

**2015 No. 0000**

**INFRASTRUCTURE PLANNING**

**The Dogger Bank Teesside A and B Offshore Wind Farm  
Order 2015**

*Made* - - - - *4th August 2015*

*Coming into force* - - *26th August 2015*

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An application under section 37 of the Planning Act 2008<sup>(a)</sup> (the “2008 Act”) has been made to the Secretary of State for an order granting development consent.

The application has been examined by a Panel, which has made a report to the Secretary of State under section 74(2) of the 2008 Act.

The Secretary of State has considered the report and recommendation of the Panel, has taken into account the environmental information in accordance with regulation 3 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009<sup>(b)</sup> and has had regard to the documents and matters referred to in section 104(2) of the 2008 Act.

The Secretary of State is satisfied that the special category land (as defined in article 34 of the Order), when burdened with the order rights (as defined in that article), will be no less advantageous than it was before to the persons in whom it is vested; other persons, if any, entitled to rights of common or other rights; and the public; and that, accordingly, section 132(3) of the 2008 Act applies.

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(a) 2008 c.29. Section 37 was amended by section 137(5) of, and paragraph 5 of Schedule 13 to, the Localism Act 2011(c.20). Section 74(2) was amended by paragraph 29(2) of that Schedule. Section 104(2) was amended by paragraph 49 of that Schedule and section 58 of the Marine and Coastal Access Act 2009 (c.23). Section 114 was amended by paragraph 55 of Schedule 13 to the Localism Act 2011. Section 120 was amended by section 140 of, and paragraph 60 of Schedule 13 to, that Act. Section 132 was amended by section 23(3) of the Growth and Infrastructure Act 2013 (c.27).

(b) S.I. 2009/2263; relevant amending instruments are S.I. 2012/635 and 2012/787.

The Secretary of State, having decided the application, has determined to make an order giving effect to the proposals comprised 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 section 114 and 120 of the 2008 Act, makes the following Order:

## PART 1

### Preliminary

#### Citation and commencement

1. This Order may be cited as the Dogger Bank Teesside A and B Offshore Wind Farm Order 2015 and comes into force on 26th August 2015.

#### Interpretation

2.—(1) In this Order—

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

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

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

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

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

“2004 Act” means the Energy Act 2004(f);

“2008 Act” means the Planning Act 2008;

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

“ancillary works” means the ancillary works described in Part 2 (ancillary works) of Schedule 1 (authorised project) and any other works authorised by this Order that are not development within the meaning of section 32 of the 2008 Act;

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

“authorised project” means the authorised development and the ancillary works;

“Bizco 2” means Doggerbank Project 2 Bizco Limited (company number 07791977)(h);

“Bizco 3” means Doggerbank Project 3 Bizco Limited (company number 07791964)(i);

“book of reference” means the book of reference certified as the book of reference by the Secretary of State under article 42 (certification of plans and documents, etc.);

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

“cable” includes, in respect of an onshore cable, a direct-lay cable and a cable laid in a cable duct and, in respect of an onshore or offshore cable, a fibre-optic cable;

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(a) 1961 c.33.

(b) 1965 c.56.

(c) 1980 c.66.

(d) 1990 c.8.

(e) 1991 c.22.

(f) 2004 c.20.

(g) 2009 c.23.

(h) The registered office of Doggerbank Project 2 Bizco Limited is 55 Vastern Road, Reading, Berkshire RG1 8BU.

(i) The registered office of Doggerbank Project 3 Bizco Limited is 55 Vastern Road, Reading, Berkshire RG1 8BU.

“cable crossing” means the crossing of existing subsea cables and pipelines by the inter-array, inter-platform or export cables authorised by this Order together with physical protection measures including cable protection;

“cable protection” means measures to protect cables from physical damage and exposure due to loss of seabed sediment including, but are not limited to, the use of bagged solutions filled with grout or other materials, protective aprons or coverings, mattresses, flow energy dissipation devices or rock and gravel burial;

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

“combined platform” means a single offshore platform combining 2 or more of the following—

- (a) an offshore collector platform;
- (b) an offshore converter platform;
- (c) an offshore accommodation or helicopter platform;

“commence” means—

- (a) in relation to marine activities licensed by Marine Licences 1 to 4, begin to carry out any of those activities except for pre-construction surveys and monitoring;
- (b) in any other case, begin to carry out any material operation (as defined in section 155 of the 2008 Act) in respect of the authorised development or forming part of the authorised project except for operations consisting of site clearance, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, the diversion and laying of services, the erection of any temporary means of enclosure and the temporary display of site notices or advertisements;

and “commencement” must be construed accordingly;

“commercial operation” means—

- (a) in relation to Project A, the exporting, on a commercial basis, of electricity from the wind turbine generators comprised in Project A;
- (b) in relation to Project B, the exporting, on a commercial basis, of electricity from the wind turbine generators comprised in Project B;
- (c) in relation to any other part of the authorised project, the exporting, transmission or conversion, on a commercial basis, of electricity;

“construction compound” means a secure temporary construction area associated with the onshore works (including temporary fencing, lighting and ground preparation) to be used for the location of site offices; general storage; storage of plant, cable drums, ducting and other construction materials; welfare facilities; car parking; waste management; lay-down areas; banded generators; and fuel storage or any other means of enclosure of areas required for construction purposes;

“electrical converter substation and compound” means an electrical converter housed within 1 or more converter halls and a compound containing electrical equipment including power transformers, switchgear, reactive compensation equipment, harmonic filters, cables, lightning protection systems including masts, control buildings, communications masts, back-up generators, access, fencing and other associated equipment, structures or buildings;

“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 42 together with any supplementary or further environmental information submitted in support of the application for this Order;

“gravity base foundation” means a foundation type that rests on the seabed and supports a wind turbine generator, meteorological station or offshore platform primarily due to its own weight and that of added ballast, with or without skirts or other additional fixings, which may

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(a) “Carriageway” is defined in section 329.

include associated equipment including J-tubes and access platforms and separate topside connection structures or an integrated transition piece. (Sub-types for wind turbine generators and meteorological stations include conical gravity base and flat-based gravity base foundations. Sub-types for platforms include offshore platform conical or flat-base gravity base foundations and offshore platform semi-submersible gravity base foundations);

“highway” has the same meaning as in the 1980 Act(a);

“highway authority” has the same meaning as in the 1980 Act(b);

“HVAC” means high voltage alternating current;

“HVDC” means high voltage direct current;

“land plans” means the plans certified as the offshore and onshore land plans by the Secretary of State under article 42;

“maintain” includes upkeep, inspect, repair, adjust, alter, relay and remove, to the extent assessed in the environmental statement; and any derivative of maintain must be construed accordingly;

“Marine Licence 1” means the marine licence in Schedule 8 (Marine Licence 1: Project A Offshore Generation – Work Nos. 1A and 2T);

“Marine Licence 2” means the marine licence in Schedule 9 (Marine Licence 2: Project B Offshore Generation – Work Nos. 1B and 2T);

“Marine Licence 3” means the marine licence in Schedule 10 (Marine Licence 3: Project A Offshore Transmission – Work Nos. 2A, 3A and 2T);

“Marine Licence 4” means the marine licence in Schedule 11 (Marine Licence 4: Project B Offshore Transmission – Work Nos. 2B, 3B and 2T);

“MCA” means the Maritime and Coastguard Agency;

“meteorological mast” or “meteorological station” means a fixed or floating structure housing or incorporating equipment to measure wind speed and other meteorological and oceanographic characteristics, including a topside which may house electrical switchgear and communication equipment and associated equipment, and marking and lighting;

“MHWS” (mean high water springs) means the highest level that spring tides reach on average over a period of time;

“MLWS” (mean low water springs) means the average of the low water heights occurring at the time of spring tides (which is also the outermost extent of the relevant planning authority’s jurisdiction);

“MMO” means the Marine Management Organisation;

“monopole foundation” means a foundation option based around a single vertical pillar structure driven, drilled, or embedded into the seabed by means such as suction or gravity. This main support structure may change in diameter via tapers and abrupt steps. (Sub-types for wind turbine generators and meteorological stations include monopole with steel monopile footing, monopole with concrete monopile footing and monopole with a single suction-installed bucket footing);

“multi-leg foundation” means a foundation option based around structures with several legs or footings. This includes jackets, tripods and other structures which include multiple large tubulars, cross-bracing or lattices. Multi-leg foundations may be fixed to the seabed by footings which are driven, drilled, screwed, jacked-up or embedded into the seabed by means such as suction or gravity. (Sub-types for wind turbine generators and meteorological stations include multi-legs with driven piles, drilled piles, screw piles, suction buckets and jack-up foundations. Sub-types for platforms include offshore platform jacket foundations (potentially using driven piles, suction buckets or screw piles) and offshore platform jack-up foundations);

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(a) “Highway” is defined in section 328.

(b) See section 1.

“National Grid substation” means the existing National Grid Electricity Transmission plc substation located at Lackenby;

“offshore accommodation or helicopter platform” means a platform (either singly or as part of a combined platform) housing or incorporating some or all of the following: accommodation for staff during the construction, operation and decommissioning of the offshore works, landing facilities for vessels and helicopters, re-fuelling facilities, communication and control systems, electrical systems such as metering and control systems, small- and large-scale electrical power systems, J-tubes, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore collector platform” means a platform (either singly or as part of a combined platform) housing or incorporating electrical switchgear or electrical transformers, electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, accommodation for staff during the construction, operation and decommissioning of the offshore works, communication and control systems, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore converter platform” means a platform (either singly or as part of a combined platform) housing or incorporating HVDC electrical switchgear or electrical transformers and other equipment to enable HVDC transmission to be used to convey the power output of the multiple wind turbine generators to shore including electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, accommodation for staff during the construction, operation and decommissioning of the offshore works, communication and control systems, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore order limits and grid co-ordinates plan” means the plans certified as the offshore order limits and grid co-ordinates plan by the Secretary of State under article 42;

“offshore platform” means any of the following—

- (a) an offshore accommodation or helicopter platform;
- (b) an offshore collector platform;
- (c) an offshore converter platform;
- (d) a combined platform;

“offshore works” means (except in Part 3 of Schedule 1) the Project A offshore works, the Project B offshore works and any other authorised development associated with those works;

“offshore works plans” means the plans certified as the offshore works plans by the Secretary of State under article 42;

“onshore order limits and grid co-ordinates plan” means the plans certified as the onshore order limits and grid co-ordinates plan by the Secretary of State under article 42;

“onshore special category land plan” means the plan certified as the onshore special category land plan by the Secretary of State under article 42;

“onshore works” means (except in Part 3 of Schedule 1) the Project A onshore works, the Project B onshore works, the shared works and any other authorised development associated with those works;

“onshore works plans” means the plans certified as the onshore works plans by the Secretary of State under article 42;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired and described in the book of reference;

“Order limits” means—

- (a) the limits shown on the offshore order limits and grid co-ordinates plan within which the offshore works may be constructed as part of the authorised project;
- (b) the limits shown on the onshore order limits and grid co-ordinates plan within which the onshore works may be constructed as part of the authorised project;

“outline code of construction practice” means the document certified as the outline code of construction practice by the Secretary of State under article 42;

“outline decommissioning statement” means the document certified as the outline decommissioning statement by the Secretary of State under article 42;

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

“Project A” means the Project A offshore works and the Project A onshore works;

“Project A offshore works” means Work Nos. 1A, 2A, 2T and 3A and any other authorised development associated with those works;

“Project A onshore works” means Work Nos. 4A, 5A, 6A and 8A and any other authorised development associated with those works;

“Project B” means the Project B offshore works and the Project B onshore works;

“Project B offshore works” means Work Nos. 1B, 2B, 2T and 3B and any other authorised development associated with those works;

“Project B onshore works” means Work Nos. 4B, 5B, 6B and 8B and any other authorised development associated with those works;

“relevant planning authority” means Redcar and Cleveland Borough Council;

“relevant planning authority for the port” means Redcar and Cleveland Borough Council or, in relation to a port outside Redcar and Cleveland Borough that is used to service the construction of the offshore works, the local planning authority responsible for that port;

“Requirement” means a Requirement set out in Part 3 (requirements) of Schedule 1; and a reference to a numbered Requirement is a reference to the Requirement set out in the paragraph of the same number in that Part;

“scour protection” means measures to prevent loss of seabed sediment around foundation bases by the use of bagged solutions filled with grout or other materials, protective aprons, mattresses, flow energy dissipation devices and rock and gravel burial;

“shared works” means Work Nos. 7, 7L, 8S, 9, 10A, 10B, 10C, 10D, 10E, 10F, 10G, 10H, 10I, 10J and 10K;

“street” means a street within the meaning of section 48 of the 1991 Act(b), together with land on the verge of a street or between 2 carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act(c);

“streets and public rights of way plan” means the plans certified as the streets and public rights of way plan by the Secretary of State under article 42;

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

“undertaker” means, subject to article 8(3) (consent to transfer benefit of Order),—

- (a) in relation to Project A and related ancillary works, Bizco 2;
- (b) in relation to Project B and related ancillary works, Bizco 3;
- (c) in relation to the shared works, Bizco 2 and Bizco 3; and
- (d) in any other case, Bizco 2 and Bizco 3;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil

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(a) 1981 c.67. The definition was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c.34).  
 (b) Section 48 was amended by section 124(2) of the Local Transport Act 2008 (c.26).  
 (c) “Street authority” is defined in section 49.



vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

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

“Wilton Complex” means the industrial and manufacturing plant shown edged red on plan 1 (T-MIS-0065-01) of the Wilton protective provisions supporting plans;

“Wilton protective provisions supporting plans” means the plans certified as the Wilton protective provisions supporting plans by the Secretary of State under article 42;

“wind turbine generator” means a structure comprising a tower, a rotor with 3 blades connected at the hub, a nacelle and ancillary electrical and other equipment which may include J-tubes, transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter transfer facilities and other associated equipment, fixed to a foundation;

“works plans” means the onshore works plans and the offshore works plans.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) All distances, directions and lengths referred to in this Order are approximate, and distances between points on a work comprised in the authorised project are to be taken to be measured along that work, except in respect of the parameters referred to in—

- (a) Requirements 3 to 12 and 20;
- (b) Conditions 3 to 11 in Marine Licences 1 and 2; and
- (c) Conditions 3 to 9 in Marine Licences 3 and 4.

(4) References in this Order to a numbered Work are references to a work numbered in Part 1 of Schedule 1.

(5) References in this Order to points identified by letters are references to the points so lettered on the onshore works plans.

(6) References in this Order to co-ordinates are references to co-ordinates on the World Geodetic System 1984 datum.

(7) In this Order, “includes” must be construed without limitation.

## PART 2

### Principal powers

#### **Development consent granted by Order**

**3.**—(1) Subject to the provisions of this Order and to the Requirements—

- (a) Bizco 2 is granted development consent for Project A and related ancillary works;
- (b) Bizco 3 is granted development consent for Project B and related ancillary works; and
- (c) Bizco 2 and Bizco 3 are jointly granted development consent for the shared works,

to be carried out within the Order limits.

(2) Schedule 1 (authorised project) has effect.

#### **Maintenance of authorised project**

**4.**—(1) The undertaker may at any time maintain, and maintain from time to time, the authorised project except to the extent that this Order or any agreement made under this Order provides otherwise.

(2) Paragraph (1) does not relieve the undertaker of any requirement to obtain a licence under Part 4 of the 2009 Act (marine licensing).

### **Operation of generating station**

**5.**—(1) The undertaker is authorised to operate the generating stations(a) comprised in the authorised development.

(2) Paragraph (1) does not relieve the undertaker of any requirement to obtain a permit or licence under any other legislation that may be required from time to time to authorise the operation of a generating station.

### **Procedure in relation to approvals, etc. under Requirements**

**6.**—(1) Where an application is made to the relevant planning authority or to the relevant planning authority for the port for any consent, agreement or approval required by a Requirement, the following provisions apply in respect of that application as they would if the consent, agreement or approval so required were required by a condition imposed on a grant of planning permission—

- (a) sections 78 and 79 of the 1990 Act(b) (right of appeal in relation to planning decisions);
- (b) any orders, rules or regulations that make provision in relation to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission.

(2) For the purposes of paragraph (1), orders, rules and regulations make provision in relation to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission in so far as they make provision in relation to—

- (a) an application for such a consent, agreement or approval;
- (b) the grant or refusal of such an application;
- (c) a failure to give notice of a decision on such an application.

(3) For the purposes of the application of section 262 of the 1990 Act (meaning of “statutory undertaker”) to appeals pursuant to this article, the undertaker is deemed to be a holder of a licence under section 6 of the Electricity Act 1989(c).

(4) Nothing in paragraph (1)(b) affects the application of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

### **Benefit of Order**

**7.** Subject to article 8, the provisions of this Order have effect solely for the benefit of the undertaker.

### **Consent to transfer benefit of Order**

**8.**—(1) Subject to the provisions of this article, the undertaker may, with the consent of the Secretary of State (except where paragraph (4) applies, in which case no consent is required),—

- (a) transfer to another person (the “transferee”) any or all of the benefit of the provisions of this Order (including Marine Licences 1 to 4) and such related statutory rights as may be agreed between the undertaker and the transferee; or

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(a) “Generating station” is defined in section 235(1) of the Planning Act 2008.

(b) Section 78 was amended by section 43(2) of the Planning and Compulsory Purchase Act 2004 (c.5), paragraph 3(b) of Schedule 10 to the Planning Act 2008, section 123(3) of, and paragraph 11 of Schedule 12 to, the Localism Act 2011, paragraph 8 of Schedule 1 to the Growth and Infrastructure Act 2013 and paragraph 12 of Schedule 4 to the Infrastructure Act 2015 (c.7). Section 79 was amended by section 18 of, and paragraph 19 of Schedule 7 to, the Planning and Compensation Act 1991 (c.34) and by paragraph 4 of Schedule 10 to the Planning Act 2008.

(c) 1989 c.29. Section 6 was amended by section 30 of the Utilities Act (c.27), section 136 and 145 of, and Schedule 23 to, the Energy Act 2004, regulation 5 of S.I. 2011/2704 and article 6 of S.I. 2012/2400.

- (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 (including Marine Licences 1 to 4) and such related statutory rights as may be agreed between the undertaker and the lessee.

(2) The exercise by a person of any benefits or rights conferred in accordance with a transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(3) Where there is a transfer or grant under paragraph (1), references in this Order to the undertaker, except in paragraph (2), include references to the transferee or lessee.

(4) This paragraph applies where the transferee or lessee is a person who holds a licence under the Electricity Act 1989.

(5) The provisions referred to in paragraph (6) have effect only for the benefit of a transferee or lessee who is also—

- (a) in respect of Work Nos. 1A, 1B, 2A, 2B, 3A, 3B, 4A, 4B, 5A, 5B, 6A, 6B, 7, 7L, 8A, 8B, 8S and 9, a person who holds a licence under the Electricity Act 1989; or
- (b) in respect of functions under article 14 (street works) relating to a street, a street authority.

(6) The provisions are—

- (a) article 14;
- (b) article 15 (temporary stopping up of streets);
- (c) article 22 (compulsory acquisition of land);
- (d) article 25 (compulsory acquisition of rights);
- (e) article 29 (temporary use of land for carrying out authorised project); and
- (f) article 30 (temporary use of land for maintaining authorised project).

(7) Despite anything contained in Part 4 of the 2009 Act (marine licensing), but subject to paragraph (2), the undertaker may transfer or grant relevant provisions to another person under paragraph (1) (and section 72(7) and (8) of the 2009 Act do not apply to such a transfer or grant).

(8) Before seeking the Secretary of State’s consent to a transfer or grant of relevant provisions under paragraph (1), the undertaker must—

- (a) consult the MMO; and
- (b) provide the MMO with—
  - (i) details of the relevant provisions proposed to be transferred or granted; and
  - (ii) the information that the undertaker proposes to provide under paragraph (10).

(9) Before consenting to a transfer or grant of relevant provisions under paragraph (1), the Secretary of State must consult the MMO.

(10) As soon as is reasonably practicable but in any event no later than 7 days after the coming into effect of a transfer or grant of relevant provisions to another person, the transferor or grantor must give written notice to the MMO of—

- (a) the name and contact details of the other person;
- (b) the date on which the transfer or grant took effect;
- (c) the relevant provisions transferred or granted;
- (d) the restrictions, liabilities and obligations that, pursuant to paragraph (2), apply in relation to the exercise by the other person of any benefits or rights conferred by the transfer or grant;
- (e) where relevant, a plan showing the works or areas to which the transfer or grant relates; and
- (f) in a case where the Secretary of State’s consent is needed for the transfer or grant, a copy of the consent.

(11) In this article, “relevant provisions” means any of the provisions set out in Part 1 of any of Marine Licences 1, 2, 3 or 4 together with the corresponding conditions set out in Part 2 of the Licence.

### **Guarantees in respect of payment**

9.—(1) Bizco 2 must not exercise a power conferred by Part 5 (powers of acquisition) unless guarantees or alternative forms of security in respect of the liability of the undertaker to pay compensation under that Part are in place.

(2) Bizco 3 must not exercise a power conferred by Part 5 unless guarantees or alternative forms of security in respect of the liability of the undertaker to pay compensation under that Part are in place.

(3) The form of guarantee or security referred to in paragraphs (1) and (2), and the amount guaranteed or secured, must be approved by the relevant planning authority; but such approval must not be unreasonably withheld.

(4) The undertaker must provide the relevant planning authority with such information as the relevant planning authority may reasonably require relating to the interests in the land affected by the exercise of the powers conferred by Part 5 for the relevant planning authority to be able to determine the adequacy of the proposed guarantee or security including—

- (a) the interests affected; and
- (b) the undertaker’s assessment, and the basis of the assessment, of the level of compensation.

(5) A guarantee or other security given in accordance with this article that guarantees or secures the undertaker’s payment of compensation under Part 5 is enforceable against the guarantor or provider of security by any person to whom such compensation is properly payable.

### **Bizco 2 and Bizco 3 may enter on certain land for purposes of construction**

10.—(1) For the purpose of constructing Work Nos. 2A, 3A, 4A, 5A, 6A and 8A, Bizco 2 may enter on the land shown on the works plans within the Order limits for Work Nos. 2B, 3B, 4B, 5B, 6B and 8B that has been acquired for the purpose of Project B.

(2) For the purpose of constructing Work Nos. 2B, 3B, 4B, 5B, 6B and 8B, Bizco 3 may enter on the land shown on the works plans within the Order limits for Work Nos. 2A, 3A, 4A, 5A, 6A and 8A that has been acquired for the purpose of Project A.

(3) For the purpose of constructing Work Nos. 2T, 7, 7L, 8S, 9, 10A, 10B, 10C, 10D, 10E, 10F, 10G, 10H, 10I, 10J and 10K, Bizco 2 (in common with Bizco 3), and Bizco 3 (in common with Bizco 2), may enter on the land required for those works.

### **Disapplication and modification of legislative provisions**

11.—(1) The following provisions do not apply in relation to the construction of works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised project—

- (a) the provisions of any byelaws made under, or having effect as if made under, paragraph 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991(a) (byelaw-making powers of the Appropriate Agency) that require consent or approval for the carrying out of the works;

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(a) 1991 c.57. Paragraph 5 was amended by section 100 of the Natural Environment and Rural Communities Act 2006 (c.16), section 84(2) of, and paragraph 3 of Schedule 11 to, the Marine and Coastal Access Act 2009, paragraph 49 of Schedule 2 to the Flood and Water Management Act 2010 (c.29) and paragraph 315 of Schedule 2 to S.I. 2013/755. Paragraph 6 was amended by paragraph 26 of Schedule 15 to the Environment Act 1995 (c.25) and section 224 of, and paragraph 24 of Schedule 16 and Part 5 of Schedule 22 to, the Marine and Coastal Access Act 2009. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995.

- (b) the provisions of any byelaws made under, or having effect as if made under, section 66 of the Land Drainage Act 1991<sup>(a)</sup> (powers to make byelaws) that require consent or approval for the carrying out of the works.

(2) For the purpose of carrying out development authorised by this Order only, regulation 6(1) of the Hedgerows Regulations 1997<sup>(b)</sup> (permitted work) is deemed to be amended by inserting the following sub-paragraph after sub-paragraph (e)—

“(ea) for carrying out development for which development consent is conferred under an order pursuant to section 114 of the Planning Act 2008;”.

### **Offshore works: abandonment, decay or removal**

**12.**—(1) Where the offshore works or any part of them are abandoned or allowed to fall into decay the Secretary of State may, following consultation with the undertaker, issue a written notice requiring the undertaker at its own expense—

- (a) to repair and restore or remove the offshore works or any part of them; and
- (b) to restore the site of the offshore works or any part of it to a safe and appropriate condition, having regard to any requirement that appears to the Secretary of State to be relevant, within an area and to such an extent as may be specified in the notice.

(2) Where the offshore works or any part of them are removed (other than in accordance with paragraph (1)), the Secretary of State may, following consultation with the undertaker and the relevant statutory nature conservation body, issue a written notice requiring the undertaker at its own expense to restore the site of the offshore works or any part of it to a safe and appropriate condition, having regard to any requirement that appears to the Secretary of State to be relevant, within an area and to such an extent as may be specified in the notice.

(3) Nothing in this article limits the Secretary of State’s power under Chapter 3 of Part 2 of the 2004 Act (decommissioning of offshore installations).

### **Defence to proceedings in respect of statutory nuisance**

**13.**—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990<sup>(c)</sup> (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within section 79(1)(g) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order may be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance—

- (a) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project and is attributable to the carrying out of the authorised project in accordance with a 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) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974<sup>(d)</sup>;
- (b) is a consequence of the construction or maintenance of the authorised project and cannot reasonably be avoided;
- (c) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and is attributable to the use of the authorised project being used in compliance with Requirement 30 (control of noise during operational phase); or

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(a) 1991 c.59. Section 66 was amended by paragraph 38 of Schedule 2 to the Flood and Water Management Act 2010 and by section 86(3) of the Water Act 2014 (c.21).

(b) S.I. 1997/1160. Regulation 6 was amended by paragraph 35 of Schedule 1 to S.I. 2015/377.

(c) 1990 c.43. Section 82(1) was amended by paragraph 6 of Schedule 17 to the Environment Act 1995. Section 82(2) was amended by section 5(2) of the Noise and Statutory Nuisance Act 1993 (c.40) and paragraph 6 of Schedule 17 to the Environment Act 1995.

(d) 1974 c.40. Section 61 was amended by Schedule 7 to the Building Act 1984 (c.55), paragraph 15 of Schedule 15 to the Environmental Protection Act 1990 and Schedule 24 to the Environment Act 1995. Section 65 was amended by paragraph 15 of Schedule 15 to the Environmental Protection Act 1990 and Schedule 24 to the Environment Act 1995.

(d) is a consequence of the use of the authorised project and cannot reasonably be avoided.

(2) Section 61(9) of the Control of Pollution Act 1974 (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded) do 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 project.

(3) This article does not affect the application to the authorised development of section 158 of the 2008 Act (nuisance: statutory authority) or any rule of common law having similar effect.

## PART 3

### Streets

#### Street works

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

- (a) break up or open the street or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus under the street;
- (d) maintain apparatus under the street or change its position; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (d).

(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) Sections 54 to 106 of the 1991 Act<sup>(a)</sup> apply to any street works carried out under paragraph (1).

(4) In this article, “apparatus” has the same meaning as in Part 3 of the 1991 Act<sup>(b)</sup>.

#### Temporary stopping up of streets

**15.**—(1) The undertaker, during and for the purposes of carrying out the authorised project, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (2), prevent persons from passing along the street.

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

(3) Without limiting paragraph (1), the undertaker may temporarily stop up, alter or divert the streets specified in Schedule 3 (streets to be temporarily stopped up) to the extent specified by reference to the letters and numbers shown on the streets and public rights of way plan.

(4) The undertaker must not temporarily stop up, alter or divert—

- (a) any street specified as mentioned in paragraph (3) without first consulting the street authority; and

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<sup>(a)</sup> A number of these provisions are amended, including by the Traffic Management Act 2004 (c.18).

<sup>(b)</sup> “Apparatus” is defined in sections 89(3) and 105(1).

- (b) any other street without the consent of the street authority, which may attach reasonable conditions to any consent.

(5) 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**

**16.** The undertaker may, for the purposes of the authorised project,—

- (a) form and lay out means of access, or improve existing means of access, in the locations specified in Schedule 4 (access to works);
- (b) with the approval of the relevant planning authority 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.

#### **Agreements with street authorities**

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

- (a) the construction of a new street (including any structure carrying the street over or under the authorised development) under the powers conferred by this Order;
- (b) the maintenance of the structure of a bridge or tunnel carrying a street over or under the authorised development;
- (c) the stopping up, alternation or diversion of a street under the powers conferred by this Order; or
- (d) the execution in a street referred to in article 14 (street works) of any of the works referred to in that article.

(2) Such an agreement may, without limiting paragraph (1),—

- (a) provide for the street authority to carry out any function under this Order that 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; and
- (c) contains such terms as to payment and otherwise as the parties consider appropriate.

## **PART 4**

### **Supplemental powers**

#### **Discharge of water**

**18.—**(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised project 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 of the Water Industry Act 1991<sup>(a)</sup> (right to communicate with public sewers).

(3) The undertaker must not discharge any water into a watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject

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<sup>(a)</sup> 1991 c.56. Section 106 was amended by section 35(8)(a) of the Competition and Service (Utilities) Act 1992 (c.43) and sections 36(2) and 99 of the Water Act 2003 (c.37). There are other amendments to this section that are not relevant to this Order.

to such terms and conditions as the person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not make any opening into a 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; and
- (b) where the person has been given the opportunity to supervise the making of the opening.

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

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) This article does not authorise a groundwater activity or a water discharge activity within the meaning of the Environmental Permitting (England and Wales) Regulations 2010(a).

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain that belongs to the Environment Agency, an internal drainage board, a local authority or a sewerage undertaker(b); and
- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

(9) This article does not relieve the undertaker of any obligation to obtain a permit or licence from the Environment Agency or of any other obligation under any other legislation that may be required to authorise the making of a connection to, or the use of, a public sewer or drain by the undertaker pursuant to paragraph (1) or the discharge of any water into any watercourse, sewer or drain pursuant to paragraph (2).

### **Protective work to buildings**

**19.—**(1) Subject to the provisions of this article, the undertaker may at its own expense carry out such protective works to any building within the Order limits shown on the onshore order limits and grid co-ordinates plan 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 building of any part of the authorised project; or
- (b) after the completion of that stage of the authorised project in the vicinity of the building at any time up to the end of the period of five years beginning with the day on which that stage of the authorised project is brought into commercial operation.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building the undertaker may (subject to paragraphs (5) and (6))—

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

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;

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(a) S.I. 2010/675. “Groundwater activity” is defined in paragraph 3 of Schedule 22. “Water discharge activity” is defined in paragraph 3 of Schedule 21.

(b) “Sewerage undertaker” is defined in Schedule 1 to the Interpretation Act 1978 (c.30).



- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), the notice must 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 building or land concerned may, by serving a counter-notice within 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 44 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land 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 a building; and
- (b) within 5 years beginning with the day on which the part of the authorised project carried out in the vicinity of the building is brought into commercial operation it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that stage of the authorised project,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker of any liability to pay compensation under section 10(2) of the 1965 Act (further provision as to compensation for injurious affection).

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

(11) In this article, “protective works”, in relation to a building, means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage that may be caused to the building by the carrying out, maintenance or use of the authorised project; and
- (b) any works, the purpose of which is to remedy any damage that has been caused to the building by the carrying out, maintenance or use of the authorised project.

### **Authority to survey and investigate land**

**20.**—(1) The undertaker may for the purposes of this Order enter on any land within the Order limits shown on the onshore order limits and grid co-ordinates plan or that may be affected by the authorised project and—

- (a) survey or investigate the land;
- (b) without limiting sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limiting sub-paragraph (a), carry out ecological or archaeological investigations on the land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and the making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

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

- (a) must, if so required entering the land, produce written evidence of the authority to do so; and
  - (b) may take with him or her such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.
- (4) No trial holes may be made under this article—
- (a) in land located within the highway boundary without the consent of the highway authority; or
  - (b) in a private street without the consent of the street authority,
- but such consent must not be unreasonably withheld.
- (5) After completion of the activities being undertaken pursuant to this article, any apparatus must be removed as soon as practicable, and the land must be restored to its original condition.
- (6) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the 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.
- (7) This article applies in relation to the onshore works only.

### **Removal of human remains**

**21.**—(1) In this article, “specified land” means the land within the limits shown on the onshore order limits and grid co-ordinates plan.

(2) Before the undertaker carries out any development or works that disturb or may disturb any human remains in the specified land, it must remove the 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 in 2 successive weeks in a newspaper circulating in the area of the authorised project; 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, the person must 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 the 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 must 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) The undertaker must pay the reasonable expenses 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 is given to the undertaker in respect of any remains in the specified land;
- (b) notice under paragraph (5) 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;
- (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 a notice under paragraph (5) 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 are to be re-interred in individual containers which are to 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 the person claims to be and that the remains in question can be identified, but the person does not remove the remains, the undertaker must comply with any reasonable request that the person makes 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 must be sent to the Registrar-General by the undertaker 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 of the record mentioned in paragraph (9) must be sent by the undertaker to the relevant planning authority.

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

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

(14) Section 25 of the Burial Act 1857<sup>(a)</sup> (offence of removal of body from burial ground) does not apply to a removal carried out in accordance with this article.

## PART 5

### Powers of acquisition

#### Compulsory acquisition of land

**22.**—(1) Bizco 2 may acquire compulsorily so much of the Order land as is required for the Project A onshore works, the Project A offshore works or the shared works or to facilitate, or is incidental to, the construction and maintenance of those works.

(2) Bizco 3 may acquire compulsorily so much of the Order land as is required for the Project B onshore works, the Project B offshore works or the shared works or to facilitate, or is incidental to, the construction and maintenance of those works.

(3) From the relevant date, the Order land (or any part of it) is discharged from all rights, trusts and incidents to which it was previously subject.

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

(4) In paragraph (3), “relevant date” means—

- (a) the date on which the Order land (or any part of it) vests in the undertaker; or
- (b) any later date specified for the purposes of this article in relation to the Order land (or any part of it) in a notice given to every person on whom a notice under section 134 of the 2008 Act (notice of authorisation of compulsory acquisition) is required to be served.

(5) Any person who suffers loss by the extinguishment or 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.

(6) This article is subject to—

- (a) article 10 (Bizco 2 and Bizco 3 may enter certain land for purposes of construction);
- (b) article 25 (compulsory acquisition of rights);
- (c) article 29 (temporary use of land for carrying out authorised project).

### **Compulsory acquisition of land: minerals**

**23.** Part 2 of Schedule 2 to the Acquisition of Land Act 1981(minerals) is incorporated in this Order, subject to the modifications that for “acquiring authority” there is substituted “undertaker”.

### **Time limit for exercise of authority to acquire land compulsorily, etc.**

**24.**—(1) After 25th August 2022—

- (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 Compulsory Purchase (Vesting Declarations) Act 1981<sup>(a)</sup> as applied by article 27 (application of Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 29 (temporary use of land for carrying out authorised project) ceases at the end of 25th August 2022, but nothing in this paragraph prevents the undertaker remaining in possession of land after that date, if the land was entered, and possession taken, on or before 25th August 2022.

### **Compulsory acquisition of rights**

**25.**—(1) Subject to paragraph (2), the undertaker may acquire compulsorily such rights over the Order land as may be required for any purpose for which that land may be acquired under article 22 (compulsory acquisition of land) by creating them as well as by acquiring rights already in existence.

(2) In the case of the Order land specified in an entry in column (1) of Schedule 5 (land in which only new rights, etc. may be acquired), the powers of compulsory acquisition conferred by this Order are limited to the acquisition by the undertaker referred to in the corresponding entry in column (2) of such new rights as may be required for the purpose specified in relation to that land in that entry and described in the book of reference.

(3) From the relevant date (see article 22(4)), the land over which any new right is acquired is discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconsistent with the exercise of that new right.

(4) Subject to section 8 of the 1965 Act<sup>(b)</sup>, where the undertaker acquires a right over the Order land under this article, the undertaker is not required to acquire a greater interest in that land.

