site

1.—(1) Within the area shown as Work No. 1 on the works plans, a converter site, including two converter stations and associated plant and equipment each converter station including—

- (a) converter halls;
- (b) control buildings;
- (c) transformers and spare transformer;
- (d) ancillary buildings to enclose plant or equipment;
- (e) HVAC cable termination equipment including air and gas insulated switchgears and busbars;
- (f) HVDC cable termination equipment including air and gas insulated switchgears and busbars;
- (g) valve cooling systems;
- (h) standby back-up generators;
- (i) distribution transformers and ancillary equipment;
- (j) auxiliary transformers and ancillary equipment;
- (k) alternating current filter banks;
- (l) lightning protection masts;
- (m) lightning columns; and
- (n) associated equipment to enable the construction and operation of the converter stations,

and including temporary and permanent works on the converter site to construct and operate such works, or to enable the construction and operation of such works, including—

- (o) site clearance, preparation, establishment and earth works;
- (p) a construction and laydown compound, including site welfare facilities, offices and car parking, including electric vehicle charging infrastructure;
- (q) temporary stockpile area for materials to be re-used or removed from the works area;
- (r) protection, removal, diversion and installation of existing utility infrastructure and construction of temporary and permanent utility connections to facilitate the works;
- (s) temporary and permanent drainage, including attenuation ponds and associated landscaping;
- (t) soft and hard landscaping and environmental mitigation;
- (u) spares buildings;
- (v) onshore HVDC and communication cables and associated connections into the converter site;
- (w) HVAC and communication cables connecting into the existing Alverdiscott 400kV substation;

- (x) security building and outer and inner security fencing;
- (y) internal access roads and junctions including gated highway link;
- (z) fire protection systems;
- (aa) permanent car parking, including electric vehicle charging infrastructure;
- (bb) access to roads to adjoining land and developments;
- (cc) works to facilitate temporary and operational access including ramps, means of access and pedestrian access; and
- (dd) decommissioning and removal of existing solar farm panels and associated infrastructure within the works area.

Work No. 2 — Gammaton Road and Abbotsham Cross Roundabout (A39) construction compound

2. Within the area shown as Work No. 2 on the works plans, temporary construction compounds and associated access at Gammaton Road and Abbotsham Cross Roundabout including—

- (a) earthworks, soil stripping and storage, ground improvement;
- (b) vehicle parkings, hard standing, roadways and access roads;
- (c) drainage works;
- (d) offices and staff welfare facilities;
- (e) utility service connections for electricity, communications and potable water and connection of power supply made from temporary generators;
- (f) utility service connection or on site storage for later disposal of grey water and sanitation;
- (g) materials, tools and fuel storage and laydown areas;
- (h) assembly areas;
- (i) plant and equipment storage areas;
- (j) wheel cleaning facilities;
- (k) security facilities including security monitoring systems, fencing and gates;
- (l) construction and security lighting;
- (m) construction waste management facilities;
- (n) works for the protection, removal, diversion or installation of utility connections;
- (o) works for temporary access including ramps, means of access and pedestrian access; and
- (p) landscaping and environmental mitigation, including hedgerow removal and replacement.

Work No. 3 — HVDC cable corridor

3. Within the area shown as Work No. 3 on the works plans, onshore HVDC and communications cables running from Works No.4 connecting to Works No. 1 including—

- (a) cable installation, ducting and cable protection;
- (b) joint bays;
- (c) link boxes;
- (d) fibre optic joint boxes;
- (e) trenchless installation and technique crossings;
- (f) temporary work areas and laydown areas;
- (g) temporary haul roads and associated drainage;
- (h) temporary and permanent drainage;
- (i) landscaping and environmental mitigation, including hedgerow removal and replacement;
- (j) temporary welfare facilities;

- (k) temporary security facilities, including fencing and boundary treatments;
- (l) temporary low voltage connections;
- (m) works for the protection, removal, diversion or installation of utility connections;
- (n) works for temporary and operational access including ramps, means of access and pedestrian access;
- (o) associated works for the access to the HVDC cable corridor, including the widening of existing field gates, removal and replacement of existing hedgerows;
- (p) works for the construction and installation of manholes, marker posts, underground cable maker, tiles and tape; and
- (q) all other works associated with the laying of the cables.

Work No. 4 — Landfall site

4. Within the area shown as Work No. 4 on the works plans, connecting of the offshore works including—

- (a) connection of offshore HVDC cables to onshore HVDC cables;
- (b) transition joint bays;
- (c) associated construction working and pulling area;
- (d) horizontal directional drilling with associated entry pits;
- (e) link boxes;
- (f) communication cable joint boxes;
- (g) temporary construction compound including welfare facilities, offices, utility connections and diversions, lighting, fencing, material laydown, temporary soil stockpiling, environmental mitigation, security monitoring and vehicle parking;
- (h) temporary drainage;
- (i) works to facilitate temporary and operational access including ramps, means of access and pedestrian access;
- (j) landscaping and environmental mitigation; and
- (k) works to facilitate the protection, removal, diversion or installation of utility connections.

Work No. 5 —HDVC cables between Works No. 4 and 6

5. Within the area shown as Work No. 5 on the works plans, HDVC and communication cables and associated ducts under the surface of the sea and land between Work No. 4 and Work No. 6 laid through horizontal directional drilling including all other works associated with the laying of the cables.

Work No. 6 — Offshore HVDC cable corridor

6. Within the area shown as Work No. 6 on the works plans, offshore HVDC and communication cable works, from Works No. 5 seaward within the UK exclusive economic zone including—

- (a) HDD and associated infrastructure, including temporary HDD exit pits;
- (b) temporary works areas for vessels to carry out intrusive activities, including deployment of jack-up barges;
- (c) installation, burial and protection of offshore HVDC, communication cables and communication cable repeaters;
- (d) works for temporary cable burial equipment trials;
- (e) works for the construction of crossing structures over existing marine cables that are crossed within the offshore HVDC cable corridor;

- (f) monitoring and survey works required for or to validate activities within the area shown as Work No. 6 on the works plans;
- (g) operation and maintenance of installed HVDC and communication cables; and
- (h) such other works as may be necessary or expedient for the purpose of or in connection with the construction of Work No. 6 and which are not likely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement or in any environmental information supplied under the 2017 Regulations.

Work No. 7 — Highways and access works

7. Within the areas shown as Work No. 7 on the works plans, highways and access works including—

- (a) works for temporary access, including selective widening of the junction with the Cornborough Sewage Treatment Works and the widening of the existing bell mouth junction to the Cornborough Sewage Treatment Works;
- (b) realignment of the existing highway junction of A386 and unnamed road between the A386 and Littleham, including widening of the unnamed road and installation of traffic signals for the duration of the associated construction;
- (c) selective widening section of the southern side of the Gammaton Road carriageway between Manteo Way and Gammaton Moor Crossroads;
- (d) widening of sections of the unnamed road leading from Gammaton Moor associated with replacement of a transformer where required;
- (e) temporary operational access road north of Gammaton Moor associated with replacement of a transformer where required;
- (f) temporary construction and operational access road using the existing Cornborough Sewage Treatment Works access road;
- (g) temporary construction access road off the unnamed road south of the Clovelly Road roundabout at Abbotsham Cross;
- (h) associated works to facilitate the highways works and highway access, including the widening of existing field gates, removal and replacement of street furniture and removal and replacement of existing hedgerows;
- (i) temporary and permanent utility diversions to facilitate the highways works;
- (j) temporary removal and reinstatement of street furniture and vegetation to facilitate abnormal indivisible load movements;
- (k) works to facilitate the protection, removal, diversion or installation of utility connections;
- (l) works to facilitate temporary and operational access including ramps, means of access and pedestrian access; and
- (m) permanent low voltage electrical connection and associated infrastructure for the fibre optic cable associated with Work No. 3.

Work No. 8 — HVAC cable corridor

8. Within the area shown as Work No. 8 on the works plans, laying and connecting HVAC cables between the converter site comprised in Work No. 1 and the Alverdiscott substation site, including all other works associated with the laying of the cables.

Work No. 9 — Temporary construction compounds for trenchless installation

9. Within the area shown as Work No. 9 on the works plans, temporary trenchless installation compounds, including establishment of launch pits and receiving pits to facilitate the use of trenchless installation works, welfare facilities, fencing and boundary treatments, temporary

drainage, landscaping and environmental mitigation, security facilities, vehicle and pedestrian access and temporary utility connections.

Work No. 10 — Utility connections and diversions

10. Within the areas shown as Work No. 10 on the works plans, HVDC and communication cables and associated ducts laid under the surface of land, streets, watercourses or a main river by horizontal directional drilling or other trenchless installation techniques including—

- (a) removal and diversion of existing National Grid Electrical Distribution high voltage overhead electrical transmission line infrastructure and assets associated with Work No. 1;
- (b) removal and diversion of existing National Grid Electrical Distribution low voltage overhead electrical transmission line infrastructure and assets associated with Work No. 1;
- (c) abandonment and diversion of existing Wales and West Utilities medium pressure and intermediate pressure gas main infrastructure and assets associated with Work No. 1;
- (d) removal and diversion of existing South West Water mains associated with Work No. 1;
- (e) removal, diversion and installation of existing BT Openreach telecommunications and assets associated with Works No. 1;
- (f) removal and diversion of private water main infrastructure associated with Work No. 1;
- (g) temporary low voltage connections to facilitate Work No. 2;
- (h) permanent low voltage electrical connection and associated infrastructure for the fibre optic cable associated with Works No. 3; and
- (i) temporary low voltage connections to facilitate Work No. 4; and
- (j) all other works associated with the laying of the cables and ducts.

Work No. 11 — HVDC and communication cables

11. Within the area shown as Work No. 11 on the works plans, HVDC and communication cables and associated ducts laid under the surface of land, streets, watercourses or a main river by horizontal directional drilling or other trenchless installation techniques.

Further associated development

12. In connection with Work Nos. 1, 3, 4, 7, 8, 9 and 11 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 any relevant part of those Work Nos. and which are not likely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement or in any environmental information supplied under the 2017 Regulation including—

- (a) works to alter the course or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (b) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development, including tree and hedgerow removal, planting and protection works;
- (c) such other works that may be necessary or expedient to provide environmental mitigation or protection during construction, including wheel washing;
- (d) site preparation works, site clearance (including fencing removal, vegetation removal, demolition of existing structures and the creation of alternative footpaths) and earthworks (including soil stripping and storage, site levelling, ground improvement);
- (e) works for the benefit or protection of land, structures, apparatus or equipment affected by the authorised development.

13. In connection with Work Nos. 3, 5, 6, 9 and 11 such other works as may be necessary or expedient for the purpose of responding to an emergency associated with an uncontrolled release of drilling mud onto land, a watercourse or the sea from trenchless installation techniques, including clean-up works, provision of access and temporary closure of existing access.

The grid coordinates for that part of the authorised development which is seaward of MHWS are specified below—

<i>Point ID</i>	<i>Latitude (ddm)</i>	<i>Longitude (ddm)</i>	<i>Point ID</i>	<i>Latitude (ddm)</i>	<i>Longitude (ddm)</i>
1	51°1.637'N	4°16.118'W	146	50°24.749'N	6°28.483'W
2	51°1.637'N	4°16.119'W	147	50°25.300'N	6°26.781'W
3	51°1.656'N	4°16.297'W	148	50°27.103'N	6°21.198'W
4	51°1.657'N	4°16.296'W	149	50°27.319'N	6°21.374'W
5	51°1.693'N	4°16.638'W	150	50°27.948'N	6°19.423'W
6	51°1.714'N	4°16.757'W	151	50°28.290'N	6°18.335'W
7	51°1.905'N	4°18.304'W	152	50°28.084'N	6°18.170'W
8	51°1.912'N	4°18.329'W	153	50°30.139'N	6°11.680'W
9	51°2.442'N	4°20.118'W	154	50°32.547'N	6°4.111'W
10	51°2.759'N	4°21.839'W	155	50°33.830'N	6°0.058'W
11	51°2.766'N	4°21.867'W	156	50°34.945'N	5°56.529'W
12	51°2.790'N	4°21.954'W	157	50°37.336'N	5°48.934'W
13	51°2.816'N	4°22.044'W	158	50°39.163'N	5°43.131'W
14	51°2.841'N	4°22.103'W	159	50°39.383'N	5°43.310'W
15	51°3.209'N	4°22.721'W	160	50°39.947'N	5°41.505'W
16	51°3.675'N	4°23.477'W	161	50°40.293'N	5°40.394'W
17	51°3.972'N	4°24.288'W	162	50°40.083'N	5°40.205'W
18	51°4.508'N	4°26.213'W	163	50°42.074'N	5°33.754'W
19	51°4.512'N	4°26.227'W	164	50°46.331'N	5°28.617'W
20	51°4.613'N	4°26.487'W	165	50°50.606'N	5°23.435'W
21	51°4.678'N	4°26.653'W	166	50°54.878'N	5°18.237'W
22	51°4.938'N	4°27.034'W	167	50°59.145'N	5°13.023'W
23	51°6.393'N	4°28.301'W	168	51°0.497'N	5°11.366'W
24	51°6.799'N	4°29.037'W	169	51°1.809'N	5°7.193'W
25	51°7.023'N	4°29.835'W	170	51°1.814'N	5°7.172'W
26	51°7.184'N	4°31.154'W	171	51°2.026'N	5°5.925'W
27	51°7.279'N	4°32.844'W	172	51°2.628'N	5°2.387'W
28	51°7.276'N	4°32.993'W	173	51°2.987'N	5°0.709'W
29	51°7.254'N	4°33.991'W	174	51°3.679'N	4°57.859'W
30	51°7.195'N	4°34.698'W	175	51°3.687'N	4°57.825'W
31	51°6.925'N	4°36.852'W	176	51°3.801'N	4°57.360'W
32	51°6.924'N	4°36.853'W	177	51°4.373'N	4°55.004'W
33	51°6.766'N	4°38.225'W	178	51°5.066'N	4°52.150'W
34	51°6.765'N	4°38.242'W	179	51°5.627'N	4°49.843'W
35	51°6.736'N	4°39.694'W	180	51°5.758'N	4°49.302'W
36	51°6.737'N	4°39.714'W	181	51°6.264'N	4°47.549'W
37	51°6.803'N	4°40.400'W	182	51°6.301'N	4°47.264'W
38	51°6.699'N	4°41.406'W	183	51°6.302'N	4°47.257'W
39	51°6.697'N	4°41.428'W	184	51°6.629'N	4°44.320'W
40	51°6.364'N	4°44.241'W	185	51°6.961'N	4°41.507'W
41	51°6.050'N	4°47.195'W	186	51°6.964'N	4°41.482'W
42	51°6.016'N	4°47.420'W	187	51°6.965'N	4°41.479'W
43	51°5.511'N	4°49.131'W	188	51°7.075'N	4°40.402'W
44	51°5.509'N	4°49.138'W	189	51°7.006'N	4°39.678'W