(5) After completion of any activities in exercise of the rights under this article, the land affected must be restored, so far as practicable, to its original condition.

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<sup>(a)</sup> 1981 c.66.

<sup>(b)</sup> Section 8 was amended by paragraph 62 of Schedule 1 to S.I. 2009/1307.

(6) Any person who suffers loss by the extinguishment or 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.

(7) Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights) has effect for the purpose of modifying the enactments referred to in that Schedule in their application in relation to the compulsory acquisition under this Order of a right over land by the creation of a new right.

### **Private rights of way**

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

- (a) 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) of the 1965 Act<sup>(a)</sup> (power of entry),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights of way over land owned by the undertaker that, being within the limits of land that may be acquired shown on the land plans, is required for the purposes of this Order are extinguished on the appropriation of the land by the undertaker for any of those purposes.

(3) Subject to the provisions of this article, all private rights of way 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.

(4) Any person who suffers loss by the extinguishment or 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.

(5) This article does not apply in relation to any right of way to which section 138 of the 2008 Act<sup>(b)</sup> (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 31 (statutory undertakers) applies.

(6) Paragraphs (1) to (3) have effect subject to—

- (a) any notice given by the undertaker before—
  - (i) the completion of the acquisition of the land;
  - (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 of way specified in the notice; or
- (b) any agreement made at any time between the undertaker and the person in or to whom the right of way in question is vested or belongs.

(7) If an agreement referred to in paragraph (6)(b)—

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

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

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<sup>(a)</sup> Section 11(1) was amended by paragraph 14 of Schedule 4 to the Acquisition of Land Act 1981 and paragraph 12 of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No. 1).

<sup>(b)</sup> Section 138 was amended by section 23(4) of the Growth and Infrastructure Act 2013.

## **Application of Compulsory Purchase (Vesting Declarations) Act 1981**

**27.**—(1) The Compulsory Purchase (Vesting Declarations) Act 1981 applies as if this Order were a compulsory purchase order.

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

(3) In section 3 (preliminary notices), for subsection (1) there is substituted—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order, the acquiring authority must include the particulars specified in subsection (3) in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration must be made (other than a mortgagee who is not in possession); and
- (b) published in a local newspaper circulating in the area in which the land is situated.”

(4) In that section, in subsection (2), for “(1)(b)” there is substituted “(1)” and after “given” there is inserted “and published”.

(5) In that section, for subsections (5) and (6) there is substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) the person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
- (b) the person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds 1 month.”

(6) In section 5 (earliest date for execution of declaration)—

- (a) in subsection (1), after “publication” there is inserted “in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) is omitted.

(7) In section 7 (constructive notice to treat), in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” are omitted.

(8) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 must be construed as references to that Act as applied by section 125 of the 2008 Act to the compulsory acquisition of land under this Order.

## **Rights under or over streets**

**28.**—(1) The undertaker may enter on, and appropriate so much of the subsoil of or air-space over, any street within the Order limits as may be required for the purposes of the authorised project and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised project.

(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 that forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who—

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

### **Temporary use of land for carrying out authorised project**

**29.**—(1) The undertaker may, in connection with the carrying out of the authorised project, enter on and take temporary possession of the land specified in an entry in columns (1) and (2) of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in the corresponding entry in column (3) relating to the part of the authorised project specified in the corresponding entry in column (4) for the purpose of exercising the rights identified in Class 9 in the book of reference.

(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.

(3) The undertaker must not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of 1 year beginning with the date of completion of the part of the authorised project specified in relation to that land in column (4) of Schedule 7.

(4) 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; but the undertaker is not required to replace a building removed under this article.

(5) 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 any power conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 10(2) of the 1965 Act (further provisions as to compensation for injurious affection) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised project, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1).

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

(10) Section 13 of the 1965 Act<sup>(a)</sup> (refusal to give possession to acquiring authority) 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 of the 2008 Act (application of compulsory acquisition provisions).

### **Temporary use of land for maintaining authorised project**

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

- (a) enter on and take temporary possession of any land within the Order limits shown on the onshore order limits and grid co-ordinates plan if such possession is reasonably required for the purpose of maintaining the authorised project; and
- (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.

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<sup>(a)</sup> Section 13 was amended by section 139 of, and paragraph 28(2) of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c.15).

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article, the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may 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 project 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 provisions of this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 10(2) of the 1965 Act (further provisions as to compensation for injurious affection) or under any other enactment in respect of loss or damage arising from the maintenance of the authorised project, other than loss or damage for which compensation is payable under paragraph (6).

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

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(11) In this article, “maintenance period”, in relation to any part of the authorised project, means the period of 5 years beginning with the date on which that stage of the authorised project is brought into commercial operation.

### **Statutory undertakers**

**31.**—(1) In accordance with this Order and subject to Parts 1 to 4 of Schedule 12 (protective provisions), the undertaker may—

- (a) acquire compulsorily the land belonging to statutory undertakers shown on the land plans within the Order limits and described in the book of reference;
- (b) extinguish rights of, and remove or reposition apparatus belonging to, statutory undertakers within the Order limits; and
- (c) acquire compulsorily the new rights over land belonging to statutory undertakers within the Order limits referred to in Schedule 5 and described in the book of reference.

(2) In this article, “statutory undertaker” means—

- (a) a person falling within section 127(8) of the 2008 Act; and
- (b) a public communications provider (as defined in section 151(1) of the Communications Act 2003(a)).

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(a) 2003 c.21.



### **Recovery of costs of new connections**

**32.**—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 31 (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 31, any person who is—

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

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which Part 3 of the 1991 Act applies.

(4) In this article—

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

“public utility undertaker” has the same meaning as in the 1980 Act<sup>(a)</sup>.

### **Application of landlord and tenant law**

**33.**—(1) This article applies to—

- (a) an agreement for leasing to a person the whole or any part of the authorised project or the right to operate the same; and
- (b) an agreement entered into by the undertaker with a person for the construction, maintenance, use or operation of the authorised project, or any part of it,

so far as the agreement relates to the terms on which land that is the subject of a lease granted by or under the agreement is to be provided for the person’s use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of an 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 such an 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 that 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.

### **Special category land**

**34.**—(1) On the exercise by the undertaker of the Order rights, so much of the special category land as is required for the purposes of the exercise of those rights is, from the relevant day (see

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(a) “Public utility undertaker” is defined in section 329.

article 22(4)), 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) In this article—

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

“special category land” means the land identified as forming open space and numbered as plots 1, 2A and 2B in the book of reference and on the onshore special category land plan.

## PART 6

### Miscellaneous and general

#### **Railway and navigation undertakings**

**35.**—(1) Subject to the provisions of this article, the undertaker must not under article 14 (street works) break up or open a street where the street, not being a highway maintainable at public expense (within the meaning of the 1980 Act)—

- (a) is under the control or management of, or is maintainable by, a railway undertaker or a navigation authority; or
- (b) forms part of a level crossing belonging to such an undertaker or authority or to any other person,

except with the consent of the undertaker or authority or, as the case may be, person to whom the level crossing belongs.

(2) Paragraph (1) does not apply to the carrying out under this Order of emergency works within the meaning of Part 3 of the 1991 Act.

(3) A consent given for the purpose of paragraph (1) may be made subject to such reasonable conditions as specified by the person giving it, but must not be unreasonably withheld.

(4) In this article, “navigation authority” means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary or harbour.

#### **Trees subject to tree preservation orders**

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

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

- (a) the undertaker must not do any unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity; and
- (b) the duty contained in section 206(1) of the 1990 Act<sup>(a)</sup> (replacement of trees) does not apply.

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

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

(5) In this article, “tree preservation order” has the same meaning as in section 198 of the 1990 Act.

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<sup>(a)</sup> Section 206(1) was amended by paragraph 11 of Schedule 8 to the Planning Act 2008.

## **Operational land for purposes of Town and Country Planning Act 1990**

**37.** Development consent granted by this Order must be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

## **Felling or lopping of trees and removal of hedgerows**

**38.—**(1) The undertaker may fell or lop any tree or shrub near any part of the authorised project, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not do any unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

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

(4) The undertaker may remove any hedgerow within the Order limits that may be required to be removed for the purposes of carrying out the authorised development.

## **Deemed licences under Marine and Coastal Access Act 2009**

**39.** The following marine licences set out in Schedules 8 to 11 are deemed to have been issued under Part 4 of the 2009 Act (marine licensing) for the licensed activities specified in Part 1 of each licence and subject to the conditions specified in Part 2 of each licence—

- (a) Marine Licence 1 (set out in Schedule 8);
- (b) Marine Licence 2 (set out in Schedule 9);
- (c) Marine Licence 3 (set out in Schedule 10);
- (d) Marine Licence 4 (set out in Schedule 11).

## **Saving for Trinity House**

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

## **Crown rights**

**41.—**(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—

- (a) 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)—
  - (i) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;
  - (ii) belonging to Her 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
  - (iii) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department; or
- (b) to exercise any right under this Order compulsorily to acquire an interest in any land which is Crown land (as defined in section 227 of the 2008 Act) that is for the time being

held otherwise than by or on behalf of the Crown without the consent in writing of the appropriate Crown authority (as defined that section).

(2) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

#### **Certification of plans and documents, etc.**

**42.**—(1) The undertaker must, as soon as practicable after this Order is made, submit to the Secretary of State copies of the following—

- (a) the book of reference, dated 27th January 2015 (REP-497(a));
- (b) the environmental statement, dated March 2014 (APP-065 to APP-162);
- (c) the offshore order limits and grid co-ordinates plan, dated 22nd January 2015 (REP-517);
- (d) the onshore order limits and grid co-ordinates plan, dated 22nd September 2015 (REP-516);
- (e) the offshore and onshore land plans—
  - (i) offshore land plans, dated 22nd January 2015 (REP-513);
  - (ii) onshore land plans—
    - (aa) sheet 1, dated August 2014 (REP-520);
    - (bb) sheet 2, dated February 2014 (REP-521);
    - (cc) sheet 3, dated August 2014 (REP-522);
    - (dd) sheet 4, dated September 2014 (REP-523);
    - (ee) sheet 5, dated September 2014 (REP-524);
    - (ff) sheet 6, dated September 2014 (REP-525);
- (f) the onshore special category land plan (REP-526);
- (g) the offshore works plans (sheets 1 to 9), dated 22nd January 2015 (REP-512);
- (h) the onshore works plans—
  - (i) key plan, dated 20th March 2014 (APP-014);
  - (ii) sheets 1 to 6, dated 26th January 2015 (REP-518 and REP-519);
- (i) the outline code of construction practice, dated 27th January 2015 (REP-493);
- (j) the draft fisheries liaison plan, dated 8th December 2015 (REP-436);
- (k) the offshore in principle monitoring plan, dated 27th January 2015 (REP-492);
- (l) the disposal scenario statement, dated 23rd January 2015 (REP-489);
- (m) the outline offshore archaeological written scheme of investigation, dated 27th January 2015 (REP-495);
- (n) the outline offshore maintenance plan, dated 26th January 2015 (REP-490);
- (o) the outline decommissioning statement (issue 6), dated 26th January 2015 (REP-491);
- (p) the streets and public rights of way plan, dated January 2015 (REP-514 and REP-515);
- (q) the Wilton protective provisions supporting plans, dated January 2015 (REP-505),

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

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(a) Document references are those used on the Planning Inspectorate Dogger Bank Teesside A & B Document Library: see <http://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010051/0.%20Project%20Management/Dogger%20Bank%20Teesside%20A&B%20Document%20Library%20-%20Publication%20Version.pdf>.

## Protective provisions

43. Schedule 12 (protective provisions) has effect.

## Arbitration

44. Any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

4th August 2015

*Ian McKenzie*  
Energy Development Unit  
Department of Energy and Climate Change

## SCHEDULE 1 Authorised project

Articles 2 and 3

### PART 1 Authorised development

1. A nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act(a) located in the Dogger Bank Zone comprising—

#### Project A offshore works

##### *Work No. 1A—*

- (a) an offshore wind turbine generating station with a gross electrical output capacity of up to 1.2 gigawatts comprising up to 200 wind turbine generators each fixed to the seabed by monopole, multi-leg or gravity base type foundations situated within the area enclosed by the points whose co-ordinates are set out in Table 1A (the “array area”);

**Table 1A - Array area**

<i>Point</i>	<i>Latitude (decimal degrees)</i>	<i>Longitude (decimal degrees)</i>
31	55.11790	2.57524
32	55.11860	3.09890
33	55.10690	3.09409
34	55.09071	3.08744
35	55.07452	3.08080
36	55.05832	3.07416
37	55.04213	3.06752
38	55.02594	3.06090
39	55.00974	3.05427

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(a) Section 14 was amended by article 2(2) of S.I. 2012/1645.

<i>Point</i>	<i>Latitude (decimal degrees)</i>	<i>Longitude (decimal degrees)</i>
40	54.99487	3.04820
41	54.97803	3.04132
42	54.97735	3.04104
43	54.96115	3.03444
44	54.95485	3.03187
45	54.95510	3.01393
46	54.95556	2.97851
47	54.95562	2.97450
50	54.96011	2.57690

- (b) up to 7 offshore platforms comprising the following—
- (i) up to 4 offshore collector platforms situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations;
  - (ii) 1 offshore converter platform situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations;
  - (iii) up to 2 offshore accommodation or helicopter platforms situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations,  
provided that any of the platforms comprised in Work No. 1A(b)(i) to (iii) may be co-joined to create a combined platform fixed to the seabed by multi-leg or gravity base type foundations;
- (c) up to 5 meteorological stations situated within the array area either fixed to the seabed by monopole, multi-leg or gravity base type foundations or utilising a floating support structure anchored to the seabed;
- (d) a network of cables for the transmission of electricity and electronic communications laid on or beneath the seabed (including cable crossings) between—
- (i) any of the wind turbine generators comprised in Work No. 1A(a);
  - (ii) any of the wind turbine generators comprised in Work No. 1A(a) and any of the works comprised in Work No. 1A(c);
  - (iii) any of the works comprised in Work No. 1A(b) and any of the works comprised in Work No. 1A(c); and
  - (iv) the offshore converter platform referred to in Work No. 1A(b)(ii) or a combined platform referred to in Work No. 1A(b) and the export cable route in Work No. 2A; and
- (e) up to 10 vessel moorings situated within the array area consisting of a single floating buoy secured by chain and anchor anchored to the seabed.

**2. Associated development within the meaning of section 115(2) of the 2008 Act comprising—**

**Work No. 2A** – up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid on or beneath the seabed between Work No. 1A(b)(ii) or a combined platform referred to in Work No. 1A(b) and Work No. 3A (including cable crossings) and situated within the co-ordinates of the export cable corridor area specified in the offshore order limits and grid co-ordinates plan.

**Project A onshore works**

In the Borough of Redcar and Cleveland—

**Work No. 3A** – up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground between MLWS and MHWS connecting Work No. 2A with Work No. 4A;

**Work No. 4A** – up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground between Work No. 3A at MHWS and Work No. 5A including the construction of a haul road and construction access;

**Work No. 5A** – landfall transition joint bays and trenchless installation drill launch pits together with associated landfill works, construction compound and up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electric communications laid underground, in ducts if necessary, connecting Work No. 4A with Work No. 6A, including the construction of a haul road and construction access;

**Work No. 6A** – up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary, from Work No. 5A and running in a generally westerly direction for a distance of 7 kilometres to Work No. 7, including the construction of a haul road and construction access;

**Work No. 8A** – up to 3 export cables for the transmission of HVAC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary, from 1 of the electrical converter substations comprised in Work No. 7 and running in a westerly direction for a distance of 2 kilometres to the connection bay within the National Grid substation connection works comprised in Work No. 9, including the construction of a haul road and construction access.

## **Project B offshore works**

**Work No. 1B** –

- (a) an offshore wind turbine generating station with a gross electrical output capacity of up to 1.2 gigawatts comprising up to 200 wind turbine generators each fixed to the seabed by monopole, multi-leg or gravity base type foundations situated within the area enclosed by the points whose co-ordinates are set out in Table 1B (the “array area”);

**Table 1B - Array area**

<i>Point</i>	<i>Latitude (decimal degrees)</i>	<i>Longitude (decimal degrees)</i>
25	55.12443	2.14572
26	55.13002	2.21780
51	54.97070	2.50189
52	54.96096	2.48529
56	54.83864	2.27783
57	54.83862	2.26336
24	55.01111	1.95454

- (b) up to 7 offshore platforms comprising the following—
  - (i) up to 4 offshore collector platforms situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations;
  - (ii) 1 offshore converter platform situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations;
  - (iii) up to 2 offshore accommodation or helicopter platforms situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations,

provided that any of the platforms comprised in Work No. 1B(b)(i) to (iii) may be co-joined to create a combined platform fixed to the seabed by multi-leg or gravity base type foundations;

- (c) up to 5 meteorological stations situated within the array area either fixed to the seabed by monopole, multi-leg or gravity base type foundations or utilising a floating support structure anchored to the seabed;
- (d) a network of cables for the transmission of electricity and electronic communications laid on or beneath the seabed (including cable crossings) between—
  - (i) any of the wind turbine generators comprised in Work No. 1B(a);
  - (ii) any of the wind turbine generators comprised in Work No. 1B(a) and any of the works comprised in Work No. 1B(c);
  - (iii) any of the works comprised in Work No. 1B(b) and any of the works comprised in Work No. 1B(c);
  - (iv) the offshore converter platform referred to in Work No. 1B(b)(ii) or a combined platform referred to in Work No. 1B(b) and the export cable route in Work No. 2B; and
- (e) up to 10 vessel moorings situated within the array area consisting of a single floating buoy secured by chain and anchor anchored to the seabed.

**3. Associated development within the meaning of section 115(2) of the 2008 Act comprising—**

**Work No. 2B** – up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid on or beneath the seabed between Work No. 1A(b)(ii) or a combined platform referred to in Work No. 1B(b) and Work No. 3B (including cable crossings) and situated within the co-ordinates of the export cable corridor area specified in the offshore order limits and grid co-ordinates plan.

**Project B onshore works**

In the Borough of Redcar and Cleveland—

**Work No. 3B** – up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground between MLWS and MHWS connecting Work No. 2B with Work No. 4B;

**Work No. 4B** – up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground between Work No. 3B at MHWS and Work No. 5B, including the construction of a haul road and construction access;

**Work No. 5B** – landfall transition joint bays and trenchless installation drill launch pits together with associated landfill works, construction compound and up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electric communications laid underground, in ducts if necessary, connecting Work No. 4B with Work No. 6B, including the construction of a haul road and construction access;

**Work No. 6B** – up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary, from Work No. 5B and running in a generally westerly direction for a distance of 7 kilometres to Work No. 7, including the construction of a haul road and construction access;

**Work No. 8B** – up to 3 export cables for the transmission of HVAC electricity together with fibre-optic cables for the transmission of electronic communications, laid underground in ducts if necessary from 1 of the electrical converter substations comprised in Work No. 7 and running in a westerly direction for a distance of 2 kilometres to the connection bay within the National Grid substation connection works comprised in Work No. 9, including the construction of a haul road and construction access.



## **Shared works**

### **Offshore**

**Work No. 2T** – a temporary work area for vessels to carry out intrusive activities during construction, including vessels requiring anchor spreads, alongside the cable corridors.

### **Onshore**

In the Borough of Redcar and Cleveland—

**Work No. 7** – up to 2 electrical converter substations and compounds for converting HVDC electricity carried by Work Nos. 6A and 6B to HVAC electricity (including landscaping and the construction of a temporary haul road) and—

- (a) up to 4 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary; and
- (b) up to 6 export cables for the transmission of HVAC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;

**Work No. 7L** – a screening landform to the south west of Work No. 7;

**Work No. 8S** – up to 6 export cables for the transmission of HVAC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary, from the electrical converter substation comprised in Work No. 7 and running in a westerly direction for a distance of 575 metres to Work Nos. 8A and 8B, including the construction of a haul road and construction access;

**Work No. 9** – National Grid substation connection works connecting Work Nos. 8A and 8B to the transmission network and comprising up to 6 export cables for the transmission of HVAC electricity together with fibre-optic cables for the transmission of electronic communications, including connection bays within the National Grid substation located above ground incorporating isolation switchgear, circuit bay equipment, overhead tubular connectors and switching and measuring equipment located above and below ground;

**Work No. 10A** – access road from Coast Road (A1085) to provide construction and maintenance access from the public highway to the development site and—

- (a) where shared with Work No. 6A, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;
- (b) where shared with Work No. 6B, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;

**Work No. 10B** – access road from Redcar Road to provide construction and maintenance access from the public highway to the development site and—

- (a) where shared with Work No. 6A, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;
- (b) where shared with Work No. 6B, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;

**Work No. 10C** – access from the A174 to provide construction and maintenance access from the public highway to the development site and—

- (a) where shared with Work No. 6A, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;
- (b) where shared with Work No. 6B, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;

**Work No. 10D** – access road from the A174 to provide construction and maintenance access from the public highway to the development site and

- (a) where shared with Work No. 6A, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;
- (b) where shared with Work No. 6B, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;

**Work No. 10E** – access road from Grewgrass Lane to provide construction and maintenance access from the public highway to the development site and

- (a) where shared with Work No. 6A, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;
- (b) where shared with Work No. 6B, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;

**Work No. 10F** – access road from Fishponds Road (B1269) to provide construction and maintenance access from the public highway to the development site and

- (a) where shared with Work No. 6A, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;
- (b) where shared with Work No. 6B, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;

**Work No. 10G** – access road from Fishponds Road (B1269) to provide construction and maintenance access from the public highway to the development site and—

- (a) where shared with Work No. 6A, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;
- (b) where shared with Work No. 6B, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;

**Work No. 10H** – access road from the intersection of A174 and A1042 to provide construction and maintenance access from the public highway to the development site and—

- (a) where shared with Work No. 6A, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;
- (b) where shared with Work No. 6B, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;

**Work No. 10I** – access road to provide construction and maintenance access from the public highway to the development site and—

- (a) where shared with Work No. 6A, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;
- (b) where shared with Work No. 6B, up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;

**Work No. 10J** – access road to provide construction and maintenance access from the public highway to the development site and—

- (a) where shared with Work No. 8A, up to 3 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;
- (b) where shared with Work No. 8B, up to 3 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground, in ducts if necessary;

**Work No. 10K** – access road from the public highway High Street (B1380) to provide construction and maintenance access from the public highway to the development site.

In connection with Work Nos. 3A, 4A, 5A, 6A, 7, 7L, 8A, 8S, 9 and 10A to 10K, the undertaker is granted development consent for the further associated development shown on the plans referred to in Requirement 19, or approved pursuant to the Requirements, including—

- (a) ramps, means of access and footpaths;
- (b) bunds, embankments, swales, landscaping and boundary treatments;
- (c) habitat creation;
- (d) boreholes;
- (e) jointing bays, manholes and other works associated with cable laying including trenchless installation works beneath watercourses roads and other obstructions;
- (f) water supply works, foul drainage provision and surface water management systems and culverting;
- (g) temporary structures to facilitate the crossing of watercourses including bailey bridges;
- (h) construction lay down areas and compounds and their restoration;
- (i) works to remove, reconstruct or alter the position of apparatus including mains, sewers, drains, cables and pipelines; and
- (j) such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project that fall within the scope of the works assessed by the environmental statement.

In connection with Work Nos. 3B, 4B, 5B, 6B, 7, 7L, 8B, 8S, 9 and 10A to 10K, the undertaker is granted development consent for the further associated development shown on the plans referred to in Requirement 19, or approved pursuant to the Requirements, including—

- (a) ramps, means of access and footpaths;
- (b) bunds, embankments, swales, landscaping and boundary treatments;
- (c) habitat creation;
- (d) boreholes;
- (e) jointing bays, manholes and other works associated with cable laying including trenchless installation works beneath watercourses roads and other obstructions;
- (f) water supply works, foul drainage provision and surface water management systems and culverting;
- (g) temporary structures to facilitate the crossing of watercourses including bailey bridges;
- (h) construction lay down areas and compounds and their restoration;

- (i) works to remove, reconstruct or alter the position of apparatus including mains, sewers, drains, cables and pipelines; and
- (j) such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project that fall within the scope of the works assessed by the environmental statement.

## PART 2

### Ancillary works

In connection with the Project A offshore works and the Project B offshore works, works comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction or maintenance of the authorised development;
- (b) temporary or permanent buoys, beacons, fenders and other navigational warning or ship impact protection works;
- (c) temporary works for the protection of land or structures affected by the authorised development;
- (d) cable protection, scour protection or dredging;
- (e) cable route preparation works including boulder removal and obstruction clearance, dredging and pre-sweeping; and
- (f) the removal, reconstruction or alteration of the position of subsea cables and pipelines,

provided that the ancillary works are limited to works within the scope assessed by the environmental statement.

## PART 3

### Requirements

#### **Interpretation**

##### **1. In this Part—**

“HAT” (highest astronomical tide) means the highest tide that can be predicted to occur under average meteorological conditions;

“offshore works” means Work Nos. 1A, 1B, 2A, 2B, and 2T and any related associated development;

“onshore works” means Work Nos. 3A, 3B, 4A, 4B, 5A, 5B, 6A, 6B, 7, 7L, 8A, 8B, 8S, 9 and 10A to 10K and any related associated development;

“stages” means each of the following stages of the onshore works which may be constructed in sequential order or otherwise—

Stage 1 - Work Nos. 3A, 4A and 5A;

Stage 2 - Work Nos. 3B, 4B and 5B;

Stage 3 - Work Nos. 6A, 8A, 10A, 10B, 10C, 10D, 10E, 10F, 10G, 10H, 10I and 10K;

Stage 4 - Work Nos. 6B, 8B, 10A, 10B, 10C, 10D, 10E, 10F, 10G, 10H, 10I and 10K;

Stage 5 - Work Nos. 7, 7L, 10H and 10I;

Stage 6 - Work Nos. 8S, 8A, 10H, 10I, 10J and 10K;

Stage 7 - Work Nos. 8S, 8B, 10H, 10I, 10J and 10K;

Stage 8 - Work Nos. 9, 10H, 10I, 10J and 10K.

## **Time limits**

- 2.—(1) Project A must be commenced on or before 25th August 2022.
- (2) Project B must be commenced on or before 25th August 2022.
- (3) The shared works must be commenced on or before 25th August 2022.

## **Detailed offshore design parameters**

- 3.—(1) No wind turbine generator may—
  - (a) exceed a height of 315 metres when measured from HAT to the tip of the vertical blade;
  - (b) have a rotor diameter exceeding 215 metres;
  - (c) be less than a multiple of 6 times the rotor diameter from the nearest wind turbine generator in any direction being not less than 750 metres measured between wind turbine generators;
  - (d) have a distance of less than 26 metres between the lowest point of the rotating blade of the wind turbine generator and HAT.
- (2) The total rotor-swept area within Work No. 1A must not exceed 4.35 square kilometres.
- (3) The total rotor-swept area within Work No. 1B must not exceed 4.35 square kilometres.
- (4) References to the location of a wind turbine generator are references to the centroid point at the base of the wind turbine generator.
- 4.—(1) No meteorological station lattice tower may exceed a height of 315 metres above HAT.
- (2) Meteorological mast foundation structures must be of 1 or more of the following foundation options: monopole, multi-leg, gravity base or floating structure secured by chain and anchor.
- (3) No meteorological mast foundation structure employing a footing of driven piles may—
  - (a) have more than 4 driven piles;
  - (b) in the case of single-pile structures, have a pile diameter exceeding 10 metres or employ a hammer energy during installation exceeding 2,300 kilojoules;
  - (c) in the case of structures with 2 or more piles, have a pile diameter exceeding 3.5 metres or employ a hammer energy during installation exceeding 1,900 kilojoules.
- (4) No meteorological mast foundation may have—
  - (a) a seabed footprint (excluding subsea scour protection) exceeding 1,735 square metres;
  - (b) a seabed footprint (including subsea scour protection) exceeding 4,657 square metres;
  - (c) a main supporting structure exceeding 51.5 metres in width.
- 5.—(1) The total number of offshore platforms within Work No. 1A must not exceed 7, comprising—
  - (a) up to 4 offshore collector platforms;
  - (b) 1 offshore converter platform; and
  - (c) up to 2 offshore accommodation or helicopter platforms,provided that any of the platforms referred to in paragraphs (a) to (c) may be co-joined to create a combined platform fixed to the seabed by multi-leg or gravity base type foundations.
- (2) The total number of offshore platforms within Work No. 1B must not exceed 7, comprising—
  - (a) up to 4 offshore collector platforms;
  - (b) 1 offshore converter platform; and
  - (c) up to 2 offshore accommodation or helicopter platforms,provided that any of the platforms referred to in paragraphs (a) to (c) may be co-joined to create a combined platform fixed to the seabed by multi-leg or gravity base type foundations.

(3) The dimensions of any offshore collector platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed—

- (a) 75 metres in length;
- (b) 75 metres in width;
- (c) 85 metres in height above HAT.

(4) The dimensions of any offshore converter platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed—

- (a) 125 metres in length;
- (b) 100 metres in width;
- (c) 105 metres in height above HAT.

(5) The dimensions of any offshore accommodation or helicopter platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed—

- (a) 125 metres in length;
- (b) 100 metres in width;
- (c) 105 metres in height above HAT.

(6) The dimensions of any combined platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed the total seabed footprint of the individual platforms incorporated within it.

(7) Offshore platform foundation structures must be of 1 or more of the following foundation options: gravity base or multi-leg.

(8) No offshore platform foundation structure employing a footing of driven piles may—

- (a) have more than 24 driven piles;
- (b) have a pile diameter exceeding 2.75 metres or employ a hammer energy during installation exceeding 1,900 kilojoules.

(9) Within Work No. 1A, the seabed footprint per offshore foundation (excluding subsea scour protection) must not exceed—

- (a) in the case of an offshore collector platform, 5,625 square metres;
- (b) in the case of an offshore converter platform, 12,500 square metres;
- (c) in the case of an offshore accommodation or helicopter platform, 12,500 square metres.

(10) Within Work No. 1B, the seabed footprint per offshore foundation (excluding subsea scour protection) must not exceed—

- (a) in the case of an offshore collector platform, 5,625 square metres;
- (b) in the case of an offshore converter platform, 12,500 square metres;
- (c) in the case of an offshore accommodation or helicopter platform, 12,500 square metres.

(11) No offshore collector platform foundation may have a seabed footprint (including subsea scour protection) exceeding 9,025 square metres.

(12) No offshore converter platform foundation may have a seabed footprint (including subsea scour protection) exceeding 17,400 square metres.

(13) No offshore accommodation or helicopter platform foundation may have a seabed footprint (including subsea scour protection) exceeding 17,400 square metres.

(14) The number of vessels actively carrying out impact piling as part of the installation of driven pile foundations must at no time exceed 2 within Work No. 1A.

(15) The number of vessels actively carrying out impact piling as part of the installation of driven pile foundations must at no time exceed 2 within Work No. 1B.

**6.—**(1) Wind turbine generator foundation structures must be of 1 or more of the following foundation options: monopole, multi-leg or gravity base.

(2) No wind turbine generator foundation structure employing a footing of driven piles may—

- (a) have more than 6 driven piles;
  - (b) in the case of single-pile structures, have a pile diameter exceeding 12 metres or employ a hammer energy during installation exceeding 3,000 kilojoules;
  - (c) in the case of structures with 2 or more piles, have a pile diameter exceeding 3.5 metres or employ a hammer energy during installation exceeding 2,300 kilojoules.
- (3) No wind turbine generator foundation may have—
- (a) a main supporting structure exceeding 61 metres in width;
  - (b) a seabed footprint (excluding subsea scour protection) exceeding 2,376 square metres;
  - (c) a seabed footprint (including subsea scour protection) exceeding 5,675 square metres.
- (4) The foundations for wind turbine generators must be in accordance with the wave reflection co-efficient values set out in Table 3.6 in Chapter 5, Appendix B (foundation characterisation study) of the environmental statement.

**7.—**(1) Within Work No. 1A, the wind turbine generator foundations must not have—

- (a) a total seabed footprint exceeding 1,005,300 square metres;
- (b) subsea scour protection exceeding 1,084,850 cubic metres in total volume of material;
- (c) subsea scour protection exceeding 755,400 square metres in total seabed footprint.

(2) Within Work No. 1B, the wind turbine generator foundations must not have—

- (a) a total seabed footprint exceeding 1,005,300 square metres;
- (b) subsea scour protection exceeding 1,084,850 cubic metres in total volume of material;
- (c) subsea scour protection exceeding 755,400 square metres in total seabed footprint.

**8.—**(1) The total seabed footprint of foundation structures (excluding mooring buoys) within Work No. 1A (including subsea scour protection and drill arising deposits) must not exceed 1,116,850 square metres.

(2) The total seabed footprint of offshore platform foundation structures within Work No. 1A (including seabed scour protection and drill arising deposits) must not exceed 88,300 square metres.

(3) The total seabed footprint of foundation structures (excluding mooring buoys) within Work No. 1B (including subsea scour protection and drill arising deposits) must not exceed 1,116,850 square metres.

(4) The total seabed footprint of offshore platform foundation structures within Work No. 1B (including seabed scour protection and drill arising deposits) must not exceed 88,300 square metres.

**9.—**(1) Within Work Nos. 1A, 2A and 3A, the HVDC cables must not, in total, exceed—

- (a) 2 in number;
- (b) 1 fibre-optic cable;
- (c) 573.2 kilometres in length.

(2) Within Work Nos. 1A and 2A, the HVDC cables must not, in total, have cable protection (excluding cable crossings) exceeding—

- (a) 2.57 square kilometres in area;
- (b) 2,496,785 cubic metres in volume.

(3) Within Work Nos. 1B, 2B and 3B, the HVDC cables must not, in total, exceed—

- (a) 2 in number;
- (b) 1 fibre-optic cable;
- (c) 484.4 kilometres in length.

(4) Within Work Nos. 1B and 2B, the HVDC cables must not, in total, have cable protection (excluding cable crossings) exceeding—

- (a) 2.31 square kilometres in area;
- (b) 2,242,473 cubic metres in volume.

**10.—**(1) Within Work No. 1A, the HVAC cables must not, in total,—

- (a) exceed 1,270 kilometres in length;
- (b) have cable protection (excluding cable crossings) exceeding 660,000 square metres in area;
- (c) have cable protection (excluding cable crossings) exceeding 413,000 cubic metres in volume.

(2) Within Work No. 1B, the HVAC cables must not, in total,—

- (a) exceed 1,270 kilometres in length;
- (b) have cable protection (excluding cable crossings) exceeding 890,000 square metres in area;
- (c) have cable protection (excluding cable crossings) exceeding 572,000 cubic metres in volume.

**11.—**(1) Within Work No. 1A, the HVAC cable crossings must not, in total, exceed—

- (a) 24 in number;
- (b) 132,700 cubic metres in volume of cable crossing material;
- (c) 147,100 square metres in seabed footprint.

(2) Within Work No. 1B the HVAC cable crossings must not, in total, exceed—

- (a) 24 in number;
- (b) 132,700 cubic metres in volume of cable crossing material;
- (c) 147,100 square metres in seabed footprint.

**12.—**(1) Within Work Nos. 1A and 2A, the HVDC cable crossings must not, in total, exceed—

- (a) 16 in number;
- (b) 88,450 cubic metres in volume of cable crossing material;
- (c) 98,100 square metres in seabed footprint.

(2) Within Work Nos. 1B and 2B, the HVDC cable crossings must not, in total, exceed—

- (a) 16 in number;
- (b) 88,450 cubic metres in volume of cable crossing material;
- (c) 98,100 square metres in seabed footprint.

## **Layout rules**

**13.—**(1) The positions of wind turbine generators and offshore platforms must be arrayed in accordance with the parameters applicable to Work Nos. 1A and 1B specified in the Requirements and the principles in section 5.2 of Chapter 5 of the environmental statement.

(2) The construction of wind turbine generators or offshore platforms forming part of the Project A offshore works must not commence until the array location and layout plan has been agreed.

(3) The construction of wind turbine generators or offshore platforms forming part of the Project B offshore works must not commence until the array location and layout plan has been agreed.