45	51°5.375'N	4°49.689'W	190	51°7.034'N	4°38.279'W
46	51°4.815'N	4°51.996'W	191	51°7.189'N	4°36.933'W
47	51°4.121'N	4°54.850'W	192	51°7.461'N	4°34.772'W
48	51°3.562'N	4°57.153'W	193	51°7.461'N	4°34.765'W
49	51°3.436'N	4°57.671'W	194	51°7.523'N	4°34.032'W
50	51°3.428'N	4°57.705'W	195	51°7.523'N	4°34.021'W
51	51°2.734'N	5°0.561'W	196	51°7.545'N	4°33.007'W
52	51°2.733'N	5°0.566'W	197	51°7.548'N	4°32.839'W
53	51°2.371'N	5°2.259'W	198	51°7.548'N	4°32.826'W
54	51°2.369'N	5°2.266'W	199	51°7.451'N	4°31.096'W
55	51°1.766'N	5°5.814'W	200	51°7.450'N	4°31.082'W
56	51°1.559'N	5°7.030'W	201	51°7.282'N	4°29.711'W
57	51°0.283'N	5°11.088'W	202	51°7.278'N	4°29.690'W
58	50°58.980'N	5°12.685'W	203	51°7.029'N	4°28.803'W
59	50°57.369'N	5°14.656'W	204	51°6.571'N	4°27.978'W
60	50°56.509'N	5°15.002'W	205	51°5.095'N	4°26.683'W
61	50°54.437'N	5°17.431'W	206	51°4.888'N	4°26.379'W
62	50°51.876'N	5°20.409'W	207	51°4.843'N	4°26.262'W
63	50°51.463'N	5°21.857'W	208	51°4.749'N	4°26.021'W
64	50°50.442'N	5°23.097'W	209	51°4.214'N	4°24.099'W
65	50°46.167'N	5°28.279'W	210	51°4.211'N	4°24.089'W
66	50°41.876'N	5°33.460'W	211	51°4.211'N	4°24.088'W
67	50°41.866'N	5°33.479'W	212	51°4.209'N	4°24.083'W
68	50°41.856'N	5°33.498'W	213	51°3.899'N	4°23.239'W
69	50°39.844'N	5°39.982'W	214	51°3.889'N	4°23.217'W
70	50°39.768'N	5°39.927'W	215	51°3.879'N	4°23.197'W
71	50°39.406'N	5°41.087'W	216	51°3.053'N	4°21.835'W
72	50°38.848'N	5°42.871'W	217	51°3.034'N	4°21.771'W
73	50°38.918'N	5°42.921'W	218	51°3.015'N	4°21.705'W
74	50°37.094'N	5°48.747'W	219	51°2.698'N	4°19.983'W
75	50°34.704'N	5°56.341'W	220	51°2.691'N	4°19.952'W
76	50°33.532'N	6°0.058'W	221	51°2.216'N	4°18.343'W
77	50°32.305'N	6°3.922'W	222	51°2.162'N	4°18.168'W
78	50°29.898'N	6°11.491'W	223	51°1.977'N	4°16.662'W
79	50°27.842'N	6°17.943'W	224	51°1.948'N	4°16.493'W
80	50°27.704'N	6°17.838'W	225	51°1.854'N	4°16.423'W
81	50°27.351'N	6°18.940'W	226	51°1.853'N	4°16.423'W
82	50°27.350'N	6°18.939'W	227	51°1.853'N	4°16.424'W
83	50°26.727'N	6°20.886'W	228	51°1.851'N	4°16.425'W
84	50°26.854'N	6°20.993'W	229	51°1.850'N	4°16.425'W
85	50°26.491'N	6°22.127'W	230	51°1.849'N	4°16.425'W
86	50°25.059'N	6°26.591'W	231	51°1.848'N	4°16.425'W
87	50°24.515'N	6°28.276'W	232	51°1.847'N	4°16.424'W
88	50°24.302'N	6°28.094'W	233	51°1.846'N	4°16.423'W
89	50°23.885'N	6°29.389'W	234	51°1.845'N	4°16.422'W
90	50°23.188'N	6°30.775'W	235	51°1.845'N	4°16.421'W
91	50°23.366'N	6°31.020'W	236	51°1.844'N	4°16.419'W
92	50°22.101'N	6°33.548'W	237	51°1.844'N	4°16.417'W
93	50°18.761'N	6°40.165'W	238	51°1.843'N	4°16.416'W
94	50°15.414'N	6°46.767'W	239	51°1.843'N	4°16.415'W
95	50°15.336'N	6°46.921'W	240	51°1.825'N	4°16.401'W
96	50°10.522'N	6°49.975'W	241	51°1.794'N	4°16.266'W
97	50°5.525'N	6°53.133'W	242	51°1.789'N	4°16.243'W

98	50°0.525'N	6°56.280'W	243	51°1.783'N	4°16.218'W
99	50°0.146'N	6°56.518'W	244	51°1.764'N	4°16.135'W
100	49°57.830'N	6°57.971'W	245	51°1.763'N	4°16.127'W
101	49°38.258'N	7°3.557'W	246	51°1.735'N	4°16.036'W
102	49°34.228'N	7°2.513'W	247	51°1.734'N	4°16.036'W
103	49°29.480'N	7°1.286'W	248	51°1.733'N	4°16.037'W
104	49°28.986'N	7°0.937'W	249	51°1.731'N	4°16.039'W
105	49°24.086'N	6°57.473'W	250	51°1.730'N	4°16.039'W
106	49°19.185'N	6°54.021'W	251	51°1.730'N	4°16.040'W
107	49°14.282'N	6°50.581'W	252	51°1.728'N	4°16.041'W
108	49°9.378'N	6°47.151'W	253	51°1.727'N	4°16.042'W
109	49°4.472'N	6°43.733'W	254	51°1.726'N	4°16.043'W
110	49°4.472'N	6°43.731'W	255	51°1.724'N	4°16.045'W
111	48°59.524'N	6°40.278'W	256	51°1.719'N	4°16.048'W
112	48°59.524'N	6°40.276'W	257	51°1.716'N	4°16.051'W
113	48°58.407'N	6°39.501'W	258	51°1.714'N	4°16.053'W
114	48°56.229'N	6°37.994'W	259	51°1.712'N	4°16.054'W
115	48°56.122'N	6°38.379'W	260	51°1.711'N	4°16.055'W
116	48°58.295'N	6°39.884'W	261	51°1.709'N	4°16.056'W
117	48°59.408'N	6°40.655'W	262	51°1.707'N	4°16.058'W
118	48°59.408'N	6°40.652'W	263	51°1.705'N	4°16.059'W
119	49°4.359'N	6°44.108'W	264	51°1.703'N	4°16.061'W
120	49°4.360'N	6°44.106'W	265	51°1.699'N	4°16.064'W
121	49°9.265'N	6°47.525'W	266	51°1.695'N	4°16.068'W
122	49°14.170'N	6°50.955'W	267	51°1.690'N	4°16.072'W
123	49°19.072'N	6°54.396'W	268	51°1.688'N	4°16.073'W
124	49°23.973'N	6°57.849'W	269	51°1.687'N	4°16.075'W
125	49°28.873'N	7°1.312'W	270	51°1.684'N	4°16.076'W
126	49°29.399'N	7°1.686'W	271	51°1.683'N	4°16.078'W
127	49°34.183'N	7°2.922'W	272	51°1.681'N	4°16.079'W
128	49°38.261'N	7°3.979'W	273	51°1.676'N	4°16.083'W
129	49°39.546'N	7°3.614'W	274	51°1.674'N	4°16.085'W
130	49°44.852'N	7°2.106'W	275	51°1.673'N	4°16.087'W
131	49°50.156'N	7°0.597'W	276	51°1.671'N	4°16.087'W
132	49°55.461'N	6°59.077'W	277	51°1.669'N	4°16.089'W
133	49°57.899'N	6°58.377'W	278	51°1.668'N	4°16.090'W
134	49°57.912'N	6°58.371'W	279	51°1.667'N	4°16.092'W
135	50°0.626'N	6°56.667'W	280	51°1.664'N	4°16.094'W
136	50°5.626'N	6°53.521'W	281	51°1.661'N	4°16.096'W
137	50°10.624'N	6°50.364'W	282	51°1.658'N	4°16.099'W
138	50°15.503'N	6°47.269'W	283	51°1.657'N	4°16.100'W
139	50°15.626'N	6°47.028'W	284	51°1.653'N	4°16.103'W
140	50°18.973'N	6°40.426'W	285	51°1.648'N	4°16.108'W
141	50°22.313'N	6°33.809'W	286	51°1.644'N	4°16.112'W
142	50°23.566'N	6°31.317'W	287	51°1.643'N	4°16.113'W
143	50°23.755'N	6°31.558'W	288	51°1.640'N	4°16.116'W
144	50°24.525'N	6°30.027'W	289	51°1.638'N	4°16.117'W
145	50°24.965'N	6°28.661'W			

SCHEDULE 2

REQUIREMENTS

Article 3

INTERPRETATION

1. In this Schedule unless the context requires otherwise—

“community liaison plan” means a framework for engaging with local residents, businesses and stakeholders in relation to the construction of the onshore works including proposals for the establishment of a community liaison group and the appointment of a community liaison officer;

“design principles statement” means the document of that name identified at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the design principles statement for the purposes of this Order;

“electro-magnetic field guidance” means the ‘ICNIRP Guidelines; For Limiting Exposure To Time-Varying Electric and Magnetic Fields (1 Hz - 100 kHz)’ (2010);

“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(a);

“lead local flood authority” has the same meaning as in section 6(7) of the Flood and Water Management Act 2010(b)

“nationally protected species” means any species protected under the Wildlife and Countryside Act 1981(c);

“outline arboricultural method statement” means the document of that name identified at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the outline arboricultural method statement for the purpose of this Order;

“outline bentonite breakout plan” means the document of that name identified at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the outline bentonite breakout plan for the purposes of this Order;

“outline construction traffic management plan” means the document of that name identified at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the outline construction traffic management plan for the purposes of this Order;

“outline decommissioning strategy” means the document of that name identified at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the outline decommissioning strategy for the purposes of this Order;

“outline dust management plan” means the document of that name identified at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the outline dust management plan for the purposes of this Order;

“outline landscape and ecology management plan” means the document of that name identified at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the outline landscape and ecology management plan for the purposes of this Order;

“outline onshore construction environmental management plan” means the document of that name identified at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the outline onshore construction environmental management plan for the purposes of this Order;

“outline onshore written scheme of investigation” means the document of that name identified at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the outline onshore written scheme of investigation for the purposes of this Order;

(a) S.I. 2017/1012.
(b) 2010 c. 29.
(c) 1981 c. 69.

“outline operational drainage strategy” means the document of that name identified at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the outline operational drainage strategy for the purposes of this Order;

“outline pollution prevention plan” means the document of that name identified at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the outline pollution prevention plan for the purposes of this Order;

“outline public rights of way management plan” means the document of that name identified at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the outline public rights of way management plan for the purposes of this Order;

“outline site resource and waste management plan” means the document of that name identified at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the outline site resource and waste management plan for the purposes of this Order;

“outline employment, skills and supply chain plan” means the document of that name identified at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the outline employment, skills and supply chain plan for the purposes of this Order;

“outline soil management plan” means the document of that name identified at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the outline soil management plan for the purposes of this Order;

“protected species” means European protected species or nationally protected species.

Time Limits

2. The authorised development must be begun (which has the meaning given in section 155 (when development begins) of the 2008 Act) within five years of the date on which this Order comes into force.

Parts of authorised development

3. Any application to the relevant planning authority pursuant to a paragraph of this Schedule 2 (requirements) in respect of a part of the onshore works must include a plan or other document identifying the part to which the application relates, the parts (if any) in respect of which an application pursuant to the paragraph has previously been approved by the relevant planning authority and the parts (if any) in respect of which the requirement for approval by the relevant planning authority pursuant to the paragraph remains to be satisfied.

Detailed design approval

4.—(1) No part of Work No. 1 may commence until details of the—

- (a) layout of buildings;
- (b) scale of buildings;
- (c) proposed finished ground floor levels;
- (d) external appearance and materials;
- (e) hard surfacing materials;
- (f) vehicular and pedestrian access, parking and circulation areas;
- (g) refuse or other storage units and signs;
- (h) external lighting;
- (i) lightning protection;
- (j) landscaping and bunding;
- (k) fencing and security;
- (l) proposed above and below ground services and utilities;
- (m) fire safety,

for Work No. 1 have been submitted to and approved by the relevant planning authority.

(2) The details submitted under sub-paragraph (1) must be in general accordance with the design principles statement, the converter site parameter plan and the parts in the table of parameters relating to Work No. 1.

(3) The relevant planning authority may consult with Historic England in relation to the details to be approved under sub-paragraphs (1)(d) and (1)(j) on matters related to its functions.

(4) Works No. 1 must be carried out in accordance with the details approved under sub-paragraph (1).

Highway works

5.—(1) No work to construct, alter or temporarily alter any highway, including any new or existing means of access to a highway to be used by vehicular traffic, may begin until written details of design, layout and reinstatement of those highway works have been submitted to and approved by the highway authority.

(2) The highway works must be constructed and reinstated in accordance with the details approved under sub-paragraph (1).

(3) For the avoidance of doubt, all pre-commencement operations involving the construction or alteration of temporary accesses must be carried out in accordance with sub-paragraph (1) unless otherwise agreed with the highway authority.

(4) Unless otherwise agreed with the highway authority, the undertaker must—

- (a) carry out Stage 1 and Stage 2 road safety audits of the highway works authorised by this Order in accordance with Standard GG 119 (Revision 2) of the Department for Transport's Design Manual for Roads and Bridges or any superseding Standard;
- (b) agree with the highway authority on a case by case basis the need for a Stage 3 and, where applicable, a Stage 4 road safety audit of any elements of the highway works authorised by this Order and, where so agreed, carry out such audit(s) in accordance with Standard GG 119 (Revision 2) of the Department for Transport's Design Manual for Roads and Bridges or any superseding Standard; and
- (c) to the reasonable satisfaction of the highway authority, implement any recommendations to mitigate or remove road safety problems and defects identified in any such road safety audits arising out of the authorised development.

Implementation and maintenance of landscaping

6.—(1) No part of the onshore works may commence until a landscape and ecology management plan for that part is submitted to and approved by the relevant planning authority.

(2) The landscape and ecology management plans submitted under sub-paragraph (1) must be in general accordance with the outline landscape and ecology management plan.

(3) Each part of the onshore works must be carried out and maintained in accordance with the relevant landscape and ecology management plan.

(4) Any tree or shrub planted as part of an approved landscape and ecology management plan that, within a period of 5 years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased must be replaced in the first available planting season with a specimen of the same species and size as that originally planted unless alternative timing or a different specimen is otherwise approved by the relevant planning authority unless such removal is in accordance with an approved landscape and ecology management plan.

Management plans

7.—(1) No part of the onshore works may commence until, for that part, the following plans have been submitted to and approved by the relevant planning authority so far as relevant to that part—

- (a) an onshore construction environmental management plan (in general accordance with the outline onshore construction environmental management plan);
- (b) a dust management plan (in general accordance with the outline dust management plan);

- (c) a pollution prevention plan (in general accordance with the outline pollution prevention plan);
- (d) a bentonite breakout plan (in general accordance with the outline bentonite breakout plan);
- (e) a public rights of way management plan (in general accordance with the outline public rights of way management plan);
- (f) a soil management plan (in general accordance with the outline soil management plan);
- (g) a site resource and waste management plan (in general accordance with the outline site resource and waste management plan);
- (h) a construction drainage strategy (in general accordance with relevant details within the outline onshore construction environmental management plan);
- (i) an arboricultural method statement (in general accordance with the outline arboricultural method statement).

(2) Each part of the onshore works must be carried out in accordance with the relevant plans approved under sub-paragraph (1) in relation to that part.

Construction traffic management plan

8.—(1) No part of the onshore works may commence until a construction traffic management plan for that part is submitted to and approved by the highway authority.

(2) Any construction traffic management plan submitted and approved under sub-paragraph (1) must be in general accordance with the outline construction traffic management plan.

(3) Each part of the onshore works must be carried out in accordance with the construction traffic management plan approved in relation to that part.

Pre-commencement operations

9. All pre-commencement operations for onshore works must be carried out in accordance with the outline onshore construction environmental management plan, the outline dust management plan, the outline pollution prevention plan, the outline public rights of way management plan, the outline soil management plan, the outline site resource and waste management plan, the outline arboricultural method statement, the outline construction traffic management plan, the outline landscape and ecology management plan and the outline onshore written scheme of investigation where relevant to those operations unless otherwise agreed with the relevant planning authority or, in the case of the outline construction traffic management plan, the highway authority.

Protected species

10.—(1) No part of the onshore works other than surveying and investigation necessary to comply with this requirement may be undertaken until, for that part, pre-construction survey work has been carried out to establish whether protected species are present on any of the land affected or likely to be affected by that part of the onshore works permitted under any provision in the Order.

(2) Following pre-construction survey work or at any time when carrying out the authorised development, where—

- (a) a protected species is shown to be present, or where there is a reasonable likelihood of it being present;
- (b) application of the relevant assessment methods used in the environmental statement show that a significant effect is likely to occur which was not previously identified; and
- (c) that effect is not addressed by any prior approved scheme of protection and mitigation,

the relevant parts of the relevant works must cease until a scheme of protection and mitigation measures has been submitted to and approved in writing by the relevant planning authority.

(3) The undertaker must consult with Natural England on the scheme referred to in sub-paragraph (2) on matters related to its functions prior to submission to the relevant planning authority for approval, except where a suitably qualified and experienced ecologist holding, where

relevant and appropriate, a licence relating to the species in question, determines that the relevant works do not require a protected species licence.

(4) Where a licence is not required, as determined under sub-paragraph (3), detailed precautionary method statements will be prepared by a suitably qualified and experienced ecologist holding, where relevant and appropriate, a licence relating to the species in question.

(5) The relevant works under sub-paragraph (2) must be carried out in accordance with the approved scheme (approved under sub-paragraph (2)) or precautionary method statements (provided under sub-paragraph (4)), unless otherwise agreed by the relevant planning authority after consultation with Natural England on matters related to its functions, and under any necessary licences.

Archaeology

11.—(1) No part of the onshore works may commence until an onshore written scheme of investigation (in general accordance with the outline onshore written scheme of investigation) for that part is submitted to and approved by the relevant planning authority unless the relevant planning authority has confirmed its agreement that a written scheme of investigation is not required in relation to that part.

(2) Each part of the onshore works must be carried out in accordance with the written scheme of investigation approved for that part.

(3) Pre-commencement surveys and investigations, including those necessary to allow production of any scheme required under sub-paragraph (1) must be generally in accordance with the details set out in the outline onshore written scheme of investigation.

Construction hours

12.—(1) Subject to sub-paragraph (2), construction works may only take place between 07.00 and 19.00 Monday to Friday and between 07.00 and 13.00 on Saturdays unless otherwise agreed with the relevant planning authority.

(2) The following operations may take place outside the working hours referred to in sub-paragraph (1)—

- (a) trenchless crossing operations which may require 24-hour machinery operations;
- (b) continuous concrete pours;
- (c) installation and removal of components within the converter stations;
- (d) oil filling of transformers at the converter stations;
- (e) jointing operations within Work No.3;
- (f) testing and commissioning of any plant installed as part of the authorised development;
- (g) activity necessary in the instance of an emergency where there is a risk to persons, property or the environment; and
- (h) security monitoring.

(3) In respect of any of the activities set out in paragraph (2) the undertaker must notify the relevant planning authority in advance of such works.

(4) The working hours referred to in sub-paragraph (1) exclude start-up and close-down activities up to one hour either side of these working hours including—

- (a) the arrival and departure of workforce and movement around the authorised development that does not require the use of plant or machinery;
- (b) site inspections and safety checks; and
- (c) site housekeeping that does not require the use of plant or machinery.

(5) In the event of emergency, notification of that emergency must be given to the relevant planning authority as soon as is reasonably practicable.

Operational drainage

13.—(1) No part of Work No. 1 may commence until an operational drainage strategy is submitted to and approved by the relevant planning authority in consultation with the lead local flood authority and the Environment Agency so far as applicable to their functions.

(2) The operational drainage strategy submitted and approved under sub-paragraph (1) must be in general accordance with the outline operational drainage strategy.

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

Community liaison

14. Prior to beginning the onshore works the undertaker must submit the terms of reference of the community liaison plan to the relevant planning authority and the highway authority and must—

- (a) establish a community liaison group; and
- (b) appoint a community liaison officer,

in accordance with the approved community liaison plan.

Skills and employment strategy

15.—(1) No part of the onshore works may commence until an employment, skills and supply chain plan for that part is submitted to the relevant planning authority.

(2) The undertaker must consult with the relevant planning authority on the terms of the employment, skills and supply chain plan before submitting it under sub-paragraph (1).

(3) An employment, skills and supply chain plan submitted under sub-paragraph (1) must be in general accordance with the outline employment, skills and supply chain plan.

(4) Each employment, skills and supply chain plan must be implemented during construction of the onshore works.

Decommissioning Strategy

16.—(1) Prior to the operational use of the authorised development a decommissioning strategy must be submitted to the relevant planning authority and the MMO.

(2) The decommissioning strategy must be in general accordance with the outline decommissioning strategy.

Electro-magnetic fields

17. The onshore works shall be carried out, completed and operated in accordance with the electro-magnetic field guidance where relevant to those works.

SCHEDULE 3

Article 52

PROCEDURE REGARDING CERTAIN APPROVALS, ETC.

1. In this Schedule—

“appeal documentation” means a written statement of appeal which describes the nature of the differences between the parties, the factual issues, the undertaker’s case and evidence relied on;

“consultee” means any body or authority named in a requirement or condition as a body to be consulted by the relevant authority in discharging that requirement or condition;

“relevant authority” means, subject to article 52(4), any person, authority or body named in any of the provisions of this Order and whose consent, agreement or approval is sought.

Applications made under provisions of this Order

2.—(1) Where an application has been made to a relevant authority for any consent, agreement or approval required or contemplated by any of the provisions of this Order (except as provided in article 52(4)) the relevant authority must give notice to the undertaker of its decision on the application within—

- (a) a period of 42 days beginning with the day immediately following that on which the application is received by the authority;
- (b) where further information is requested under paragraph 3 of this Schedule, a period of 42 days beginning with the day immediately following that on which further information has been supplied by the undertaker; or
- (c) such longer period as may be agreed in writing by the undertaker and the relevant authority before the end of such period.

(2) In determining any application made to the relevant authority for any consent agreement or approval required or contemplated by any of the provisions of this Order (except as provided in article 52(4)), the relevant authority may—

- (a) give or refuse its consent, agreement or approval; or
- (b) give its consent, agreement or approval subject to reasonable conditions,

and where consent, agreement or approval is refused or granted subject to reasonable conditions the relevant authority must provide its reasons for that decision within the notice of the decision.

(3) Subject to sub-paragraph (4), in the event that the relevant authority does not determine an application within the period set out in sub-paragraph (1), the relevant authority is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(4) Where an application has been made to the relevant authority for any consent, agreement or approval required by any of the provisions of this Order (except as provided in article 52(4)) and—

- (a) the relevant authority does not determine such application within the period set out in sub-paragraph (1) and such application is accompanied by a report which states the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those reported in the environmental statement or in any environmental information supplied under the 2017 Regulations; or
- (b) the relevant authority determines during the period set out in sub-paragraph (1) that it reasonably considers that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those reported in the environmental statement or in any environmental information supplied under the 2017 Regulations and notifies the undertaker of such consideration during the period set out in sub-paragraph (1),

then the application is taken to have been refused by the relevant authority at the end of that period.

(5) The undertaker must include in any application made to the relevant authority for any consent, agreement or approval required or contemplated by any of the provisions of this Order (except as provided in article 52(4)), a statement that the provisions of sub-paragraph (3) apply and, if the application fails to do so, sub-paragraph (3) shall not apply to such application.

Further information and consultation

3.—(1) In relation to any application submitted pursuant to a requirement in Schedule 2 (requirements) or a condition in Schedule 9 (deemed marine licence), the relevant authority may request such reasonable further information from the undertaker as is necessary to enable it to consider the application.

(2) In the event that the relevant authority considers further information is necessary and the provision governing or requiring the application does not specify that consultation with a

consultee is required, the relevant authority must, within seven business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the provision governing or requiring the application specifies that consultation with a consultee is required, the relevant authority must issue the consultation to the consultee within seven business days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the relevant authority and the consultee within 21 business days of receipt of the application.

(4) If the relevant authority does not give the notification mentioned in sub-paragraphs (2) or (3) or otherwise fails to request any further information within the timescales provided for in this paragraph 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.

Fees

4.—(1) Where an application is made to a relevant authority for any consent, agreement or approval required by a requirement (including consent, agreement or approval in respect of part of a requirement), a fee must be paid to the relevant authority as follows—

- (a) such fee as may be prescribed (under sections 303 and 333(2A) of the 1990 Act for the discharge of conditions attached to a planning permission); or
- (b) a fee of £145 per request unless a bespoke arrangement has been agreed between the undertaker and relevant authority.

Appeals

5.—(1) The undertaker may (except as provided in article 52(4)) appeal if—

- (a) the relevant authority refuses (including a deemed refusal pursuant to paragraph 2(4)) an application for any consent, agreement or approval required by an article, requirement or condition or any document referred to in any requirement included in this Order or grants it subject to conditions to which the undertaker objects;
- (b) on receipt of a request for further information under paragraph 3 the undertaker considers that either the whole or part of the specified information requested by the relevant authority is not necessary for consideration of the application; or
- (c) on receipt of any further information requested, the relevant authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The procedure for appeals is as follows—

- (a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision or determination giving rise to the appeal referred to in sub-paragraph (1);
- (b) 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 relevant authority and any consultee required to be consulted pursuant to the provision of this Order which is the subject of the appeal (together with the undertaker, these are the “appeal parties”);
- (c) as soon as is practicable after receiving the appeals documentation, the Secretary of State must appoint a person to determine the appeal and must forthwith notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person must be sent, the date of such notification being the “start date” for the purposes of this sub-paragraph (2);
- (d) the relevant authority and any consultee required to be consulted pursuant to the provision of this Order which is subject of the appeal may submit any written representations to the appointed person within 10 business 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;

- (e) the undertaker must make any counter-submissions to the appointed person within ten business days of receipt of written representations pursuant to sub-paragraph (d) above; and
- (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within 20 business days of the deadline of the receipt of counter-submissions pursuant to sub-paragraph (e).

(3) The appointment of the person pursuant to sub-paragraph (2)(c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(4) If the appointed person considers that further information is necessary to consider the appeal, the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information must be submitted having regard to the timescales in sub-paragraph (2).