(4) The construction of the wind turbine generators and offshore platforms must be carried out in accordance with the relevant array location and layout plan.

(5) The array location and layout plans must ensure compliance with sub-paragraph (1).

(6) In this Requirement, “array location and layout plan” means—

- (a) in relation to the Project A offshore works, the array location and layout plan referred to in Marine Licence 1 (see Condition 16(a)).



- (b) in relation to the Project B offshore works, the array location and layout plan referred to in Marine Licence 2 (see Condition 16(a)).

### **Aviation lighting**

**14.** Except as otherwise required by Trinity House under Condition 25 of Marine Licence 1 or 2 or Condition 22 of Marine Licence 3 or 4, the undertaker must exhibit such lights, with such shape, colour and character, as required by the Air Navigation Order 2009(a) or as directed by the Civil Aviation Authority or the Ministry of Defence.

### **Offshore decommissioning**

**15.—**(1) No offshore works may commence until a decommissioning programme in compliance with any notice served on the undertaker by the Secretary of State under section 105(2) of the 2004 Act(b) has been submitted to the Secretary of State for approval.

(2) The programme submitted must accord with the principles set out in the outline decommissioning statement.

### **Offshore safety management**

**16.—**(1) Offshore works must not commence until the MMO, in consultation with the MCA,—

- (a) has given approval for an emergency response and co-operation plan (“ERCoP”) that includes full details of the emergency response procedures for the construction, operation and decommissioning phases of the authorised development in accordance with the MCA recommendations contained in the OREI guidance; and
- (b) has confirmed that the undertaker has taken into account and adequately addressed all MCA recommendations contained in the OREI guidance that are appropriate to the authorised development.

(2) The ERCoP must identify a point of contact for emergency response.

(3) The ERCoP must be implemented as approved.

(4) In this Requirement, “OREI guidance” means MCA document MGN371 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues”(c).

### **Restricted work area**

**17.** No wind turbine generator or offshore platform may be constructed within 300 metres of the international boundary. (This area is hatched black and identified as a restricted work area on the offshore works plans.)

### **Stages of authorised development onshore**

**18.—**(1) The onshore works must not commence until a written scheme setting out the phasing of construction of each stage of the onshore works has been submitted to and approved by the relevant planning authority.

(2) The scheme must be implemented as approved.

### **Detailed design approval onshore**

**19.** The onshore works must be carried out in accordance with the following plans, except where part of such a plan is indicative or expressly states that it does not show details for approval—

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(a) S.I. 2009/3015.

(b) Section 105(2) was substituted by section 69(3) of the Energy Act 2008 (c.32).

(c) See [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/441130/371.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/441130/371.pdf).

- (a) the onshore order limits and grid co-ordinates plan;
- (b) the onshore works plans.

**20.**—(1) Except where the onshore works are carried out in accordance with the plans referred to in Requirement 19, no stage of the onshore works may commence until details of their layout, scale, levels and external appearance (in so far as those details are not shown on those plans) have been submitted to and approved by the relevant planning authority. This must include a section showing cable depths for Work Nos. 4A, 5A, 4B and 5B.

(2) No building forming part of Work No. 7 may exceed 20 metres in height above the floor level for that location, excluding lightning protection.

### **Provision of landscaping**

**21.** No stage of the onshore works may commence until a written landscaping scheme and associated work programme in relation to each stage of the onshore works has been submitted to, and approved by, the relevant planning authority. Each landscaping scheme must include details of all proposed hard and soft landscaping works, including—

- (a) location, number, species, size and planning density of any proposed planting, including any trees;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) proposed finished ground levels;
- (d) minor structures, such as furniture, refuse or other storage units, signs and lighting;
- (e) proposed and existing functional services above and below ground, including drainage, power and communications cables and pipelines, manholes and supports;
- (f) details of existing trees to be retained, with measures for their protection during the construction period;
- (g) retained historic landscape features and proposals for restoration, where relevant; and
- (h) implementation timetables for all landscaping works.

### **Implementation and maintenance of landscaping**

**22.**—(1) All landscaping works must be carried out in accordance with the landscaping scheme approved under Requirement 21 and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(2) Any tree or shrub planted as part of an approved landscaping scheme that, within 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 next planting season with a specimen of the same species and size as that originally planted, unless otherwise agreed by the relevant planning authority.

### **Fencing and other means of enclosure**

**23.**—(1) No stage of the onshore works may commence until written details of all proposed permanent and temporary fences, walls or other means of enclosure for that stage have been submitted to and approved by the relevant planning authority.

(2) All construction sites must remain securely fenced at all times during construction of the onshore works.

(3) Any temporary fencing must be removed on completion of the relevant work.

(4) Any approved permanent fencing in relation to Work No. 7 must be completed before the relevant work is brought into use.

(5) Fencing, walls and other means of enclosure must be provided in accordance with the approved details.

## **Highway accesses**

**24.**—(1) No stage of the onshore works may commence until, for that stage, written details of the siting, design, layout and any access management measures for any new permanent or temporary means of access to or from a public highway to be used by vehicular traffic, or any alteration to an existing means of access to or from a public highway used by vehicular traffic, has, after consultation with the highway authority, been submitted to and approved by the relevant planning authority.

(2) No stage of the onshore works may commence until, for that stage, written details identifying the routes and accesses for operational maintenance has, following consultation with the highway authority, been submitted to and approved by the relevant planning authority.

(3) All highway accesses must be constructed, maintained and removed in accordance with the approved details.

## **Surface and foul water drainage**

**25.**—(1) No stage of the onshore works may commence until written details of the surface and (if any) foul water drainage system (including means of pollution control) for that stage have, following consultation with the relevant sewerage and drainage authorities and the Environment Agency, been submitted to and approved by the relevant planning authority.

(2) The surface water drainage system works must restrict surface water discharge to no more than the greenfield run-off rate (1.62 litres per second) in line with the recommendations of the flood risk assessment (Appendix B to Chapter 24 of the environmental statement).

(3) The submitted details must—

- (a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site (surface water drainage scheme);
- (b) include a timetable for implementation (foul and surface water schemes); and
- (c) provide a management and maintenance plan for the lifetime of the proposed schemes (foul and surface water management).

(4) The surface and foul water drainage systems must be constructed, managed and maintained in accordance with the approved details.

## **Archaeology**

**26.**—(1) No stage of the onshore works may commence until the implementation of a programme of archaeological work has been secured in relation to that stage in accordance with a written scheme of archaeological investigation that has been submitted to and approved by the relevant planning authority.

(2) The scheme must—

- (a) set out a pre-construction programme of archaeological evaluation that defines the extent, character and significant archaeological sites and the extent of areas that do not require detailed excavation. The results of the evaluation are to inform subsequent mitigation strategies;
- (b) set out the programme and methodology for site investigation and recording;
- (c) set out provision for the monitoring of geotechnical test pits in areas of significance as defined by the archaeological evaluation;
- (d) set out the programme for post-investigation assessment, the results of which may inform the scope of analysis;
- (e) provide for analysis of the site investigation and recording;
- (f) provide for publication and dissemination of the analysis and records of the site investigation; and

- (g) nominate a competent person or organisation to undertake the works set out in the written scheme of investigation.

(3) No stage of the onshore works may commence until, in relation to the stage, the relevant site investigation has been completed as approved, and such completion has been approved by the relevant planning authority.

(4) No stage of the onshore works may be brought into commercial operation (excluding commissioning) until the site investigation and post-investigation assessment have been completed in accordance with the programme in the approved scheme and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

(5) The written scheme in relation to the stage must be carried out as approved.

### **Code of construction practice**

**27.—**(1) No stage of the onshore works may commence until a code of construction practice (“CoCP”) in accordance with the outline code of construction practice has been submitted to and approved by the relevant planning authority and as appropriate Highways England, following consultation with the relevant statutory nature conservation body.

(2) The CoCP must reflect and ensure delivery of the construction phase mitigation measures included in the environmental statement and must include consideration of the following matters, amongst others, during construction of the onshore works—

- (a) construction noise and vibration management;
- (b) air quality including dust management;
- (c) sustainable waste management during construction;
- (d) traffic management and materials storage on site;
- (e) water management (surface water and groundwater);
- (f) the mechanism for the public to communicate with the construction teams, including contact details;
- (g) land use and agriculture, including the management, excavation and removal of soils, land drainage, land quality and biosecurity;
- (h) a method statement for the crossing of watercourses;
- (i) method statements for horizontal directional drilling activities of highways, railways and apparatus in the Wilton Complex;
- (j) plans for public and private access across the Order limits, including details of the temporary re-routing of public rights of way during the construction of the authorised development including the provision of signage and other information alerting the public to the construction works and any re-routing;
- (k) management and mitigation of artificial light emissions.

### **Construction environmental management plan**

**28.—**(1) Before the commencement of each stage of the onshore works, a construction environmental management plan (“CEMP”) for that stage, drafted in accordance with the principles set out in the CoCP, must be submitted to and approved by the relevant planning authority.

(2) All remediation, construction and commissioning works must be undertaken in accordance with the CoCP and CEMP.

### **Construction hours**

**29.—**(1) Construction work for the onshore works and any construction-related traffic movements to or from the site of the relevant work must take place only between 7 a.m. and 7 p.m. on Monday to Saturday, with no activity on Sundays, public or bank holidays, except—

- (a) where continuous periods of operation are required, such as concrete pouring and drilling;
- (b) for the delivery of abnormal loads to the onshore works, which may cause congestion on the local road network;
- (c) where works are being carried out on the foreshore;
- (d) where works are required to be carried out in an emergency; or
- (e) as otherwise agreed by the relevant planning authority as required outside of these hours pursuant to details submitted and approved under any other Requirement.

(2) All construction operations that are to be undertaken outside the hours referred to in sub-paragraph (1) must be agreed by the relevant planning authority in advance and must be carried out within the hours agreed by the relevant planning authority.

### **Control of noise during operational phase**

**30.**—(1) The noise emanating from the operation of Work No. 7 (including transformers, cooling fans, switch gear and power lines) must not, separately or together, exceed operational noise levels of—

- (a) 42 decibels at the residential receptors referred to in sub-paragraph (2) and identified on the work plans; or
- (b) 46 decibels at the non-residential receptors referred to in sub-paragraph (3) and identified on the works plans.

(2) The residential receptors are—

- (a) 7 Grange Estate;
- (b) 10 Grange Estate;
- (c) 20 Grange Estate; and
- (d) Lazenby Grange Farmhouse.

(3) The non-residential receptors are—

- (a) Wilton Complex office building;
- (b) Wilton Golf Club; and
- (c) Wilton Primary School.

(4) Noise measurements must be expressed as free field 5 minute L(A)<sub>r</sub> values.

### **Control of artificial light emissions**

**31.**—(1) Work No. 7 must not be brought into operation until a written scheme for the management and mitigation of artificial light emissions during the operation of Work No. 7 has been submitted to and approved by the relevant planning authority.

(2) The approved scheme for the management and mitigation of artificial light emissions must be implemented and maintained during the operation of the onshore works.

### **Construction traffic routing and management plans**

**32.**—(1) No stage of the onshore works may commence until written details of a construction traffic management plan (“CTMP”) and a construction travel plan (“CTP”), to be used for the management of construction traffic, has been submitted to and approved by the relevant planning authority and Highways England.

(2) The CTMP and CTP must include details (including agreed routes) for abnormal indivisible loads (“AILs”) that may be delivered by road (or confirmation that no AILs are required for construction of the authorised development), and the approved details must be adhered to at all times when AILs are transported to or from the authorised development by road.

(3) Notices must be erected and maintained throughout the period of construction at construction site exits, in accordance with the CTMP, indicating to drivers the routes agreed by the relevant planning authority for traffic entering and leaving sites.

### **Drilling works under highways**

**33.** Any drilling works that are to be undertaken under highways must be carried out in accordance with the Highways England's Design Manual for Roads and Bridges(a).

### **Port access and transport plans**

**34.—**(1) No licensed activities or any phase of licensed activities seaward of MHWS may commence until (so far as relevant to the activities or phase of activities) a port access and transport plan ("PATP") for the onshore port-related traffic to and from the selected base port has been submitted to and approved by the relevant planning authority after consultation with the relevant highway authority.

(2) Sub-paragraph (1) does not apply if the relevant planning authority confirms, after consultation with the relevant highway authority, that no PATP is required for the licenced activities or phase of licensed activities.

(3) All PATPs must be implemented as approved at all times specified in the PATP during the construction or operation (or both) of the authorised project.

(4) In this Requirement—

"licensed activities" has the meaning given in Marine Licences 1 to 4;

"relevant highway authority", in relation to a selected base port, means the highway authority in whose area the port is located;

"relevant planning authority", in relation to a selected base port, means the local planning authority in whose area the port is located;

"selected base port" means a port selected for the construction or ongoing operational management of the authorised project (or both).

### **European protected species: onshore**

**35.—**(1) No stage of the onshore works may commence until final pre-construction survey work has been carried out to establish whether a European protected species is present on any of the land affected, or likely to be affected, by any part of the onshore works or in any of the trees to be lopped or felled as part of the onshore works.

(2) Where a European protected species is shown to be present, the stage of the onshore works likely to affect the species must not commence until, after consultation with the relevant statutory nature conservation body and the Secretary of State for the Environment, Food and Rural Affairs, a scheme of protection and mitigation measures has been submitted to and approved by the relevant planning authority.

(3) The onshore works must be carried out in accordance with the approved scheme.

(4) In this Requirement, "European protected species" is a European protected species of animal within the meaning of Part 3 (protection of species) of the Conservation of Habitats and Species Regulations 2010(b).

### **Restoration of land used temporarily for construction**

**36.** Subject to article 29 (temporary use of land for carrying out authorised project), any land landward of MLWS within the Order limits that is used temporarily for construction of the

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(a) See <https://www.gov.uk/standards-for-highways-online-resources#the-design-manual-for-roads-and-bridges>.

(b) S.I. 2010/490. See regulation 40 (European protected species of animal).

relevant stage of the onshore works, and not ultimately incorporated in permanent works or approved landscaping, must be reinstated to its former condition, or such condition as the relevant planning authority may approve, within 6 months of completion of the onshore works, or such other period as the relevant planning authority may approve.

### **Interference with telecommunications**

**37.**—(1) The undertaker must submit to the relevant planning authority for approval a scheme to rectify the situation in the event that the operation of the onshore works gives rise to interference with telecommunications or television equipment at nearby residential properties.

(2) The scheme must provide for the investigation by a qualified independent television engineer of any complaint of interference with television reception at a lawfully occupied dwelling (defined for the purposes of this Requirement as a building within use classes C3 and C4 of the Town and Country Planning (Uses Classes) Order 1987<sup>(a)</sup>) that lawfully exists or had planning permission at the date on which this Order is made, where such complaint is notified to the undertaker by the relevant planning authority within 12 months of commercial operation.

(3) Where impairment is determined by the qualified television engineer to be attributable to the authorised project, mitigation works must be carried out in accordance with the scheme.

### **Onshore decommissioning**

**38.**—(1) On the cessation of commercial operation of the onshore works (in whole or in part), a scheme for the demolition and removal of the onshore works (in whole or in part), and the final proposed condition of the relevant land, including a proposed timetable, must be submitted to the relevant planning authority for approval. The proposed scheme must be based on the outline decommissioning statement.

(2) The scheme for decommissioning must be implemented as approved.

### **Approval, etc. to be given in writing**

**39.** Where under any Requirement the approval or agreement of the relevant planning authority or any other person is required, that approval or agreement must be given in writing.

### **Amendments to plans, etc.**

**40.**—(1) Where any Requirement requires the authorised project to be carried out in accordance with any programme, statement, plan, protocol, scheme, details or arrangements approved by the relevant planning authority or any other person (the “approving authority”), the approved programme, statement, plan, protocol, scheme, details or arrangements must be taken to include any amendments that may subsequently be approved by the approving authority (after consulting any person that the discharging authority is required to consult under the relevant Requirement).

(2) The approving authority must not approve an amendment unless it is satisfied that the amendment is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

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(a) S.I. 1987/764, amended by S.I. 2010/653. There are other amendments to the Order that are not relevant to this Order.

## SCHEDULE 2

Article 14

### Streets subject to street works

<i>Area</i>	<i>Street subject to street works</i>
Redcar and Cleveland	Coast Road (A1085)
Redcar and Cleveland	National Cycle Network Route 1
Redcar and Cleveland	Green Lane
Redcar and Cleveland	Public byway (116/19/1)
Redcar and Cleveland	Redcar Road
Redcar and Cleveland	Cat Flatt Lane
Redcar and Cleveland	Public footpath (129/29/1)
Redcar and Cleveland	Public footpath (129/30/1)
Redcar and Cleveland	A174
Redcar and Cleveland	Grewgrass Lane
Redcar and Cleveland	Grewgrass Lane (stewardship bridleway)
Redcar and Cleveland	Fishponds Road (B1269)
Redcar and Cleveland	Public footpath (106/190/1)
Redcar and Cleveland	Greystone Road (A1053)
Redcar and Cleveland	Public footpath (102/193/2)
Redcar and Cleveland	Public footpath (102/54/1)
Redcar and Cleveland	Public footpath (102/194/1)
Redcar and Cleveland	Coast Road (A1085)
Redcar and Cleveland	National Cycle Network Route 1
Redcar and Cleveland	Green Lane
Redcar and Cleveland	Public byway (116/19/1)
Redcar and Cleveland	Redcar Road
Redcar and Cleveland	Cat Flatt Lane
Redcar and Cleveland	Public footpath (129/29/1)

## SCHEDULE 3

Article 15

### Streets to be temporarily stopped up

<i>Area</i>	<i>Streets to be temporarily stopped up</i>
Redcar and Cleveland	Cat Flatt Lane
Redcar and Cleveland	Public footpath (129/29/1)
Redcar and Cleveland	Public footpath (129/30/1)

## SCHEDULE 4

Article 16

### Access to works

<i>Area</i>	<i>Access to works</i>
Redcar and Cleveland	Coast Road (A1085)
Redcar and Cleveland	Redcar Road
Redcar and Cleveland	A174 between the roundabout off A174/Grewgrass Lane/Redcar Lane and the roundabout off A174/Longbeck Road/Gurrey Street,



<i>Area</i>	<i>Access to works</i>
	near land known as Mickle Dales
Redcar and Cleveland	Grewgrass Lane
Redcar and Cleveland	Fishponds Road (B1269)
Redcar and Cleveland	Junction off A174 and Kirkleatham Lane (A1042)
Redcar and Cleveland	Off the east bound sliproad off A174 (not named) into the Wilton Complex, which is located between Lazenby and the roundabout of A174/A1042
Redcar and Cleveland	High Street (B1380)

## SCHEDULE 5

Articles 25 and 31

### Land in which only new rights, etc. may be acquired

<i>(1) Plot reference number shown on land plans</i>	<i>(2) Purpose for which rights over land may be acquired</i>
1, 2B, 3B, 12B, 12C, 13B, 13D, 17B, 18, 19B, 21B, 25B, 26B, 29B, 32B, 33Bii, 36B, 41B, 43B, 44B, 46B, 49B, 52B	New right for the installation, inspection, maintenance, renewal, repair, replacement and use of 2 export cables for the transmission of HVDC electricity, together with fibre-optic cables for the transmission of electronic communications for the benefit of Bizco 3
24B	New right for the installation, inspection, maintenance, renewal, repair and replacement of 2 export cables for the transmission of HVDC electricity, together with fibre-optic cables for the transmission of electronic communications for the benefit of Bizco 3
60B, 62B, 63B	New right for the installation, inspection, maintenance, renewal, repair, replacement and use of up to 3 export cables for the transmission of HVAC electricity, together with fibre-optic cables for the transmission of electronic communications for the benefit of Bizco 3
2A, 3A, 4ii, 12A, 13A, 13C, 17A, 19A, 21A, 25A, 26A, 29A, 32A, 33Aii, 36A, 41A, 43A, 44A, 46A, 49A, 52C	New right for the installation, inspection, maintenance, renewal, repair, replacement and use of 2 export cables for the transmission of HVDC electricity, together with fibre-optic cables for the transmission of electronic communications for the benefit of Bizco 2
24C	New right for the installation, inspection, maintenance, renewal, repair and replacement of 2 export cables for the transmission of HVDC electricity, together with fibre-optic cables for the transmission of electronic communications for the benefit of Bizco 2
60A, 62A, 63A, 68	New right for the installation, inspection, maintenance, renewal, repair, replacement and use of up to 3 export cables for the transmission of HVAC electricity, together with fibre-optic cables for the transmission of electronic communications for the benefit of Bizco 2
10, 11, 14, 15, 16, 24A, 28, 31, 35, 38, 39, 48, 50, 52A, 53, 54	New right for the installation, inspection, maintenance, renewal, repair and replacement of 2 export cables for the transmission of HVDC electricity, together with fibre-optic cables for the transmission of electronic communications for the benefit of Bizco 2 and Bizco 3

(1) <i>Plot reference number shown on land plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>
56	New right for the installation, inspection, maintenance, renewal, repair and replacement of landscaping for the benefit of Bizco 2 and Bizco 3
69, 70, 71, 72, 73	New right for the construction of new connection bays within the National Grid substation containing isolation switchgear and electrical equipment for the connection of the export cables to the transmission network for the benefit of Bizco 2 and Bizco 3
59, 64, 65, 66, 74, 75, 76, 77, 78	<p>New right for:</p> <ul style="list-style-type: none"> <li>(a) the construction, inspection, maintenance, renewal, repair and replacement of the new connection bays within the National Grid substation; and</li> <li>(b) the installation, inspection, maintenance, renewal, repair and replacement for up to 3 export cables for the transmission of HVAC electricity, together with fibre-optic cables for the transmission of electronic communications,</li> </ul> <p>in each case for the benefit of Bizco 2 and Bizco 3</p>
9D, 13B, 30C, 40C, 49B	New right for the installation, inspection, maintenance, renewal, repair and replacement of 2 export cables for the transmission of HVDC electricity, together with fibre-optic cables for the transmission of electronic communications for the benefit of Bizco 2
67E	<p>New right for:</p> <ul style="list-style-type: none"> <li>(a) the construction, inspection, maintenance, renewal, repair and replacement of the new connection bays within the National Grid substation; and</li> <li>(b) the installation, inspection, maintenance, renewal, repair and replacement for up to 3 export cables for the transmission of HVAC electricity, together with fibre-optic cables for the transmission of electronic communications,</li> </ul> <p>in each case for the benefit of Bizco 2</p>
9C, 13A, 23C, 27C, 34C, 49A	New right for the installation, inspection, maintenance, renewal, repair and replacement of 2 export cables for the transmission of HVDC electricity, together with fibre-optic cables for the transmission of electronic communications for the benefit of Bizco 3
58G, 67C	<p>New right for:</p> <ul style="list-style-type: none"> <li>(a) the construction, inspection, maintenance, renewal, repair and replacement of the new connection bays within the National Grid substation; and</li> <li>(b) the installation, inspection, maintenance, renewal, repair and replacement for up to 3 export cables for the transmission of HVAC electricity, together with fibre-optic cables for the transmission of electronic communications,</li> </ul> <p>in each case for the benefit of Bizco 3</p>

## SCHEDULE 6

Article 25

### Modification of compensation and compulsory purchase enactments for creation of new rights

#### Compensation enactments modified

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with all 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 as they apply to compensation on the compulsory purchase of land and interests in land.

#### Land Compensation Act 1973 modified

2.—(1) Without limiting 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—

- (a) for “land is acquired or taken”, substitute “a right over land is purchased from”;
- (b) for “acquired or taken from him”, substitute “over which the right is exercisable”.

#### Compulsory Purchase Act 1965 modified

3. Without limiting paragraph 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 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
- (b) the land over which the right is or is to be exercisable.

## SCHEDULE 7

Article 29

### Land of which temporary possession may be taken

(1) <i>Location</i>	(2) <i>Plot reference number shown on land plans</i>	(3) <i>Purpose for which temporary possession may be taken</i>	(4) <i>Relevant part of the authorised development</i>
Land plans - sheet 2			
Redcar and Cleveland	79	Work site and access	Work No. 6A
Redcar and Cleveland	80	Work site and access	Work No. 6B
Redcar and Cleveland	81	Work site and access	Work No. 6A
Redcar and Cleveland	82	Work site and access	Work No. 6B
Land plans - sheet 4			
Redcar and Cleveland	84	Work site and access	Work No. 6A

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(a) 1973 c.26. Section 44 was amended by paragraph 13(b) of Schedule 24 to the Highways Act 1980, paragraph 14(d) of Schedule 7 to the Gas Act 1986 (c.44) and paragraph 23 of Schedule 1 to the Water Consolidation (Consequential Provisions) Act 1991 (c.60).

<i>(1) Location</i>	<i>(2) Plot reference number shown on land plans</i>	<i>(3) Purpose for which temporary possession may be taken</i>	<i>(4) Relevant part of the authorised development</i>
Redcar and Cleveland	83	Work site and access	Work No. 6B
Redcar and Cleveland	85	Work site and access	Work Nos. 6A and 6B
Land plans - sheet 6			
Redcar and Cleveland	86	Work site and access	Work No. 8A
Redcar and Cleveland	87	Work site and access	Work No. 8B

## SCHEDULE 8

Articles 2 and 39

### Marine Licence 1: Project A Offshore Generation – Work Nos. 1A and 2T

#### PART 1

##### Licensed activities

#### Interpretation

##### 1.—(1) In this licence—

“2009 Act” means the Marine and Coastal Access Act 2009;

“Annex 1 habitat” means a habitat set out in Annex 1 to Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora;

“array location and layout plan” means the array location and layout plan referred to in Condition 16(a);

“authorised deposits” means the substances and articles specified in paragraph 2(3);

“authorised scheme” means Work Nos. 1A and 2T described in paragraph 2 or any part or phase of those works;

“cable crossing” means the crossing of existing subsea cables and pipelines by the inter-array, inter-platform or export cables authorised by the Order together with physical protection measures including cable protection;

“cable protection” means measures to protect cables from physical damage and exposure due to loss of seabed sediment including, but not limited to, the use of bagged solutions filled with grout or other materials, protective aprons or coverings, mattresses, flow energy dissipation devices or rock and gravel burial;

“chemical risk assessment” means the chemical risk assessment referred to in Condition 16(d)(ii);

“combined platform” means a single offshore platform combining 2 or more of the following—

- (a) an offshore collector platform;
- (b) an offshore converter platform;
- (c) an offshore accommodation or helicopter platform;

“commence” means begin to carry out any part of the licensed activities except for the pre-construction surveys and monitoring; and “commencement” must be construed accordingly;

“commercial operation”, in relation to the authorised scheme, means the exporting, on a commercial basis, of electricity from the wind turbine generators comprised in the scheme;

“Condition” means a condition in Part 2;

“disposal scenario statement” means the document certified as the disposal scenario statement by the Secretary of State under article 42 of the Order (certification of plans and documents, etc.);

“draft fisheries liaison plan” means the document certified as the draft fisheries liaison plan by the Secretary of State under article 42 of the Order;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 42 of the Order together with any supplementary or further environmental information submitted in support of the application for the Order;

“gravity base foundation” means a foundation type that rests on the seabed and supports a wind turbine generator, meteorological station or offshore platform primarily due to its own weight and that of added ballast, with or without skirts or other additional fixings, which may include associated equipment including J-tubes and access platforms and separate topside connection structures or an integrated transition piece. (Sub-types for wind turbine generators and meteorological stations include conical gravity base and flat-based gravity base foundations. Sub-types for platforms include offshore platform conical or flat-base gravity base foundations and offshore platform semi-submersible gravity base foundations);

“HAT” (highest astronomical tide) means the highest tide that can be predicted to occur under average meteorological conditions;

“HVAC” means high voltage alternating current;

“HVDC” means high voltage direct current;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO;

“licensed activities” means the activities specified in paragraph 2;

“maintain” includes inspect, repair, adjust and alter, and further includes remove, reconstruct and replace any of the ancillary works in Part 2 of Schedule 1 (ancillary works) to the Order and any component part of any wind turbine generator, offshore platform, meteorological station, electricity or communication cable described in Part 1 of that Schedule (authorised development) (but not including the removal or replacement of foundations) to the extent set out in the offshore maintenance plan referred to in Condition 24; and “maintenance” must be construed accordingly;

“marine pollution contingency plan” means the marine pollution contingency plan referred to in Condition 16(d)(i);

“MCA” means the Maritime and Coastguard Agency;

“meteorological mast” or “meteorological station” means a fixed or floating structure housing or incorporating equipment to measure wind speed and other meteorological and oceanographic characteristics, including a topside which may house electrical switchgear and communication equipment and associated equipment, and marking and lighting;

“MHWS” (mean high water springs) means the highest level that spring tides reach on average over a period of time;

“MMO” means the Marine Management Organisation;

“monopole foundation” means a foundation option based around a single vertical pillar structure driven, drilled, or embedded into the seabed by means such as suction or gravity. This main support structure may change in diameter via tapers or abrupt steps. (Sub-types for wind turbine generators and meteorological stations include monopole with steel monopile footing, monopole with concrete monopile footing and monopole with a single suction-installed bucket footing);

“multi-leg foundation” means a foundation option based around structures with several legs or footings. This includes jackets, tripods and other structures which include multiple large tubulars, cross-bracing or lattices. Multi-leg foundations may be fixed to the seabed by footings which are driven, drilled, screwed, jacked-up or embedded into the seabed by means such as suction or gravity. (Sub-types for wind turbine generators and meteorological stations include multi-legs with driven piles, drilled piles, screw piles, suction buckets and jack-up foundations. Sub-types for platforms include offshore platform jacket foundations (potentially using driven piles, suction buckets or screw piles) and offshore platform jack-up foundations);

“notice to mariners” includes any notice to mariners which may be issued by the Admiralty, Trinity House, Queen’s harbourmasters, government departments and harbour and pilotage authorities;

“offshore accommodation or helicopter platform” means a platform (either singly or as part of a combined platform) housing or incorporating some or all of the following: accommodation for staff during the construction, operation and decommissioning of the authorised scheme, landing facilities for vessels and helicopters, re-fuelling facilities, communication and control systems, electrical systems such as metering and control systems, small- and large-scale electrical power systems, J-tubes, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore collector platform” means a platform (either singly or as part of a combined platform) housing or incorporating electrical switchgear or electrical transformers, electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, accommodation for staff during the construction, operation and decommissioning of the authorised scheme, communication and control systems, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore converter platform” means a platform (either singly or as part of a combined platform) housing or incorporating HVDC electrical switchgear or electrical transformers and other equipment to enable HVDC transmission to be used to convey the power output of the multiple wind turbine generators to shore including electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, accommodation for staff during the construction, operation and decommissioning of the authorised scheme, communication and control systems, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore in principle monitoring plan” means the document certified as the offshore in principle monitoring plan by the Secretary of State under article 42 of the Order;

“offshore order limits and grid co-ordinates plan” means the plans certified as the offshore order limits and grid co-ordinates plan by the Secretary of State under article 42 of the Order;

“offshore platform” means any of the following—

- (a) an offshore accommodation or helicopter platform;
- (b) an offshore collector platform;
- (c) an offshore converter platform;
- (d) a combined platform;

“onshore order limits and grid co-ordinates plan” means the plans certified as the onshore order limits and grid co-ordinates plan by the Secretary of State under article 42 of the Order;

“Order” means the Dogger Bank Teesside A and B Offshore Wind Farm Order 2015;

“Order limits” means the limits shown on the offshore order limits and grid co-ordinates plan and the onshore order limits and grid co-ordinates plan;

“outline offshore archaeological written scheme of investigation” means the document certified as the outline offshore archaeological written scheme of investigation by the Secretary of State under article 42 of the Order;

“outline offshore maintenance plan” means the document certified as the outline offshore maintenance plan by the Secretary of State under article 42 of the Order;

“scour protection” means measures to prevent loss of seabed sediment around foundation bases by the use of bagged solutions filled with grout or other material, protective aprons, mattresses, flow energy dissipation devices and rock and gravel burial;

“undertaker” means Doggerbank Project 2 Bizco Limited (company number 07791977) whose registered office is 55 Vastern Road, Reading, Berkshire RG1 8BU;

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

“wind turbine generator” means a structure comprising a tower, a rotor with 3 blades connected at the hub, a nacelle and ancillary electrical and other equipment which may include J-tubes, transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment, fixed to a foundation.

(2) In this licence, a reference to any statute, order, regulation or similar instrument is 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) In this licence, unless otherwise indicated,—

(a) all times are Greenwich Mean Time (GMT);

(b) all co-ordinates are latitude and longitude decimal degrees to 6 decimal places. The datum system used is World Geodetic System 1984 datum (WGS84).

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below, and the address for returns and correspondence, is—

(a) Marine Management Organisation

Marine Licensing Team

Lancaster House

Hampshire Court

Newcastle-upon-Tyne NE4 7YH

Email: [marine.consents@marinemanagement.org.uk](mailto:marine.consents@marinemanagement.org.uk)

Tel: 0300 123 1032;

(b) Trinity House

Tower Hill

London EC3N 4DH

Tel: 020 7481 6900;

(c) United Kingdom Hydrographic Office

Admiralty Way

Taunton

Somerset TA1 2DN

Tel: 01823 337 900;

(d) Maritime and Coastguard Agency  
Navigation Safety Branch  
Bay 2/04  
Spring Place  
105 Commercial Road  
Southampton SO15 1EG  
Tel: 023 8032 9191;

(e) Natural England  
Foundry House  
3 Millsands  
Riverside Exchange  
Sheffield S3 8NH  
Tel: 0300 060 4911;

(f) English Heritage  
Eastgate Court  
195-205 High Street  
Guildford GU1 3EH  
Tel: 01483 252 057.

(5) For information only, the details of the local MMO office to the authorised scheme is—

Marine Management Organisation – Northern Marine Area  
MMO Coastal Office  
Neville House  
Central Riverside  
Bell Street  
North Shields  
Tyne and Wear NE30 1LJ  
Email: northshields@marinemanagement.org.uk  
Tel: 0191 257 4520.

### **Details of licensed activities**

**2.**—(1) This licence authorises the undertaker (and any agent or contractor acting on its behalf) to carry out the following licensable marine activities under Part 4 of the 2009 Act, subject to the Conditions—

- (a) the deposit at sea of the substances and articles specified in sub-paragraph (3);
- (b) subject to sub-paragraph (7), the construction of the works specified in sub-paragraph (2) in or over the sea or on or under the sea bed including the removal, reconstruction or alteration of the position of subsea cables and pipelines;
- (c) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation.

(2) The licensed activities are authorised in relation to the construction, maintenance and operation of—



**Work No. 1A –**

- (a) an offshore wind turbine generating station with a gross electrical output capacity of up to 1.2 gigawatts comprising up to 200 wind turbine generators each fixed to the seabed by monopole, multi-leg or gravity base type foundations situated within the area enclosed by the points whose co-ordinates are set out in Table 1A (the “array area”);

**Table 1A – Array area**

<i>Point</i>	<i>Latitude (decimal degrees)</i>	<i>Longitude (decimal degrees)</i>
31	55.11790	2.57524
32	55.11860	3.09890
33	55.10690	3.09409
34	55.09071	3.08744
35	55.07452	3.08080
36	55.05832	3.07416
37	55.04213	3.06752
38	55.02594	3.06090
39	55.00974	3.05427
40	54.99487	3.04820
41	54.97803	3.04132
42	54.97735	3.04104
43	54.96115	3.03444
44	54.95485	3.03187
45	54.95510	3.01393
46	54.95556	2.97851
47	54.95562	2.97450
50	54.96011	2.57690

- (b) up to 7 offshore platforms comprising the following—
- (i) up to 4 offshore collector platforms situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations;
  - (ii) 1 offshore converter platform situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations;
  - (iii) up to 2 offshore accommodation or helicopter platforms situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations,
- provided that any of the platforms comprised in Work No. 1A(b)(i) to (iii) may be co-joined to create a combined platform fixed to the seabed by multi-leg or gravity base type foundations;
- (c) up to 5 meteorological stations situated within the array area either fixed to the seabed by monopole, multi-leg or gravity base type foundations or utilising a floating support structure anchored to the seabed;
- (d) a network of cables for the transmission of electricity and electronic communications laid on or beneath the seabed (including cable crossings) between—
- (i) any of the wind turbine generators comprised in Work No. 1A(a);
  - (ii) any of the wind turbine generators comprised in Work No. 1A(a) and any of the works comprised in Work No. 1A(c);
  - (iii) any of the works comprised in Work No. 1A(b) and any of the works comprised in Work No. 1A(c); and
  - (iv) the offshore converter platform referred to in Work No. 1A(b)(ii) or a combined platform referred to in Work No. 1A(b) and the export cable route in Work No. 2A (as defined in the Order); and

- (e) up to 10 vessel moorings situated within the array area consisting of a single floating buoy secured by chain and anchor anchored to the seabed;

**Work No. 2T** – a temporary work area for vessels to carry out intrusive activities during construction, including vessels requiring anchor spreads, alongside the cable corridors; and

Ancillary works in connection with the above-mentioned works comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction or maintenance of the authorised scheme;
- (b) temporary or permanent buoys, beacons, fenders and other navigational warning on ship impact protection works;
- (c) temporary works for the protection of land or structures affected by the authorised scheme;
- (d) cable protection, scour protection or dredging; and
- (e) cable route preparation works including boulder removal and obstruction clearance, dredging and pre-sweeping,

provided that the ancillary works are limited to works within the scope assessed by the environmental statement.