(5) Any further information required pursuant to sub-paragraph (4) must be provided by the appeal parties to the appointed person 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 any appeal on or before that day. The revised timetable for appeal must require submission of any written representations on the submitted further information to the appointed person within 10 business days of the specified date but otherwise is to be in accordance with the process and time limits set out in sub paragraphs (2)(d) to (2)(f).

Outcome of appeals

6.—(1) On an appeal under paragraph 5, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision or determination of the relevant authority (whether the appeal relates to that part of it or not),
- (c) and may deal with the application as if it had been made to the appointed person in the first instance.

(2) 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.

(3) The appointed person may proceed to a decision even though no written representations have been made within those 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.

(4) The decision of the appointed person on an appeal is 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.

(5) If an approval is given by the appointed person pursuant to this Schedule, it is deemed to be an approval given by the relevant authority. The relevant authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person’s determination.

(6) Except where a direction is given pursuant to sub-paragraph (7) requiring the costs of the appointed person to be paid by the relevant authority, the reasonable costs of the appointed person must be met by the undertaker.

(7) On application by the relevant 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 as to the costs of the appeal parties and the terms on which it is made, the appointed person must have regard to the Planning Practice Guidance published by the Department for Communities and Local Government or any circular or guidance which may from time to time replace it.

SCHEDULE 4

Article 6

ONSHORE PARAMETERS

<i>Part(s) of authorised development</i>	<i>Parameter</i>	<i>Maximum value(s) and unit</i>
Work No. 1 (converter site)	Converter stations	2
	Height of converter halls (excluding lightning protection or aerials)	26 metres above ground floor level
	Height of lightning protection	30 metres above ground floor level
	Finished ground level	127 metres above ordnance datum
	Combined footprint of converter station platforms	130,000 square metres
	Footprint of converter site including all converter station buildings, landscape bunding, planting and drainage	395,000 square metres
Work No. 2 (Gammaton Road and Abbotsham Cross roundabout (A39) construction compound)	Number and footprint of Gammaton Road construction compound	1 compound of 63,000 square metres
	Number and footprint of Abbotsham Cross Roundabout (A39) construction compound	1 compound of 48,000 square metres
Works Nos 3, 4, 5 (onshore), and 11 (onshore HVDC cable corridor)	Length of HVDC cable corridor	14.5 kilometres
	HVDC cables	4
	Fibre optic cables	6
Work No. 3 (HVDC cable corridor - trenched)	Permanent width of HVDC cable corridor for trenched installation	32 metres
	Joint bays	34
	Link boxes	34
Work No. 3, Work No. 9 and Work No. 11 (HDD or trenchless installation techniques)	HVDC cable ducts	6
	Fibre optic cable ducts	6
	Trenchless installation compounds (not including landfall)	10 compounds of 10,000 square metres
Work No. 4 (landfall site)	Landfall HDD and construction compound	1 compound of 10,000 square metres
	HVDC cable ducts	4
	Fibre optic cable ducts	6
	Transition joint bays	2
Work No. 8 (HVAC cable corridor)	Length of HVAC cable corridor	1.2 kilometres
	HVAC cables	12
	Permanent width of HVAC cable corridor	30 metres (15 metres for each bipole)

SCHEDULE 5

Article 16

STREETS OR PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED

PART 1

STREETS OR PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED FOR WHICH A DIVERSION IS TO BE PROVIDED

(1) <i>Area</i>	(2) <i>Street or public right of way to be temporarily closed</i>	(3) <i>Extent of temporary closure as shown on the rights of way and streets and access plans</i>	(4) <i>Temporary diversion Route as shown on the rights of way and streets and access plans</i>
Devon County Council	Abbotsham footpath #2	Between points 5a and 5b shown on Sheet 4	Between points D1a and D1b shown on the dotted line on Sheet 4

PART 2

STREETS OR PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED FOR WHICH NO DIVERSION IS TO BE PROVIDED

(1) <i>Area</i>	(2) <i>Street or public right of way to be temporarily closed</i>	(3) <i>Extent of temporary closure</i>
Devon County Council	Unnamed Road	Between points R01a and R01b shown on Sheet 2
Devon County Council	Unnamed Road	Between points R02a and R02b shown on Sheet 2
Devon County Council	Private Access to Cornborough Sewage Treatment Works	Between points R03a and R03b shown on Sheet 3
Devon County Council	Unnamed Road	Between points R04a and R04b shown on Sheet 3
Devon County Council	Abbotsham footpath No. 5	Between points 4a and 4b shown on Sheet 3
Devon County Council	Unnamed Road	Between points R05a and R05b shown on Sheet 4
Devon County Council	Other route with public access known as Rocky Lane	Between points 6a and 6b shown on Sheet 4
Devon County Council	Unnamed Road	Between points R06a and R06b shown on Sheet 5
Devon County Council	Unnamed Road	Between points R07a and R07b shown on Sheet 7
Devon County Council	Alwington footpath No. 3	Between points 7a and 7b shown on Sheet 8
Devon County Council	Unnamed Road	Between points R08a and R08b shown on Sheet 8
Devon County Council	Unnamed Road	Between points R09a and R09b shown on Sheet 9
Devon County Council	Dunn Lane, private access to	Between points R10a and R10b

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street or public right of way to be temporarily closed</i>	<i>(3)</i> <i>Extent of temporary closure</i>
	Dunn Farm	shown on Sheet 11
Devon County Council	Other route with public access	Between points 8a and 8b shown on Sheet 12
Devon County Council	Unnamed Road	Between points R11a and R11b shown on Sheet 13
Devon County Council	Unnamed Road	Between points R12a and R12b shown on Sheet 14
Devon County Council	A386	Between points R13a and R13b shown on Sheet 14
Devon County Council	Tennacott Lane	Between points R14a and R14b shown on Sheet 16
Devon County Council	Tennacott Lane	Between points R15a and R15b shown on Sheet 16
Devon County Council	Gammaton Road	Between points R16a and R16b shown on Sheets 17 to 19
Devon County Council	Gammaton Road	Between points R17a and R17b shown on Sheet 19
Devon County Council	Gammaton Road	Between points R18a and R18b shown on Sheet 20
Devon County Council	Unnamed Road	Between points R19a and R19b shown on Sheet 20
Devon County Council	Unnamed Road	Between points R20a and R20b shown on Sheet 2.7.20
Devon County Council	Unnamed Road	Between points R21a and R21b shown on Sheet 20
Devon County Council	Unnamed Road	Between points R22a and R22b shown on Sheet 20
Devon County Council	Unnamed Road	Between points R23a and R23b shown on Sheet 21
Devon County Council	Private access to Higher Kingdon	Between points R25a and R25b shown on Sheets 21 to 24
Devon County Council	NGET access to substation	Between points R25a and R25b shown on Sheets 21 to 24
Devon County Council	Wales and West Gas Governor Access	Between points R26a and R26b shown on Sheet 21

SCHEDULE 6

ACCESS TO WORKS

Article 17

<i>(1)</i> <i>Street</i>	<i>(2)</i> <i>Site access reference</i>	<i>(3)</i> <i>Plan reference</i>	<i>(4)</i> <i>Purpose</i>
Unnamed road to Sewage Treatment Works	TCC1	Sheet 3 of the rights of way and streets and access plans	Temporary construction and permanent access
Unnamed road to Abbotsham	TCC2	Sheet 6 of the rights of way and streets and access plans	Temporary construction access
Unnamed road to	TCC3	Sheet 6 of the rights	Temporary

Littleham		of way and streets and access plans	construction access
Junction of unnamed road to Littleham and A386	TCC4	Sheet 14 of the rights of way and streets and access plans	Temporary construction access
Gammaton Road	TCC5	Sheet 17 of the rights of way and streets and access plans	Temporary construction access
Unnamed road between Gammaton Cross and Webbery Cross	AC-A1	Sheet 21 of the rights of way and streets and access plans	Temporary construction and permanent access
Unnamed road between Gammaton Cross and Webbery Cross	AC-B1	Sheet 21 of the rights of way and streets and access plans	Temporary construction access

SCHEDULE 7

Article 25

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 restriction as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(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 of the 1965 Act as substituted by paragraph 5—

- (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”.

3.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For Section 5A (relevant valuation date) of the 1961 Act, after “If” substitute—

- “(a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act, as modified by paragraph (8) of Schedule 7 (modification of compensation and compulsory purchase enactments for creation of a new right) to the Xlinks’ Morocco-UK Power Project Order 202[];
- (b) the acquiring authority is subsequently required by a determination under paragraph 13 of Schedule 2A to the 1965 Act (as substituted by paragraph 11 of Schedule 7 to the Xlinks’ Morocco-UK Power Project Order 202[]) to acquire an interest in the land; and

(a) 1973 c. 26.

- (c) the acquiring authority enters on and takes possession of that land,
the authority is deemed for the purposes of subsection (3)(a) to have entered on that land
when it entered on that land for the purpose of exercising that right.”

Application of the 1965 Act

4.—(1) The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land must 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.

(2) Without limitation on the scope of sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right or, in relation to the imposition of a restriction, with the modifications specified in the following provisions of this Schedule.

(3) Section 4 (time limit for giving notice to treat) is omitted.

(4) In section 4A(1) (a) (extension of time limit during challenge)—

- (a) for “section 23 of the Acquisition of Land Act 1981 (application to the 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)”; and
- (b) for “the applicable period for the purposes of section 4” substitute “the seven year period mentioned in article 33 (time limit for exercise of authority to acquire land and rights compulsorily or to possess land temporarily) of the Xlinks’ Morocco-UK Power Project Order 202[]”.

5. For section 7 of the 1965 Act (measure of compensation) 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.”

6. 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) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (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 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.

(a) Section 4A of the 1965 Act was amended by section 185 the Levelling-up and Regeneration Act 2023 (c.55)

7. Section 11(a) of the 1965 Act (powers of entry) is modified to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restriction, 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 12(b) (penalty for unauthorised entry) and 13(c) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

8. Section 20(d) of the 1965 Act (protection for interests of tenants at will, etc.) 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.

9. Section 22 of the 1965 Act (interests omitted from purchase) is modified 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 or to enforce the restriction imposed, subject to compliance with that section as respects compensation.

10. In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase) for “section 4 of this Act” substitute “article 33 (time limit for exercise of authority to acquire land and rights compulsorily or to possess land temporarily) of the Xlinks’ Morocco-UK Power Project Order 202[]”.

11. For Schedule 2A of the 1965 Act substitute—

“SCHEDULE 2A COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1. This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 of the 1981 Act as applied by article 35 (application of the 1981 Act) of the Xlinks’ Morocco-UK Power Project Order 202[] in respect of the land to which the notice to treat relates.

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 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) Section 11 was amended by section 34(1) of, and Schedule 4 to the Acquisition of Land Act 1981 (c. 67, section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c.71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No.1) and S.I. 2009/1307.
 - (b) Section 12 was amended by section 56(2) of, and Part 1 of, Part 1 of Schedule 9 to the Courts Act 1971 (c.23).
 - (c) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).
 - (d) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

- (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 its 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 decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

8. If the authority does 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 serves 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 Upper Tribunal

10. On 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 medical 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 its 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 authority ought to be required to take.

13. If the Upper Tribunal determines that the 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 authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal make 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 they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

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

12. In this Schedule, references to entering on and taking possession of land do not include doing so under articles 21 (protective works), 27 (temporary use of land for carrying out the authorised development) or 28 (temporary use of land for maintaining the authorised development) of this Order.

SCHEDULE 8

Articles 27 and 28

LAND OF WHICH ONLY TEMPORARY POSSESSION MAY BE TAKEN

<i>(1) Land plans sheet</i>	<i>(2) Plot reference number shown on land plans</i>	<i>(3) Purpose for which temporary possession may be taken</i>
4, 8	4-05, 4-09, 4-11, 8-15, 8-18	Work No. 2 - works to construct temporary construction compounds and associated access at Gammaton Road and Abbotsham Cross Roundabout within the area shown on the works plans.
4, 8	4-17, 8-06, 8-10, 8-11	Work No. 7 - highways and access works within the area shown on the works plans
1, 2, 3, 4, 5, 7, 8, 9	1-06, 1-07, 1-08, 1-09, 2-02, 3-02, 3-03, 4-02, 4-03, 4-04, 5-07, 5-08, 7-19, 7-20, 8-07, 8-08, 8-09, 8-23, 9-01, 9-02	Work No. 10 - works to facilitate utility connections and diversions associated with Works Nos 1, 2, 3 and 4 within the area shown on the works plans

SCHEDULE 9

Article 45

DEEMED MARINE LICENCE

PART 1

GENERAL

Interpretation

1.—(1) In this Schedule—

“the 2008 Act” means the Planning Act 2008;

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

“the 2017 COMHS Regulations” means the Conservation of Offshore Marine Habitats and Species Regulations 2017(b);

“the 2017 EIA Regulations” means the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017;

“the authorised development” has the meaning given in paragraph 3(3) of this licence;

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

“cable bundle” or “cable bipole” means two HVDC cables and one FOC;

“cable crossings” means a crossing of existing sub-sea cables or pipelines or other existing infrastructure by a cable or, where cables run together in parallel, a set of cables, authorised by the Order together with cable protection;

(a) 2009 c. 23.

(b) S.I. 2017/13.

“cable protection” means physical measures for the protection of cables including but not limited to concrete mattresses, bagged solutions 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;

“commence” means beginning to carry out any part of a licensed activity except for pre-construction surveys and monitoring and “commenced” and “commencement” are to 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 design objectives, specifications and operational requirements of the undertaker;

“condition” means a condition set out in a paragraph of Part 2 (conditions) of this licence and references in this licence to numbered conditions are to the conditions with those paragraph numbers in that Part;

“ddm” means degrees (°), decimal minutes (′);

“Defence Infrastructure Organisation” 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 statutory functions;

“dropped object procedure form” means any notification proforma or other format notified in writing by the MMO for reporting the loss or dumping of synthetic materials and other refuse at sea;

“environmental statement” has the meaning given in the Order;

“FOC” means fibre optic cable;

“HDD” means horizontal directional drilling;

“HVDC” means high-voltage direct current;

“landfall” means the proposed area in which the offshore cables make landfall in the United Kingdom and the transitional area between the offshore cabling and the onshore cabling, including the entire such landfall area at Cornborough Range, Devon between mean low water springs and the transition joint bays inclusive of all construction works, including the offshore and onshore cable routes and landfall compound(s);

“licensed activity” means any activity authorised in paragraph 3 of this Licence;

“LIDAR” means light detection and ranging;

“location, Order limits and grid coordinates plan” means the plan of that name identified in the table at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the location, Order limits and grid co-ordinates plan for the purposes of the Order;

“maintain” includes inspect, upkeep, repair, adjust, alter, remove, reconstruct and replace (including replenishment of cable protection) 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 and includes any successor to its statutory functions;

“MCA” means the Maritime and Coastguard Agency, an executive agency of the Department for Transport, and any successor to its statutory functions;

“MCMS” means the Marine Case Management System provided by the MMO;

“MFE” means mass flow excavation;

“MHW” or “mean high water” means the highest level which spring tides reach on average over a period of time;

“MHWS” or “mean high water springs” means the average of high water heights occurring at the time of spring tides and the boundary of the landward jurisdiction of the 2009 Act;

“MLWS” or “mean low water springs” means the average of low water heights occurring at the time of spring tides;

“NSVMP” means a navigational safety and vessel management plan comprised in an offshore construction environmental management plan approved by the MMO under paragraph 8 of this licence;

“the offshore Order limits” mean those Order limits within the UK marine area 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 3(5) of this licence;

“operation” means the undertaking of the licensed activities which are not part of the construction or commissioning of the authorised development;

“Order” means the Xlinks’ Morocco-UK Power Project Order 202[];

“the Order limits” means the limits shown on the location, Order limits and grid coordinates plan ;

“OREI guidance” means, unless otherwise agreed with the MMO in writing, the MCA MGN 654 (M+F) “Offshore Renewable Energy Installations (OREI) safety response” and its annexes;

“outline cable burial risk assessment ” means the document of that name identified in the table at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the outline cable burial risk assessment for the purposes of the Order;

“outline offshore archaeological written scheme of investigation” means the document of that name identified in the table at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the outline offshore archaeological written scheme of investigation for the purposes of the Order;

“outline offshore construction environmental management plan” means the document of that name identified in the table at Schedule 13 (certified documents) and which has been certified by the Secretary of State as the outline offshore construction environmental management plan for the purposes of the Order;

“ROV” means any remotely operated vehicle or vessel;

“sea” has the same meaning as that given at section 42(3) (UK marine area) of the 2009 Act;

“sea bed” means the ground under the sea;

“statutory historic body” means Historic England or any successor to its statutory functions;

“statutory nature conservation body” means the appropriate nature conservation body as defined in Regulation 5 of the Conservation of Habitats and Species Regulations 2017 or its equivalent in the 2017 COMHS Regulations;

“Trinity House” means the Corporation of Trinity House of Deptford Strond or any successor to its statutory functions;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN or any successor to its statutory functions;

“UK marine area” has the meaning given to it in section 42 (the UK marine area) 2009 Act;

“undertaker” has the meaning given in article 2 (interpretation) of the Order;

“vessels” means every description of vessel, however propelled or moved, and includes a displacement and non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft, a jack-up barge or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over in water and which is at the time in, on, or over water; and

“working day” means a day other than a Saturday or Sunday, Good Friday, Christmas Day or a bank holiday in England and Wales under section 1 of the banking and Financial Dealings Act 1971;

“works plans” has the meaning given in article 2 (interpretation) of the Order.

(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 specified, all geographical co-ordinates given in this Schedule are in latitude and longitude degrees and minutes to three decimal places.

(4) References to the undertaker include any agent or contractor acting on its behalf.

Contacts

2.—(1) Except where otherwise notified in writing by the relevant organisation, for the purposes of this licence the primary point of contact with the organisations listed below and the address for returns and correspondence (including electronic communication) are—

(a) Historic England (South West Regional Office)

Fermentation North (1st Floor)
Finzels Reac
Hawkins Lane
Bristol
BS1 6JQ
Tel: 0117 9751308
southwest@HistoricEngland.org.uk

(b) Marine Management Organisation (head office)

Offshore Marine Licensing
Lancaster House, Hampshire Court
Newcastle Business Par
Newcastle Upon Tyne
NE4 7YH
Tel: 0300 123 1032
marine.consent@marinemanagement.org.uk;

(c) Marine Management Organisation (local office)

New Fish Quay
Brixham
Devo
TQ5 8AW
Tel: 0208 026 9059
brixham@marinemanagement.org.uk

(d) Maritime and Coastguard Agency (head office)

Maritime and Coastguard Agency
Spring Place
105 Commercial Road
Southampton
SO15 1EG
Tel: 0203 817 2000
infoline@mcga.gov.uk

(e) Maritime and Coastguard Agency (South West England office)

Suite 5
Endeavour House
Oceansgate
Vivid Approach
Plymouth
PL1 4RW
Tel: 020 3908 5245
plymouthmo@mcga.gov.uk

- (f) Trinity House
Tower Hill
London
EC3N 4DH
020 7481 6900
enquiries@trinityhouse.co.uk
- (g) United Kingdom Hydrographic Office
Admiralty Way
Taunton
Somerset
TA1 2DN
Tel: 01823 484444
customerservices@ukho.gov.uk

(2) Unless otherwise advised in writing by the MMO, MCMS must be used for all licence returns or applications to vary this licence. The MCMS address is: https://marinelicensing.marinemanagement.org.uk/mmofox5/fox/live/MMO_LOGIN/login.

(3) Unless otherwise stated in writing by the MMO, all notifications required by this licence by from the undertaker to the MMO must be sent using MCMS.

Licensed marine activities

3.—(1) Subject to the conditions, this licence authorises the undertaker to carry out licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act which—

- (a) form part of, or are related to, the authorised development; and
- (b) are not exempt from requiring a marine licence by virtue of any provision made under section 74 (exemption specified by order) of the 2009 Act.

(2) Subject to the conditions, this licence further authorises the undertaker to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act in relation to the authorised development—

- (a) the deposit at sea within the offshore Order limits of the substances and articles specified in sub-paragraph (4);
- (b) the construction of works in or over the sea or on or under the sea bed;
- (c) the disposal of inert material of natural origin produced during the construction, operation, and maintenance of any part of the authorised development;
- (d) dredging including (but not limited to) long-reach excavation (including from any jack-up barge), mass flow excavation and ploughing for the purposes of seabed preparation for the authorised development;
- (e) the removal of a section of out-of-service cables, seabed debris and static fishing equipment;

- (f) boulder clearance works either by displacement ploughing (“pre-lay plough”) or subsea grab technique or any other equivalent method;
- (g) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction, operation and maintenance; and
- (h) any other works comprised in the preparation of the seabed for the authorised development.

(3) For the purposes of this licence “the authorised development” means the construction, operation and maintenance of—

- (a) within the area shown as Work No. 5 on the works plans, HDVC and communication cables and associated ducts under the surface of the sea and land between Work No. 4 and Work No. 6 laid through horizontal directional drilling including all other works associated with the laying of the cables;
- (b) Work No. 6, being works to facilitate the laying and operation of offshore HVDC and communication cable works, from Work No. 5 seaward within the UK exclusive economic zone, within the area shown on the works plans which may include—
 - (i) within the area shown as Work No. 6 on the works plans, offshore HVDC and communication cable works, from Works No. 5 seaward within the UK exclusive economic zone including—
 - (aa) HDD and associated infrastructure, including temporary HDD exit pits;
 - (bb) temporary works areas for vessels to carry out intrusive activities, including deployment of jack-up barges;
 - (cc) installation, burial and protection of offshore HVDC, communication cables and communication cable repeaters;
 - (dd) works for temporary cable burial equipment trials;
 - (ee) works for the construction of crossing structures over existing marine cables that are crossed within the offshore HVDC cable corridor;
 - (ff) monitoring and survey works required for or to validate activities within the area shown as Work No. 6 on the works plans;
 - (gg) operation and maintenance of installed HVDC and communication cables; and
 - (hh) such other works as may be necessary or expedient for the purpose of or in connection with the construction of Work No. 6 and which are not likely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement or in any environmental information supplied under the 2017 Regulations; and
- (c) in connection with Work Nos. 5 and 6 such other works as may be necessary or expedient for the purpose of responding to an emergency associated with an uncontrolled release of drilling mud onto land, a watercourse or the sea from trenchless installation techniques, including clean-up works.

(4) The substances or articles to which sub-paragraph (2)(a) refers as being authorised for deposit at sea are—

- (a) iron, steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) drilling liquids; and
- (g) any other substance or article to the extent that the effects of its deposit at sea are not likely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(5) The grid coordinates within the UK marine area within which the undertaker may carry out the authorised development, as shown more particularly on the offshore Order limits and location, Order limits and grid coordinates plan , are specified below—

<i>Point ID</i>	<i>Latitude (ddm)</i>	<i>Longitude (ddm)</i>	<i>Point ID</i>	<i>Latitude (ddm)</i>	<i>Longitude (ddm)</i>
1	51°1.637'N	4°16.118'W	146	50°24.749'N	6°28.483'W
2	51°1.637'N	4°16.119'W	147	50°25.300'N	6°26.781'W
3	51°1.656'N	4°16.297'W	148	50°27.103'N	6°21.198'W
4	51°1.657'N	4°16.296'W	149	50°27.319'N	6°21.374'W
5	51°1.693'N	4°16.638'W	150	50°27.948'N	6°19.423'W
6	51°1.714'N	4°16.757'W	151	50°28.290'N	6°18.335'W
7	51°1.905'N	4°18.304'W	152	50°28.084'N	6°18.170'W
8	51°1.912'N	4°18.329'W	153	50°30.139'N	6°11.680'W
9	51°2.442'N	4°20.118'W	154	50°32.547'N	6°4.111'W
10	51°2.759'N	4°21.839'W	155	50°33.830'N	6°0.058'W
11	51°2.766'N	4°21.867'W	156	50°34.945'N	5°56.529'W
12	51°2.790'N	4°21.954'W	157	50°37.336'N	5°48.934'W
13	51°2.816'N	4°22.044'W	158	50°39.163'N	5°43.131'W
14	51°2.841'N	4°22.103'W	159	50°39.383'N	5°43.310'W
15	51°3.209'N	4°22.721'W	160	50°39.947'N	5°41.505'W
16	51°3.675'N	4°23.477'W	161	50°40.293'N	5°40.394'W
17	51°3.972'N	4°24.288'W	162	50°40.083'N	5°40.205'W
18	51°4.508'N	4°26.213'W	163	50°42.074'N	5°33.754'W
19	51°4.512'N	4°26.227'W	164	50°46.331'N	5°28.617'W
20	51°4.613'N	4°26.487'W	165	50°50.606'N	5°23.435'W
21	51°4.678'N	4°26.653'W	166	50°54.878'N	5°18.237'W
22	51°4.938'N	4°27.034'W	167	50°59.145'N	5°13.023'W
23	51°6.393'N	4°28.301'W	168	51°0.497'N	5°11.366'W
24	51°6.799'N	4°29.037'W	169	51°1.809'N	5°7.193'W
25	51°7.023'N	4°29.835'W	170	51°1.814'N	5°7.172'W
26	51°7.184'N	4°31.154'W	171	51°2.026'N	5°5.925'W
27	51°7.279'N	4°32.844'W	172	51°2.628'N	5°2.387'W
28	51°7.276'N	4°32.993'W	173	51°2.987'N	5°0.709'W
29	51°7.254'N	4°33.991'W	174	51°3.679'N	4°57.859'W
30	51°7.195'N	4°34.698'W	175	51°3.687'N	4°57.825'W
31	51°6.925'N	4°36.852'W	176	51°3.801'N	4°57.360'W
32	51°6.924'N	4°36.853'W	177	51°4.373'N	4°55.004'W
33	51°6.766'N	4°38.225'W	178	51°5.066'N	4°52.150'W
34	51°6.765'N	4°38.242'W	179	51°5.627'N	4°49.843'W
35	51°6.736'N	4°39.694'W	180	51°5.758'N	4°49.302'W
36	51°6.737'N	4°39.714'W	181	51°6.264'N	4°47.549'W
37	51°6.803'N	4°40.400'W	182	51°6.301'N	4°47.264'W
38	51°6.699'N	4°41.406'W	183	51°6.302'N	4°47.257'W
39	51°6.697'N	4°41.428'W	184	51°6.629'N	4°44.320'W
40	51°6.364'N	4°44.241'W	185	51°6.961'N	4°41.507'W
41	51°6.050'N	4°47.195'W	186	51°6.964'N	4°41.482'W
42	51°6.016'N	4°47.420'W	187	51°6.965'N	4°41.479'W
43	51°5.511'N	4°49.131'W	188	51°7.075'N	4°40.402'W
44	51°5.509'N	4°49.138'W	189	51°7.006'N	4°39.678'W
45	51°5.375'N	4°49.689'W	190	51°7.034'N	4°38.279'W
46	51°4.815'N	4°51.996'W	191	51°7.189'N	4°36.933'W
47	51°4.121'N	4°54.850'W	192	51°7.461'N	4°34.772'W