(3) The substances or articles authorised for deposit at sea are—

- (a) iron, steel and aluminium;
- (b) stone and rock;
- (c) concrete and grout;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore areas within the Order limits during construction drilling and seabed preparation for foundation works and cable sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

(4) Subject to the Conditions, this licence authorises the disposal of up to 968,789 cubic metres of material of natural origin within Work No. 1A produced during construction drilling and seabed preparation for foundation works and cable sandwave preparation works (disposal site reference number DG030).

(5) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order by submission of a disposal return by 31st January each year for the months August to January inclusive, and by 31st July each year for the months February to July inclusive.

(6) The licence does not permit the decommissioning of the authorised scheme. No decommissioning activity may commence until a decommissioning programme has been approved by the Secretary of State under section 106 of the Energy Act 2004. Furthermore, at least 4 months before carrying out any decommissioning activity, the undertaker must notify the MMO of the proposed activity to establish whether a marine licence is required for the activity.

(7) This licence and Marine Licence 3 (as defined in the Order), when taken together, do not authorise the construction of more than 1 Work No. 1A or the construction of Work No. 1A in excess of the maximum parameters for that work set out in Schedule 1 to the Order.

## PART 2

### Conditions

#### Detailed offshore design parameters

**3.**—(1) No wind turbine generator may—

- (a) exceed a height of 315 metres when measured from HAT to the tip of the vertical blade;
- (b) have a rotor diameter exceeding 215 metres;
- (c) be less than a multiple of 6 times the rotor diameter from the nearest wind turbine generator in any direction being not less than 750 metres measured between wind turbine generators;
- (d) have a distance of less than 26 metres between the lowest point of the rotating blade of the wind turbine generator and HAT.

(2) The total rotor-swept area within Work No. 1A must not exceed 4.35 square kilometres.

(3) References to the location of a wind turbine generator are references to the centroid point at the base of the wind turbine generator.

**4.**—(1) No meteorological station lattice tower may exceed a height of 315 metres above HAT.

(2) Meteorological mast foundation structures must be of 1 or more of the following foundation options: monopole, multi-leg, gravity base or floating structure secured by chain and anchor.

(3) No meteorological mast foundation structure employing a footing of driven piles may—

- (a) have more than 4 driven piles;
- (b) in the case of single-pile structures, have a pile diameter exceeding 10 metres or employ a hammer energy during installation exceeding 2,300 kilojoules;
- (c) in the case of structures with 2 or piles, have a pile diameter exceeding 3.5 metres or employ a hammer energy during installation exceeding 1,900 kilojoules.

(4) No meteorological mast foundation may have—

- (a) a seabed footprint (excluding subsea scour protection) exceeding 1,735 square metres;
- (b) a seabed footprint (including subsea scour protection) exceeding 4,657 square metres;
- (c) a main supporting structure exceeding 51.5 metres in width.

**5.**—(1) The total number of offshore platforms within Work No. 1A must not exceed 7, comprising—

- (a) up to 4 offshore collector platforms;
- (b) 1 offshore converter platform; and
- (c) up to 2 offshore accommodation or helicopter platforms,

provided that any of the platforms referred to in paragraphs (a) to (c) may be co-joined to create a combined platform fixed to the seabed by multi-leg or gravity base type foundations.

(2) The dimensions of any offshore collector platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed—

- (a) 75 metres in length;
- (b) 75 metres in width;
- (c) 85 metres in height above HAT.

(3) The dimensions of any offshore converter platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed—

- (a) 125 metres in length;
- (b) 100 metres in width;
- (c) 105 metres in height above HAT.

(4) The dimensions of any offshore accommodation or helicopter platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed—

- (a) 125 metres in length;
- (b) 100 metres in width;
- (c) 105 metres in height above HAT.

(5) The dimensions of any combined platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed the total seabed footprint of the individual platforms incorporated within it.

(6) Offshore platform foundation structures must be of 1 or more of the following foundation options: gravity base or multi-leg.

(7) No offshore platform foundation structure employing a footing of driven piles may—

- (a) have more than 24 driven piles;
- (b) have a pile diameter exceeding 2.75 metres or employ a hammer energy during installation exceeding 1,900 kilojoules.

(8) Within Work No. 1A, the seabed footprint per offshore foundation (excluding subsea scour protection) must not exceed—

- (a) in the case of an offshore collector platform, 5,625 square metres;
- (b) in the case of an offshore converter platform, 12,500 square metres;
- (c) in the case of an accommodation or helicopter platform, 12,500 square metres.

(9) No offshore collector platform foundation may have a seabed footprint (including subsea scour protection) exceeding 9,025 square metres.

(10) No offshore converter platform foundation may have a seabed footprint (including subsea scour protection) exceeding 17,400 square metres.

(11) No offshore accommodation or helicopter platform foundation may have a seabed footprint (including subsea scour protection) exceeding 17,400 square metres.

(12) The number of vessels actively carrying out impact piling as part of the installation of driven pile foundations must at no time exceed 2 within Work No. 1A.

**6.—**(1) Wind turbine generator foundation structures must be of 1 or more of the following foundation options: monopole, multi-leg or gravity base.

(2) No wind turbine generator foundation structure employing a footing of driven piles may—

- (a) have more than 6 driven piles;
- (b) in the case of single-pile structures, have a pile diameter exceeding 12 metres or employ a hammer energy during installation exceeding 3,000 kilojoules;
- (c) in the case of structures with 2 or more piles, have a pile diameter exceeding 3.5 metres or employ a hammer energy during installation exceeding 2,300 kilojoules.

(3) No wind turbine generator foundation may have—

- (a) a main supporting structure exceeding 61 metres in width;
- (b) a seabed footprint (excluding subsea scour protection) exceeding 2,376 square metres;
- (c) a seabed footprint (including subsea scour protection) exceeding 5,675 square metres.

(4) The foundations for wind turbine generators must be in accordance with the wave reflection co-efficient values set out in Table 3.6 in Chapter 5, Appendix B (foundation characterisation study) of the environmental statement.

**7.** Within Work No. 1A, the wind turbine generator foundations must not have—

- (a) a total seabed footprint exceeding 1,005,300 square metres;
- (b) subsea scour protection exceeding 1,084,850 cubic metres in total volume of material;
- (c) subsea scour protection exceeding 755,400 square metres in total seabed footprint.

**8.—**(1) The total seabed footprint of foundation structures (excluding mooring buoys) within Work No. 1A (including subsea scour protection and drill arising deposits) must not exceed 1,116,850 square metres.

(2) The total seabed footprint of offshore platform foundation structures within Work No. 1A (including seabed scour protection and drill arising deposits) must not exceed 88,300 square metres.

**9.** Within Work No. 1A, the HVAC cables must not, in total,—

- (a) exceed 1,270 kilometres in length;
- (b) have cable protection (excluding cable crossings) exceeding 660,000 square metres in area;
- (c) have cable protection (excluding cable crossings) exceeding 413,000 cubic metres in volume.

**10.** Within Work No. 1A, the HVAC cable crossings must not, in total, exceed—

- (a) 24 in number;
- (b) 132,700 cubic metres in volume of cable crossing material;
- (c) 147,100 square metres in seabed footprint.

**11.** Within Work Nos. 1A and 2A, the HVDC cable crossings must not, in total, exceed—

- (a) 16 in number;
- (b) 88,450 cubic metres in volume of cable crossing material;
- (c) 98,100 square metres in seabed footprint.

### **Layout rules**

**12.—**(1) The positions of wind turbine generators and offshore platforms must be arrayed in accordance with the parameters applicable to Work No. 1A specified in the Conditions and the principles in section 5.2 of Chapter 5 of the environmental statement.

(2) The construction of wind turbine generators or offshore platforms must not commence until the array location and layout plan has been agreed.

(3) The construction of wind turbine generators and offshore platforms must be carried out in accordance with the array location and layout plan.

### **Notifications and inspections**

**13.—**(1) The undertaker must ensure that—

- (a) before carrying out any licensed activities, the undertaker informs the MMO of—
  - (i) the organisation undertaking the licensed activities and its primary point of contact;
  - (ii) the works being undertaken pursuant to this licence comprising those works necessary up to the point of connection with the transmission assets including (without limiting paragraph 2)—
    - (aa) up to 4 offshore collector platforms;
    - (bb) no more than 1 offshore converter platform;
    - (cc) up to 200 wind turbine generators;
    - (dd) up to 2 offshore accommodation or helicopter platforms;
    - (ee) up to 5 meteorological stations; and
    - (ff) a network of cables for the transmission of electricity and electronic communications;
  - (iii) the maximum total area and volume for any cable protection HVAC inter-array cables and HVAC inter-platform cables to be constructed within the array area; and

- (iv) the maximum total area and volume for any cable protection to be constructed within the array area;
  - (b) all works notified under this Condition when combined with any works notified under Condition 13 of Marine Licence 2 (as defined in the Order) and Condition 10 of Marine Licences 3 and 4 (as defined in the Order) do not exceed the maximum parameters set out in Schedule 1 to the Order;
  - (c) a copy of this licence and any subsequent amendments or revisions to it is provided to—
    - (i) all agents and contractors notified to the MMO in accordance with Condition 19; and
    - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with that Condition; and
  - (d) within 28 days of receipt of a copy of this licence, the organisations and primary points of contact referred to in paragraph (a) provide a completed confirmation form to the MMO confirming that they have read and will comply with the terms of this licence.
- (2) Only the persons and vessels notified to the MMO in accordance with Condition 19 are permitted to carry out the licensed activities.
- (3) Copies of this licence must also be available for inspection at the following locations—
- (a) the undertaker's registered address;
  - (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits;
  - (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits are to be made.
- (4) The documents referred to in sub-paragraph (1)(c) must be available for inspection by an enforcement officer at all reasonable times at the locations set out in sub-paragraph (3)(b).
- (5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during the construction and operation of the authorised scheme.
- (6) The undertaker must inform the MMO Marine Licensing Team and the MMO Coastal Office in writing at least 5 working days before commencement of the licensed activities or any phase of them.
- (7) At least 7 days before commencement of the licensed activities or any phase of them, the undertaker must publish in the Kingfisher Fortnightly Bulletin details of the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant phase.
- (8) The undertaker must ensure that a notice to mariners is issued at least 10 working days before commencement of the licensed activities or any phase of them advising of the commencement date of Work No. 1A and the expected vessel routes from the local construction ports to the relevant locations.
- (9) The undertaker must ensure that the notices to mariners are updated and reissued at weekly intervals during construction activities and within 5 days of any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed by the MCA in accordance with the detailed construction and monitoring programme referred to in Condition 16(b). Copies of all notices must be provided to the MMO.
- (10) The undertaker must notify—
- (a) the United Kingdom Hydrographic Office at least 2 weeks before commencement, and no later than 2 weeks following completion, of the authorised scheme in order that all necessary amendments to nautical charts are made; and
  - (b) the MMO, MCA and Trinity House once the authorised scheme is completed and any required lighting or marking has been established.

## Chemicals, drilling and debris

**14.**—(1) All chemicals used in the construction of the authorised scheme, including any chemical agents placed within any monopile or other foundation structure void, must be selected from the list of notified chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002(a) and managed in accordance with the chemical risk assessment and the marine pollution contingency plan.

(2) The undertaker must ensure that any coatings and treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by the Health and Safety Executive or the Environment Agency pollution prevention guidelines. Any spillages must be reported to the MMO Marine Pollution Response Team within the timeframes specified in the marine pollution contingency plan.

(3) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works is discharged into the marine environment and that concrete and cement mixing and washing areas are contained to prevent run-off entering the water through the freeing ports.

(4) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(5) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO Marine Pollution Response Team within the timeframes specified in the marine pollution contingency plan.

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

(7) Where foundation drilling works are proposed, in the event that any system other than water-based mud is proposed, the MMO's written approval in relation to the proposed disposal of any drill arisings must be obtained before the drilling commences, which may also require a marine licence.

(8) The undertaker must ensure that any debris arising from the construction of the authorised scheme or temporary works placed seaward of MHWS are removed on completion of the authorised scheme.

(9) The management of chemicals, drilling and control of debris referred to in sub-paragraphs (2) to (8) must be carried out in accordance with the chemical risk assessment and the marine pollution contingency plan.

(10) At least 10 days before commencement of the licensed activities, the undertaker must submit to the MMO an audit sheet covering all aspects of the construction of the licensed activities or any phase of them. The audit sheet must include details of—

- (a) loading facilities;
- (b) vessels;
- (c) equipment;
- (d) shipment routes;
- (e) transport;
- (f) working schedules; and
- (g) all components and materials to be used in the construction of the authorised scheme.

(11) The audit sheet must be maintained throughout the construction of the authorised scheme (or relevant phase) and must be submitted to the MMO for review at fortnightly intervals during periods of active offshore construction.

(12) In the event that the MMO becomes aware that any of the materials on the audit sheet cannot be accounted for, it must require the undertaker to carry out a side-scan sonar survey to plot all obstructions across a reasonable area of search agreed by the MMO where construction

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(a) S.I. 2002/1355, amended by S.I. 2011/982.

works and related activities have been carried out. Local commercial fishing groups must be invited to send a representative to be present during the survey. Any obstructions that the MMO believes to be associated with the authorised scheme must be removed at the undertaker's expense.

(13) As an alternative to the completion of an audit sheet, with written approval from the MMO, the undertaker may introduce a dropped object procedure. If a dropped object procedure is introduced, any dropped objects must be reported to the MMO using the dropped object procedure form within 6 hours of the undertaker becoming aware of an incident. On receipt of the dropped object procedure form, the MMO may require relevant surveys to be carried out by the undertaker (such as side-scan sonar), and the MMO may require obstructions to be removed from the seabed at the undertaker's expense.

(14) The undertaker must agree with the MMO, before commencement of works, whether the dropped object procedure or audit sheet is to be used.

### **Force majeure**

**15.** If, due to stress of weather or any other cause, the master of a vessel determines that it is necessary to deposit the authorised deposits otherwise than in accordance with Condition 17(2) because the safety of human life or of the vessel is threatened—

- (a) full details of the circumstances of the deposit must be notified to the MMO within 48 hours ; and
- (b) at the reasonable request of the MMO, the unauthorised deposits must be removed at the undertaker's expense.

### **Pre-construction plans and documentation**

**16.** The licensed activities or any phase of those activities must not commence until the following (insofar as relevant to that activity or phase of activity) have been submitted to and approved in writing by the MMO—

#### *Array location and layout plan*

- (a) an array location and layout plan to be agreed in writing by the MMO following consultation with Trinity House and the MCA that details—
  - (i) the number, specifications, dimensions, foundation types and depth of all wind turbine generators, substations, platforms and meteorological masts;
  - (ii) the proposed location, including grid co-ordinates of the centre point of the proposed location, for all wind turbine generators, substations, platforms and meteorological masts;
  - (iii) the proposed layout of HVAC cables; and
  - (iv) the location and specification of vessel moorings and other permanent ancillary works as agreed by the MMO,

to ensure compliance with the parameters applicable to Work No. 1A specified in the Conditions and the principles in section 5.2 of the environmental statement;

#### *Detailed construction and monitoring programme*

- (b) a detailed construction and monitoring programme, including details of—
  - (i) the proposed construction commencement date;
  - (ii) proposed timings for mobilisation of plant, delivery of materials and installation works; and
  - (iii) proposed pre-construction surveys, a proposed format and content for a baseline report, construction monitoring, post-construction monitoring and related reporting in consultation with the relevant statutory nature conservation body. The pre-construction survey programme and all pre-construction survey methodologies must be submitted to the MMO for written approval at least 4 months before commencement of any survey works detailed within;



#### *Construction method statement*

- (c) a construction method statement in accordance with the construction methods assessed in the environmental statement, including details of—
  - (i) drilling methods and arrangements for disposal of drill arisings, in accordance with the disposal scenario statement;
  - (ii) platform location and installation, including scour protection and foundations which must be those that are able to be completely and safely removed, or reduced to a level below the seabed, at the time of decommissioning;
  - (iii) cable installation;
  - (iv) impact piling soft start procedures;
  - (v) the source of rock material used in construction and method to minimise contaminants and fines;
  - (vi) contractors;
  - (vii) vessels;
  - (viii) associated works;
  - (ix) foundation scour protection requirements in a plan produced following pre-construction surveys identifying where scour protection is most likely to be required (an “intelligent scour protection management plan”); and
  - (x) details of notification of the closure of the disposal site (reference number DG030) on completion of disposal activities;

#### *Project environmental management and monitoring plan*

- (d) a project environmental management and monitoring plan that details minimum environmental management requirements expected of all contractors and subcontractors with regards to marine pollution contingency, waste management and disposal, chemical risk assessment and relevant fisheries liaison matters, including details of—
  - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents during construction and operation of the authorised scheme in relation to all activities carried out;
  - (ii) a chemical risk assessment, including information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
  - (iii) waste management and disposal arrangements;
  - (iv) the fisheries liaison officer, being a person appointed by the undertaker and charged with communication and liaison with the fishing industry as appropriate through the lifetime of the authorised scheme, to be notified to the marine officer for the MMO’s Northern Marine Area and the MMO Marine Licensing Team. Evidence of liaison must be collated so that signatures of attendance at meetings, agenda and minutes of meetings with the fishing industry can be provided to the MMO if requested; and
  - (v) a fisheries liaison plan in accordance with the draft fisheries liaison plan, including information on liaison with the fishing industry (including by the fisheries liaison officer referred to in sub-paragraph (iv)) and a co-existence plan that details how the project will be constructed and operated taking account of the fisheries industry;

#### *Marine mammal mitigation protocol*

- (e) a marine mammal mitigation protocol with appropriate monitoring surveys in accordance with the offshore in principle monitoring plan, to be agreed in writing by the MMO in consultation with the relevant statutory nature conservation body and the Royal Society of Wildlife Trusts<sup>(a)</sup>, the intention of which is to prevent, amongst other things,—

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(a) Registered charity no. 207238.

- (i) injury to marine mammals, primarily auditory injury in the vicinity of any piling;
- (ii) disturbance to marine mammals;
- (iii) adversely affecting the integrity, within the meaning of the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007<sup>(a)</sup>, of a European offshore marine site or a European site (defined in regulations 15 and 24 of those Regulations respectively), to the extent that marine mammals are a protected feature of that site;

*Cable specification and installation plan*

- (f) a cable specification and installation plan, following consultation with the relevant statutory nature conservation body, including—
  - (i) technical specification of offshore cables, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
  - (ii) a staged cable-laying plan for the Order limits, incorporating a burial risk assessment to ascertain suitable burial depths and cable-laying techniques;
  - (iii) a plan produced following pre-construction surveys identifying where scour protection is most likely to be required and providing details of the need, type, sources, quality and installation methods for scour protection and cable protection (an “intelligent scour protection management plan”); and
  - (iv) details of the methodology and extent of a post-lay survey to confirm burial depths;

*Offshore archaeological written scheme of investigation*

- (g) an offshore archaeological written scheme of investigation in relation to the offshore areas within the Order limits in accordance with the outline offshore archaeological written scheme of investigation, industry good practice and in consultation with English Heritage, including—
  - (i) details of responsibilities of the undertaker, archaeological consultant and contractor inclusive of an agreed programme for the publication of results;
  - (ii) a methodology for any further site investigation including any specifications for geophysical, geotechnical and diver- or remotely-operated vehicle investigations;
  - (iii) within 3 months of any survey being completed, a timetable to be submitted to the MMO setting out the timeframe for the analysis and reporting of survey data;
  - (iv) delivery of any mitigation including, where necessary, archaeological exclusion zones;
  - (v) monitoring during and post-construction, including a conservation programme for finds;
  - (vi) archiving of archaeological material, including ensuring that a copy of any agreed archaeological report is deposited with the English Heritage archive by submitting an English Heritage OASIS form with a digital copy of the report; and
  - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme;

*Aids to navigation management plan*

- (h) an aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House and the MCA specifying—
  - (i) the aids to navigation to be established from the commencement of the authorised scheme to the completion of decommissioning;
  - (ii) the monitoring and reporting of the availability of aids to navigation; and

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<sup>(a)</sup> S.I. 2007/1842.

- (iii) notifications and procedures for ensuring navigational safety following failures to aids to navigation.

**17.—**(1) Each programme, statement, plan, protocol, scheme or details required to be approved under Condition 16 must be submitted for approval at least 4 months before the intended commencement of construction, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) The licensed activities must be carried out in accordance with the programmes, statements, plans, protocols, schemes and details approved under Condition 16.

### **Offshore safety management**

**18.—**(1) Offshore works must not commence until the MMO, in consultation with the MCA,—

- (a) has given written approval for an emergency response and co-operation plan (“ERCoP”) that includes full details of the emergency response procedures for the construction, operation and decommissioning phases of the authorised scheme in accordance with the MCA recommendations contained in the OREI guidance; 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 the authorised scheme.

(2) The ERCoP must include the identification of a point of contact for emergency response.

(3) The ERCoP must be implemented as approved.

(4) In this Condition, “OREI guidance” means MCA document MGN371 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes.

### **Reporting of engaged agents, contractors and vessels**

**19.—**(1) The undertaker must provide the name and function of any agent or contractor appointed to engage in the licensed activities to the MMO at least 2 weeks before agents, contractors and vessels carry out licensed activities.

(2) Each week during the construction of the authorised scheme a completed Hydrographic Note H102 must be provided to the MMO listing the vessels currently and to be used in relation to the licensed activities.

(3) Any changes to the supplied details must be notified to the MMO in writing before the agent, contractor or vessel engages in the licensed activities.

### **Equipment and operation of vessels engaged in licensed activities**

**20.—**(1) All vessels employed to perform the licensed activities must be constructed and equipped to be capable of the proper performance of such activities in accordance with the Conditions and (except in the case of remotely-operated vehicles or vessels) must comply with sub-paragraphs (2) to (5).

(2) All motor-powered vessels must be fitted with—

- (a) an electronic positioning aid to provide navigational data;
- (b) radar;
- (c) an echo-sounder; and
- (d) multi-channel VHF.

(3) All vessels’ names or identification must be clearly marked on the hull or superstructure.

(4) All communication on VHF working frequencies must be in English.

(5) No vessel may engage in the licensed activities until all the equipment specified in sub-paragraph (2) is fully operational.

## **Pre-construction monitoring**

**21.**—(1) The undertaker must, in discharging Condition 16(b) and the requirement to prepare a detailed construction and monitoring programme, include details for written approval by the MMO of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report. The survey proposals must be in accordance with the principles set out in the offshore in principle monitoring plan and must specify each survey's objectives and explain how it assists in either informing a useful and valid comparison with the post-construction position or enables the validation or otherwise of key predictions in the environmental statement. The baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this Condition, where appropriate and necessary it is expected that the pre-construction surveys will comprise—

- (a) an appropriate survey to determine the location and reasonable extent of any benthic habitats of conservation, ecological or economic importance (including Annex 1 habitats) in whole or in part inside the areas within the Order limits in which it is proposed to carry out construction works;
- (b) appropriate high-resolution bathymetric surveys undertaken to International Hydrographic Organisation Order IA standard and side-scan surveys of the areas within the Order limits in which it is proposed to carry out construction works, including a 500-metre buffer area around the site of each work. This must include the identification of sites of historic or archaeological interest (A1 and A3 receptors) and any unidentified anomalies larger than 5 metres in diameter (A2 receptors), which may require the refinement, removal or introduction of archaeological exclusion zones and to confirm project-specific micro-siting requirements (for A2 receptors); and
- (c) appropriate surveys of existing ornithological activity inside the areas within the Order limits in which it is proposed to carry out construction works, and any wider areas where appropriate, which are required to validate predictions in the environmental statement concerning key ornithological interests of relevance to the authorised scheme.

(3) The undertaker must carry out and complete the surveys to be undertaken under subparagraph (1) in a timescale agreed by the MMO.

## **Construction monitoring**

**22.**—(1) The undertaker must, in discharging Condition 16(b), submit details for approval by the MMO of any proposed surveys or monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme.

(2) The detailed construction and monitoring programme referred to in Condition 16(b) must be submitted at least 4 months before the commencement of any survey works and provide the agreed reports in the agreed format in accordance with the agreed timetable. The survey proposals must be in accordance with the principles set out in the offshore in principle monitoring plan and must specify each survey's objectives. The construction surveys must comprise—

- (a) where driven or part-driven pile foundations (for each specific foundation type) are proposed to be used, measurements of noise generated by the installation of 1 pile from each of the first 4 structures with piled foundations, following which the MMO must determine whether further noise monitoring is required. The results of the initial noise measurements must be provided to the MMO within 6 weeks of the installation of the first relevant foundation piece. The assessment of this report by the MMO must determine whether any further noise monitoring is required;
- (b) vessel traffic monitoring by automatic identification system, including the provision of reports on the results of that monitoring periodically as requested by the MMO; and
- (c) appropriate surveys of ornithological activity inside the areas within the Order limits in which it is proposed to carry out construction works, and any wider areas where

appropriate, dependent on the outcomes of the pre-construction surveys, as agreed by the MMO in consultation with the relevant statutory nature conservation body.

(3) The undertaker must carry out and complete the surveys to be undertaken under sub-paragraph (1) in a timescale agreed by the MMO.

### **Post-construction surveys**

**23.**—(1) The undertaker must, in discharging Condition 16(b), submit details for written approval by the MMO of the 5 post-construction surveys proposed in sub-paragraph (2), including methodologies and timings, and a proposed format, content and timings for providing reports on the results at least 4 months before commencement of any survey works detailed within. The survey proposals must be in accordance with the principles set out in the offshore in principle monitoring plan and specify each survey's objectives and explain how it assists in either informing a useful and valid comparison with the pre-construction position or enables the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt of specific proposals, it is expected that the post-construction surveys will comprise—

- (a) appropriate surveys of ornithological activity inside the areas within the Order limits in which construction works were carried out, and any wider areas where appropriate, which are required to validate predictions in the environmental statement concerning key ornithological interests of relevance to the authorised scheme;
- (b) appropriate high-resolution bathymetric surveys undertaken to International Hydrographic Organisation Order IA standard and side-scan sonar surveys, around the areas within the Order limits in which construction works were carried out, including a 500-metre buffer area around the site of each work. For this purpose, the undertaker must before the first survey submit a desk-based assessment (that takes into account all factors that influence scour) to identify the sample of infrastructure locations that are considered appropriate with greatest potential for scour. The survey must be used to validate the desk-based assessment. Further surveys may be required if there are significant differences between the modelled scour and recorded scour;
- (c) dependent on the outcome of the surveys undertaken under Condition 21(2)(a), appropriate surveys to determine the effects of construction activity on any benthic habitats of conservation, ecological or economic importance (including Annex 1 habitats) in whole or in part inside the areas within the Order limits to validate predictions made in the environmental statement and to identify the presence of any non-native species and wider community type structure;
- (d) vessel traffic monitoring by automatic identification system totalling a maximum of 28 days taking account of seasonal variations in traffic patterns over 1 year, following the commencement of commercial operation. A report must be submitted to the MMO and the MCA following the end of the monitoring; and
- (e) appropriate surveys to determine the change in size and form of the drill disposal mounds over the lifetime of the authorised scheme.

(3) The undertaker must carry out the surveys under sub-paragraph (1) and provide the reports in the agreed format in accordance with the timetable agreed in writing by the MMO following consultation with the relevant statutory nature conservation body.

### **Offshore maintenance plan**

**24.**—(1) The undertaker must, at least 4 months before commissioning the licenced activities, submit for written approval by the MMO an offshore maintenance plan based on the maintenance assessed in accordance with the environmental statement in the outline offshore maintenance plan.

(2) An update to the offshore maintenance plan must be submitted for approval every 3 years, or sooner in the event of any proposed major revision to planned maintenance activities or the adoption of any new technologies or techniques applicable to programmed maintenance.

(3) Maintenance must be carried out in accordance with the approved offshore maintenance plan.

### **Aids to navigation**

**25.** The undertaker must during the whole period of the construction, operation, alteration, replacement or decommissioning of the authorised scheme exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation, as directed by Trinity House.

**26.** The undertaker must submit reports quarterly to Trinity House detailing the working condition of aids to navigation. Reports may be requested more frequently by Trinity House, and must be submitted by the undertaker as requested.

**27.** The undertaker must notify Trinity House and the MMO of any failure of aids to navigation as soon as possible and no later than 24 hours following the detection of the failure.

**28.** Following notification of a failure of aids to navigation, the undertaker must as soon as practicable notify Trinity House and the MMO of a timescale and plan for remedying the failure.

**29.** The undertaker must paint all structures that are part of the authorised scheme yellow (colour code RAL 1023) from at least HAT to a height as directed by Trinity House.

**30.** In case of damage to, or destruction or decay of, the authorised scheme or any part of it, the undertaker must as soon as possible and no later than 24 hours following the identification of damage, destruction or decay, notify Trinity House and the MMO.

**31.** The undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

### **Progress of authorised scheme**

**32.** The undertaker must keep Trinity House, the MCA and the MMO informed of progress of the authorised scheme including—

- (a) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within 5 working days of completion of construction of the authorised scheme.

### **Amendments to plans, etc.**

**33.** Where any Condition requires licensed activities to be carried out in accordance with any programme, statement, plan, protocol, scheme, details or arrangements approved by the MMO, the approved programme, statement, plan, protocol, scheme, details or arrangements must be taken to include any amendments that may subsequently be approved in writing by the MMO (after consulting any person that the MMO is required to consult under the relevant Condition).

## Marine Licence 2: Project B Offshore Generation – Work Nos. 1B and 2T

## PART 1

## Licensed activities

**Interpretation****1.—(1) In this licence—**

“2009 Act” means the Marine and Coastal Access Act 2009;

“Annex 1 habitat” means a habitat set out in Annex 1 to Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora;

“array location and layout plan” means the array location and layout plan referred to in Condition 16(a);

“authorised deposits” means the substances and articles specified in paragraph 2(3);

“authorised scheme” means Work Nos. 1B and 2T described in paragraph 2 or any part or phase of those works;

“cable crossing” means the crossing of existing subsea cables and pipelines by the inter-array, inter-platform or export cables authorised by the Order together with physical protection measures including cable protection;

“cable protection” means measures to protect cables from physical damage and exposure due to loss of seabed sediment including, but not limited to, the use of bagged solutions filled with grout or other materials, protective aprons or coverings, mattresses, flow energy dissipation devices or rock and gravel burial;

“chemical risk assessment” means the chemical risk assessment referred to in Condition 16(d)(ii);

“combined platform” means a single offshore platform combining 2 or more of the following—

- (a) an offshore collector platform;
- (b) an offshore converter platform;
- (c) an offshore accommodation or helicopter platform;

“commence” means begin to carry out any part of the licensed activities except for the pre-construction surveys and monitoring”; and “commencement” must be construed accordingly;

“commercial operation”, in relation to the authorised scheme, means the exporting, on a commercial basis, of electricity from the wind turbine generators comprised in the scheme;

“Condition” means a condition in Part 2;

“disposal scenario statement” means the document certified as the disposal scenario statement by the Secretary of State under article 42 of the Order (certification of plans and documents, etc.);

“draft fisheries liaison plan” means the document certified as the draft fisheries liaison plan by the Secretary of State under article 42 of the Order;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 42 of the Order together with any supplementary or further environmental information submitted in support of the application for the Order;

“gravity base foundation” means a foundation type that rests on the seabed and supports a wind turbine generator, meteorological station or offshore platform primarily due to its own weight and that of added ballast, with or without skirts or other additional fixings, which may include associated equipment including J-tubes and access platforms and separate topside connection structures or an integrated transition piece. (Sub-types for wind turbine generators and meteorological stations include conical gravity base and flat-based gravity base foundations. Sub-types for platforms include offshore platform conical or flat-base gravity base foundations, and offshore platform semi-submersible gravity base foundations);

“HAT” (highest astronomical tide) means the highest tide that can be predicted to occur under average meteorological conditions;

“HVAC” means high voltage alternating current;

“HVDC” means high voltage direct current;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO;

“licensed activities” means the activities specified in paragraph 2;

“maintain” includes inspect, repair, adjust and alter and further includes remove, reconstruct and replace any of the ancillary works in Part 2 of Schedule 1 (ancillary works) to the Order and any component part of any wind turbine generator, offshore platform, meteorological station, electricity or communication cable described in Part 1 of that Schedule (authorised development) (but not including the removal or replacement of foundations) to the extent set out in the offshore maintenance plan referred to in Condition 24; and “maintenance” must be construed accordingly;

“marine pollution contingency plan” means the marine pollution contingency plan referred to in Condition 16(d)(i);

“MCA” means the Maritime and Coastguard Agency;

“meteorological mast” or “meteorological station” means a fixed or floating structure housing or incorporating equipment to measure wind speed and other meteorological and oceanographic characteristics, including a topside which may house electrical switchgear and communication equipment and associated equipment, and marking and lighting;

“MHWS” (mean high water springs) means the highest level that spring tides reach on average over a period of time;

“MMO” means the Marine Management Organisation;

“monopole foundation” means a foundation option based around a single vertical pillar structure driven, drilled, or embedded into the seabed by means such as suction or gravity. This main support structure may change in diameter via tapers or abrupt steps. (Sub-types for wind turbine generators and meteorological stations include monopole with steel monopile footing, monopole with concrete monopile footing and monopole with a single suction-installed bucket footing);

“multi-leg foundation” means a foundation option based around structures with several legs or footings. This includes jackets, tripods and other structures which include multiple large tubulars, cross-bracing or lattices. Multi-leg foundations may be fixed to the seabed by footings which are driven, drilled, screwed, jacked-up or embedded into the seabed by means such as suction or gravity. (Sub-types for wind turbine generators and meteorological stations include multi-legs with driven piles, drilled piles, screw piles, suction buckets and jack-up foundations. Sub-types for platforms include offshore platform jacket foundations (potentially using driven piles, suction buckets or screw piles) and offshore platform jack-up foundations);

“notice to mariners” includes any notice to mariners which may be issued by the Admiralty, Trinity House, Queen’s harbourmasters, government departments and harbour and pilotage authorities;

“offshore accommodation or helicopter platform” means a platform (either singly or as part of a combined platform) housing or incorporating some or all of the following: accommodation for staff during the construction, operation and decommissioning of the authorised scheme,



landing facilities for vessels and helicopters, re-fuelling facilities, communication and control systems, electrical systems such as metering and control systems, small- and large-scale electrical power systems, J-tubes, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore collector platform” means a platform (either singly or as part of a combined platform) housing or incorporating electrical switchgear or electrical transformers, electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, accommodation for staff during the construction, operation and decommissioning of the authorised scheme, communication and control systems, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore converter platform” means a platform (either singly or as part of a combined platform) housing or incorporating HVDC electrical switchgear or electrical transformers and other equipment to enable HVDC transmission to be used to convey the power output of the multiple wind turbine generators to shore including electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, accommodation for staff during the construction, operation and decommissioning of the authorised scheme, communication and control systems, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore in principle monitoring plan” means the document certified as the offshore in principle monitoring plan by the Secretary of State under article 42 of the Order;

“offshore order limits and grid co-ordinates plan” means the plans certified as the offshore order limits and grid co-ordinates plan by the Secretary of State under article 42 of the Order;

“offshore platform” means any of the following—

- (a) an offshore accommodation or helicopter platform;
- (b) an offshore collector platform;
- (c) an offshore converter platform;
- (d) a combined platform;

“onshore order limits and grid co-ordinates plan” means the plans certified as the onshore order limits and grid co-ordinates plan by the Secretary of State under article 42 of the Order;

“Order” means the Dogger Bank Teesside A and B Offshore Wind Farm Order 2015;

“Order limits” means the limits shown on the offshore order limits and grid co-ordinates plan and the onshore order limits and grid co-ordinates plan;

“outline offshore archaeological written scheme of investigation” means the document certified as the outline offshore archaeological written scheme of investigation by the Secretary of State under article 42 of the Order;

“outline offshore maintenance plan” means the document certified as the outline offshore maintenance plan by the Secretary of State under article 42 of the Order;

“scour protection” means measures to prevent loss of seabed sediment around foundation bases by the use of bagged solutions filled with grout or other material, protective aprons, mattresses, flow energy dissipation devices and rock and gravel burial;

“undertaker” means Doggerbank Project 3 Bizco Limited (company number 07791964) whose registered office is 55 Vastern Road, Reading, Berkshire RG1 8BU;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or

adapted for movement through, in, on or over water and which is at the time in, on or over water;

“wind turbine generator” means a structure comprising a tower, a rotor with 3 blades connected at the hub, a nacelle and ancillary electrical and other equipment which may include J-tubes, transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment, fixed to a foundation.