48	51°3.562'N	4°57.153'W	193	51°7.461'N	4°34.765'W
49	51°3.436'N	4°57.671'W	194	51°7.523'N	4°34.032'W
50	51°3.428'N	4°57.705'W	195	51°7.523'N	4°34.021'W
51	51°2.734'N	5°0.561'W	196	51°7.545'N	4°33.007'W
52	51°2.733'N	5°0.566'W	197	51°7.548'N	4°32.839'W
53	51°2.371'N	5°2.259'W	198	51°7.548'N	4°32.826'W
54	51°2.369'N	5°2.266'W	199	51°7.451'N	4°31.096'W
55	51°1.766'N	5°5.814'W	200	51°7.450'N	4°31.082'W
56	51°1.559'N	5°7.030'W	201	51°7.282'N	4°29.711'W
57	51°0.283'N	5°11.088'W	202	51°7.278'N	4°29.690'W
58	50°58.980'N	5°12.685'W	203	51°7.029'N	4°28.803'W
59	50°57.369'N	5°14.656'W	204	51°6.571'N	4°27.978'W
60	50°56.509'N	5°15.002'W	205	51°5.095'N	4°26.683'W
61	50°54.437'N	5°17.431'W	206	51°4.888'N	4°26.379'W
62	50°51.876'N	5°20.409'W	207	51°4.843'N	4°26.262'W
63	50°51.463'N	5°21.857'W	208	51°4.749'N	4°26.021'W
64	50°50.442'N	5°23.097'W	209	51°4.214'N	4°24.099'W
65	50°46.167'N	5°28.279'W	210	51°4.211'N	4°24.089'W
66	50°41.876'N	5°33.460'W	211	51°4.211'N	4°24.088'W
67	50°41.866'N	5°33.479'W	212	51°4.209'N	4°24.083'W
68	50°41.856'N	5°33.498'W	213	51°3.899'N	4°23.239'W
69	50°39.844'N	5°39.982'W	214	51°3.889'N	4°23.217'W
70	50°39.768'N	5°39.927'W	215	51°3.879'N	4°23.197'W
71	50°39.406'N	5°41.087'W	216	51°3.053'N	4°21.835'W
72	50°38.848'N	5°42.871'W	217	51°3.034'N	4°21.771'W
73	50°38.918'N	5°42.921'W	218	51°3.015'N	4°21.705'W
74	50°37.094'N	5°48.747'W	219	51°2.698'N	4°19.983'W
75	50°34.704'N	5°56.341'W	220	51°2.691'N	4°19.952'W
76	50°33.532'N	6°0.058'W	221	51°2.216'N	4°18.343'W
77	50°32.305'N	6°3.922'W	222	51°2.162'N	4°18.168'W
78	50°29.898'N	6°11.491'W	223	51°1.977'N	4°16.662'W
79	50°27.842'N	6°17.943'W	224	51°1.948'N	4°16.493'W
80	50°27.704'N	6°17.838'W	225	51°1.854'N	4°16.423'W
81	50°27.351'N	6°18.940'W	226	51°1.853'N	4°16.423'W
82	50°27.350'N	6°18.939'W	227	51°1.853'N	4°16.424'W
83	50°26.727'N	6°20.886'W	228	51°1.851'N	4°16.425'W
84	50°26.854'N	6°20.993'W	229	51°1.850'N	4°16.425'W
85	50°26.491'N	6°22.127'W	230	51°1.849'N	4°16.425'W
86	50°25.059'N	6°26.591'W	231	51°1.848'N	4°16.425'W
87	50°24.515'N	6°28.276'W	232	51°1.847'N	4°16.424'W
88	50°24.302'N	6°28.094'W	233	51°1.846'N	4°16.423'W
89	50°23.885'N	6°29.389'W	234	51°1.845'N	4°16.422'W
90	50°23.188'N	6°30.775'W	235	51°1.845'N	4°16.421'W
91	50°23.366'N	6°31.020'W	236	51°1.844'N	4°16.419'W
92	50°22.101'N	6°33.548'W	237	51°1.844'N	4°16.417'W
93	50°18.761'N	6°40.165'W	238	51°1.843'N	4°16.416'W
94	50°15.414'N	6°46.767'W	239	51°1.843'N	4°16.415'W
95	50°15.336'N	6°46.921'W	240	51°1.825'N	4°16.401'W
96	50°10.522'N	6°49.975'W	241	51°1.794'N	4°16.266'W
97	50°5.525'N	6°53.133'W	242	51°1.789'N	4°16.243'W
98	50°0.525'N	6°56.280'W	243	51°1.783'N	4°16.218'W
99	50°0.146'N	6°56.518'W	244	51°1.764'N	4°16.135'W
100	49°57.830'N	6°57.971'W	245	51°1.763'N	4°16.127'W

101	49°38.258'N	7°3.557'W	246	51°1.735'N	4°16.036'W
102	49°34.228'N	7°2.513'W	247	51°1.734'N	4°16.036'W
103	49°29.480'N	7°1.286'W	248	51°1.733'N	4°16.037'W
104	49°28.986'N	7°0.937'W	249	51°1.731'N	4°16.039'W
105	49°24.086'N	6°57.473'W	250	51°1.730'N	4°16.039'W
106	49°19.185'N	6°54.021'W	251	51°1.730'N	4°16.040'W
107	49°14.282'N	6°50.581'W	252	51°1.728'N	4°16.041'W
108	49°9.378'N	6°47.151'W	253	51°1.727'N	4°16.042'W
109	49°4.472'N	6°43.733'W	254	51°1.726'N	4°16.043'W
110	49°4.472'N	6°43.731'W	255	51°1.724'N	4°16.045'W
111	48°59.524'N	6°40.278'W	256	51°1.719'N	4°16.048'W
112	48°59.524'N	6°40.276'W	257	51°1.716'N	4°16.051'W
113	48°58.407'N	6°39.501'W	258	51°1.714'N	4°16.053'W
114	48°56.229'N	6°37.994'W	259	51°1.712'N	4°16.054'W
115	48°56.122'N	6°38.379'W	260	51°1.711'N	4°16.055'W
116	48°58.295'N	6°39.884'W	261	51°1.709'N	4°16.056'W
117	48°59.408'N	6°40.655'W	262	51°1.707'N	4°16.058'W
118	48°59.408'N	6°40.652'W	263	51°1.705'N	4°16.059'W
119	49°4.359'N	6°44.108'W	264	51°1.703'N	4°16.061'W
120	49°4.360'N	6°44.106'W	265	51°1.699'N	4°16.064'W
121	49°9.265'N	6°47.525'W	266	51°1.695'N	4°16.068'W
122	49°14.170'N	6°50.955'W	267	51°1.690'N	4°16.072'W
123	49°19.072'N	6°54.396'W	268	51°1.688'N	4°16.073'W
124	49°23.973'N	6°57.849'W	269	51°1.687'N	4°16.075'W
125	49°28.873'N	7°1.312'W	270	51°1.684'N	4°16.076'W
126	49°29.399'N	7°1.686'W	271	51°1.683'N	4°16.078'W
127	49°34.183'N	7°2.922'W	272	51°1.681'N	4°16.079'W
128	49°38.261'N	7°3.979'W	273	51°1.676'N	4°16.083'W
129	49°39.546'N	7°3.614'W	274	51°1.674'N	4°16.085'W
130	49°44.852'N	7°2.106'W	275	51°1.673'N	4°16.087'W
131	49°50.156'N	7°0.597'W	276	51°1.671'N	4°16.087'W
132	49°55.461'N	6°59.077'W	277	51°1.669'N	4°16.089'W
133	49°57.899'N	6°58.377'W	278	51°1.668'N	4°16.090'W
134	49°57.912'N	6°58.371'W	279	51°1.667'N	4°16.092'W
135	50°0.626'N	6°56.667'W	280	51°1.664'N	4°16.094'W
136	50°5.626'N	6°53.521'W	281	51°1.661'N	4°16.096'W
137	50°10.624'N	6°50.364'W	282	51°1.658'N	4°16.099'W
138	50°15.503'N	6°47.269'W	283	51°1.657'N	4°16.100'W
139	50°15.626'N	6°47.028'W	284	51°1.653'N	4°16.103'W
140	50°18.973'N	6°40.426'W	285	51°1.648'N	4°16.108'W
141	50°22.313'N	6°33.809'W	286	51°1.644'N	4°16.112'W
142	50°23.566'N	6°31.317'W	287	51°1.643'N	4°16.113'W
143	50°23.755'N	6°31.558'W	288	51°1.640'N	4°16.116'W
144	50°24.525'N	6°30.027'W	289	51°1.638'N	4°16.117'W
145	50°24.965'N	6°28.661'W			

(6) The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of sections 72(7) and (8) do not apply where the transfer or grant of the benefit of any of the provisions of this licence falls within article 7 (benefit of the Order) of the Order.

PART 2

CONDITIONS

General

4.—(1) With respect to any provision of this licence which requires the licensed activities to be carried out in accordance with documents, strategies, information, plans, protocols or statements approved by the MMO prior to or under this licence, the documents, strategies, information, plans, protocols or statements so approved are taken to include amendments approved in writing by the MMO subsequent to the first approval of those documents, strategies, information, plans, protocols or statements provided it has been demonstrated to the satisfaction of the MMO that the subject matter of the relevant amendments is not likely to give rise to any materially new or materially different environmental effects to those assessed in the environmental statement or in any environmental information supplied under the 2017 EIA Regulations.

(2) When any approval, agreement or expression of satisfaction is required of, or with, the MMO pursuant to this licence such approval, agreement or expression of satisfaction must not be given if it is likely to give rise to any materially new or materially different significant effects on the environment that have not been assessed in the environmental statement or in any environmental information supplied under the 2017 EIA Regulations.

(3) Any time period specified in this licence to which either the undertaker or the MMO is subject may be extended with the agreement of the other party in writing, such agreement not to be unreasonably withheld or delayed.

Notification and inspections

5.—(1) The undertaker must inform the MMO—

- (a) at least five working days prior to the commencement of the first licensed activity; and
- (b) within five working days following the completion of the final construction phase licensed activity,

of the commencement or the completion (as applicable).

(2) The undertaker must provide the following information to the MMO—

- (a) the name and function in writing of any agent or contractor or sub-contractor that will carry on any licensed activity on behalf of the undertaker; and
- (b) such notification must be received by the MMO in writing not less than 24 hours before the commencement of the licensed activity.

(3) The undertaker must ensure that a copy of this licence and any subsequent revisions or amendments has been provided to, read and understood by any agents, contractors, and sub-contractors that will be carrying out any licensed activity on behalf of the undertaker.

(4) The undertaker must keep a copy of this licence and any subsequent revisions or amendments, so long as they remain in effect, available for inspection at its registered address and maintained in an electronic form suitable for inspection by members of the public.

(5) Any changes to details supplied under sub-paragraph (2) must be notified to the MMO in writing no less than 24 hours prior to the agent, contractor or vessel engaging in the licensed activity in question.

(6) Only those persons notified to the MMO in accordance with this condition are permitted to carry out a licensed activity.

(7) Prior to the commencement of the licensed activities or any part of them the undertaker must publish in the Kingfisher Fortnightly Bulletin details of planned vessel activities, the details and protocols of which are to be set out in the relevant NSVMP.

(8) The undertaker must ensure that its notices to mariners are updated and reissued appropriately according to the protocols set out in the relevant NSVMP. Notices to mariners must

be supplemented with VHF radio broadcasts (and navigational telex (NAVTEX)) as agreed with the MCA in accordance with the construction programme approved under paragraph 7 of this licence and set out in the relevant NSVMP. Copies of all local notifications must be provided to the MMO and UK Hydrographic Office within five days of issue, except in the case of a notice relating to operation and maintenance, which must be provided within 24 hours of issue.

(9) The undertaker must notify the UK Hydrographic Office both of the commencement (within 10 working days) and completion of construction (within 10 working days) of the licensed activities in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO and the Defence Infrastructure Organisation within 5 working days.

(10) In case of damage to, or destruction or decay of, the authorised development or any part of it the undertaker must as soon as possible and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, MCA, Trinity House, the Kingfisher Information Service - Offshore Renewable & Cable Awareness service and the UK Hydrographic Office.

(11) In case of a cable exposure on or above the seabed, the undertaker must notify mariners by issuing a notice to mariners and notify the Kingfisher Information Service within three working days following the undertaker becoming aware of it and copies of all such notices must be provided to the MMO, MCA, Trinity Housing and UK Hydrographic Office within five days.

Design parameters

6. The licensed activities must not exceed the parameters set out in the table below, which may be updated, with the agreement of the MMO, in any offshore CEMP approved by the MMO under paragraph 8 of this licence—

<i>Element of the licensed activities</i>	<i>Parameter</i>	<i>Maximum number</i>
Offshore cables	Number of HVDC marine power cables	4
	Number of FOCs	2
	Number of cable bundles or bipoles	2
	Number or FOC repeaters and associated cable spurs	5 per bundle
HDD marine works	Number of HDD boreholes	4
	Number of offshore exit pits	4
Cable installation	Number of cable trenches	2
	Maximum number of cable crossing structures	50 (25 x 2 bipoles)

Stages of construction

7. No licensed activities may be commenced until a construction programme setting out the stages of construction of the authorised development seaward of MHWS has been submitted to and approved by the MMO.

Offshore construction environmental management plan

8.—(1) No licensed activities may be commenced until an offshore construction environmental management plan for them has been submitted to and approved by the MMO.

(2) Any offshore construction environmental management plan submitted pursuant to subparagraph (1) must be in accordance with the outline offshore construction environmental management plan and include such of the following as are relevant to the licensed activities in question, unless otherwise approved in writing by the MMO—

- (a) environmental management structure and responsibilities;

- (b) associated documentation (or suitable links to associated documentation) including project description and environmental sensitivities;
- (c) management of key environmental issues;
- (d) fisheries liaison measures;
- (e) environmental incident response (including emergency response plan);
- (f) monitoring and site inspections;
- (g) legislative and regulatory compliance;
- (h) training and awareness;
- (i) communication and reporting;
- (j) sub-contractor management;
- (k) sustainable construction;
- (l) a navigational safety and vessel management plan; and
- (m) any environmental mitigation commitments identified in the environmental statement.

Aids to navigation

9.—(1) Any vessels utilised during the carrying out of the licensed activities, when jacked up, must exhibit signals in accordance with the relevant NSVMP, unless otherwise approved in writing by the MMO.

(2) The undertaker must during the carrying out of the licensed activities—

- (a) exhibit such lights, marks, sounds, signals and other aids to navigation and lay down such buoys and take such other steps for the prevention of danger to navigation, as Trinity House may from time to time direct;
- (b) keep Trinity House informed of progress of the authorised development seaward of MHWS by way of issuing it with—
 - (i) notice of commencement of construction of the authorised development;
 - (ii) notice of any aids to navigation being established or relocated by the undertaker; and
 - (iii) notice of completion of construction of the authorised development.

Other navigation considerations

10.—(1) Where requested by the MCA, following completion of the authorised development, the undertaker must produce a compass deviation survey, to confirm that compass deviation does not exceed—

- (a) three degrees for 95 percent of the cable route; and
- (b) five degrees for the remaining 5 percent,

within the Order limits, unless otherwise agreed in writing with the MCA; and where such requirements are not met, the undertaker must discuss appropriate measures with the MCA.

(2) Where requested by the MCA, following completion of the authorised development, the undertaker must confirm, unless otherwise agreed in writing with the MCA, whether there has been a reduction of no more than 5 percent in water depth within the Order limits and, where such a reduction has been exceeded the undertaker must—

- (a) carry out a location specific review of impacts to shipping;
- (b) consult with the MCA on the review; and
- (c) agree with the MCA whether any additional mitigations are required to be carried out.

Equipment and operation of vessels engaged in licensed activities

11. All vessels performing the licensed activities must be constructed and equipped to be capable of the proper performance of such activities in accordance with the conditions of this licence and (except in the case of remotely operated vehicles or vessels) must comply with the following requirements—

- (a) Where the vessel is motor-powered it must be fitted with—
 - (i) electronic positioning aid to provide navigational data;
 - (ii) radar;
 - (iii) echo sounder; and
 - (iv) multi-channel VHF,and no vessel may engage in the licensed activities until all the equipment specified in this sub-paragraph (a) is fully operational;
- (b) All vessels' names or identification must be clearly marked on the hull or superstructure;
- (c) All communication on VHF working frequencies must be in English;

Chemicals drilling and debris

12.—(1) Unless otherwise agreed in writing by the MMO, the carriage and use of chemicals in the construction of the authorised development must comply with the International Convention for the Prevention of Pollution from Ships.

(2) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances in the course of construction of the authorised development must be undertaken so as to prevent releases into the marine environment, including bunding of 110 percent of the total volume of all reservoirs and containers.

(3) 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.

(4) The undertaker must ensure that any concrete 'mattresses' used as cable protection are pre-cast and suitably designed for long-term marine deployment (including any embedded plastic 'handles' or 'fixings').

(5) The undertaker must inform the MMO in writing of the location and quantities of rock material placed each month under this licence by submission of a disposal return by 28 February each year for the months August to January inclusive, and by 31 August each year for the months February to July inclusive.

(6) In the event that any rock material used in the construction of the authorised development is misplaced or lost within the Order limits, the undertaker must report the loss to the MMO local office within 48 hours and, if the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material), the undertaker must, in that event, demonstrate to the MMO that reasonable attempts have been made to locate, remove or move any such material.

(7) All dropped objects which could reasonably be expected to cause a hazard in the marine environment must be reported to the MMO using the dropped object procedure form as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident.

(8) On receipt of a dropped object procedure form submitted under sub-paragraph (7) the MMO may require—

- (a) relevant surveys to be carried out by the undertaker (such as side scan sonar); and
- (b) obstructions to be removed from the seabed at the undertaker's expense,

(in each case) if reasonable to do so.

Force majeure

13.—(1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to deposit any deposits authorised by this licence within or outside of the Order limits because the safety of human life or of the vessel is threatened, then—

- (a) within 48 hours full details of the circumstances of the deposit must be notified to the MMO; and
- (b) the unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Pre-construction plans and documentation considerations

14.—(1) No licensed activities in any stage of construction of the authorised development may commence until the following (insofar as relevant to those licensed activities or stage of those licensed activities) have been submitted to and approved in writing by the MMO—

- (a) A design plan, in GIS shape file which shows for the relevant stage—
 - (i) the length and proposed location of all cables comprised in Work Nos. 5 and 6;
 - (ii) the proposed location of the temporary horizontal directional drilling exit pits within the area to which Work No. 6 relates;
 - (iii) the proposed location of cable crossings,
which may be amended subject to any micro-routing required due to anthropological constraints, environmental constraints, difficult ground conditions or to give adequate spacing between other infrastructure provided such amendment is not likely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement or in any environmental information supplied under the 2017 EIA Regulations.
- (b) A construction programme setting out for the relevant stage—
 - (i) the proposed construction start date;
 - (ii) the proposed timings for mobilisation of plant, delivery of materials and installation works; and
 - (iii) an indicative construction programme for the carrying out of any works comprised in Work Nos. 5 or 6,
which may be amended from time to time with the approval in writing of the MMO.
- (c) An offshore construction method statement for the relevant stage in accordance with the construction methods assessed in the environmental statement and the relevant offshore CEMP approved by the MMO under paragraph 8 of this licence, including—
 - (i) any cable installation details, including a pre-construction cable burial risk assessment;
 - (ii) contractor details;
 - (iii) vessels details;
 - (iv) any associated development;
 - (v) a pre-construction cable burial risk assessment in accordance with the outline cable burial risk assessment and construction methods assessed in the environmental statement, including—
 - (aa) a marine HVDC cable installation methodology;
 - (bb) a technical specification of marine HVDC cables below MHWS and cable burial depths in accordance with industry practice;
 - (cc) a detailed cable laying plan for the Order limits seaward of MHWS, incorporating a burial assessment which includes the identification of any part of the marine HVDC cables that exceeds 5 percent of navigable depth referenced to chart datum and, in the event of the identification of any area of

cable protection that exceeds 5 percent of navigable depth, details of any steps (to be determined following consultation with Trinity House and the MCA on matters which fall within their statutory functions) to be taken to ensure existing and future safe navigation is not compromised or such similar assessment to ascertain suitable burial depths and cable laying techniques, including cable protection;

- (dd) proposals for monitoring the marine HVDC cables including cable protection during the operation of the authorised development which includes a risk based approach to the management of unburied or shallow buried cables;
- (ee) advisory safe passing distances for vessels around construction sites;
- (ff) the name and function of any agent or contractor appointed to engage in the licensed activities vessels and vessel transit corridors and a completed Hydrographic Note H102 listing the vessels to be used in relation to the licensed activities;
- (gg) codes of conduct for vessel operators;
- (hh) details of any required micro-siting in relation to Annex I geogenic reef habitat or archaeological exclusion zones within the Order limits seaward of MHWS; and
- (ii) associated ancillary works.
- (vi) an offshore construction environmental management plan (which accords with the outline offshore construction environmental management plan) covering the period of construction and operation to include the relevant matters set out in paragraph 8(2) of this licence.
- (vii) details of proposed pre-construction monitoring surveys, construction monitoring, and post-construction monitoring in accordance with paragraph 8(2) of this licence.

(2) No licensed activities in any stage of construction of the authorised development may commence unless, no later than 3 months prior to such commencement, an offshore archaeological written scheme of investigation for that stage has been submitted to and approved by the MMO in writing, which (unless otherwise agreed in writing with the MMO) is in accordance with the outline offshore archaeological written scheme of investigation and industry good practice, following consultation with the statutory historic body on matters related to its functions, to include—

- (a) details of responsibilities of the undertaker, archaeological consultant and contractor;
- (b) the framework for any further site investigations, with recognition that site specific method statements will need consultation with the statutory historic body on matters related to its functions at the time of preparation, which may be reactive;
- (c) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four 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 reports and data are shared with the Archaeology Data Service with the aim of enhancing knowledge and understanding of the area;
- (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 and operation of the authorised development; and
- (h) a timetable of proposed further site investigations (where deemed reasonably necessary by the statutory historic body) which allows sufficient opportunity for approval of any

necessary mitigation required as a result of the site investigation data interpretations, prior to commencement of the licensed activities in question.

(3) Any pre-construction archaeological investigations or material operations comprised in the licensed activities which involve intrusive seabed works must only take place in accordance with a method statement comprised in an offshore archaeological written scheme of investigation specific to the pre-construction investigations or material operations in question which—

- (a) unless otherwise agreed in writing with the MMO is in accordance with the outline offshore archaeological written schemes of investigation; and
- (b) has been submitted to and approved by the MMO in consultation with the statutory historic body.

(4) The licensed activities must be carried out in accordance with those plans, protocols, statements, schemes and details which—

- (a) relate to them; and
- (b) have been approved by the MMO under this paragraph 14,

unless otherwise agreed in writing by the MMO.

Offshore safety management

15.—(1) Any offshore works comprised in the licensed activities must not commence until the MMO, in consultation with the MCA on matters related to its statutory functions—

- (a) has given written approval for an emergency response and co-operation plan that includes emergency response procedures for the construction, operation and maintenance phases of those offshore works in accordance with the MCA recommendations contained in the OREI guidance (where relevant); and
- (b) has confirmed in writing that the undertaker has taken into account and adequately addressed all MCA recommendations contained in the OREI guidance that are appropriate to those offshore works.

(2) Any emergency response and co-operation plan submitted for the approval of the MMO must include the identification of a point of contact for any emergency response.

(3) Any emergency response and co-operation plan must be implemented as approved.

Reporting of engaged agents, contractors and vessels

16.—(1) The undertaker must provide the following information to the MMO—

- (a) the name and function of any agent or contractor appointed to engage in the licensed activities not less than 10 working days prior to such agent or contractor commencing any licensed activity; and
- (b) each fortnight during the construction of the authorised project a list of the vessels currently and to be used in relation to the licensed activities.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

Post-construction monitoring and surveys

17.—(1) The undertaker must, following completion of the authorised development, submit to the MMO a post-construction monitoring plan containing—

- (a) survey proposals in accordance with relevant principles set out in the environmental statement;
- (b) the outline of a post-construction bathymetric survey to monitor—

- (i) the effectiveness of archaeological exclusion zones (the data in respect of which is to be analysed by an accredited archaeologist as defined in the relevant marine written scheme of archaeological investigation required under paragraph 14(2);
- (ii) the effectiveness of micro-routing to avoid other identified environmental sensitive locations, including Annex I reefs; and
- (iii) any dropped objects or residual navigational risk.

(2) The undertaker must carry out the surveys set out in the post-construction monitoring plan approved by the MMO in accordance with that plan and provide resulting survey data or reports to the MMO.

Maintenance of the authorised development

18.—(1) The undertaker may at any time maintain, and carry out works of maintenance in connection with, the authorised development except to the extent that—

- (a) this licence provides otherwise;
- (b) it is likely to give rise to any materially new or materially different effects to those that have been assessed in the environmental statement or in any environmental information supplied under the 2017 EIA Regulations.

(2) Not more than two months following the completion of the authorised development the undertaker must submit to the MMO an operations and maintenance plan which includes proposals for surveys in accordance with the relevant principles set out in the environmental statement and each relevant offshore construction environmental management plan.

(3) The works of maintenance to which sub-paragraph (1) refer include—

- (a) the deployment of supplementary cable protection installed following completion of construction in those locations where cable protection was not installed during construction, except that any such cable protection must be deployed within 5 years of completion of the construction in question unless otherwise agreed by the MMO in writing.
- (b) cable repairs, including the removal of defective cable and sediment to undertake those repairs, and the addition of sections of cable to replace defective cable and the removal and replacement of cable protection;
- (c) remedial cable burial;
- (d) cable inspection surveys involving the use of a single survey vessel equipped with bathymetric survey equipment and potentially an inspection ROV and geophysical survey equipment (which may include multibeam echo sounder, side scan sonar and a magnetometer) but the inspection survey schedule must, unless otherwise agreed by the MMO in writing, be consistent with that set out in the environmental statement;
- (e) unplanned maintenance works in the event of failure of components of the authorised development or if a cable becomes exposed due to changes in seabed morphology or the activity of any third party.

(4) Prior to the laying of any new cable protection following the completion of the construction of the authorised development the undertaker must provide details of and justification for the deployment of the new cable protection in question and must not lay that new cable protection until the MMO has approved its deployment in writing.

(5) The undertaker must inform the MMO Local Office in writing at least 3 working days prior to the commencement of the laying of any new cable protection following the completion of construction of the authorised development.

(6) The undertaker must issue a local notification to mariners at least 3 working days prior to the laying of any new cable protection following the completion of construction of the authorised development and that notice must be forwarded to the MMO within 3 working days of issue.

(7) The undertaker must issue a notice to the UK Hydrographic Office at least 3 working days prior to the laying of any new cable protection following the completion of construction of the

authorised development to permit the promulgation of maritime safety information and updating of nautical charts and publications.

(8) The undertaker must notify the MMO Local Office of the completion of the laying of any new cable protection following the completion of construction of the authorised development no later than 10 working days after the completion of the laying of the new cable protection in question.

(9) Within 20 working days of the completion of the laying of any new cable protection following the completion of construction of the authorised development, the undertaker must confirm to the MMO, the MCA and UKHO the details and location of the new cable protection in question, confirming the final clearance depths over the protected cables where the new cable protection has been laid and, if any of the MMO, the MCA or UKHO reasonably identify any area as a possible danger to navigation any of them may require marking with aids to navigation at the undertaker's expense.

Maintenance reporting

19.—(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 operation of the authorised project, and within one month of every subsequent anniversary until the permanent cessation of operation of the authorised project.

(2) Each report to which sub-paragraph (1) refers must, unless otherwise agreed in writing with the MMO, provide a record of the licensed activities carried out during the preceding year, the timing of those activities and a summary of the methodologies used in relation to them.

(3) Within one month following every fifth anniversary of the date of commencement of operation of the authorised project, the undertaker must submit to the MMO a consolidated maintenance report, which—

- (a) includes a review of licensed activities undertaken during the preceding five years with reference to the reports submitted in accordance with sub-paragraph (2);
- (b) reconfirms the suitability of the methodologies and frequencies of the licensable activities permitted by this licence for the remaining duration of this licence.