(2) In this licence, a reference to any statute, order, regulation or similar instrument is 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) In this licence, unless otherwise indicated,—

- (a) all times are Greenwich Mean Time (GMT);
- (b) all co-ordinates are latitude and longitude decimal degrees to 6 decimal places. The datum system used is World Geodetic System 1984 datum (WGS84).

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below, and the address for returns and correspondence, is—

- (a) Marine Management Organisation

Marine Licensing Team

Lancaster House

Hampshire Court

Newcastle-upon-Tyne NE4 7YH

Email: [marine.consents@marinemanagement.org.uk](mailto:marine.consents@marinemanagement.org.uk)

Tel: 0300 123 1032;

- (b) Trinity House

Tower Hill

London EC3N 4DH

Tel: 020 7481 6900;

- (c) United Kingdom Hydrographic Office

Admiralty Way

Taunton

Somerset TA1 2DN

Tel: 01823 337 900;

- (d) Maritime and Coastguard Agency

Navigation Safety Branch

Bay 2/04

Spring Place

105 Commercial Road

Southampton SO15 1EG

Tel: 023 8032 9191;

- (e) Natural England

Foundry House

3 Millsands

Riverside Exchange  
Sheffield S3 8NH  
Tel: 0300 060 4911;

- (f) English Heritage  
Eastgate Court  
195-205 High Street  
Guildford GU1 3EH  
Tel: 01483 252 057.

(5) For information only, the details of the local MMO office to the authorised scheme is—

Marine Management Organisation – Northern Marine Area  
MMO Coastal Office  
Neville House  
Central Riverside  
Bell Street  
North Shields  
Tyne and Wear NE30 1LJ  
Email: northshields@marinemanagement.org.uk  
Tel: 0191 257 4520.

### Details of licensed activities

2.—(1) This licence authorises the undertaker (and any agent or contractor acting on its behalf) to carry out the following licensable marine activities under Part 4 of the 2009 Act, subject to the Conditions—

- (a) the deposit at sea of the substances and articles specified in sub-paragraph (3);
- (b) subject to sub-paragraph (7), the construction of the works specified in sub-paragraph (2) in or over the sea or on or under the sea bed including the removal, reconstruction or alteration of the position of subsea cables and pipelines;
- (c) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation.

(2) The licensed activities are authorised in relation to the construction, maintenance and operation of—

#### **Work No. 1B –**

- (a) an offshore wind turbine generating station with a gross electrical output capacity of up to 1.2 gigawatts comprising up to 200 wind turbine generators each fixed to the seabed by monopole, multi-leg or gravity base type foundations situated within the area enclosed by the points whose co-ordinates are set out in Table 1B (the “array area”);

**Table 1B - Array area**

<i>Point</i>	<i>Latitude (decimal degrees)</i>	<i>Longitude (decimal degrees)</i>
25	55.12443	2.14572
26	55.13002	2.21780
51	54.97070	2.50189
52	54.96096	2.48529

<i>Point</i>	<i>Latitude (decimal degrees)</i>	<i>Longitude (decimal degrees)</i>
56	54.83864	2.27783
57	54.83862	2.26336
24	55.01111	1.95454

- (b) up to 7 offshore platforms comprising the following—
  - (i) up to 4 offshore collector platforms situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations;
  - (ii) 1 offshore converter platform situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations;
  - (iii) up to 2 offshore accommodation or helicopter platforms situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations,
 provided that any of the platforms comprised in Work No. 1B(b)(i) to (iii) may be co-joined to create a combined platform fixed to the seabed by multi-leg or gravity base type foundations;
- (c) up to 5 meteorological stations situated within the array area either fixed to the seabed by monopole, multi-leg or gravity base type foundations or utilising a floating support structure anchored to the seabed;
- (d) a network of cables for the transmission of electricity and electronic communications laid on or beneath the seabed (including cable crossings) between—
  - (i) any of the wind turbine generators comprised in Work No. 1B(a);
  - (ii) any of the wind turbine generators comprised in Work No. 1B(a) and any of the works comprised in Work No. 1B(c);
  - (iii) any of the works comprised in Work No. 1B(b) and any of the works comprised in Work No. 1B(c); and
  - (iv) the offshore converter platform referred to in Work No. 1B(b)(ii) or a combined platform referred to in Work No. 1B(b) and the export cable route in Work No. 2B (as defined in the Order); and
- (e) up to 10 vessel moorings situated within the array area consisting of a single floating buoy secured by chain and anchor anchored to the seabed;

**Work No. 2T** – a temporary work area for vessels to carry out intrusive activities during construction, including vessels requiring anchor spreads, alongside the cable corridors; and

Ancillary works in connection with the above-mentioned works comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction or maintenance of the authorised scheme;
  - (b) temporary or permanent buoys, beacons, fenders and other navigational warning on ship impact protection works;
  - (c) temporary works for the protection of land or structures affected by the authorised scheme;
  - (d) cable protection, scour protection or dredging; and
  - (e) cable route preparation works including boulder removal and obstruction clearance, dredging and pre-sweeping.
- (3) The substances or articles authorised for deposit at sea are—
- (a) iron, steel and aluminium;
  - (b) stone and rock;
  - (c) concrete and grout;
  - (d) sand and gravel;

- (e) plastic and synthetic;
- (f) material extracted from within the offshore areas within the Order limits during construction drilling and seabed preparation for foundation works and cable sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

(4) Subject to the Conditions, this licence authorises the disposal of up to 968,789 cubic metres of material of natural origin within Work No. 1B produced during construction drilling and seabed preparation for foundation works and cable sandwave preparation works (disposal site reference number DG025).

(5) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 31st January each year for the months August to January inclusive, and by 31st July each year for the months February to July inclusive.

(6) The licence does not permit the decommissioning of the authorised scheme. No decommissioning activity may commence until a decommissioning programme has been approved by the Secretary of State under section 106 of the Energy Act 2004. Furthermore, at least 4 months before carrying out any decommissioning activity, the undertaker must notify the MMO of the proposed activity to establish whether a marine licence is required for the activity.

(7) This licence and Marine Licence 4 (as defined in the Order), when taken together, do not authorise the construction of more than 1 Work No. 1B or the construction of Work No. 1B in excess of the maximum parameters for that work set out in Schedule 1 to the Order.

## PART 2

### Conditions

#### **Detailed offshore design parameters**

**3.—**(1) No wind turbine generator may—

- (a) exceed a height of 315 metres when measured from HAT to the tip of the vertical blade;
- (b) have a rotor diameter exceeding 215 metres;
- (c) be less than a multiple of 6 times the rotor diameter from the nearest wind turbine generator in any direction being not less than 750 metres measured between wind turbine generators;
- (d) have a distance of less than 26 metres between the lowest point of the rotating blade of the wind turbine generator and HAT.

(2) The total rotor-swept area within Work No. 1B must not exceed 4.35 square kilometres.

(3) References to the location of a wind turbine generator are references to the centroid point at the base of the wind turbine generator.

**4.—**(1) No meteorological station lattice tower may exceed a height of 315 metres above HAT.

(2) Meteorological mast foundation structures must be of 1 or more of the following foundation options: monopole, multi-leg, gravity base or floating structure secured by chain and anchor.

(3) No meteorological mast foundation structure employing a footing of driven piles may—

- (a) have more than 4 driven piles;
- (b) in the case of single-pile structures, have a pile diameter exceeding 10 metres or employ a hammer energy during installation exceeding 2,300 kilojoules;
- (c) in the case of structures with 2 or more piles, have a pile diameter exceeding 3.5 metres or employ a hammer energy during installation exceeding 1,900 kilojoules.

(4) No meteorological mast foundation may have—

- (a) a seabed footprint (excluding subsea scour protection) exceeding 1,735 square metres;
- (b) a seabed footprint (including subsea scour protection) exceeding 4,657 square metres;
- (c) a main supporting structure exceeding 51.5 metres in width.

**5.—**(1) The total number of offshore platforms within Work No. 1B must not exceed 7, comprising—

- (a) up to 4 offshore collector platforms;
- (b) 1 offshore converter platform; and
- (c) up to 2 offshore accommodation or helicopter platforms,

provided that any of the platforms referred to in paragraphs (a) to (c) may be co-joined to create a combined platform fixed to the seabed by multi-leg or gravity base type foundations.

(2) The dimensions of any offshore collector platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed—

- (a) 75 metres in length;
- (b) 75 metres in width;
- (c) 85 metres in height above HAT.

(3) The dimensions of any offshore converter platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed—

- (a) 125 metres in length;
- (b) 100 metres in width;
- (c) 105 metres in height above HAT.

(4) The dimensions of any offshore accommodation or helicopter platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed—

- (a) 125 metres in length;
- (b) 100 metres in width;
- (c) 105 metres in height above HAT.

(5) The dimensions of any combined platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed the total seabed footprint of the individual platforms incorporated within it.

(6) Offshore platform foundation structures must be of 1 or more of the following foundation options: gravity base or multi-leg.

(7) No offshore platform foundation structure employing a footing of driven piles may—

- (a) have more than 24 driven piles;
- (b) have a pile diameter exceeding 2.75 metres or employ a hammer energy during installation exceeding 1,900 kilojoules.

(8) Within Work No. 1B, the seabed footprint per offshore foundation (excluding subsea scour protection) must not exceed—

- (a) in the case of an offshore collector platform, 5,625 square metres;
- (b) in the case of an offshore converter platform, 12,500 square metres;
- (c) in the case of an offshore accommodation or helicopter platform, 12,500 square metres.

(9) No offshore collector platform foundation may have a seabed footprint (including subsea scour protection) exceeding 9,025 square metres.

(10) No offshore converter platform foundation may have a seabed footprint (including subsea scour protection) exceeding 17,400 square metres.

(11) No offshore accommodation or helicopter platform foundation may have a seabed footprint (including subsea scour protection) exceeding 17,400 square metres.

(12) The number of vessels actively carrying out impact piling as part of the installation of driven pile foundations must at no time exceed 2 within Work No. 1B.

**6.**—(1) Wind turbine generator foundation structures must be of 1 or more of the following foundation options: monopole, multi-leg or gravity base.

(2) No wind turbine generator foundation structure employing a footing of driven piles may—

- (a) have more than 6 driven piles;
- (b) in the case of single-pile structures, have a pile diameter exceeding 12 metres or employ a hammer energy during installation exceeding 3,000 kilojoules;
- (c) in the case of structures with 2 or more piles, have a pile diameter exceeding 3.5 metres or employ a hammer energy during installation exceeding 2,300 kilojoules.

(3) No wind turbine generator foundation may have—

- (a) a main supporting structure exceeding 61 metres in width;
- (b) a seabed footprint (excluding subsea scour protection) exceeding 2,376 square metres;
- (c) a seabed footprint (including subsea scour protection) exceeding 5,675 square metres.

(4) The foundations for wind turbine generators must be in accordance with the wave reflection co-efficient values set out at Table 3.6 in Chapter 5, Appendix B (foundation characterisation study) of the environmental statement.

**7.** Within Work No. 1B, the wind turbine generator foundations must not have—

- (a) a total seabed footprint exceeding 1,005,300 square metres;
- (b) subsea scour protection exceeding 1,084,850 cubic metres in total volume of material;
- (c) subsea scour protection exceeding 755,400 square metres in total seabed footprint.

**8.**—(1) The total seabed footprint of foundation structures (excluding mooring buoys) within Work No. 1B (including subsea scour protection and drill arising deposits) must not exceed 1,116,850 square metres.

(2) The total seabed footprint of offshore platform foundation structures within Work No. 1B (including seabed scour protection and drill arising deposits) must not exceed 88,300 square metres.

**9.** Within Work No. 1B, the HVAC cables must not, in total,—

- (a) exceed 1,270 kilometres in length;
- (b) have cable protection (excluding cable crossings) exceeding 890,000 square metres in area;
- (c) have cable protection (excluding cable crossings) exceeding 572,000 cubic metres in volume.

**10.** Within Work No. 1B, the HVAC cable crossings must not, in total, exceed—

- (a) 24 in number;
- (b) 132,700 cubic metres in volume of cable crossing material;
- (c) 147,100 square metres in seabed footprint.

**11.** Within Work Nos. 1B and 2B, the HVDC cable crossings must not, in total, exceed—

- (a) 16 in number;
- (b) 88,450 cubic metres in volume of cable crossing material;
- (c) 98,100 square metres in seabed footprint.

## **Layout rules**

**12.**—(1) The positions of wind turbine generators and offshore platforms must be arrayed in accordance with the parameters applicable to Work No. 1B specified in the Conditions and the principles in section 5.2 of Chapter 5 of the environmental statement.

(2) The construction of wind turbine generators or offshore platforms must not commence until the array location and layout plan has been agreed.

(3) The construction of wind turbine generators and offshore platforms must be carried out in accordance with the array location and layout plan.

## **Notifications and inspections**

**13.**—(1) The undertaker must ensure that—

- (a) before carrying out any licensed activities, the undertaker informs the MMO of—
  - (i) the organisation undertaking the licensed activities and its primary point of contact;
  - (ii) the works being undertaken pursuant to this licence comprising those works necessary up to the point of connection with the transmission assets including (without limiting paragraph 2)—
    - (aa) up to 4 offshore collector platforms;
    - (bb) no more than 1 offshore converter platform;
    - (cc) up to 200 wind turbine generators;
    - (dd) up to 2 offshore accommodation or helicopter platforms;
    - (ee) up to 5 meteorological stations; and
    - (ff) a network of cables for the transmission of electricity and electronic communications;
  - (iii) the maximum total area and volume for any cable protection HVAC inter-array cables and HVAC inter-platform cables to be constructed within the array area; and
  - (iv) the maximum total area and volume for any cable protection to be constructed within the array area;
- (b) all works notified under this Condition when combined with any works notified under Condition 13 of Marine Licence 1 (as defined in the Order) and Condition 10 of Marine Licences 3 and 4 (as defined in the Order) do not exceed the maximum parameters set out in Schedule 1 to the Order;
- (c) a copy of this licence and any subsequent amendments or revisions to it is provided to—
  - (i) all agents and contractors notified to the MMO in accordance with Condition 19; and
  - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with that Condition; and
- (d) within 28 days of receipt of a copy of this licence, the organisations and primary points of contact referred to in paragraph (a) provide a completed confirmation form to the MMO confirming that they have read and will comply with the terms of this licence.

(2) Only the persons and vessels notified to the MMO in accordance with Condition 19 are permitted to carry out the licensed activities.

(3) Copies of this licence must also be available for inspection at the following locations—

- (a) the undertaker's registered address;
- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits;
- (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits are to be made.



(4) The documents referred to in sub-paragraph (1)(c) must be available for inspection by an enforcement officer at all reasonable times at the locations set out in sub-paragraph (3)(b).

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during the construction and operation of the authorised scheme.

(6) The undertaker must inform the MMO Marine Licensing Team and the MMO Coastal Office in writing at least 5 working days before commencement of the licensed activities or any phase of them.

(7) At least 7 days before commencement of the licensed activities or any phase of them, the undertaker must publish in the Kingfisher Fortnightly Bulletin details of the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant phase.

(8) The undertaker must ensure that a notice to mariners is issued at least 10 working days before commencement of the licensed activities or any phase of them advising of the commencement date of Work No. 1B and the expected vessel routes from the local construction ports to the relevant locations.

(9) The undertaker must ensure that the notices to mariners are updated and reissued at weekly intervals during construction activities and within 5 days of any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed by the MCA in accordance with the detailed construction and monitoring programme referred to in Condition 16(b). Copies of all notices must be provided to the MMO.

(10) The undertaker must notify—

- (a) the United Kingdom Hydrographic Office at least 2 weeks before commencement, and no later than 2 weeks following completion, of the authorised scheme in order that all necessary amendments to nautical charts are made; and
- (b) the MMO, MCA and Trinity House once the authorised scheme is completed and any required lighting or marking has been established.

### **Chemicals, drilling and debris**

**14.—**(1) All chemicals used in the construction of the authorised scheme, including any chemical agents placed within any monopile or other foundation structure void, must be selected from the list of notified chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002 and managed in accordance with the chemical risk assessment and the marine pollution contingency plan.

(2) The undertaker must ensure that any coatings and treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by the Health and Safety Executive or the Environment Agency pollution prevention guidelines. Any spillages must be reported to the MMO Marine Pollution Response Team within the timeframes specified in the marine pollution contingency plan.

(3) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works is discharged into the marine environment and that concrete and cement mixing and washing areas are contained to prevent run-off entering the water through the freeing ports.

(4) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(5) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO Marine Pollution Response Team within the timeframes specified in the marine pollution contingency plan.

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

(7) Where foundation drilling works are proposed, in the event that any system other than water-based mud is proposed, the MMO's written approval in relation to the proposed disposal of any

drill arisings must be obtained before the drilling commences, which may also require a marine licence.

(8) The undertaker must ensure that any debris arising from the construction of the authorised scheme or temporary works placed seaward of MHWS are removed on completion of the authorised scheme.

(9) The management of chemicals, drilling and control of debris referred to in sub-paragraphs (2) to (8) must be managed in accordance with the chemical risk assessment and the marine pollution contingency plan.

(10) At least 10 days before commencement of the licensed activities, the undertaker must submit to the MMO an audit sheet covering all aspects of the construction of the licensed activities or any phase of them. The audit sheet must include details of—

- (a) loading facilities;
- (b) vessels;
- (c) equipment;
- (d) shipment routes;
- (e) transport;
- (f) working schedules; and
- (g) all components and materials to be used in the construction of the authorised scheme.

(11) The audit sheet must be maintained throughout the construction of the authorised scheme (or relevant phase) and must be submitted to the MMO for review at fortnightly intervals during periods of active offshore construction.

(12) In the event that the MMO becomes aware that any of the materials on the audit sheet cannot be accounted for, it must require the undertaker to carry out a side-scan sonar survey to plot all obstructions across a reasonable area of search agreed by the MMO where construction works and related activities have been carried out. Local commercial fishing groups must be invited to send a representative to be present during the survey. Any obstructions that the MMO believes to be associated with the authorised scheme must be removed at the undertaker's expense.

(13) As an alternative to the completion of an audit sheet, with written approval from the MMO, the undertaker may introduce a dropped object procedure. If a dropped object procedure is introduced, any dropped objects must be reported to the MMO using the dropped object procedure form within 6 hours of the undertaker becoming aware of an incident. On receipt of the dropped object procedure form, the MMO may require relevant surveys to be carried out by the undertaker (such as side-scan sonar), and the MMO may require obstructions to be removed from the seabed at the undertaker's expense.

(14) The undertaker must agree with the MMO, before commencement of works, whether the dropped object procedure or audit sheet is to be used.

### **Force majeure**

**15.** If, due to stress of weather or any other cause, the master of a vessel determines that it is necessary to deposit the authorised deposits otherwise than in accordance with Condition 17(2) because the safety of human life or of the vessel is threatened—

- (a) full details of the circumstances of the deposit must be notified to the MMO within 48 hours; and
- (b) at the reasonable request of the MMO, the unauthorised deposits must be removed at the undertaker's expense.

### **Pre-construction plans and documentation**

**16.** The licensed activities or any phase of those activities must not commence until the following (insofar as relevant to that activity or phase of activity) have been submitted to and approved in writing by the MMO—

*Array location and layout plan*

- (a) an array location and layout plan to be agreed in writing by the MMO following consultation with Trinity House and the MCA that details—
  - (i) the number, specifications, dimensions, foundation types and depth of all wind turbine generators, substations, platforms and meteorological masts;
  - (ii) the proposed location, including grid co-ordinates of the centre point of the proposed location, for all wind turbine generators, substations, platforms and meteorological masts;
  - (iii) the proposed layout of HVAC cables; and
  - (iv) the location and specification of vessel moorings and other permanent ancillary works as agreed by the MMO,

to ensure compliance with the parameters applicable to Work No. 1B specified in the Conditions and the principles in section 5.2 of the environmental statement;

*Detailed construction and monitoring programme*

- (b) a detailed construction and monitoring programme, including details of—
  - (i) the proposed construction commencement date;
  - (ii) proposed timings for mobilisation of plant, delivery of materials and installation works; and
  - (iii) proposed pre-construction surveys, a proposed format and content for a baseline report, construction monitoring, post-construction monitoring and related reporting in consultation with the relevant statutory nature conservation body. The pre-construction survey programme and all pre-construction survey methodologies must be submitted to the MMO for written approval at least 4 months before commencement of any survey works detailed within;

*Construction method statement*

- (c) a construction method statement in accordance with the construction methods assessed in the environmental statement, including details of—
  - (i) drilling methods and arrangements for disposal of drill arisings, in accordance with the disposal scenario statement;
  - (ii) platform location and installation, including scour protection and foundations which must be those that are able to be completely and safely removed, or reduced to a level below the seabed, at the time of decommissioning;
  - (iii) cable installation;
  - (iv) impact piling soft start procedures;
  - (v) the source of rock material used in construction and method to minimise contaminants and fines;
  - (vi) contractors;
  - (vii) vessels;
  - (viii) associated works;
  - (ix) foundation scour protection requirements in a plan produced following pre-construction surveys identifying where scour protection is most likely to be required (an “intelligent scour protection management plan”); and
  - (x) details of notification of the closure of the disposal site (reference number DG025) on completion of disposal activities;

*Project environmental management and monitoring plan*

- (d) a project environmental management and monitoring plan that details minimum environmental management requirements expected of all contractors and subcontractors, with regards to marine pollution contingency, waste management and disposal, chemical risk assessment and relevant fisheries liaison matters, including details of—

- (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents during construction and operation of the authorised scheme in relation to all activities carried out;
- (ii) a chemical risk assessment, including information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
- (iii) waste management and disposal arrangements;
- (iv) the fisheries liaison officer, being a person appointed by the undertaker and charged with communication and liaison with the fishing industry as appropriate through the lifetime of the authorised scheme, to be notified to the marine officer for the MMO's Northern Marine Area and the MMO Marine Licensing Team. Evidence of liaison must be collated so that signatures of attendance at meetings, agenda and minutes of meetings with the fishing industry can be provided to the MMO if requested; and
- (v) a fisheries liaison plan in accordance with the draft fisheries liaison plan, including information on liaison with the fishing industry (including by the fisheries liaison officer referred to in sub-paragraph (iv)) and a co-existence plan that details how the project will be constructed and operated taking account of the fisheries industry;

*Marine mammal mitigation protocol*

- (e) a marine mammal mitigation protocol with appropriate monitoring surveys in accordance with the offshore in principle monitoring plan, to be agreed in writing by the MMO in consultation with the relevant statutory nature conservation body and the Royal Society of Wildlife Trusts, the intention of which is to prevent, amongst other things,—
  - (i) injury to marine mammals, primarily auditory injury in the vicinity of any piling;
  - (ii) disturbance to marine mammals;
  - (iii) adversely affecting the integrity, within the meaning of the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007, of a European offshore marine site or a European site (defined in regulations 15 and 24 of those Regulations respectively), to the extent that marine mammals are a protected feature of that site;

*Cable specification and installation plan*

- (f) a cable specification and installation plan, following consultation with the relevant statutory nature conservation body, including—
  - (i) technical specification of offshore cables, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
  - (ii) a staged cable-laying plan for the Order limits, incorporating a burial risk assessment to ascertain suitable burial depths and cable-laying techniques;
  - (iii) a plan produced following pre-construction surveys identifying where scour protection is most likely to be required and providing details of the need, type, sources, quality and installation methods for scour protection and cable protection (an “intelligent scour protection management plan”); and
  - (iv) details of the methodology and extent of a post-lay survey to confirm burial depths;

*Offshore archaeological written scheme of investigation*

- (g) an offshore archaeological written scheme of investigation in relation to the offshore areas within the Order limits in accordance with the outline offshore archaeological written scheme of investigation, industry good practice and in consultation with English Heritage, including—
  - (i) details of responsibilities of the undertaker, archaeological consultant and contractor inclusive of an agreed programme for the publication of results;
  - (ii) a methodology for any further site investigation including any specifications for geophysical, geotechnical and diver- or remotely-operated vehicle investigations;

- (iii) within 3 months of any survey being completed, a timetable to be submitted to the MMO setting out the timeframe for the analysis and reporting of survey data;
- (iv) delivery of any mitigation including, where necessary, archaeological exclusion zones;
- (v) monitoring during and post-construction, including a conservation programme for finds;
- (vi) archiving of archaeological material, including ensuring that a copy of any agreed archaeological report is deposited with the English Heritage archive by submitting an English Heritage OASIS form with a digital copy of the report; and
- (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme;

*Aids to navigation management plan*

- (h) an aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House and the MCA specifying—
  - (i) the aids to navigation to be established from the commencement of the authorised scheme to the completion of decommissioning;
  - (ii) the monitoring and reporting of the availability of aids to navigation; and
  - (iii) notifications and procedures for ensuring navigational safety following failures to aids to navigation.

**17.—**(1) Each programme, statement, plan, protocol, scheme or details required to be approved under Condition 16 must be submitted for approval at least 4 months before the intended commencement of construction, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) The licensed activities must be carried out in accordance with the programmes, statements, plans, protocols, schemes and details approved under Condition 16.

**Offshore safety management**

**18.—**(1) Offshore works must not commence until the MMO, in consultation with the MCA,—

- (a) has given written approval for an emergency response and co-operation plan (“ERCoP”) that includes full details of the emergency response procedures for the construction, operation and decommissioning phases of the authorised scheme in accordance with the MCA recommendations contained in the OREI guidance; 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 the authorised scheme.

(2) The ERCoP must include the identification of a point of contact for emergency response.

(3) The ERCoP must be implemented as approved.

(4) In this Condition, “OREI guidance” means MCA document MGN371 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes.

**Reporting of engaged agents, contractors and vessels**

**19.—**(1) The undertaker must provide the name and function of any agent or contractor appointed to engage in the licensed activities to the MMO at least 2 weeks before agents, contractors and vessels carry out licensed activities.

(2) Each week during the construction of the authorised scheme a completed Hydrographic Note H102 must be provided to the MMO listing the vessels currently and to be used in relation to the licensed activities.

(3) Any changes to the supplied details must be notified to the MMO in writing before the agent, contractor or vessel engages in the licensed activities.

### **Equipment and operation of vessels engaged in licensed activities**

**20.**—(1) All vessels employed to perform the licensed activities must be constructed and equipped to be capable of the proper performance of such activities in accordance with the Conditions and (except in the case of remotely-operated vehicles or vessels) must comply with sub-paragraphs (2) to (5).

(2) All motor-powered vessels must be fitted with—

- (a) an electronic positioning aid to provide navigational data;
- (b) radar;
- (c) an echo-sounder; and
- (d) multi-channel VHF.

(3) All vessels' names or identification must be clearly marked on the hull or superstructure.

(4) All communication on VHF working frequencies must be in English.

(5) No vessel may engage in the licensed activities until all the equipment specified in sub-paragraph (2) is fully operational.

### **Pre-construction monitoring**

**21.**—(1) The undertaker must, in discharging Condition 16(b), and the requirement to prepare a detailed construction and monitoring programme, include details for written approval by the MMO of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report. The survey proposals must be in accordance with the principles set out in the offshore in principle monitoring plan and must specify each survey's objectives and explain how it assists in either informing a useful and valid comparison with the post-construction position or enables the validation or otherwise of key predictions in the environmental statement. The baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this Condition, where appropriate and necessary it is expected that the pre-construction surveys will comprise—

- (a) an appropriate survey to determine the location and reasonable extent of any benthic habitats of conservation, ecological or economic importance (including Annex 1 habitats) in whole or in part inside the areas within the Order limits in which it is proposed to carry out construction works;
- (b) appropriate high-resolution bathymetric surveys undertaken to International Hydrographic Organisation Order IA standard and side-scan surveys of the areas within the Order limits in which it is proposed to carry out construction works, including a 500-metre buffer area around the site of each work. This must include the identification of sites of historic or archaeological interest (A1 and A3 receptors) and any unidentified anomalies larger than 5 metres in diameter (A2 receptors), which may require the refinement, removal or introduction of archaeological exclusion zones and to confirm project-specific micro-siting requirements (for A2 receptors); and
- (c) appropriate surveys of existing ornithological activity inside the areas within the Order limits in which it is proposed to carry out construction works, and any wider areas where appropriate, which are required to validate predictions in the environmental statement concerning key ornithological interests of relevance to the authorised scheme.

(3) The undertaker must carry out and complete the surveys to be undertaken under sub-paragraph (1) in a timescale agreed by the MMO.

## **Construction monitoring**

**22.**—(1) The undertaker must, in discharging Condition 16(b), submit details for approval by the MMO of any proposed surveys or monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme.

(2) The detailed construction and monitoring programme referred to in Condition 16(b) must be submitted at least 4 months before commencement of any survey works and provide the agreed reports in the agreed format in accordance with the agreed timetable. The survey proposals must be in accordance with the principles set out in the offshore in principle monitoring plan and must specify each survey's objectives. The construction surveys must comprise—

- (a) where driven or part-driven pile foundations (for each specific foundation type) are proposed to be used, measurements of noise generated by the installation of 1 pile from each of the first 4 structures with piled foundations, following which the MMO must determine whether further noise monitoring is required. The results of the initial noise measurements must be provided to the MMO within 6 weeks of the installation of the first relevant foundation piece. The assessment of this report by the MMO must determine whether any further noise monitoring is required;
- (b) vessel traffic monitoring by automatic identification system, including the provision of reports on the results of that monitoring periodically as requested by the MMO; and
- (c) appropriate surveys of ornithological activity inside the areas within the Order limits in which it is proposed to carry out construction works, and any wider areas where appropriate, dependent on the outcomes of the pre-construction surveys, as agreed by the MMO in consultation with the relevant statutory nature conservation body.

(3) The undertaker must carry out and complete the surveys to be undertaken under sub-paragraph (1) in a timescale agreed by the MMO.

## **Post-construction surveys**

**23.**—(1) The undertaker must, in discharging Condition 16(b), submit details for written approval by the MMO of the 5 post-construction surveys proposed in sub-paragraph (2), including methodologies and timings, and a proposed format, content and timings for providing reports on the results at least 4 months before commencement of any survey works detailed within. The survey proposals must be in accordance with the principles set out in the offshore in principle monitoring plan and specify each survey's objectives and explain how it assists in either informing a useful and valid comparison with the pre-construction position or enables the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt of specific proposals, it is expected that the post-construction surveys will comprise—

- (a) appropriate surveys of ornithological activity inside the areas within the Order limits in which construction works were carried out, and any wider areas where appropriate, which are required to validate predictions in the environmental statement concerning key ornithological interests of relevance to the authorised scheme;
- (b) appropriate high-resolution bathymetric surveys undertaken to International Hydrographic Organisation Order IA standard and side-scan sonar surveys around the areas within the Order limits in which construction works were carried out, including a 500-metre buffer area around the site of each work. For this purpose, the undertaker must before the first survey submit a desk-based assessment (that takes into account all factors that influence scour) to identify the sample of infrastructure locations that are considered appropriate with greatest potential for scour. The survey must be used to validate the desk-based assessment. Further surveys may be required if there are significant differences between the modelled scour and recorded scour;
- (c) dependent on the outcome of the surveys undertaken under Condition 21(2)(a), appropriate surveys to determine the effects of construction activity on any benthic habitats of conservation, ecological or economic importance (including Annex 1 habitats) in whole or in part inside the areas within the Order limits to validate predictions made in

the environmental statement and to identify the presence of any non-native species and wider community type structure;

- (d) vessel traffic monitoring by automatic identification system totalling a maximum of 28 days taking account of seasonal variations in traffic patterns over 1 year, following the commencement of commercial operation. A report must be submitted to the MMO and the MCA following the end of the monitoring; and
- (e) appropriate surveys to determine the change in size and form of the drill disposal mounds over the lifetime of the authorised scheme.

(3) The undertaker must carry out the surveys under sub-paragraph (1) and provide the reports in the agreed format in accordance with the timetable agreed in writing by the MMO following consultation with the relevant statutory nature conservation body.

### **Offshore maintenance plan**

**24.**—(1) The undertaker must, at least 4 months before commissioning the licenced activities, submit for written approval by the MMO an offshore maintenance plan based on the maintenance assessed in accordance with the environmental statement in the outline offshore maintenance plan

(2) An update to the offshore maintenance plan must be submitted for approval every 3 years, or sooner in the event of any proposed major revision to planned maintenance activities or the adoption of any new technologies or techniques applicable to programmed maintenance.

(3) Maintenance must be carried out in accordance with the approved offshore maintenance plan.

### **Aids to navigation**

**25.** The undertaker must during the whole period of the construction, operation, alteration, replacement or decommissioning of the authorised scheme exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation, as directed by Trinity House.

**26.** The undertaker must submit reports quarterly to Trinity House detailing the working condition of aids to navigation. Reports may requested more frequently by Trinity House, and must be submitted by the undertaker as requested.

**27.** The undertaker must notify Trinity House and the MMO of any failure of aids to navigation as soon as possible and no later than 24 hours following the detection of the failure.

**28.** Following notification of a failure of aids to navigation, the undertaker must as soon as practicable notify Trinity House and the MMO of a timescale and plan for remedying the failure.

**29.** The undertaker must paint all structures that are part of the authorised scheme yellow (colour code RAL 1023) from at least HAT to a height as directed by Trinity House.

**30.** In case of damage to, or destruction or decay of, the authorised scheme or any part of it, the undertaker must as soon as possible and no later than 24 hours following the identification of damage, destruction or decay, notify Trinity House and the MMO.

**31.** The undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

### **Progress of authorised scheme**

**32.** The undertaker must keep Trinity House, the MCA and the MMO informed of progress of the authorised scheme including—

- (a) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and



- (c) notice within 5 working days of completion of construction of the authorised scheme.

**Amendments to plans, etc.**

33. Where any Condition requires licensed activities to be carried out in accordance with any programme, statement, plan, protocol, scheme, details or arrangements approved by the MMO, the approved programme, statement, plan, protocol, scheme, details or arrangements must be taken to include any amendments that may subsequently be approved in writing by the MMO (after consulting any person that the MMO is required to consult under the relevant Condition).