PART 3

PROCEDURE FOR THE DISCHARGE OF CONDITIONS

Meaning of “application”

20. In this Part, “application” means a submission by the undertaker for the approval by or agreement, confirmation or expression of satisfaction of the MMO in respect of any document, strategy, information, plan, protocol, statement or any other matter under this licence.

Determination of application

21.—(1) In determining the application the MMO may have regard to—

- (a) the application and any supporting information or documentation;
- (b) any further information provided by the undertaker; and
- (c) such other matters as the MMO thinks relevant.

(2) Having considered the application the MMO must—

- (a) grant the application unconditionally;
- (b) grant the application subject to the conditions as the MMO thinks fit; or
- (c) refuse the application.

(3) Where the MMO refuses the application the refusal notice must state the reasons for the refusal.

Timescales for determination and appeals

22. Schedule 3 (procedure regarding certain approvals; etc.) of the Order has effect in relation to any application and the MMO's determination of, or failure to make a determination in relation to, such application.

SCHEDULE 10

TRAFFIC REGULATION ORDERS

TEMPORARY RESTRICTION OF SPEED

Article 48

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street</i>	<i>(3)</i> <i>Extent as shown on rights of way and streets and access plans</i>	<i>(4)</i> <i>Notes</i>
Devon County Council	Unnamed road between Clovelly Road and Littleham	TTRO_01 as shown shaded lilac on Sheets 6 and 7	Speed limit to be restricted to 30mph
Devon County Council	A386 and unnamed road between A386 and Littleham	TTRO_02 as shown shaded blue on Sheet 14	Speed limit to be restricted to 40mph
Devon County Council	Gammaton Road	TTRO_03 as shown shaded blue on Sheets 16 and 17	Speed limit to be restricted to 40mph

PROTECTIVE PROVISIONS

PART 1

PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE
UNDERTAKERS

1. For the protection of the utility undertakers referred to in this Part of this Schedule, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertakers concerned.

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable to utility undertaker in question to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the 1989 Act) belonging to or maintained by that electricity undertaker for the purposes of electricity supply;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas undertaker for the purposes of gas supply;
- (c) in the case of a water undertaker—
 - (i) mains, pipes or other apparatus belonging to or maintained by that utility undertaker for the purposes of water supply; and
 - (ii) 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 of the Water Industry Act 1991;
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested or works vested in the utility undertaker under the Water Industry Act 1991(a); and
 - (ii) 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,

and includes a sludge main, disposal main (within the meaning of section 219 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 the land; and

“utility undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the 1989 Act;
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986(b);
- (c) water undertaker within the meaning of the Water Industry Act 1991; and

(a) 1991 c.56

(b) 1986 c.44

- (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991, for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

3. This part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 of the 1991 Act.

4. Regardless of the temporary prohibition or restriction of use of streets under the powers conferred by article 16 (temporary closure, alteration, diversion or restriction of streets and public rights of way), a utility undertaker is 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 may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction was in that street.

5. Regardless of any provision in this Order or anything shown on the land and Crown land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

6.—(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 over which access to any apparatus is enjoyed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (7).

(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 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 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 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 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 the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 58 (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 58 (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 of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that it desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land controlled by 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.

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, 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 58 (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 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.

8.—(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 6(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 28 days beginning with the date on which a plan, section and description under sub-paragraph (1) are 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, paragraphs 6(1) to 6(7) apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(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 it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan, section and description 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.

9.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses 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 6(2).

(2) There is to 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, 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 58 (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 utility 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 is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus where such extension is required in consequence of the execution of any such works as are referred to in paragraph 6(2); and
- (b) where the provision of a joint in a 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 a utility undertaker 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 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.

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the works referred to in paragraph 6(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 which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

11. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaking in respect of any

apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 2

ELECTRONIC COMMUNICATIONS CODE

PROTECTION FOR OPERATIONS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

12.—(1) For the protection of any operator, the following provisions, unless otherwise agreed in writing between the undertaker and the operator, have effect.

(2) In this Part of this Schedule—

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system are to be construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act;

“electronic communications code network” means—

(a) so much of an electronic communications network or conduit 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 (application of the electronic communications code) 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 (application of the electronic communications code) of the Communications Act 2003; and

“operator” means the operator of an electronic communications code network.

13. The exercise of the powers of article 43 (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 (3), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works 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 the undertaker must bear and pay the cost reasonably and properly incurred by the operator in making good such damage.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage 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 which consent must not be unreasonably withheld or delayed.

(4) Any difference arising between the undertaker and the operator under this paragraph must be referred to and settled by arbitration under article 58 (arbitration).

15. This Part of this Schedule 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 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 development.

16. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF DRAINAGE AUTHORITIES

17. The provisions of this Part have effect for the protection of the drainage authority unless otherwise agreed in writing between the undertaker and the drainage authority.

18. In this Part of this Schedule—

“construction” includes execution, placing, altering, replacing, relaying and removal and excavation and “construct” and “constructed” is 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 which is the responsibility of the drainage authority;

“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 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 8 metres of a drainage work or is otherwise likely to—

- (a) affect any drainage work;
- (b) affect the total volume or volumetric rate of flow of water in or flowing to or from any such drainage work;
- (c) affect the flow of water in any such drainage work; or
- (d) affect the conservation, distribution or use of water resources.

19.—(1) Before beginning to construct a specified work, the undertaker must submit to the drainage authority plans of the specified work, and any such further particulars available to it as the drainage authority may within 28 days of the submission of the plans reasonably require.

(2) Any such 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 sub-paragraph (3).

(3) 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 28 days of the submission of the plans for approval, or submission of further particulars (where required by the drainage authority under sub-paragraph (1)) or, in the case of a refusal, if it is not accompanied by a statement of the grounds of refusal; and
- (c) may be given subject to such reasonable requirements as the drainage authority may consider appropriate for the protection of any drainage work.

20. Without limiting paragraph 3, 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; or
- (b) to secure that its efficiency for flood defence purposes is not impaired, and that the risk of flooding is not otherwise increased, by reason of any specified work.

21.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph (4), 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), 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 12.

22.—(1) 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 12.

23.—(1) Subject to sub-paragraph (5), the undertaker must from the commencement of the construction of the specified work and for the duration of the specified work 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 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 (3), 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 12.

(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; and
- (c) drainage works which, in the reasonable opinion of the undertaker, are not in good repair and condition and free from obstruction before the commencement of the specified works.

24. 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 reasonably incurred by it in so doing.

25. The undertaker must pay to the drainage authority all costs, charges and expenses that 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.

26.—(1) The undertaker must make reasonable compensation for liabilities, costs and losses which may be reasonably incurred or suffered by the drainage authority by reason of—

- (a) any damage to any drainage work arising out of the construction of the specified work or any act or omission of the undertaker, its employees, contractors or agents whilst engaged upon the construction of the specified work so as to impair its efficiency for the purposes of flood defence; and
- (b) any flooding or increased flooding of any such land which is caused by, or results from the construction of the specified work or any act or omission of the undertaker, its contractors, agents or employees whilst engaged upon the specified work.

(2) The drainage authority must give to the undertaker reasonable notice of any such claims or demand.

(3) The undertaker may at its own expense conduct all negotiations for the settlement of the same and any litigation that may arise therefrom.

(4) The drainage authority must not settle or compromise any such claim or make any admission which might be prejudicial to the claim without the agreement of the undertaker, which agreement must not be unreasonably withheld or delayed.

(5) The drainage authority must at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses and losses.

(6) In no circumstances will the undertaker be liable to the drainage authority under or in connection with this Part of this Schedule for loss of profit.

27. 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.

28. Any dispute arising between the undertaker and the drainage authority under this Part must be determined by arbitration under article 58 (arbitration).

PART 4

FOR THE PROTECTION OF THE ENVIRONMENT AGENCY

29.—(1) The following provisions apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

(2) In this part of this Schedule—

“Agency” means the Environment Agency;

“construction” includes execution, placing, altering, replacing, relaying and removal and excavation and “construct” and “constructed” is construed accordingly;

“drainage work” means any main river and includes any land which provides or is expected to provide 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 for any main river;

“fishery” means any waters outside of the UK marine area 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;

“plans” includes sections, drawings, specifications, calculations and method statements;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 8 metres of a main river and is otherwise likely to—

- (a) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
- (b) affect the flow, purity or quality of water in any watercourse or other surface waters;
- (c) cause obstruction to the free passage of fish or damage to any fishery;
- (d) affect the conservation, distribution or use of water resources; or
- (e) affect the conservation value of the main river and habitats in its immediate vicinity;

or which involves any quarrying or excavation within 8 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;

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, basins, sewers and passages through which water flows except a public sewer.

Submission and approval of plans

30.—(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 12.

(3) Any approval of the Agency 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 28 days of the submission of the plans for approval or receipt of further particulars if such particulars have been required by the Agency for approval and, in the case of a refusal, accompanied by a statement of the grounds of refusal; and
- (c) may be given subject to such reasonable requirements as the Agency may have (taking account of the terms of this Order) 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.

Construction of protective works

31. Without limiting paragraph 30 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; or
- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

Timing of works and service of notices

32.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 31, 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 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 7 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 Schedule

33.—(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 reasonable expenditure incurred by the Agency in so doing is 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 must 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 12.

Maintenance of works

34.—(1) Subject to sub-paragraph (6), the undertaker must from the commencement of the construction of the specified works and for the duration 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 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 these protective provisions the Agency may serve written notice requiring the undertaker to cease all or part of the specified works 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) 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 12.

(6) 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;
- (b) any obstruction of a drainage work expressly authorised in the approval of specified works plans and carried out in accordance with the provisions of this Part provided that any obstruction is removed as soon as reasonably practicable; and
- (c) drainage works which, in the reasonable opinion of the undertaker, are not in good repair and condition and free from obstruction before the commencement of the specified works and are evidenced as such to the Agency.

Remediating impaired drainage work

35. 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.

Free passage of fish

36.—(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 (taking account of the terms of this Order) 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 sub-paragraph (2), the Agency may take those steps and any expenditure reasonably incurred by the Agency in so doing is recoverable from the undertaker.

(4) In any case where immediate action by the Agency is reasonably required 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 reasonably 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.

Costs and expenses

37. The undertaker must repay to the Agency all reasonable 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.

38.—(1) The undertaker must make reasonable compensation for reasonable costs and losses, liabilities, claims and demands not otherwise provided for in this Schedule which may be reasonably incurred or suffered by the Agency by reason of, or arising out 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 specified works.

(2) For the avoidance of doubt, in sub-paragraph (1)—

- (a) “costs” includes—
 - (i) expenses and charges;
 - (ii) staff costs and overheads;
 - (iii) legal costs;
- (b) “losses” includes physical damage.
- (c) “claims” and “demands” include as applicable—

- (i) costs (within the meaning of sub-paragraph (2)(a) reasonably incurred in connection with any claim or demand;
- (ii) any interest element of sums claimed or demanded;
- (d) “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;
 - (iv) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).
- (3) The Agency must give to the undertaker reasonable notice of any such claim or demand .
- (4) The undertaker may at its own expense conduct all negotiations for the settlement of the same and any litigation that may arise therefrom.
- (5) The Agency must not compromise or settle any such claim or make any admission which might be prejudicial to the claim without the agreement of the undertaker which agreement must no 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 Agency 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.
- (8) 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.
- (9) 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

39. Any dispute arising between the undertaker and the Agency under this Part of this Schedule must, if the parties agree, be determined by arbitration under article 58 (arbitration), but failing agreement be determined by the Secretary of State for 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.

SCHEDULE 12

Article 55

AMENDMENT TO LOCAL LEGISLATION

<i>Year</i>	<i>Chapter</i>	<i>Title</i>	<i>Section</i>
1865	civ	South Western Railway (North Devon) Act 1865	All
1867	clvi	South Western Railway (General) Act 1867	All
1896	xviii	Bideford, Westward Ho! and Appledore Railway Act 1896	All

SCHEDULE 13

Article 56

CERTIFIED DOCUMENTS

<i>(1) Document</i>	<i>(2) Document Reference</i>	<i>(3) Revision number</i>
Location, Order limits and grid coordinates plan	2.1	1
Land plans	2.2	1
Onshore works plans	2.3.1	1
Offshore works plans	2.3.2	1
Tree and hedgerow schedule	2.5	1
Rights of way and streets and access plans	2.7	1
Special category land plans	2.9	1
Converter site parameter plan	2.10	1
Book of reference	4.3	1
Environmental statement	6.1, 6.2, 6.3, 6.4	1
Outline cable burial risk assessment	6.1.3.4	1
Outline offshore archaeological written scheme of investigation	6.3.7.5	1
Design principles statement	7.4	1
Outline onshore construction environmental management plan	7.7	1
Outline pollution prevention plan	7.7, Appendix A	1
Outline site resource and waste management plan	7.7, Appendix B	1
Outline dust management plan	7.7, Appendix C	1
Outline soil management plan	7.7, Appendix D	1
Outline arboricultural method statement	7.7, Appendix E	1
Outline onshore written scheme of investigation	7.8	1
Outline offshore construction environmental management plan	7.9	1
Outline landscape and ecology management plan	7.10	1
Outline public rights of way management plan	7.11	1
Outline construction traffic management plan	7.12	1
Outline decommissioning strategy	7.17	1
Outline bentonite breakout plan	7.20	1
Outline operational drainage strategy	7.22	1
Outline employment, skills and supply chain plan	7.23	1

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants development consent for and authorises the construction, operation and maintenance of onshore and offshore cables, converter stations and associated works to facilitate the import of electricity from Morocco to the United Kingdom and to carry out all associated works.

The Order permits the undertaker to acquire, compulsorily or by agreement, lands and rights in land and to use land for the purposes of the authorised development.

A copy of the documents listed in Schedule 13 (certified documents) to this Order and certified in accordance with article 56 (Certification of documents) of this Order may be inspected free of charge at the website of the Planning Inspectorate or during normal working hours at the offices of Torridge District Council at Riverbank House, Bideford EX39 2QG.