## SCHEDULE 10

Articles 2 and 39

### Marine Licence 3: Project A Offshore Transmission - Work Nos. 2A, 3A and 2T

#### PART 1

##### Licensed activities

##### Interpretation

1.—(1) In this licence—

“2009 Act” means the Marine and Coastal Access Act 2009;

“Annex 1 habitat” means a habitat set out in Annex 1 to Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora;

“authorised deposits” means the substances and articles specified in paragraph 2(3);

“authorised scheme” means Work Nos. 1A, 2A, 3A and 2T described in paragraph 2 or any part or phase of those works;

“cable crossing” means the crossing of existing subsea cables and pipelines by the inter-array, inter-platform or export cables authorised by the Order together with physical protection measures including cable protection;

“cable protection” means measures to protect cables from physical damage and exposure due to loss of seabed sediment including, but not limited to, the use of bagged solutions filled with grout or other materials, protective aprons or coverings, mattresses, flow energy dissipation devices or rock and gravel burial;

“chemical risk assessment” means the chemical risk assessment referred to in Condition 12(d)(ii);

“combined platform” means a single offshore platform combining 2 or more of the following—

- (a) an offshore collector platform;
- (b) an offshore converter platform;
- (c) an offshore accommodation or helicopter platform;

“commence” means begin to carry out any part of the licensed activities except for the pre-construction surveys and monitoring; and “commencement” must be construed accordingly;

“Condition” means a condition in Part 2;

“disposal scenario statement” means the document certified as the disposal scenario statement by the Secretary of State under article 42 of the Order (certification of plans and documents, etc.);

“draft fisheries liaison plan” means the document certified as the draft fisheries liaison plan by the Secretary of State under article 42 of the Order;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 42 of the Order together with any supplementary or further environmental information submitted in support of the application for the Order;

“HAT” (highest astronomical tide) means the highest tide that can be predicted to occur under average meteorological conditions;

“HVAC” means high voltage alternating current;

“HVDC” means high voltage direct current;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO;

“licensed activities” means the activities specified in paragraph 2;

“maintain” includes inspect, repair, adjust and alter, and further includes remove, reconstruct and replace any of the ancillary works in Part 2 of Schedule 1 (ancillary works) to the Order and any component part of any offshore platform, meteorological station, electricity or communication cable described in Part 1 of that Schedule (authorised development) (but not including the removal or replacement of foundations) to the extent set out in the offshore maintenance plan referred to in Condition 21; and “maintenance” must be construed accordingly;

“marine pollution contingency plan” means the marine pollution contingency plan referred to in Condition 13(d)(i);

“MCA” means the Maritime and Coastguard Agency;

“meteorological mast” or “meteorological station” means a fixed or floating structure housing or incorporating equipment to measure wind speed and other meteorological and oceanographic characteristics, including a topside which may house electrical switchgear and communication equipment and associated equipment, and marking and lighting;

“MHWS” (mean high water springs) means the highest level that spring tides reach on average over a period of time;

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

“MMO” means the Marine Management Organisation;

“monopole foundation” means a foundation option based around a single vertical pillar structure driven, drilled, or embedded into the seabed by means such as suction or gravity. This main support structure may change in diameter via tapers or abrupt steps. (Sub-types for wind turbine generators and meteorological stations include monopole with steel monopile footing, monopole with concrete monopile footing and monopole with a single suction-installed bucket footing);

“multi-leg foundation” means a foundation option based around structures with several legs or footings. This includes jackets, tripods and other structures which include multiple large tubulars, cross-bracing or lattices. Multi-leg foundations may be fixed to the seabed by footings which are driven, drilled, screwed, jacked-up or embedded into the seabed by means such as suction or gravity. (Sub-types for wind turbine generators and meteorological stations include multi-legs with driven piles, drilled piles, screw piles, suction buckets and jack-up foundations. Sub-types for platforms include offshore platform jacket foundations (potentially using driven piles, suction buckets or screw piles) and offshore platform jack-up foundations);

“notice to mariners” includes any notice to mariners which may be issued by the Admiralty, Trinity House, Queen’s harbourmasters, government departments and harbour and pilotage authorities;

“offshore accommodation or helicopter platform” means a platform (either singly or as part of a combined platform) housing or incorporating some or all of the following: accommodation for staff during the construction, operation and decommissioning of the authorised scheme, landing facilities for vessels and helicopters, re-fuelling facilities, communication and control systems, electrical systems such as metering and control systems, small- and large-scale electrical power systems, J-tubes, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore collector platform” means a platform (either singly or as part of a combined platform) housing or incorporating electrical switchgear or electrical transformers, electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, accommodation for staff during the construction, operation and decommissioning of the authorised scheme, communication and control systems, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore converter platform” means a platform (either singly or as part of a combined platform) housing or incorporating HVDC electrical switchgear or electrical transformers and other equipment to enable HVDC transmission to be used to convey the power output of the multiple wind turbine generators to shore including electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, accommodation for staff during the construction, operation and decommissioning of the authorised scheme, communication and control systems, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore in principle monitoring plan” means the document certified as the offshore in principle monitoring plan by the Secretary of State under article 42 of the Order;

“offshore order limits and grid co-ordinates plan” means the plans certified as the offshore order limits and grid co-ordinates plan by the Secretary of State under article 42 of the Order;

“offshore platform” means any of the following—

- (a) an offshore accommodation or helicopter platform;
- (b) an offshore collector platform;
- (c) an offshore converter platform;
- (d) a combined platform;

“onshore order limits and grid co-ordinates plan” means the plans certified as the onshore order limits and grid co-ordinates plan by the Secretary of State under article 42 of the Order;

“Order” means the Dogger Bank Teesside A and B Offshore Wind Farm Order 2015;

“Order limits” means the limits shown on the offshore order limits and grid co-ordinates plan and the onshore order limits and grid co-ordinates plan;

“outline offshore archaeological written scheme of investigation” means the document certified as the outline offshore archaeological written scheme of investigation by the Secretary of State under article 42 of the Order;

“outline offshore maintenance plan” means the document certified as the outline offshore maintenance plan by the Secretary of State under article 42 of the Order;

“scour protection” means measures to prevent loss of seabed sediment around foundation bases by the use of bagged solutions filled with grout or other material, protective aprons, mattresses, flow energy dissipation devices and rock and gravel burial;

“undertaker” means Doggerbank Project 2 Bizco Limited (company number 07791977) whose registered office is 55 Vastern Road, Reading, Berkshire RG1 8BU;

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

“wind turbine generator” means a structure comprising a tower, a rotor with 3 blades connected at the hub, a nacelle and ancillary electrical and other equipment which may include J-tubes, transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter transfer facilities and other associated equipment, fixed to a foundation.

(2) In this licence, a reference to any statute, order, regulation or similar instrument is 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) In this licence, unless otherwise indicated,—

- (a) all times are Greenwich Mean Time (GMT);
- (b) all co-ordinates are latitude and longitude decimal degrees to 6 decimal places. The datum system used is World Geodetic System 1984 datum (WGS84).

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below, and the address for returns and correspondence, is—

- (a) Marine Management Organisation

Marine Licensing Team

Lancaster House

Hampshire Court

Newcastle-upon-Tyne NE4 7YH

Email: [marine.consents@marinemanagement.org.uk](mailto:marine.consents@marinemanagement.org.uk)

Tel: 0300 123 1032;

- (b) Trinity House

Tower Hill

London EC3N 4DH

Tel: 020 7481 6900;

- (c) United Kingdom Hydrographic Office

Admiralty Way

Taunton

Somerset TA1 2DN

Tel: 01823 337 900;

- (d) Maritime and Coastguard Agency

Navigation Safety Branch

Bay 2/04

Spring Place

105 Commercial Road

Southampton SO15 1EG

Tel: 023 8032 9191;

(e) Natural England  
Foundry House  
3 Millsands  
Riverside Exchange  
Sheffield S3 8NH  
Tel: 0300 060 4911;

(f) English Heritage  
Eastgate Court  
195-205 High Street  
Guildford GU1 3EH  
Tel: 01483 252 057.

(5) For information only, the details of the local MMO office to the authorised scheme is—

Marine Management Organisation – Northern Marine Area  
MMO Coastal Office  
Neville House  
Central Riverside  
Bell Street  
North Shields  
Tyne and Wear NE30 1LJ  
Email: northshields@marinemanagement.org.uk  
Tel: 0191 257 4520.

### **Details of licensed activities**

**2.—**(1) This licence authorises the undertaker (and any agent or contractor acting on its behalf) to carry out the following licensable marine activities under Part 4 of the 2009 Act, subject to the Conditions—

- (a) the deposit at sea of the substances and articles specified in sub-paragraph (3);
- (b) subject to sub-paragraphs (5) and (6), the construction of the works specified in sub-paragraph (2) in or over the sea or on or under the sea bed including the removal, reconstruction or alteration of the position of subsea cables and pipelines;
- (c) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation.

(2) The licensed activities are authorised in relation to the construction, maintenance and operation of—

#### ***Work No. 1A –***

- (a) an offshore wind turbine generating station with a gross electrical output capacity of up to 1.2 gigawatts comprising up to 200 wind turbine generators each fixed to the seabed by monopole, multi-leg or gravity base type foundations situated within the area enclosed by the points whose co-ordinates are set out in Table 1A (the “array area”);

**Table 1A – Array area**

<i>Point</i>	<i>Latitude (decimal degrees)</i>	<i>Longitude (decimal degrees)</i>
31	55.11790	2.57524
32	55.11860	3.09890
33	55.10690	3.09409
34	55.09071	3.08744
35	55.07452	3.08080
36	55.05832	3.07416
37	55.04213	3.06752
38	55.02594	3.06090
39	55.00974	3.05427
40	54.99487	3.04820
41	54.97803	3.04132
42	54.97735	3.04104
43	54.96115	3.03444
44	54.95485	3.03187
45	54.95510	3.01393
46	54.95556	2.97851
47	54.95562	2.97450
50	54.96011	2.57690

- (b) up to 7 offshore platforms comprising the following—
- (i) up to 4 offshore collector platforms situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations;
  - (ii) 1 offshore converter platform situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations;
  - (iii) up to 2 offshore accommodation or helicopter platforms situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations,
- provided that any of the platforms comprised in Work No. 1A(b)(i) to (iii) may be co-joined to create a combined platform fixed to the seabed by multi-leg or gravity base type foundations;
- (c) up to 5 meteorological stations situated within the array area either fixed to the seabed by monopole, multi-leg or gravity base type foundations or utilising a floating support structure anchored to the seabed;
- (d) a network of cables for the transmission of electricity and electronic communications laid on or beneath the seabed (including cable crossings) between—
- (i) any of the wind turbine generators comprised in Work No. 1A(a);
  - (ii) any of the wind turbine generators comprised in Work No. 1A(a) and any of the works comprised in Work No. 1A(c);
  - (iii) any of the works comprised in Work No. 1A(b) and any of the works comprised in Work No. 1A(c); and
  - (iv) the offshore converter platform referred to in Work No. 1A(b)(ii) or a combined platform referred to in Work No. 1A(b) and the export cable route in Work No. 2A; and
- (e) up to 10 vessel moorings situated within the array area consisting of a single floating buoy secured by chain and anchor anchored to the seabed;

**Work No. 2A** – up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid on or beneath the seabed between Work No. 1A(b)(ii) or a combined platform referred to in Work No. 1A(b) and Work No.

3A (including cable crossings) and situated within the co-ordinates of the export cable corridor area specified in the offshore order limits and grid co-ordinates plan;

**Work No. 3A** – up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications, laid underground between MLWS and MHWS connecting Work No. 2A with Work No. 4A (as set out in Part 1 of Schedule 1 to the Order);

**Work No. 2T** – a temporary work area for vessels to carry out intrusive activities during construction, including vessels requiring anchor spreads, alongside the cable corridors; and

Ancillary works in connection with the above-mentioned works comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction or maintenance of the authorised scheme;
- (b) temporary or permanent buoys, beacons, fenders and other navigational warning on ship impact protection works;
- (c) temporary works for the protection of land or structures affected by the authorised scheme;
- (d) cable protection, scour protection or dredging; and
- (e) cable route preparation works including boulder removal and obstruction clearance, dredging and pre-sweeping.

(3) The substances or articles authorised for deposit at sea are—

- (a) iron, steel and aluminium;
- (b) stone and rock;
- (c) concrete and grout;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore areas within the Order limits during construction drilling and seabed preparation for foundation works and cable sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

(4) The licence does not permit the decommissioning of the authorised scheme. No decommissioning activity may commence until a decommissioning programme has been approved by the Secretary of State under section 106 of the Energy Act 2004. Furthermore, at least 4 months before carrying out any decommissioning activity, the undertaker must notify the MMO of the proposed activity to establish whether a marine licence is required for the activity.

(5) This licence does not authorise the construction of the works specified in sub-paragraph (2)(a) or (d)(i), (ii) or (iii)

(6) This licence and Marine Licence 1 (as defined in the Order), when taken together, do not authorise the construction of more than 1 Work No. 1A or the construction of Work No. 1A in excess of the maximum parameters for that work set out in Schedule 1 to the Order.

## PART 2

### Conditions

#### Detailed offshore design parameters

3.—(1) No meteorological station lattice tower may exceed a height of 315 metres above HAT.

(2) Meteorological mast foundation structures must be of 1 or more of the following foundation options: monopole, multi-leg, gravity base or floating structure secured by chain and anchor.

- (3) No meteorological mast foundation structure employing a footing of driven piles may—
  - (a) have more than 4 driven piles;
  - (b) in the case of single-pile structures, have a pile diameter exceeding 10 metres or employ a hammer energy during installation exceeding 2,300 kilojoules;
  - (c) in the case of structures with 2 or more piles, have a pile diameter exceeding 3.5 metres or employ a hammer energy during installation exceeding 1,900 kilojoules.
- (4) No meteorological mast foundation may have—
  - (a) a seabed footprint (excluding subsea scour protection) exceeding 1,735 square metres;
  - (b) a seabed footprint (including subsea scour protection) exceeding 4,657 square metres;
  - (c) a main supporting structure exceeding 51.5 metres in width.

**4.—**(1) The total number of offshore platforms within Work No 1A must not exceed 7 comprising—

- (a) up to 4 offshore collector platforms;
- (b) 1 offshore converter platform; and
- (c) up to 2 offshore accommodation or helicopter platforms,

provided that any of the platforms referred to in paragraphs (a) to (c) may be co-joined to create a combined platform fixed to the seabed by multi-leg or gravity base type foundations.

(2) The dimensions of any offshore collector platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed—

- (a) 75 metres in length;
- (b) 75 metres in width;
- (c) 85 metres in height above HAT.

(3) The dimensions of any offshore converter platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed—

- (a) 125 metres in length;
- (b) 100 metres in width;
- (c) 105 metres in height above HAT.

(4) The dimensions of any offshore accommodation or helicopter platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed—

- (a) 125 metres in length;
- (b) 100 metres in width;
- (c) 105 metres in height above HAT.

(5) The dimensions of any combined platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed the total seabed footprint of the individual platforms incorporated within it.

(6) Offshore platform foundation structures must be of 1 or more of the following foundation options: gravity base or multi-leg.

(7) No offshore platform foundation structure employing a footing of driven piles may—

- (a) have more than 24 driven piles;
- (b) have a pile diameter exceeding 2.75 metres or employ a hammer energy during installation exceeding 1,900 kilojoules.

(8) Within Work No. 1A, the seabed footprint per offshore foundation (excluding subsea scour protection) must not exceed—

- (a) in the case of an offshore collector platform, 5,625 square metres;
- (b) in the case of an offshore converter platform, 12,500 square metres;
- (c) in the case of an offshore accommodation or helicopter platform, 12,500 square metres.



(9) No offshore collector platform foundation may have a seabed footprint (including subsea scour protection) exceeding 9,025 square metres.

(10) No offshore converter platform foundation may have a seabed footprint area (including subsea scour protection) exceeding 17,400 square metres.

(11) No offshore accommodation or helicopter platform foundation may have a seabed footprint (including subsea scour protection) exceeding 17,400 square metres.

(12) The number of vessels actively carrying out impact piling as part of the installation of driven pile foundations must at no time exceed 2 within Work No. 1A.

**5.—**(1) The total seabed footprint of foundation structures (excluding mooring buoys) within Work No. 1A (including subsea scour protection and drill arising deposits) must not exceed 1,116,850 square metres.

(2) The total seabed footprint of offshore platform foundation structures within Work No. 1A (including seabed scour protection and drill arising deposits) must not exceed 88,300 square metres.

**6.—**(1) Within Work Nos. 1A, 2A and 3A, the HVDC cables must not, in total, exceed—

- (a) 2 in number;
- (b) 1 fibre-optic cable;
- (c) 573.2 kilometres in length.

(2) Within Work Nos. 1A and 2A, the HVDC cables must not, in total, have cable protection (excluding cable crossings) exceeding—

- (a) 2.57 square kilometres in area;
- (b) 2,496,785 cubic metres in volume.

**7.** Within Work No. 1A, the HVAC cables must not, in total,—

- (a) exceed 1,270 kilometres in length;
- (b) have cable protection (excluding cable crossings) exceeding 660,000 square metres in area;
- (c) have cable protection (excluding cable crossings) exceeding 413,000 cubic metres in volume.

**8.** Within Work No. 1A, the HVAC cable crossings must not, in total, exceed—

- (a) 24 in number;
- (b) 132,700 cubic metres in volume of cable crossing material;
- (c) 147,100 square metres in seabed footprint.

**9.** Within Work Nos. 1A and 2A, the HVDC cable crossings must not, in total, exceed—

- (a) 16 in number;
- (b) 88,450 cubic metres in volume of cable crossing material;
- (c) 98,100 square metres in seabed footprint.

## **Notifications and inspections**

**10.—**(1) The undertaker must ensure that—

- (a) before carrying out any of the licensed activities, the undertaker informs the MMO of—
  - (i) the organisation undertaking the licensed activities and its primary point of contact;
  - (ii) the works being undertaken pursuant to this licence comprising those works necessary up to the point of connection with the generation assets including (without limiting paragraph 2)—
    - (aa) up to 4 offshore collector platforms; and

- (bb) a network of cables for the transmission of electricity and electronic communications;
  - (iii) cable installation;
  - (iv) impact piling soft start procedures;
  - (v) the maximum total area and volume for any cables to be constructed pursuant to this licence; and
  - (vi) the maximum total area and volume for any cable protection to be constructed within the export cable corridor area pursuant to this licence;
- (b) all works notified under this Condition when combined with any works notified under Condition 13 of Marine Licences 1 and 2 (as defined in the Order) and Condition 10 of Marine Licence 4 (as defined in the Order) do not exceed the maximum parameters set out in Schedule 1 to the Order;
- (c) a copy of this licence and any subsequent amendments or revisions to it is provided to—
- (i) all agents and contractors notified to the MMO in accordance with Condition 16; and
  - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with that Condition; and
- (d) within 28 days of receipt of a copy of this licence, the organisations and primary points of contact referred to in paragraph (a) provide a completed confirmation form to the MMO confirming that they have read and will comply with the terms of this licence.
- (2) Only those persons and vessels notified to the MMO in accordance with Condition 16 are permitted to carry out the licensed activities.
- (3) Copies of this licence must also be available for inspection at the following locations—
- (a) the undertaker's registered address;
  - (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits;
  - (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits are to be made.
- (4) The documents referred to in sub-paragraph (1)(c) must be available for inspection by an enforcement officer at all reasonable times at the locations set out in sub-paragraph (3)(b).
- (5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during the construction and operation of the authorised scheme.
- (6) The undertaker must inform the MMO Marine Licensing Team and the MMO Coastal Office in writing at least 5 working days before commencement of the licensed activities or any phase of them.
- (7) At least 7 days before commencement of the licensed activities or any phase of them, the undertaker must publish in the Kingfisher Fortnightly Bulletin details of the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant phase.
- (8) The undertaker must ensure that a notice to mariners is issued at least 10 working days before commencement of the licensed activities or any phase of them advising of the commencement date of Work Nos. 2A and 3A and the expected vessel routes from the local construction ports to the relevant locations.
- (9) The undertaker must ensure that the notices to mariners are updated and reissued at weekly intervals during construction activities and within 5 days of any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed by the MCA in accordance with the detailed construction and monitoring programme referred to in Condition 13(b). Copies of all notices must be provided to the MMO.
- (10) The undertaker must notify—

- (a) the United Kingdom Hydrographic Office at least 2 weeks before commencement, and no later than 2 weeks following completion, of the authorised scheme in order that all necessary amendments to nautical charts are made; and
- (b) the MMO, MCA and Trinity House once the authorised scheme is completed and any required lighting or marking has been established.

### **Chemicals, drilling and debris**

**11.—**(1) All chemicals used in the construction of the authorised scheme, including any chemical agents placed within any monopole or other foundation structure void, must be selected from the list of notified chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002 and managed in accordance with the chemical risk assessment and the marine pollution contingency plan.

(2) The undertaker must ensure that any coatings and treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by the Health and Safety Executive or the Environment Agency pollution prevention guidelines. Any spillages must be reported to the MMO Marine Pollution Response Team within the timeframes specified in the marine pollution contingency plan.

(3) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works is discharged into the marine environment and that concrete and cement mixing and washing areas are contained to prevent run-off entering the water through the freeing ports.

(4) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(5) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO Marine Pollution Response Team within the timeframe specified in the marine pollution contingency plan.

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

(7) Where foundation drilling works are proposed, in the event that any system other than water-based mud is proposed, the MMO's written approval in relation to the proposed disposal of any drill arisings must be obtained before the drilling commences, which may also require a marine licence.

(8) The undertaker must ensure that any debris arising from the construction of the authorised scheme or temporary works placed seaward MHWS are removed on completion of the authorised scheme.

(9) The management of chemicals, drilling and control of debris referred to in sub-paragraphs (2) to (8) must be managed in accordance with the chemical risk assessment and the marine pollution contingency plan.

(10) At least 10 days before commencement of the licensed activities, the undertaker must submit to the MMO an audit sheet covering all aspects of the construction of the licensed activities or any phase of them. The audit sheet must include details of—

- (a) loading facilities;
- (b) vessels;
- (c) equipment;
- (d) shipment routes;
- (e) transport;
- (f) working schedules; and
- (g) all components and materials to be used in the construction of the authorised scheme.

(11) The audit sheet must be maintained throughout the construction of the authorised scheme (or relevant phase) and must be submitted to the MMO for review at fortnightly intervals during periods of active offshore construction.

(12) In the event that the MMO becomes aware that any of the materials on the audit sheet cannot be accounted for, it must require the undertaker to carry out a side-scan sonar survey to plot all obstructions across a reasonable area of search agreed by the MMO where construction works and related activities have been carried out. Local commercial fishing groups must be invited to send a representative to be present during the survey. Any obstructions that the MMO believes to be associated with the authorised scheme must be removed at the undertaker's expense.

(13) As an alternative to the completion of an audit sheet, with written approval from the MMO, the Undertaker may introduce a dropped object procedure. If a dropped object procedure is introduced, any dropped objects must be reported to the MMO using the dropped object procedure form within 6 hours of the undertaker becoming aware of an incident. On receipt of the dropped object procedure form, the MMO may require relevant surveys to be carried out by the undertaker (such as side-scan sonar), and the MMO may require obstructions to be removed from the seabed at the undertaker's expense.

(14) The undertaker must agree with the MMO, before commencement of works, whether the dropped object procedure or audit sheet is to be used.

### **Force majeure**

12. If, due to stress of weather or any other cause, the master of a vessel determines that it is necessary to deposit the authorised deposits otherwise than in accordance with Condition 14(2) because the safety of human life or of the vessel is threatened—

- (a) full details of the circumstances of the deposit must be notified to the MMO within 48 hours; and
- (b) at the reasonable request of the MMO, the unauthorised deposits must be removed at the undertaker's expense.

### **Pre-construction plans and documentation**

13. The licensed activities or any phase of those activities must not commence until the following (insofar as relevant to that activity or phase of activity) have been submitted to and approved in writing by the MMO—

#### *Cable specification and installation plan*

- (a) a cable specification and installation plan to be agreed in consultation with Trinity House and the MCA that shows the route of the cable to ensure conformity with the description of Work Nos. 2A and 3A. The plan must include the co-ordinates of the transmission works within Work Nos. 1A, 2A and 3A;

#### *Detailed construction and monitoring programme*

- (b) a detailed construction and monitoring programme, including details of—
  - (i) the proposed construction commencement date;
  - (ii) proposed timings for mobilisation of plant, delivery of materials and installation works; and
  - (iii) proposed pre-construction surveys, a proposed format and content for a baseline report, construction monitoring, post-construction monitoring and related reporting in consultation with the relevant statutory nature conservation body. The pre-construction survey programme and all pre-construction survey methodologies must be submitted to the MMO for written approval at least 4 months before commencement of any survey works detailed within;

#### *Construction method statement*

- (c) a construction method statement in accordance with the construction methods assessed in the environmental statement, including details of—

- (i) drilling methods and arrangements for disposal of drill arisings, in accordance with the disposal scenario statement;
- (ii) platform location and installation, including, scour protection and foundations which must be those that are able to be completely and safely removed, or reduced to a level below the seabed, at the time of decommissioning;
- (iii) cable installation;
- (iv) cable installation between MHWS and MLWS;
- (v) impact piling soft start procedures;
- (vi) the source of rock material used in construction and method to minimise contaminants and fines;
- (vii) contractors;
- (viii) vessels;
- (ix) associated works;
- (x) foundation scour protection requirements in a plan produced following pre-construction surveys identifying where scour protection is most likely to be required (an “intelligent scour protection management plan”); and
- (xi) details of notification of the closure of the disposal site (reference number DG030) on completion of disposal activities;

*Project environmental management and monitoring plan*

- (d) a project environmental management and monitoring plan that details minimum environmental management requirements expected of all contractors and subcontractors, with regards to marine pollution contingency, waste management and disposal, chemical risk assessment and relevant fisheries liaison matters, including details of—
  - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents during construction and operation of the authorised scheme in relation to all activities carried out;
  - (ii) a chemical risk assessment, including information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
  - (iii) waste management and disposal arrangements;
  - (iv) the fisheries liaison officer, being a person appointed by the undertaker and charged with communication and liaison with the fishing industry as appropriate through the lifetime of the authorised scheme, to be notified to the marine officer for the MMO’s Northern Marine Area and the MMO Marine Licensing Team. Evidence of liaison must be collated so that signatures of attendance at meetings, agenda and minutes of meetings with the fishing industry can be provided to the MMO if requested; and
  - (v) a fisheries liaison plan in accordance with the draft fisheries liaison plan, including information on liaison with the fishing industry (including the fisheries liaison officer referred to in paragraph (iv)) and a co-existence plan that details how the project will be constructed and operated taking account of the fisheries industry;

*Marine mammal mitigation protocol*

- (e) a marine mammal mitigation protocol with appropriate monitoring surveys in accordance with the offshore in principle monitoring plan, to be agreed in writing by the MMO in consultation with the relevant statutory nature conservation body and the Royal Society of Wildlife Trusts, the intention of which is to prevent, amongst other things,—
  - (i) injury to marine mammals, primarily auditory injury in the vicinity of any piling;
  - (ii) disturbance to marine mammals;
  - (iii) adversely affecting the integrity, within the meaning of the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007, of a European offshore

marine site or a European site (defined in regulations 15 and 24 of those Regulations respectively), to the extent that marine mammals are a protected feature of that site;

*Cable specification and installation plan*

- (f) a cable specification and installation plan, following consultation with the relevant statutory nature conservation body, including—
  - (i) technical specification of offshore cables, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
  - (ii) a staged cable-laying plan for the Order limits, incorporating a burial risk assessment to ascertain suitable burial depths and cable-laying techniques;
  - (iii) a cable protection plan providing details of the need, type, sources, quality and installation methods for cable protection; and
  - (iv) details of the methodology and extent of a post-lay survey to confirm burial depths;

*Offshore archaeological written scheme of investigation*

- (g) an offshore archaeological written scheme of investigation in relation to the offshore areas within the Order limits in accordance with the outline offshore archaeological written scheme of investigation, industry good practice and in consultation with English Heritage, including—
  - (i) details of responsibilities of the undertaker, archaeological consultant and contractor inclusive of an agreed programme for the publication of results;
  - (ii) a methodology for any further site investigation including any specifications for geophysical, geotechnical and diver- or remotely-operated vehicle investigations;
  - (iii) within 3 months of any survey being completed, a timetable to be submitted to the MMO setting out the timeframe for the analysis and reporting of survey data;
  - (iv) delivery of any mitigation including, where necessary, archaeological exclusion zones;
  - (v) monitoring during and post-construction, including a conservation programme for finds;
  - (vi) archiving of archaeological material, including ensuring that a copy of any agreed archaeological report is deposited with the English Heritage archive by submitting an English Heritage OASIS form with a digital copy of the report; and
  - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme;

*Aids to navigation management plan*

- (h) an aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House and the MCA specifying—
  - (i) the aids to navigation to be established from the commencement of the authorised scheme to the completion of decommissioning;
  - (ii) the monitoring and reporting of the availability of aids to navigation; and
  - (iii) notifications and procedures for ensuring navigational safety following failures to aids to navigation;

*Cofferdam method statement*

- (i) in the event that a temporary cofferdam is constructed in Work No. 3A, a cofferdam method statement for the monitoring and redistribution of sediment, to be agreed in writing by the MMO. The cofferdam method statement must include details of the installation and management of the temporary cofferdam.

**14.—**(1) Each programme, statement, plan, protocol, scheme or details required to be approved under Condition 13 must be submitted for approval at least 4 months before the intended

commencement of construction, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) The licensed activities must be carried out in accordance with the programmes, statements, plans, protocols, schemes and details approved under Condition 13.

### **Offshore safety management**

**15.**—(1) Offshore works must not commence until the MMO, in consultation with the MCA,—

- (a) has given written approval for an emergency response and co-operation plan (“ERCoP”) that includes full details of the emergency response procedures for the construction, operation and decommissioning phases of the authorised scheme in accordance with the MCA recommendations contained in the OREI guidance; 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 the authorised scheme.

(2) The ERCoP must include the identification of a point of contact for emergency response.

(3) The ERCoP must be implemented as approved.

(4) In this Condition, “OREI guidance” means MCA document MGN371 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes.

### **Reporting of engaged agents, contractors and vessels**

**16.**—(1) The undertaker must provide the name and function of any agent or contractor appointed to engage in the licensed activities to the MMO at least 2 weeks before agents, contractors and vessels carry out licensed activities.

(2) Each week during the construction of the authorised scheme a completed Hydrographic Note H102 must be provided to the MMO listing the vessels currently and to be used in relation to the licensed activities.

(3) Any changes to the supplied details must be notified to the MMO in writing before the agent, contractor or vessel engages in the licensed activities.

### **Equipment and operation of vessels engaged in licensed activities**

**17.**—(1) All vessels employed to perform the licensed activities must be constructed and equipped to be capable of the proper performance of such activities in accordance with the Conditions and (except in the case of remotely-operated vehicles or vessels) must comply with sub-paragraphs (2) to (5).

(2) All motor-powered vessels must be fitted with—

- (a) an electronic positioning aid to provide navigational data;
- (b) radar;
- (c) an echo-sounder; and
- (d) multi-channel VHF.

(3) All vessels’ names or identification must be clearly marked on the hull or superstructure.

(4) All communication on VHF working frequencies must be in English.

(5) No vessel may engage in the licensed activities until all the equipment specified in sub-paragraph (2) is fully operational.

### **Pre-construction monitoring**

**18.**—(1) The undertaker must, in discharging Condition 13(b), and the requirement to prepare a detailed construction and monitoring programme, include details for written approval by the

MMO of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report. The survey proposals must be in accordance with the principles set out in the offshore in principle monitoring plan and must specify each survey's objectives and explain how it assists in either informing a useful and valid comparison with the post-construction position or enables the validation or otherwise of key predictions in the environmental statement. The baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this Condition, where appropriate and necessary it is expected that the pre-construction surveys will comprise—

- (a) an appropriate survey to determine the location and reasonable extent of any benthic habitats of conservation, ecological or economic importance (including Annex 1 habitats) in whole or in part inside the areas within the Order limits in which it is proposed to carry out construction works; and
- (b) appropriate high-resolution bathymetric surveys undertaken to International Hydrographic Organisation Order IA standard and side-scan surveys of the areas within Work Nos. 1A and 2A within the Order limits in which it is proposed to carry out construction works. This must include the identification of sites of historic or archaeological interest (A1 and A3 receptors) and any unidentified anomalies larger than 5 metres in diameter (A2 receptors), which may require the refinement, removal or introduction of archaeological exclusion zones and to confirm project-specific micro-siting requirements (for A2 receptors).

(3) The undertaker must carry out and complete the surveys to be undertaken under sub-paragraph (1) in a timescale agreed by the MMO.

### **Construction monitoring**

**19.**—(1) The undertaker must, in discharging Condition 13(b), submit details for approval by the MMO of any proposed surveys or monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme.

(2) The detailed construction and monitoring programme referred to in Condition 13(b) must be submitted at least 4 months before commencement of any survey works and provide the agreed reports in the agreed format in accordance with the agreed timetable. The survey proposals must be in accordance with the principles set out in the offshore in principle monitoring plan and must specify each survey's objectives.

(3) The construction surveys must, where driven or part-driven pile foundations (for each specific foundation type) are proposed to be used, comprise measurements of noise generated by the installation of 1 pile from each of the first 4 structures with piled foundations, following which the MMO must determine whether further noise monitoring is required. The results of the initial noise measurements must be provided to the MMO within 6 weeks of the installation of the first relevant foundation piece. The assessment of this report by the MMO must determine whether any further noise monitoring is required.

(4) The undertaker must carry out and complete the surveys to be undertaken under sub-paragraph (1) in a timescale agreed by the MMO.

### **Post-construction surveys**

**20.**—(1) The undertaker must, in discharging Condition 13(b), submit details for written approval by the MMO of the 3 post-construction surveys proposed in sub-paragraph (2), including methodologies and timings, and a proposed format, content and timings for providing reports on the results at least 4 months before commencement of any survey works detailed within. The survey proposals must be in accordance with the principles set out in the offshore in principle monitoring plan and specify each survey's objectives and explain how it assists in either informing



a useful and valid comparison with the pre-construction position or enables the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt of specific proposals, it is expected that the post-construction surveys will comprise—

- (a) appropriate high-resolution bathymetric surveys undertaken to International Hydrographic Organisation Order IA standard and side-scan sonar surveys around a sample of infrastructure locations that are considered appropriate to assess any changes in seabed topography. For this purpose, the undertaker must before the first survey submit a desk-based assessment (that takes into account all factors that influence scour) to identify the sample of infrastructure locations that are considered appropriate with greatest potential for scour. The survey must be used to validate the desk-based assessment. Further surveys may be required if there are significant differences between the modelled scour and recorded scour;
- (b) dependent on the outcome of the surveys undertaken under Condition 18(2)(a), appropriate surveys to determine the effects of construction activity on any benthic habitats of conservation, ecological or economic importance (including Annex 1 habitats) in whole or in part inside the areas within the Order limits to validate predictions made in the environmental statement and to identify the presence of any non-native species and wider community type structure; and
- (c) appropriate surveys to determine change in size and form of the drill disposal mounds over the lifetime of the authorised scheme.

(3) The undertaker must carry out the surveys under sub-paragraph (1) and provide the reports in the agreed format in accordance with the timetable agreed in writing by the MMO following consultation with the relevant statutory nature conservation body.

### **Offshore maintenance plan**

**21.**—(1) The undertaker must, at least 4 months before commissioning the licenced activities, submit for written approval by the MMO an offshore maintenance plan based on the maintenance assessed in accordance with the environmental statement in the outline offshore maintenance plan.

(2) An update to the offshore maintenance plan must be submitted for approval every 3 years, or sooner in the event of any proposed major revision to planned maintenance activities or the adoption of any new technologies or techniques applicable to programmed maintenance

(3) Maintenance must be carried out in accordance with the approved offshore maintenance plan.

### **Aids to navigation**

**22.** The undertaker must during the whole period of the construction, operation, alteration, replacement or decommissioning of the authorised scheme exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation, as directed by Trinity House.

**23.** The undertaker must submit reports quarterly to Trinity House detailing the working condition of aids to navigation. Reports may be requested more frequently by Trinity House, and must be submitted by the undertaker as requested.

**24.** The undertaker must notify Trinity House and the MMO of any failure of aids to navigation as soon as possible and no later than 24 hours following the detection of the failure.

**25.** Following notification of a failure of aids to navigation, the undertaker must as soon as practicable notify Trinity House and the MMO of a timescale and plan for remedying the failure.

**26.** The undertaker must paint all structures that are part of the authorised scheme yellow (colour code RAL 1023) from at least HAT to a height as directed by Trinity House.

27. In case of damage to, or destruction or decay of, the authorised scheme or any part of it, the undertaker must as soon as possible and no later than 24 hours following the identification of damage, destruction or decay, notify Trinity House and the MMO.

28. The undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

### **Progress of authorised scheme**

29. The undertaker must keep Trinity House, the MCA and the MMO informed of progress of the authorised scheme including—

- (a) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within 5 working days of completion of construction of the authorised scheme.

### **Amendments to plans, etc.**

30. Where any Condition requires licensed activities to be carried out in accordance with any programme, statement, plan, protocol, scheme, details or arrangements approved by the MMO, the approved programme, statement, plan, protocol, scheme, details or arrangements must be taken to include any amendments that may subsequently be approved in writing by the MMO (after consulting any person that the MMO is required to consult under the relevant Condition).

## **SCHEDULE 11**

Articles 2 and 39

### **Marine Licence 4: Project B Offshore Transmission – Work Nos. 2B, 3B and 2T**

## **PART 1**

### **Licensed activities**

### **Interpretation**

1.—(1) In this licence—

“2009 Act” means the Marine and Coastal Access Act 2009;

“Annex 1 habitat” means a habitat set out in Annex 1 to Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora;

“authorised deposits” means the substances and articles specified in paragraph 2(3);

“authorised scheme” means Work Nos. 1B, 2B, 3B and 2T described in paragraph 2 or any part or phase of those works;

“cable crossing” means the crossing of existing subsea cables and pipelines by the inter-array, inter-platform or export cables authorised by the Order together with physical protection measures including cable protection;

“cable protection” means measures to protect cables from physical damage and exposure due to loss of seabed sediment including, but not limited to, the use of bagged solutions filled with grout or other materials, protective aprons or coverings, mattresses, flow energy dissipation devices or rock and gravel burial;

“chemical risk assessment” means the chemical risk assessment referred to in Condition 13(d)(ii);

“combined platform” means a single offshore platform combining 2 or more of the following—

- (a) an offshore collector platform;
- (b) an offshore converter platform;
- (c) an offshore accommodation or helicopter platform;

“commence” means begin to carry out any part of the licensed activities except for the pre-construction surveys and monitoring; and “commencement” must be construed accordingly;

“Condition” means a condition in Part 2;

“disposal scenario statement” means the document certified as the disposal scenario statement by the Secretary of State under article 42 of the Order (certification of plans and documents, etc.);

“draft fisheries liaison plan” means the document certified as the draft fisheries liaison plan by the Secretary of State under article 42 of the Order;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 42 of the Order together with any supplementary or further environmental information submitted in support of the application for the Order;

“HAT” (highest astronomical tide) means the highest tide that can be predicted to occur under average meteorological conditions;

“HVAC” means high voltage alternating current;

“HVDC” means high voltage direct current;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO;

“licensed activities” means the activities specified in paragraph 2;

“maintain” includes inspect, repair, adjust and alter, and further includes remove, reconstruct and replace any of the ancillary works in Part 2 of Schedule 1 (ancillary works) to the Order and any component part of any offshore platform, meteorological station, electricity or communication cable described in Part 1 of that Schedule (authorised development) (but not including the removal or replacement of foundations) to the extent set out in the offshore maintenance plan referred to in Condition 21; and “maintenance” must be construed accordingly;

“marine pollution contingency plan” means the marine pollution contingency plan referred to in Condition 13(d)(i);

“MCA” means the Maritime and Coastguard Agency;

“meteorological mast” or “meteorological station” means a fixed or floating structure housing or incorporating equipment to measure wind speed and other meteorological and oceanographic characteristics, including a topside which may house electrical switchgear and communication equipment and associated equipment, and marking and lighting;

“MHWS” (mean high water springs) means the highest level that spring tides reach on average over a period of time;

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

“MMO” means the Marine Management Organisation;

“monopole foundation” means a foundation option based around a single vertical pillar structure driven, drilled, or embedded into the seabed by means such as suction or gravity. This main support structure may change in diameter via tapers or abrupt steps. (Sub-types for wind turbine generators and meteorological stations include monopole with steel monopile

footing, monopole with concrete monopile footing, and monopole with a single suction-installed bucket footing);

“multi-leg foundation” means a foundation option based around structures with several legs or footings. This includes jackets, tripods and other structures which include multiple large tubulars, cross-bracing or lattices. Multi-leg foundations may be fixed to the seabed by footings which are driven, drilled, screwed, jacked-up or embedded into the seabed by means such as suction or gravity. Sub-types for wind turbine generators and meteorological stations include multi-legs with driven piles, drilled piles, screw piles, suction buckets and jack up foundations. Sub-types for platforms include offshore platform jacket foundations (potentially using driven piles, suction buckets or screw piles) and offshore platform jack-up foundations);

“notice to mariners” includes any notice to mariners which may be issued by the Admiralty, Trinity House, Queen’s harbourmasters, government departments and harbour and pilotage authorities;

“offshore accommodation or helicopter platform” means a platform (either singly or as part of a combined platform) housing or incorporating some or all of the following: accommodation for staff during the construction, operation and decommissioning of the authorised scheme, landing facilities for vessels and helicopters, re-fuelling facilities, communication and control systems, electrical systems such as metering and control systems, small- and large-scale electrical power systems, J-tubes, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore collector platform” means a platform (either singly or as part of a combined platform) housing or incorporating electrical switchgear or electrical transformers, electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, accommodation for staff during the construction, operation and decommissioning of the authorised scheme, communication and control systems, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore converter platform” means a platform (either singly or as part of a combined platform) housing or incorporating HVDC electrical switchgear or electrical transformers and other equipment to enable HVDC transmission to be used to convey the power output of the multiple wind turbine generators to shore including electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, accommodation for staff during the construction, operation and decommissioning of the authorised scheme, communication and control systems, auxiliary and uninterruptible power supplies, large-scale energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“offshore in principle monitoring plan” means the document certified as the offshore in principle monitoring plan by the Secretary of State under article 42 of the Order;

“offshore order limits and grid co-ordinates plan” means the plans certified as the offshore order limits and grid co-ordinates plan by the Secretary of State under article 42 of the Order;

“offshore platform” means any of the following—

- (a) an offshore accommodation or helicopter platform;
- (b) an offshore collector platform;
- (c) an offshore converter platform;
- (d) a combined platform;

“onshore order limits and grid co-ordinates plan” means the plans certified as the onshore order limits and grid co-ordinates plan by the Secretary of State under article 42 of the Order;

“Order” means the Dogger Bank Teesside A and B Offshore Wind Farm Order 2015;

“Order limits” means the limits shown on the offshore order limits and grid co-ordinates plan and the onshore order limits and grid co-ordinates plan;

“outline offshore archaeological written scheme of investigation” means the document certified as the outline offshore archaeological written scheme of investigation by the Secretary of State under article 42 of the Order;

“outline offshore maintenance plan” means the document certified as the outline offshore maintenance plan by the Secretary of State under article 42 of the Order;

“scour protection” means measures to prevent loss of seabed sediment around foundation bases by the use of bagged solutions filled with grout or other material, protective aprons, mattresses, flow energy dissipation devices and rock and gravel burial;

“undertaker” means Doggerbank Project 3 Bizco Limited (company number 07791964) whose registered office is 55 Vastern Road, Reading, Berkshire RG1 8BU;

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

“wind turbine generator” means a structure comprising a tower, a rotor with 3 blades connected at the hub, a nacelle and ancillary electrical and other equipment which may include J-tubes, transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter transfer facilities and other associated equipment, fixed to a foundation.

(2) In this licence, a reference to any statute, order, regulation or similar instrument is 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) In this licence, unless otherwise indicated,—

- (a) all times are Greenwich Mean Time (GMT);
- (b) all co-ordinates are latitude and longitude decimal degrees to 6 decimal places. The datum system used is World Geodetic System 1984 datum (WGS84).

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below, and the address for returns and correspondence, is—

(a) Marine Management Organisation

Marine Licensing Team

Lancaster House

Hampshire Court

Newcastle-upon-Tyne NE4 7YH

Email: [marine.consents@marinemanagement.org.uk](mailto:marine.consents@marinemanagement.org.uk)

Tel: 0300 123 1032;

(b) Trinity House

Tower Hill

London EC3N 4DH

Tel: 020 7481 6900;

(c) United Kingdom Hydrographic Office

Admiralty Way

Taunton

Somerset TA1 2DN

Tel: 01823 337 900;

(d) Maritime and Coastguard Agency

Navigation Safety Branch

Bay 2/04

Spring Place

105 Commercial Road

Southampton SO15 1EG

Tel: 023 8032 9191;

(e) Natural England

Foundry House

3 Millsands

Riverside Exchange

Sheffield S3 8NH

Tel: 0300 060 4911;

(f) English Heritage

Eastgate Court

195-205 High Street

Guildford GU1 3EH

Tel: 01483 252 057.

(5) For information only, the details of the local MMO office to the authorised scheme is—

Marine Management Organisation – Northern Marine Area

MMO Coastal Office

Neville House

Central Riverside

Bell Street

North Shields

Tyne and Wear NE30 1LJ

Email: northshields@marinemangement.org.uk

Tel: 0191 257 4520.

### **Details of licensed activities**

**2.—**(1) This licence authorises the undertaker (and any agent or contractor acting on its behalf) to carry out the following licensable marine activities under Part 4 of the 2009 Act, subject to the Conditions—

- (a) the deposit at sea of the substances and articles specified in sub-paragraph (3);
- (b) subject to sub-paragraphs (5) and (6), the construction of the works specified in sub-paragraph (2) in or over the sea or on or under the sea bed including the removal, reconstruction or alteration of the position of subsea cables and pipelines;
- (c) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation.

(2) The licensed activities are authorised in relation to the construction, maintenance and operation of—

**Work No. 1B –**

- (a) an offshore wind turbine generating station with a gross electrical output capacity of up to 1.2 gigawatts comprising up to 200 wind turbine generators each fixed to the seabed by monopole, multi-leg or gravity base type foundations situated within the area enclosed by the points whose co-ordinates are set out in Table 1B (the “array area”);

**Table 1B – Array area**

<i>Point</i>	<i>Latitude (decimal degrees)</i>	<i>Longitude (decimal degrees)</i>
25	55.12443	2.14572
26	55.13002	2.21780
51	54.97070	2.50189
52	54.96096	2.48529
56	54.83864	2.27783
57	54.83862	2.26336
24	55.01111	1.95454

- (b) up to 7 offshore platforms comprising the following—
  - (i) up to 4 offshore collector platforms situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations;
  - (ii) 1 offshore converter platform situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations;
  - (iii) up to 2 offshore accommodation or helicopter platforms situated within the array area and fixed to the seabed by multi-leg or gravity base type foundations,
 provided that any of the platforms comprised in Work No. 1B(b)(i) to (iii) may be co-joined to create a combined platform fixed to the seabed by multi-leg or gravity base type foundations;
- (c) up to 5 meteorological stations situated within the array area either fixed to the seabed by monopole, multi-leg or gravity base type foundations or utilising a floating structure secured by chain and anchor;
- (d) a network of cables for the transmission of electricity and electronic communications laid on or beneath the seabed (including cable crossings) between—
  - (i) any of the wind turbine generators comprising Work No. 1B(a);
  - (ii) any of the wind turbine generators comprised in Work No. 1B(a) and any of the works comprised in Work No. 1B(c);
  - (iii) any of the works comprising Work No. 1B(b) and any of the works comprised in Work No. 1B(c); and
  - (iv) the offshore converter platform referred to in Work No. 1B(b)(ii) or a combined platform referred to in Work No. 1B(b) and the export cable route in Work No. 2B;
- (e) up to 10 vessel moorings situated within the array area consisting of a single floating buoy secured by chain and anchor anchored to the seabed;

**Work No. 2B –** up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid on or beneath the seabed between Work No. 1B(b)(ii) or a combined platform referred to in Work No. 1B(b) and Work No. 3B (including cable crossings) and situated within the co-ordinates of the export cable corridor area specified in the offshore order limits and grid co-ordinates plan;

**Work No. 3B** – up to 2 export cables for the transmission of HVDC electricity together with fibre-optic cables for the transmission of electronic communications laid underground between MLWS and MHWS connecting Work No. 2B with Work No. 4B (as set out in Part 1 of Schedule 1 to the Order);

**Work No. 2T** – a temporary work area for vessels to carry out intrusive activities during construction, including vessels requiring anchor spreads, alongside the cable corridors; and

Ancillary works in connection with the above-mentioned works comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction or maintenance of the authorised scheme;
  - (b) temporary or permanent buoys, beacons, fenders and other navigational warning on ship impact protection works;
  - (c) temporary works for the protection of land or structures affected by the authorised scheme;
  - (d) cable protection, scour protection or dredging; and
  - (e) cable route preparation works including boulder removal and obstruction clearance, dredging and pre-sweeping.
- (3) The substances or articles authorised for deposit at sea are—
- (a) iron, steel and aluminium;
  - (b) stone and rock;
  - (c) concrete and grout;
  - (d) sand and gravel;
  - (e) plastic and synthetic;
  - (f) material extracted from within the offshore areas within the Order limits during construction drilling and seabed preparation for foundation works and cable sandwave preparation works; and
  - (g) marine coatings, other chemicals and timber.
- (4) The licence does not permit the decommissioning of the authorised scheme. No decommissioning activity may commence until a decommissioning programme has been approved by the Secretary of State under section 106 of the Energy Act 2004. Furthermore, at least 4 months before carrying out any decommissioning activity, the undertaker must notify the MMO of the proposed activity to establish whether a marine licence is required for the activity.
- (5) This licence does not authorise the construction of the works specified in sub-paragraph (2)(a) or (d)(i), (ii) or (iii)
- (6) This licence and Marine Licence 2 (as defined in the Order), when taken together, do not authorise the construction of more than 1 Work No. 1B or the construction of Work No. 1B in excess of the maximum parameters for that work set out in Schedule 1 to the Order.

## PART 2

### Conditions

#### Detailed offshore design parameters

- 3.—(1) No meteorological station lattice tower may exceed a height of 315 metres above HAT.
- (2) Meteorological mast foundation structures must be of 1 or more of the following foundation options: monopole, multi-leg, gravity base or floating structure secured by chain and anchor.
- (3) No meteorological mast foundation structure employing a footing of driven piles may—
- (a) have more than 4 driven piles;



- (b) in the case of single-pile structures, have a pile diameter exceeding 10 metres or employ a hammer energy during installation exceeding 2,300 kilojoules;
  - (c) in the case of structures with 2 or more piles, have a pile diameter exceeding 3.5 metres or employ a hammer energy during installation exceeding 1,900 kilojoules.
- (4) No meteorological mast foundation may have—
- (a) a seabed footprint (excluding subsea scour protection) exceeding 1,735 square metres;
  - (b) a seabed footprint (including subsea scour protection) exceeding 4,657 square metres;
  - (c) a main supporting structure exceeding 51.5 metres in width.
- 4.—(1)** The total number of offshore platforms within Work No. 1B must not exceed 7 comprising—
- (a) up to 4 offshore collector platforms;
  - (b) 1 offshore converter platform; and
  - (c) up to 2 offshore accommodation or helicopter platforms,
- provided that any of the platforms referred to in paragraphs (a) to (c) may be co-joined to create a combined platform fixed to the seabed by multi-leg or gravity base type foundations.
- (2) The dimensions of any offshore collector platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed—
- (a) 75 metres in length;
  - (b) 75 metres in width;
  - (c) 85 metres in height above HAT.
- (3) The dimensions of any offshore converter platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed—
- (a) 125 metres in length;
  - (b) 100 metres in width;
  - (c) 105 metres in height above HAT.
- (4) The dimensions of any offshore accommodation or helicopter platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed—
- (a) 125 metres in length;
  - (b) 100 metres in width;
  - (c) 105 metres in height above HAT.
- (5) The dimensions of any combined platform (excluding towers, helicopter landing pads, masts and cranes) must not exceed the total seabed footprint of the individual platforms incorporated within it.
- (6) Offshore platform foundation structures must be of 1 or more of the following foundation options: gravity base or multi-leg.
- (7) No offshore platform foundation structure employing a footing of driven piles may—
- (a) have more than 24 driven piles;
  - (b) have a pile diameter exceeding 2.75 metres or employ a hammer energy during installation exceeding 1,900 kilojoules.
- (8) Within Work No. 1B, the seabed footprint per offshore foundation (excluding scour protection) must not exceed—
- (a) in the case of an offshore collector platform, 5,625 square metres;
  - (b) in the case of an offshore converter platform, 12,500 square metres;
  - (c) in the case of an offshore accommodation or helicopter platform, 12,500 square metres.
- (9) No offshore collector platform foundation may have a seabed footprint (including subsea scour protection) exceeding 9,025 square metres.

(10) No offshore converter platform foundation may have a seabed footprint (including subsea scour protection) exceeding 17,400 square metres.

(11) No offshore accommodation or helicopter platform foundation may have a seabed footprint (including subsea scour protection) exceeding 17,400 square metres.

(12) The number of vessels actively carrying out impact piling as part of the installation of driven pile foundations must at no time exceed 2 within Work No. 1B.

**5.**—(1) The total seabed footprint of foundation structures (excluding mooring buoys) within Work No. 1B (including subsea scour protection and drill arising deposits) must not exceed 1,116,850 square metres.

(2) The total seabed footprint of offshore platform foundation structures within Work No. 1B (including seabed scour protection and drill arising deposits) must not exceed 88,300 square metres.

**6.**—(1) Within Work Nos. 1B, 2B and 3B, the HVDC cables must not, in total, exceed—

- (a) 2 in number;
- (b) 1 fibre-optic cable;
- (c) 484.4 kilometres in length.

(2) Within Work Nos. 1B and 2B, the HVDC cables must not, in total, have cable protection (excluding cable crossings) exceeding—

- (a) 2.31 square kilometres in area;
- (b) 2,242,473 cubic metres in volume.

**7.** Within Work No. 1B, the HVAC cables must not, in total,—

- (a) exceed 1,270 kilometres in length;
- (b) have cable protection (excluding cable crossings) exceeding 890,000 square metres in area;
- (c) have cable protection (excluding cable crossings) exceeding 572,000 cubic metres in volume.

**8.** Within Work No. 1B, the HVAC cable crossings must not, in total, exceed—

- (a) 24 in number;
- (b) 132,700 cubic metres in volume of cable crossing material;
- (c) 147,100 square metres in seabed footprint.

**9.** Within Work Nos. 1B and 2B, the HVDC cable crossings must not, in total, exceed—

- (a) 16 in number;
- (b) 88,450 cubic metres in volume of cable crossing material;
- (c) 98,100 square metres in seabed footprint.

## **Notifications and inspections**

**10.**—(1) The undertaker must ensure that—

- (a) before carrying out any of the licensed activities, the undertaker informs the MMO of—
  - (i) the organisation undertaking the licensed activities and its primary point of contact;
  - (ii) the works being undertaken pursuant to this licence comprising those works necessary up to the point of connection with the generation assets including (without limiting paragraph 2)—
    - (aa) up to 4 offshore collector platforms; and
    - (bb) a network of cables for the transmission of electricity and electronic communications;

- (iii) cable installation;
  - (iv) impact piling soft start procedures;
  - (v) the maximum total area and volume for any cables to be constructed pursuant to this licence; and
  - (vi) the maximum total area and volume for any cable protection to be constructed within the export cable corridor area pursuant to this licence;
- (b) all works notified under this Condition when combined with any works notified under Condition 13 of Marine Licences 1 and 2 (as defined in the Order) and Condition 10 of Marine Licence 3 (as defined in the Order) must not exceed the maximum parameters set out in Schedule 1 to the Order;
- (c) a copy of this licence and any subsequent amendments or revisions to it is provided to—
- (i) all agents and contractors notified to the MMO in accordance with Condition 16; and
  - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with that Condition; and
- (d) within 28 days of receipt of a copy of this licence, the organisations and primary points of contact referred to in paragraph (a) provide a completed confirmation form to the MMO confirming that they have read and will comply with the terms of this licence.
- (2) Only those persons and vessels notified to the MMO in accordance with Condition 16 are permitted to carry out the licensed activities.
- (3) Copies of this licence must also be available for inspection at the following locations—
- (a) the undertaker's registered address;
  - (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits;
  - (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits are to be made.
- (4) The documents referred to in sub-paragraph (1)(c) must be available for inspection by an enforcement officer at all reasonable times at the locations set out in sub-paragraph (3)(b).
- (5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during the construction and operation of the authorised scheme.
- (6) The undertaker must inform the MMO Marine Licensing Team and the MMO Coastal Office in writing at least 5 working days before commencement of the licensed activities or any phase of them.
- (7) At least 7 days before commencement of the licensed activities or any phase of them, the undertaker must publish in the Kingfisher Fortnightly Bulletin details of the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant phase.
- (8) The undertaker must ensure that a notice to mariners is issued at least 10 working days before commencement of the licensed activities or any phase of them advising of the commencement date of Work Nos. 2B and 3B and the expected vessel routes from the local construction ports to the relevant locations.
- (9) The undertaker must ensure that the notices to mariners are updated and reissued at weekly intervals during construction activities and within 5 days of any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed by the MCA in accordance with the detailed construction and monitoring programme referred to in Condition 13(b). Copies of all notices must be provided to the MMO.
- (10) The undertaker must notify—

- (a) the United Kingdom Hydrographic Office at least 2 weeks before commencement, and no later than 2 weeks following completion, of the authorised scheme in order that all necessary amendments to nautical charts are made; and
- (b) the MMO, MCA and Trinity House once the authorised scheme is completed and any required lighting or marking has been established.

### **Chemicals, drilling and debris**

**11.—**(1) All chemicals used in the construction of the authorised scheme, including any chemical agents placed within any monopole or other foundation structure void, must be selected from the list of notified chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002 and managed in accordance with the chemical risk assessment and the marine pollution contingency plan.

(2) The undertaker must ensure that any coatings and treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by the Health and Safety Executive or the Environment Agency pollution prevention guidelines. Any spillages must be reported to the MMO Marine Pollution Response Team within the timeframes specified in the marine pollution contingency plan.

(3) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works is discharged into the marine environment and that concrete and cement mixing and washing areas are contained to prevent run-off entering the water through the freeing ports.

(4) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(5) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO Marine Pollution Response Team within the timeframes specified in the marine pollution contingency plan.

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

(7) Where foundation drilling works are proposed, in the event that any system other than water-based mud is proposed, the MMO's written approval in relation to the proposed disposal of any drill arisings must be obtained before the drilling commences, which may also require a marine licence.

(8) The undertaker must ensure that any debris arising from the construction of the authorised scheme or temporary works placed seaward of MHWS are removed on completion of the authorised scheme.

(9) The management of chemicals, drilling and control of debris referred to in sub-paragraphs (2) to (8) must be managed in accordance with the chemical risk assessment and marine pollution contingency plan.

(10) At least 10 days before commencement of the licensed activities, the undertaker must submit to the MMO an audit sheet covering all aspects of the construction of the licensed activities or any phase of them. The audit sheet must include details of—

- (a) loading facilities;
- (b) vessels;
- (c) equipment;
- (d) shipment routes;
- (e) transport;
- (f) working schedules; and
- (g) all components and materials to be used in the construction of the authorised scheme.

(11) The audit sheet must be maintained throughout the construction of the authorised scheme (or relevant phase) and must be submitted to the MMO for review at fortnightly intervals during periods of active offshore construction.

(12) In the event that the MMO becomes aware that any of the materials on the audit sheet cannot be accounted for, it must require the undertaker to carry out a side-scan sonar survey to plot all obstructions across a reasonable area of search agreed by the MMO where construction works and related activities have been carried out. Local commercial fishing groups must be invited to send a representative to be present during the survey. Any obstructions that the MMO believes to be associated with the authorised scheme must be removed at the undertaker's expense.

(13) As an alternative to the completion of an audit sheet, with written approval from the MMO, the undertaker may introduce a dropped object procedure. If a dropped object procedure is introduced, any dropped objects must be reported to the MMO using the dropped object procedure form within 6 hours of the undertaker becoming aware of an incident. On receipt of the dropped object procedure form, the MMO may require relevant surveys to be carried out by the undertaker (such as side-scan sonar), and the MMO may require obstructions to be removed from the seabed at the undertaker's expense.

(14) The undertaker must agree with the MMO, before commencement of works, whether the dropped object procedure or audit sheet is to be used.

### **Force majeure**

12. If, due to stress of weather or any other cause, the master of a vessel determines that it is necessary to deposit the authorised deposits otherwise than in accordance with Condition 14(2) because the safety of human life or of the vessel is threatened—

- (a) full details of the circumstances of the deposit must be notified to the MMO within 48 hours; and
- (b) on reasonable request of the MMO, the unauthorised deposits must be removed at the undertaker's expense.

### **Pre-construction plans and documentation**

13. The licensed activities or any phase of those activities must not commence until the following (insofar as relevant to that activity or phase of activity) have been submitted to and approved in writing by the MMO—

#### *Cable specification and installation plan*

- (a) a cable specification and installation plan to be agreed in consultation with Trinity House and the MCA that shows the route of the cable to ensure conformity with the description of Work Nos. 2B and 3B. The plan is to include co-ordinates of the transmission works within Work Nos. 1B, 2B and 3B;

#### *Detailed construction and monitoring programme*

- (b) a detailed construction and monitoring programme, including details of—
  - (i) the proposed construction commencement date;
  - (ii) proposed timings for mobilisation of plant, delivery of materials and installation works; and
  - (iii) proposed pre-construction surveys, a proposed format and content for a baseline report, construction monitoring, post-construction monitoring and related reporting in consultation with the relevant statutory nature conservation body. The pre-construction survey programme and all pre-construction survey methodologies must be submitted to the MMO for written approval at least 4 months before commencement of any survey works detailed within;

#### *Construction method statement*

- (c) a construction method statement in accordance with the construction methods assessed in the environmental statement, including details of—

- (i) drilling methods and arrangements for disposal of drill arisings, in accordance with the disposal scenario statement;
- (ii) platform location and installation, including scour protection and foundations which must be those that are able to be completely and safely removed, or reduced to a level below the seabed, at the time of decommissioning;
- (iii) cable installation;
- (iv) cable installation between MHWS and MLWS;
- (v) impact piling soft start procedures;
- (vi) the source of rock material used in construction and method to minimise contaminants and fines;
- (vii) contractors;
- (viii) vessels;
- (ix) associated works;
- (x) foundation scour protection requirements in a plan produced following pre-construction surveys identifying where scour protection is most likely to be required (an “intelligent scour protection management plan”); and
- (xi) details of notification of the closure of the disposal site (reference number DG025) on completion of disposal activities;

*Project environmental management and monitoring plan*

- (d) a project environmental management and monitoring plan that details minimum environmental management requirements expected of all contractors and subcontractors, with regards to marine pollution contingency, waste management and disposal, chemical risk assessment and relevant fisheries liaison matters, including details of—
  - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents during construction and operation of the authorised scheme in relation to all activities carried out;
  - (ii) a chemical risk assessment, including information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
  - (iii) waste management and disposal arrangements;
  - (iv) the fisheries liaison officer, being a person appointed by the undertaker and charged with communication and liaison with the fishing industry as appropriate through the lifetime of the authorised scheme, to be notified to the marine officer for the MMO’s Northern Marine Area and the MMO Marine Licensing Team. Evidence of liaison must be collated so that signatures of attendance at meetings, agenda and minutes of meetings with the fishing industry can be provided to the MMO if requested; and
  - (v) a fisheries liaison plan in accordance with the draft fisheries liaison plan, including information on liaison with the fishing industry (including the fisheries liaison officer referred to in paragraph (iv)) and a co-existence plan that details how the project will be constructed and operated taking account of the fisheries industry;

*Marine mammal mitigation protocol*

- (e) a marine mammal mitigation protocol with appropriate monitoring surveys in accordance with the offshore in principle monitoring plan, to be agreed in writing by the MMO in consultation with the relevant statutory nature conservation body and the Royal Society of Wildlife Trusts, the intention of which is to prevent, amongst other things,—
  - (i) injury to marine mammals, primarily auditory injury in the vicinity of any piling;
  - (ii) disturbance to marine mammals;
  - (iii) adversely affecting the integrity, within the meaning of the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007, of a European offshore

marine site or a European site (defined in regulations 15 and 24 of those Regulations respectively), to the extent that marine mammals are a protected feature of that site;

*Cable specification and installation plan*

- (f) a cable specification and installation plan, following consultation with the relevant statutory nature conservation body, including—
  - (i) technical specification of offshore cables, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
  - (ii) a staged cable-laying plan for the Order limits, incorporating a burial risk assessment to ascertain suitable burial depths and cable-laying techniques;
  - (iii) a cable protection plan providing details of the need, type, sources, quality and installation methods for cable protection; and
  - (iv) details of the methodology and extent of a post-lay survey to confirm burial depths;

*Offshore archaeological written scheme of investigation*

- (g) an offshore archaeological written scheme of investigation in relation to the offshore areas within the Order limits in accordance with the outline offshore archaeological written scheme of investigation, industry good practice and in consultation with English Heritage, including—
  - (i) details of responsibilities of the undertaker, archaeological consultant and contractor inclusive of an agreed programme for the publication of results;
  - (ii) a methodology for any further site investigation including any specifications for geophysical, geotechnical and diver- or remotely-operated vehicle investigations;
  - (iii) within 3 months of any survey being completed, a timetable to be submitted to the MMO setting out the timeframe for the analysis and reporting of survey data;
  - (iv) delivery of any mitigation including, where necessary, archaeological exclusion zones;
  - (v) monitoring during and post-construction, including a conservation programme for finds;
  - (vi) archiving of archaeological material, including ensuring that a copy of any agreed archaeological report is deposited with the English Heritage archive by submitting an English Heritage OASIS form with a digital copy of the report;
  - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme;

*Aids to navigation management plan*

- (h) an aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House and the MCA specifying—
  - (i) the aids to navigation to be established from the commencement of the authorised scheme to the completion of decommissioning;
  - (ii) the monitoring and reporting of the availability of aids to navigation; and
  - (iii) notifications and procedures for ensuring navigational safety following failures to aids to navigation;

*Cofferdam method statement*

- (i) in the event that a temporary cofferdam is constructed in Work No. 3B, a cofferdam method statement for the monitoring and redistribution of sediment, to be agreed in writing by the MMO. The cofferdam method statement must include details of the installation and management of the temporary cofferdam.

**14.—**(1) Each programme, statement, plan, protocol or scheme required to be approved under Condition 13 must be submitted for approval at least 4 months before the intended commencement of construction, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) The licensed activities must be carried out in accordance with the programmes, statements, plans, protocols, schemes and details approved under Condition 13.

### **Offshore safety management**

**15.—**(1) Offshore works must not commence until the MMO, in consultation with the MCA,—

- (a) has given written approval for an emergency response and co-operation plan (“ERCoP”) that includes full details of the emergency response procedures for the construction, operation and decommissioning phases of the authorised scheme in accordance with the MCA recommendations contained in the OREI guidance; 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 the authorised scheme.

(2) The ERCoP must include the identification of a point of contact for emergency response.

(3) The ERCoP must be implemented as approved.

(4) In this Condition, “OREI guidance” means MCA document MGN371 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes.

### **Reporting of engaged agents, contractors and vessels**

**16.—**(1) The undertaker must provide the name and function of any agent or contractor appointed to engage in the licensed activities to the MMO at least 2 weeks before agents, contractors and vessels carry out licensed activities.

(2) Each week during the construction of the authorised scheme a completed Hydrographic Note H102 must be provided to the MMO listing the vessels currently and to be used in relation to the licensed activities.

(3) Any changes to the supplied details must be notified to the MMO in writing before the agent, contractor or vessel engages in the licensed activities.

### **Equipment and operation of vessels engaged in licensed activities**

**17.—**(1) All vessels employed to perform the licensed activities must be constructed and equipped to be capable of the proper performance of such activities in accordance with the Conditions and (except in the case of remotely-operated vehicles or vessels) must comply with sub-paragraphs (2) to (5).

(2) All motor-powered vessels must be fitted with—

- (a) an electronic positioning aid to provide navigational data;
- (b) radar;
- (c) an echo-sounder; and
- (d) multi-channel VHF.

(3) All vessels’ names or identification must be clearly marked on the hull or superstructure.

(4) All communication on VHF working frequencies must be in English.

(5) No vessel may engage in the licensed activities until all the equipment specified in sub-paragraph (2) is fully operational.



### **Pre-construction monitoring**

**18.**—(1) The undertaker must, in discharging Condition 13(b), and the requirement to prepare a detailed construction and monitoring programme, include details for written approval by the MMO of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report. The survey proposals must be in accordance with the principles set out in the offshore in principle monitoring plan and must specify each survey's objectives and explain how it assists in either informing a useful and valid comparison with the post-construction position or enables the validation or otherwise of key predictions in the environmental statement. The baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post construction comparison is intended and the justification for this being required.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this Condition, where appropriate and necessary it is expected that the pre-construction surveys will comprise—

- (a) an appropriate survey to determine the location and reasonable extent of any benthic habitats of conservation, ecological or economic importance including (Annex 1 habitats) in whole or in part inside the areas within the Order limits in which it is proposed to carry out construction works; and
- (b) appropriate high-resolution bathymetric surveys undertaken to International Hydrographic Organisation Order IA standard and side-scan surveys of the areas within Work Nos. 1B and 2B within the Order limits in which it is proposed to carry out construction works. This must include the identification of sites of historic or archaeological interest (A1 and A3 receptors) and any unidentified anomalies larger than 5 metres in diameter (A2 receptors), which may require the refinement, removal or introduction of archaeological exclusion zones and to confirm project-specific micro-siting requirements (for A2 receptors).

(3) The undertaker must carry out and complete the surveys to be undertaken under sub-paragraph (1) in a timescale agreed by the MMO.

### **Construction monitoring**

**19.**—(1) The undertaker must, in discharging Condition 13(b), submit details for approval by the MMO of any proposed surveys or monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme.

(2) The detailed construction and monitoring programme must be submitted at least 4 months before commencement of any survey works and provide the agreed reports in the agreed format in accordance with the agreed timetable. The survey proposals must be in accordance with the principles set out in the offshore in principle monitoring plan and must specify each survey's objectives.

(3) The construction surveys must, where driven or part-driven pile foundations (for each specific foundation type) are proposed to be used, comprise measurements of noise generated by the installation of 1 pile from each of the first 4 structures with piled foundations, following which the MMO must determine whether further noise monitoring is required. The results of the initial noise measurements must be provided to the MMO within 6 weeks of the installation of the first relevant foundation piece. The assessment of this report by the MMO must determine whether any further noise monitoring is required.

(4) The undertaker must carry out and complete the surveys to be undertaken under sub-paragraph (1) in a timescale agreed by the MMO.

### **Post-construction surveys**

**20.**—(1) The undertaker must, in discharging Condition 13(b), submit details for written approval by the MMO of the 3 post-construction surveys proposed in sub-paragraph (2), including methodologies and timings, and a proposed format, content and timings for providing reports on

the results at least 4 months before commencement of any survey works detailed within. The survey proposals must be in accordance with the principles set out in the offshore in principle monitoring plan and specify each survey's objectives and explain how it assists in either informing a useful and valid comparison with the pre-construction position or enables the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt of specific proposals, it is expected that the post-construction surveys will comprise—

- (a) appropriate high-resolution bathymetric surveys undertaken to International Hydrographic Organisation Order IA standard and side-scan sonar surveys around a sample of infrastructure locations that are considered appropriate to assess any changes in seabed topography. For this purpose, the undertaker must before the first survey submit a desk-based assessment (that takes into account all factors that influence scour) to identify the sample of infrastructure locations that are considered appropriate with greatest potential for scour. The survey must be used to validate the desk-based assessment. Further surveys may be required if there are significant differences between the modelled scour and recorded scour;
- (b) dependent on the outcome of the surveys undertaken under Condition 18(2)(a), appropriate surveys to determine the effects of construction activity on any benthic habitats of conservation, ecological or economic importance (including Annex 1 habitats) in whole or in part inside the areas within the Order limits to validate predictions made in the environmental statement and to identify the presence of any non-native species and wider community type structure; and
- (c) appropriate surveys to determine the change in size and form of the drill disposal mounds over the lifetime of the authorised scheme.

(3) The undertaker must carry out the surveys under sub-paragraph (1) and provide the reports in the agreed format in accordance with the timetable agreed in writing by the MMO following consultation with the relevant statutory nature conservation body.

### **Offshore maintenance plan**

**21.**—(1) The undertaker must, at least 4 months before commissioning the licenced activities, submit for written approval by the MMO an offshore maintenance plan based on the maintenance assessed in accordance with the environmental statement in the outline offshore maintenance plan.

(2) An update to the offshore maintenance plan must be submitted for approval every 3 years, or sooner in the event of any proposed major revision to planned maintenance activities or the adoption of any new technologies or techniques applicable to programmed maintenance.

(3) Maintenance must be carried out in accordance with the approved offshore maintenance plan.

### **Aids to navigation**

**22.** The undertaker must during the whole period of the construction, operation, alteration, replacement or decommissioning of the authorised scheme exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation, as directed by Trinity House.

**23.** The undertaker must submit reports quarterly to Trinity House detailing the working condition of aids to navigation. Reports may be requested more frequently by Trinity House, and must be submitted by the undertaker as requested.

**24.** The undertaker must notify Trinity House and the MMO of any failure of aids to navigation as soon as possible and no later than 24 hours following the detection of the failure.

**25.** Following notification of a failure of aids to navigation, the undertaker must as soon as practicable notify Trinity House and the MMO of a timescale and plan for remedying the failure.

**26.** The undertaker must paint all structures that are part of the authorised scheme yellow (colour code RAL 1023) from at least HAT to a height as directed by Trinity House.

**27.** In case of damage to, or destruction or decay of, the authorised scheme or any part of it, the undertaker must as soon as possible and no later than 24 hours following the identification of damage, destruction or decay, notify Trinity House and the MMO.

**28.** The undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

### **Progress of authorised scheme**

**29.** The undertaker must keep Trinity House, the MCA and the MMO informed of progress of the authorised scheme including—

- (a) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within 5 working days of completion of construction of the authorised scheme.

### **Amendments to plans, etc.**

**30.** Where any Condition requires licensed activities to be carried out in accordance with any programme, statement, plan, protocol, scheme, details or arrangements approved by the MMO, the approved programme, statement, plan, protocol, scheme, details or arrangements must be taken to include any amendments that may subsequently be approved in writing by the MMO (after consulting any person that the MMO is required to consult under the relevant Condition).

## **SCHEDULE 12**

Articles 31 and 43

### **Protective provisions**

#### **PART 1**

##### **Protection for electricity, gas, water and sewerage undertakers**

**1.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and the utility undertaker in question.

**2.** In this Part—

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus”—

- (a) in the case of a utility undertaker within paragraph (a) of the definition of that term, means electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or maintained by the utility undertaker;
- (b) in the case of a utility undertaker within paragraph (b) of the definition of that term, means any mains, pipes or other apparatus belonging to or maintained by the utility undertaker for the purposes of gas supply;

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(a) See section 64. The definition of “electrical plant” was amended by paragraph 38(3) of Schedule 6 to the Utilities Act 2000.

- (c) in the case of a utility undertaker within paragraph (c) of the definition of that term, means mains, pipes or other apparatus belonging to or maintained by the utility undertaker for the purposes of water supply; and
- (d) in the case of a utility undertaker within paragraph (d) of the definition of that term—
  - (i) means—
    - (aa) any drain or works vested in the utility undertaker under the Water Industry Act 1991; and
    - (bb) any sewer that is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act<sup>(a)</sup> or an agreement to adopt made under section 104 of that Act; and
  - (ii) 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 in each case includes any structure in which apparatus is or is to be lodged or that 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 on land;

“utility undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986<sup>(b)</sup>;
- (c) a water undertaker<sup>(c)</sup>; and
- (d) a sewerage undertaker,

for the area of the onshore works; and, in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

**3.** This Part does not apply to—

- (a) apparatus in respect of which relations between the undertaker and the utility undertaker are regulated by Part 3 of the 1991 Act; and
- (b) the offshore works.

**4.** Despite any provision of this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

**5.—(1)** If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it 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

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(a) Section 102(4) was amended by section 96 of the Water Act 2003. Section 104 was amended by section 96 of, and Part 3 of Schedule 9 to, the Water Act 2003 and by section 42(3) of the Flood and Water Management Act 2010 (c.29).  
 (b) 1986 c.44. “Gas transporter” is defined in section 7. Section 7 was substituted by section 5 of the Gas Act 1995 (c.45) and was further amended by section 76 of the Utilities Act 2000.  
 (c) “Water undertaker” is defined in Schedule 1 to the Interpretation Act 1978.

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 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 44 (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 44, 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 this Part.

(6) Despite 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 of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

**6.—**(1) Where, in accordance with this Part, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted on 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 44.

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in or along the authorised development, the arbitrator must—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus that may be required to prevent interference with any proposed works of the undertaker; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or along the authorised project for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

**7.—**(1) Not less than 28 days before executing any works of the type referred to in paragraph 5(2) that are near to, or will or may affect, any apparatus the removal of which has not been

required by the undertaker under that sub-paragraph, the undertaker must submit to the utility undertaker in question a plan, section and description of the works to be executed.

(2) The 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 the works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within 21 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 5 and 6 apply as if the removal of the apparatus had been required by the undertaker under paragraph 5(2).

(5) Nothing in this paragraph prevents 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.

**8.—**(1) Subject to the provisions of this paragraph, the undertaker must pay to a utility undertaker the reasonable expenses incurred by that utility undertaker in, or in connection with,—

- (a) the inspection, removal and re-laying or replacing, alteration or protection of any apparatus or the construction of any new apparatus under this Part (including any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or exercise of statutory powers for such apparatus);
- (b) the cutting off of any apparatus from any other apparatus, or the making safe of any redundant apparatus in consequence of the exercise by the undertaker of any power under this Order;
- (c) the survey of any land, apparatus or works, the inspection, superintendence and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the exercise by the undertaker of any power under this Order; and
- (d) any other work or thing rendered reasonably necessary in consequence of the exercise by the undertaker of any such power,

within a reasonable time of being notified by the utility undertaker that it has incurred such expenses.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under this Part, that value being calculated after removal.

(3) If in accordance with this Part—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

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 44 to be necessary, then, if

such placing involves cost in the construction of works under this Part exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this sub-paragraph, would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(5) An amount which, apart from this sub-paragraph, would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount that represents that benefit.

**9.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph 5(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided by the 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 claim or demand, and no settlement or compromise must be made without the consent of the undertaker which, if it withholds such consent, must have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

**10.** Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus laid or erected in land belonging to the undertaker at the date on which this Order is made.

**11.** In relation to any dispute arising under this Part, the reference in article 44 to the Secretary of State must be read as a reference to the Institution of Engineering and Technology.

## PART 2

### Protection of Network Rail Infrastructure Limited, etc.

**1.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and Network Rail and, where paragraph 15 applies, any other person on whom rights or obligations are conferred by that paragraph.

**2.** In this Part—

“construction” includes execution, placing, alteration and reconstruction; and “construct” and “constructed” have corresponding meanings;

“engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as amended from time to time, granted to Network Rail by the Secretary of State in exercise of powers under section 8 of the Railways Act 1993(a);

“Network Rail” means—

- (a) Network Rail Infrastructure Limited; and
- (b) any associated company of Network Rail Infrastructure Limited that holds property for railway purposes,

and for the purpose of paragraph (b) “associated company” means any company that is (within the meaning of section 1159 of the Companies Act 2006(b))—

- (c) the holding company of Network Rail Infrastructure Limited;
- (d) a subsidiary of Network Rail Infrastructure Limited; or
- (e) another subsidiary of the holding company of Network Rail Infrastructure Limited;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993(c)) or station lease;

“railway property” means—

- (a) any railway belonging to Network Rail;
- (b) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (c) any easement or other property interest held or used by Network Rail for the purposes of such railway or works, apparatus or equipment;

“specified work” means so much of any of the onshore works as is situated on, across, under, over or within 15 metres of, or may in any way affect, railway property.

**3.—**(1) Where under this Part Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures, and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use its reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised project pursuant to this Order.

**4.—**(1) The undertaker must not exercise the powers conferred by article 20 (authority to survey and investigate land) or the powers conferred by section 11(3) of the 1965 Act in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

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(a) 1993 c.43. Section 8 was amended by paragraph 4 of Schedule 17 and Part 4 of Schedule 31 to the Transport Act 2000 (c.38), paragraphs 3 and 5 of Schedule 2 to the Railways and Transport Safety Act 2003 (c.20) and paragraph 3 of Schedule 1 and Part 1 of Schedule 13 to the Railways Act 2005 (c.14).

(b) 2006 c.46.

(c) “Access agreement” is defined in section 83.



(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not under the powers conferred by this Order acquire or use new rights over any railway property except with the consent of Network Rail.

(4) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld, but may be given subject to reasonable conditions.

**5.—**(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer, and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld or delayed, and if after 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated disapproval of those plans and the grounds of disapproval—

- (a) the undertaker may serve on the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date on which the engineer receives written notice from the undertaker; and
- (b) if after the expiry of the further period of 28 days the engineer has not intimated approval or disapproval, the engineer is deemed to have approved the plans as supplied.

(3) If after the expiry of 28 days beginning with the date on which written notice was served on the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work that in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying approval of the plans, the engineer may specify any protective works (whether temporary or permanent) that in the engineer's opinion should be carried out before the commencement of construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation, decommissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and—

- (a) such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, at the expense of the undertaker, in either case with all reasonable dispatch; and
- (b) the undertaker may not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to the engineer's reasonable satisfaction.

**6.—**(1) Any specified work and any protective works to be constructed by virtue of paragraph 5(4) must, when commenced, be constructed—

- (a) with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled under paragraph 5;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any interference or obstruction referred to in subparagraph (1)(d) is caused by the carrying out of, or in consequence of, the construction of a specified work, the undertaker must, despite any approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part imposes—

- (a) any liability on the undertaker with respect to any costs, damages, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents; or
- (b) any liability on Network Rail with respect to any costs, damages, expenses or loss attributable to the negligence of the undertaker or its servants, contractor or agents.

**7.** The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing it.

**8.** Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

**9.—**(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction of a specified work or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe and efficient operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail.

(2) If Network Rail gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs that may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(3) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail itself desires to construct that part of the specified work that in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, despite any approval of the specified work under paragraph 5(1), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by means of the execution by Network Rail of that specified work.

(4) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 10(a), provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(5) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions, a capitalised sum representing such savings must be set off against any such sum payable by the undertaker to Network Rail under this paragraph.

**10.** The undertaker must pay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker under paragraph 5(3) or in constructing any protective works under paragraph 5(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;

- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, guards and other persons whom it is reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions that may, in the opinion of the engineer, need to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services that may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

**11.—(1)** In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail’s apparatus generated by the operation of the onshore works where such interference is of a level that adversely affects the safe operation of Network Rail’s apparatus;

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the onshore works) that are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that the EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 5(1) for the relevant part of the onshore works giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised project take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 5(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified pursuant to paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to paragraph (a).

(5) In any case where it is established that EMI can reasonably be prevented only by modifications to Network Rail’s apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 5(1) has effect subject to this sub-paragraph.

(6) If, at any time before the commencement of regular operation of the onshore works and despite any measures adopted pursuant to sub-paragraph (3), the testing or commissioning of the authorised works causes EMI, the undertaker must immediately on receipt of notification by Network Rail of the EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) cease to use (or procure the cessation of use of) the undertaker’s apparatus causing the EMI until all measures necessary have been taken to remedy the EMI by way of modification to the source of the EMI or

(in the circumstances, and subject to the consent specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of the EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of the EMI; and
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or the EMI.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraph (5) or (6)—

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus; and
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 6.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 15(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 10(a), any modifications to Network Rail's apparatus under this paragraph are deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph, the reference in article 44 (arbitration) to the Secretary of State must be read as a reference to the Institution of Electrical Engineers.

**12.** If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put the specified work in such state of maintenance as not adversely to affect railway property.

**13.** The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail, and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

**14.** Any additional expenses that Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at date on which this Order is made by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be paid by the undertaker to Network Rail.

**15.—(1)** The undertaker must—

- (a) pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part that may be occasioned to or reasonably incurred by Network Rail—
  - (i) by reason of the construction or maintenance of a specified work or its failure; or

- (ii) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged on a specified work; and
- (b) indemnify Network Rail and keep Network Rail indemnified from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission.

(2) The fact that any act may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision must not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under this Part.

(3) Network Rail must give the undertaker reasonable notice of any such claim or demand, and no settlement or compromise of such a claim or demand must be made without the prior consent of the undertaker.

(4) The sums payable by the undertaker under sub-paragraph (1) must include a sum equivalent to the relevant costs.

(5) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums that Network Rail receives under sub-paragraph (1) that relates to the relevant costs of that train operator.

(6) The obligation under sub-paragraph (4) to pay Network Rail the relevant costs is, in the event of default, enforceable directly by any train operator concerned to the extent that such sums would be payable to that train operator pursuant to sub-paragraph (5).

(7) In this paragraph—

“relevant costs” means the costs, direct losses and expenses (including loss of revenue) incurred by each train operator as a consequence of any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work, or any such act or omission as mentioned in sub-paragraph (1);

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

**16.** Network Rail must, on receipt of a request from the undertaker, from time to time provide to the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part (including the amount of the relevant costs mentioned in paragraph 15) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part (including any claim relating to those relevant costs).

**17.** In the assessment of any sums payable to Network Rail under this Part, there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part or increasing the sums so payable.

**18.** The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works plans and land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property.

**19.** Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part 1 of the Railways Act 1993.

**20.** The undertaker must give written notice to Network Rail if any submission is proposed to be made by the undertaker for the Secretary of State's certification under article 42 (certification of plans and documents, etc.), and the notice must be given no later than 28 days before the submission is made and must describe or give (as appropriate)—

- (a) the nature of the submission to be made;
- (b) the extent of the geographical area to which the submission relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the submission is to be made.

**21.** The undertaker must, no later than 28 days after the date on which the plans submitted to the Secretary of State in accordance with article 42 are certified by the Secretary of State, provide to Network Rail a set of plans that relate to the specified works in the form of a computer disc with read-only memory.

## PART 3

### Protection of operators of electronic communications code networks

**1.—(1)** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and the operator.

**(2)** In this Part—

“2003 Act” means the Communications Act 2003;

“conduit system” has the same meaning as in the electronic communications code; and references to providing a conduit system must be construed in accordance with paragraph 1(3A) of the code<sup>(a)</sup>;

“electronic communications apparatus” has the same meaning as in the electronic communication code;

“electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act<sup>(b)</sup>;

“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 of the 2003 Act; and
- (b) an electronic communications network that the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

“operator” means the operator of an electronic communications code network.

**2.** The temporary stopping up or diversion of any street under article 15 (temporary stopping up of streets) does not affect any right of the operator under paragraph 9 of the electronic communications code to maintain any apparatus that, at the time of the stopping up or diversion, is in the street.

**3.—(1)** Subject to sub-paragraphs (2) to (4), if as the result of the authorised project or its construction, or of any subsidence resulting from any of the project—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the project), or other property of an operator; or

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<sup>(a)</sup> Paragraph 1(3A) was added to the code (Schedule 2 to the Telecommunications Act 1984 (c.12)) by paragraph 4 of Schedule 3 to the Communications Act 2003.

<sup>(b)</sup> “The electronic communications code” is defined in section 106(1).

- (b) there is any interruption in the supply of the service provided by an operator,  
the undertaker must—
  - (c) bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply;
  - (d) make reasonable compensation to the operator for loss sustained by it; and
  - (e) indemnify the operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, an operator by reason, or in consequence of, any such damage or interruption.
- (2) Sub-paragraph (1) does not apply to—
  - (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by 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 project.
- (3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.
- (4) The operator must give the undertaker reasonable notice of any claim or demand, and no settlement or compromise of the claim or demand may 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.
- (5) Any difference arising between the undertaker and the operator under this Part must be referred to and settled by arbitration under article 44 (arbitration).

## PART 4

### Protection of offshore cables and pipelines

1. The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and the Company in question.

2.—(1) In this Part—

“cables” means the whole or any part of the UK-Denmark-4 cable or the Pangea North cable system;

“Company” means—

- (a) BT Group plc in relation to the UK-Denmark-4 cable;
- (b) Shell UK Limited in relation to the Shearwater to Bacton (SEAL) pipeline;
- (c) Gassco AS in relation to the Langeled pipeline;
- (d) Alcatel-Lucent Submarine Networks, SAS in relation to the Pangea North cable system;

“construction” includes execution, placing and altering; and cognate expressions must be construed accordingly;

“Langeled pipeline” means the underwater pipeline transporting Norwegian natural gas to the United Kingdom across the North Sea;

“Pangea North cable system” means the submarine telecommunications cable system laid between the United Kingdom and the Netherlands;

“pipelines” means the whole or any part of the Langeled pipeline or the Shearwater to Bacton (SEAL) pipeline that are used for the conveyance of any hydrocarbon fuel and in respect of which a Company has an interest for the time being, together with any associated plant and equipment serving those pipelines;

“plans” includes sections, drawings, calculations, methods of construction, particulars and specifications;

“protected property” means the cables and pipelines—

- (a) any part of which is situated within the Order limits for the offshore works; and
- (b) in respect of which a Company has an interest for the time being;

“protective works” has the meaning given in paragraph 9;

“Shearwater to Bacton (SEAL) pipeline” means the gas pipeline connecting the Shell terminal in the United Kingdom to the Shearwater and Elgin-Franklin gas fields in the central North Sea;

“UK-Denmark-4 cable” means the out-of-service telecommunications cable laid between the United Kingdom and Denmark;

“works” means Work Nos. 1A, 1B, 2A, 2B, 2T, 3A and 3B.

(2) In this Part, references to a Company—

- (a) are references to any (or, as the case may be, each) Company that has an interest in the protected property concerned for the time being; and
- (b) include references to its successors in title in respect of any protected property.

**3.** Despite anything in this Order or shown on the works plans, the undertaker must not pursuant to the powers conferred by this Order appropriate and remove any protected property otherwise than by agreement with the Company.

**4.** Despite anything in this Order, except in the case of any part of the protected property that the Company certifies in writing is permanently disused, the undertaker must not exercise the powers conferred by this Order to relocate any protected property until suitable alternative facilities have been provided by the undertaker and are available for use to the reasonable satisfaction of the Company.

**5.** The undertaker must use its best endeavours—

- (a) in exercising any of the powers conferred by this Order to avoid or (failing avoidance) to minimise any damage or disruption to the protected property; and
- (b) without limiting sub-paragraph (a), to ensure that the works do not at any time fall into such a condition as to compromise the integrity or operation of the protected property.

**6.** Not less than 8 months before commencing construction of the works, the undertaker must furnish to the Company a programme for the works proposed and a general indication of the nature and location of the works and, if within 28 days after receipt by a Company of that programme and general indication the Company gives notice in writing to the undertaker that any part of the offshore works indicated in the programme may in any way affect protected property, paragraphs 8 and 9 apply with respect to that part of those works.

**7.** On giving any notice to the undertaker under paragraph 6, the Company must furnish existing drawings showing to the best of its knowledge the position and depth of the relevant part of the protected property.

**8.** Not less than 4 months before commencing construction of any part of the offshore works that may significantly affect the protected property, the undertaker must furnish to the Company detailed plans and specifications of the relevant part of the offshore works and must have due regard to any representations made by the Company relating to such plans or to the programme for the works and make reasonable changes required to avoid risk of harm to the protected property by the construction.

**9.** At any time within 1 month after the receipt by the Company of the plans referred to in paragraph 8 the Company may by notice in writing to the undertaker specify any reasonable temporary or permanent works or measures (the “protective works”) which in its reasonable opinion should be carried out or taken by the undertaker before the commencement of or during the construction of the works in order to ensure the stability of the protected property (shown on the drawings furnished by the Company under paragraph 7) or to protect them from injury and



such protective works must be constructed by the undertaker at its own expense and under the inspection (if any) of the Company.

**10.** Except in the case of protective works that the Company has informed the undertaker in writing may be carried out during the construction of the works, the undertaker must not commence the construction of any work within 50 metres of, or which may in any way affect, the protected property until the protective works relating to the work have been completed to the reasonable satisfaction of the Company.

**11.** In the case of protective works of which the Company has informed the undertaker in writing as mentioned in paragraph 10, the undertaker must comply with all reasonable requirements of the Company arising from its inspection under paragraph 9 as promptly as practicable after the undertaker has been notified of such requirements.

**12.** Except in an emergency (when it must give such notice as may be reasonably practicable), the undertaker must give the Company not less than 56 days' notice of its intention to carry out any works for the repair or maintenance of the works in so far as such works may affect or interfere with the protected property.

**13.** The undertaker must pay to the Company the reasonable expenses properly incurred by the Company in or in connection with the removal and relaying or replacing of any part of protected property, including the provision, laying down or placing of any alternative facilities.

**14.** The undertaker must pay to the Company the reasonable expenses properly incurred by the Company in or in connection with the preparation of drawings or notice referred to in paragraph 7 or 9 and by the Company in the watching and inspecting of any protective works relating to protected property.

**15.** This Part does not apply in relation to any protected property laid by or for the use of the Company after this Order comes into force.

**16.** Nothing in this Part affects any enactment or any regulations made under any enactment or any agreement regulating the relations between the undertaker and the Company in respect of any protected property laid within the Order limits for the offshore works in force on the date on which this Order comes into force.

## **PART 5**

### **Protection of Environment Agency**

**1.—(1)** The provisions of this Part have effect for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

**2.** In this Part—

“Agency” means the Environment Agency;

“construction” includes execution, placing, altering, replacing, relaying and removal; and

“construct” and “constructed” must be construed accordingly;

“drainage work” means any watercourse and includes—

- (a) any land that provides or is expected to provide flood storage capacity for any watercourse;
- (b) any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring; and
- (c) any ancillary works constructed as a consequence of works carried out for drainage purposes;

“fishery” means any watercourse within the Order limits containing fish, fish in such waters and the spawn, habitat or food of such fish;

“plans” includes sections, drawings, specifications 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 16 metres of, a drainage work or 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 or ground water;
- (c) cause obstruction to the free passage of fish or damage to any fishery; or
- (d) affect the conservation, distribution or use of water resources;

“watercourse” means all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer.

**3.—**(1) Before commencing construction of 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 require.

(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 13.

(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 2 months of the submission of the plans for approval or receipt of further particulars if such particulars have been required by the Agency 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 make for the protection of any drainage work or fishery or for the protection of water resources, or for the prevention of flooding or pollution or in the discharge of its environmental duties.

(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

**4.** Without limiting paragraph 3 but subject always to the provision of that paragraph as to reasonableness, the requirements that the Agency may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage;
- (b) to secure that its efficiency for flood defence purposes is not impaired, and that the risk of flooding is not otherwise increased, by reason of the specified work.

**5.—**(1) Subject to sub-paragraph (2), the specified work, and all protective works required by the Agency under paragraph 4, must be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under this Part; and
- (b) to the reasonable satisfaction of the Agency,

and an officer of the Agency is entitled 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 before the construction of any specified work.

(4) 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, the Agency may by notice in writing require the undertaker at the undertaker’s own expense to comply with the requirements of

this Part 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.

(5) Subject to sub-paragraph (6) and paragraph 9, if within a reasonable period, being not less than 28 days from the date on which 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 or subsequently to make reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice, and any 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 Agency must not except in an emergency exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined.

**6.—**(1) Subject to sub-paragraph (6), the undertaker must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work that 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 that 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 paragraph 9, 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 or has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and may recover any expenditure reasonably incurred by it in so doing from the undertaker.

(4) If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the Agency in accordance with this Part, 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 of them until it has obtained the consent or complied with the condition unless the cessation of the specified works or part of them 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 a case of emergency exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined.

(6) This paragraph does not apply to drainage works that are vested in the Agency, or that the Agency or another person is liable to maintain and is not prevented by this Order from doing so.

**7.** Subject to paragraph 9, 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 the 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 same and recover from the undertaker the expense reasonably incurred by it in doing so.

**8.—**(1) The undertaker must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in a fishery during the construction of any specified work.

(2) If by reason of—

- (a) the construction of any specified work; or
- (b) the failure of any such work, damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the undertaker requiring it to take such steps as may be reasonably practicable to make good the damage, or, as the case may be, to protect the fishery against such damage.

(3) Subject to paragraph 9, 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 may recover from the undertaker the expense reasonably incurred by it in doing so.

(4) Subject to paragraph 9, 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 the reasonable cost of doing so, 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.

**9.—**(1) Nothing in paragraphs 5(5), 6(3), 7 and 8(3) and (4) authorises the Agency to execute works on or affecting the authorised development without the prior consent in writing of the undertaker.

(2) Consent under sub-paragraph (1) must not be unreasonably withheld or delayed, and the undertaker is deemed to have given its consent if it has not refused consent within 2 months of receiving a written request from the Agency.

**10.** The undertaker must indemnify the Agency in respect of all costs, charges and expenses that the Agency may reasonably incur, have to pay or sustain—

- (a) in the examination or approval of plans under this Part;
- (b) in the inspection of the construction of the specified works or any protective works required by the Agency under this Part; and
- (c) in the carrying out of any surveys or tests by the Agency that are reasonably required in connection with the construction of the specified works.

**11.—**(1) Without limiting the other provisions of this Part, the undertaker must indemnify the Agency from all claims, demands, proceedings, costs, damages, expenses or loss that may be made or taken against, recovered from, or incurred by, the Agency by reason of—

- (a) any damage to a drainage work so as to impair its efficiency for the purposes of flood defence;
- (b) any damage to a fishery;
- (c) any raising or lowering of the water table in land adjoining the authorised development or any sewers, drains and watercourses;
- (d) any flooding or increased flooding of any such land; or
- (e) inadequate water quality in any watercourse or in any groundwater that is caused by the construction of any of the specified works or any act or omission of the undertaker, its contractors, agents or employees whilst engaged on the work.

(2) The Agency must give to the undertaker reasonable notice of any such claim or demand, and no settlement or compromise may be made without the agreement of the undertaker, which agreement must not be unreasonably withheld or delayed.

**12.** 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 Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under the provisions of this Part.

**13.** Any dispute arising between the undertaker and the Agency under this Part, if the parties agree, is to be determined by arbitration under article 44 (arbitration), but otherwise must be

determined by the Secretary of State for the Environment, Food and Rural Affairs and after notice in writing by 1 to the other.

## PART 6

### Protection of owners and operators at Wilton

#### Preliminary

1. The provisions of this Part have effect for the benefit of owners and operators in the Wilton Complex<sup>(a)</sup> and owners of the Wilton Land unless otherwise agreed in writing between the undertaker and the owner or operator in question.

2. In this Part—

“alternative apparatus” means alternative apparatus adequate to serve the owner of the apparatus in question in a manner no less efficient than previously;

“apparatus” means mains, pipes, cables, sewers, drains, ditches, watercourses or other apparatus and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“construction access plan” means a plan identifying how access will be maintained to land in the Wilton Complex during the construction of the authorised project, including—

- (a) any restrictions on access, including the timing of restrictions;
- (b) any alternative accesses or routes of access that may be available to the undertaker using the Wilton Site Roads; and
- (c) details of how the needs and requirements of persons with operations at the Wilton Complex (including their needs and requirements in relation to any programmed works that they have notified to the other operators at the Wilton Complex as at the date when the plan is published) have been taken into account in preparing the plan;

“description”, in relation to works, means a detailed description of the works and includes full detail of any protective measures proposed to be incorporated as part of those works (for example, to safeguard any apparatus the removal of which is not required by the undertaker under paragraph 4(2));

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or on land;

“maintenance access plan” means a plan identifying how access will be maintained to land in the Wilton Complex during the maintenance of the authorised project, including—

- (a) any restrictions on access, including the timing of restrictions;
- (b) any alternative accesses or routes of access which may be available to the undertaker using the Wilton Site Roads; and
- (c) details of how the needs and requirements of persons with operations at the Wilton Complex (including their needs and requirements in relation to any programmed works that they have notified to the other operators at the Wilton Complex as at the date when the plan is published) have been taken into account in preparing the plan;

“major works” means works by any person requiring the closure, diversion or regulation of any of the Wilton Site Roads;

“operator” means any person who is responsible for the construction, operation, use, inspection, adjustment, alteration, repair, maintenance, renewal, removal or replacement of any apparatus or alternative apparatus in the Wilton Complex, but who is not an owner in relation to the Wilton Land or the Wilton Complex;

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(a) “Wilton Complex” is defined in article 2(1).

“owner” means—

(a) in relation to the Wilton Land, any person—

- (i) with an interest in the Wilton Land;
- (ii) with rights in, on, under or over the Wilton Land;
- (iii) with apparatus in, on or under the Wilton Land;

(b) in relation to the Wilton Complex, any owner or occupier in the Wilton Complex;

“Wilton Land” means the Wilton Complex and Plots 42A, 42B, 43A, 43B, 44A, 44B, 63A, 63B, 64, 65, 66, 67A, 67B, 67C, 67D, 67E, 67F, 68, 86 and 87 shown on the land plans;

“Wilton Site Roads” mean any of the roads shown in red on plan 2 (T-MIS-0066-01) of the Wilton protective provisions supporting plans(a), to the extent these are in the Wilton Complex, and includes any part of such a road.

3. Nothing in this Part applies to apparatus in respect of which the relations between the undertaker and the owner are regulated by Part 3 of the 1991 Act.

### **General, consent and insurance**

4.—(1) The undertaker must not in the exercise of the powers conferred by this Order acquire, appropriate, extinguish or suspend any rights in the Wilton Land if the authorised project can reasonably and practicably be carried out without such acquisition, appropriation, extinguishment or suspension.

(2) The undertaker must in the exercise of the powers conferred by this Order at all times act so as to minimise, as far as reasonably practicable, any detrimental effects on owners and operators, including any disruption to access and supplies of utilities and other services that are required by them in order to carry out their operations.

5.—(1) The undertaker must not exercise the identified powers—

- (a) in relation to the Wilton Land without the consent in writing of the owner of that land; or
- (b) where the exercise of the identified powers affects apparatus in the Wilton Land that is operated for the benefit of the Wilton Complex, without the consent in writing of the operator in relation to that apparatus.

(2) Where a person is asked to give consent for the purposes of sub-paragraph (1), the consent must not be unreasonably withheld.

(3) If the undertaker considers that consent has been unreasonably withheld, the undertaker may refer the request for consent to an expert appointed under paragraph 24 for determination.

(4) If an owner or operator fails to respond to a request for consent within 30 days after the day on which the request is made, consent is deemed to have been unreasonably withheld, and the undertaker may refer the request for consent to an expert appointed under paragraph 24 for determination.

(5) Except in an emergency, or as otherwise provided in this Part, the undertaker must give at least 30 days’ notice of the proposed exercise of the identified powers to affected owners of the Wilton Land.

(6) In this paragraph, “identified powers” means the powers conferred by the following—

- (a) article 15 (temporary stopping up of streets);
- (b) article 16 (access to works);
- (c) article 18 (discharge of water);
- (d) article 20 (authority to survey and investigate land);
- (e) article 22 (compulsory acquisition of land);

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(a) “Wilton protective provisions supporting plans” is defined in article 2(1).

- (f) article 25 (compulsory acquisition of rights);
- (g) article 26 (private rights of way);
- (h) article 28 (rights under or over streets);
- (i) article 29 (temporary use of land for carrying out authorised project);
- (j) article 30 (temporary use of land for maintaining the carrying out authorised project).

**6.**—(1) Before carrying out any works on any part of the authorised project on the Wilton Land, the undertaker must put in place a policy of insurance with a reputable insurer against consequential loss and damage suffered by owners of the Wilton Land or as may be determined by an expert under paragraph 24, and evidence of that insurance must be provided on request to owners of the Wilton Land.

(2) Not less than 90 days before carrying out any works on any part of the authorised project on the Wilton Land or before proposing to change the terms of the insurance policy, the undertaker must notify the owners of the Wilton Land of details of the terms or cover of the insurance policy that it proposes to put in place including the proposed level of the cover to be provided.

(3) The undertaker must maintain insurance in relation to works or the use of the authorised project affecting owners of the Wilton Land during the operation of the authorised project at the level specified in the notice of proposed insurance.

**7.** If an owner or operator considers that any proposed exercise by the undertaker of a power under this Order breaches paragraph 4 or 5 or if there is a dispute about the proposed insurance (including the terms or level of cover) to be provided under paragraph 6, before such a power may be exercised—

- (a) the owner or operator may refer the matter to an expert for determination under paragraph 24; and
- (b) the undertaker must not exercise the power concerned until that determination has been provided.

## **Apparatus**

**8.**—(1) If, in exercise of the powers conferred by this Order, the undertaker acquires any estate, interest or right in any land in which any apparatus is placed, the apparatus must not be removed, and any right to maintain the apparatus in the land must not be extinguished, until alternative apparatus has been constructed and is in operation and equivalent rights for the alternative apparatus have been granted to the owner or operator of the apparatus.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in the land, it must give to the owner or operator in question written notice of the 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 the undertaker must afford to the owner the necessary facilities and rights for the construction, adjustment, alteration, use, repair, maintenance, renewal, inspection, removal and replacement of alternative apparatus in other land of the undertaker and subsequently for the maintenance of the apparatus.

(3) Any alternative apparatus to be constructed in land of the undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between the owner or operator in question and the undertaker or in default of agreement settled by an expert appointed under paragraph 24.

(4) The owner or operator in question must, after the alternative apparatus to be provided or constructed has been agreed or determined by an expert under paragraph 24, and after the grant to the owner of any such facilities and rights as are referred to in sub-paragraph (2) and after the expiration of any applicable notice period in respect of the works under the Pipelines Safety

Regulations 1996(a), 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 this Part.

(5) Despite sub-paragraph (4), if the undertaker gives notice in writing to the owner or operator 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 of the undertaker, that work, instead of being executed by the owner or operator, must be executed by the undertaker without unnecessary delay to an appropriate standard and in a safe manner.

(6) If works are executed by the undertaker in accordance with sub-paragraph (5), the owner or operator of the apparatus must be notified of the timing of the works and afforded facilities to watch, monitor and inspect the execution of the works.

(7) Nothing in sub-paragraph (5) 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 3,000 millimetres of the apparatus, without the written agreement of the owner or operator, such agreement not to be unreasonably withheld.

**9.**—(1) Where, in accordance with this Part, the undertaker affords to an owner or operator 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 on such terms and conditions as may be agreed between the undertaker and the owner or operator in question or in default of agreement determined by an expert under paragraph 24, such terms to be no less favourable as a whole than the terms and conditions which applied to the apparatus to be removed.

(2) In settling the terms and conditions in respect of alternative apparatus to be constructed in or along the authorised project, the expert must—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised project and for securing any subsequent alterations or adaptations of the alternative apparatus that may be required to prevent interference with any proposed works of the undertaker; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or along the authorised project for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the expert materially worse than the rights enjoyed by them in respect of the apparatus to be removed, the expert must make such provision for the payment of compensation by the undertaker to the owner or operator as appears to the expert to be reasonable, having regard to all the circumstances of the particular case.

**10.**—(1) Not less than 30 days before commencing the execution of any works of the type referred to in paragraph 8(2) that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under that sub-paragraph, and in all cases where such works are within 3,000 millimetres of any apparatus the removal of which has not been required by the undertaker under that sub-paragraph, the undertaker must submit to the owner or operator 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 owner or operator for the alteration or otherwise for the temporary or permanent protection of the apparatus, or for securing access to it,

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(a) S.I. 1996/825.



and the owner or operator must be notified of the timing of the works and afforded facilities to watch, monitor and inspect the execution of the works.

(3) Any requirements made by an owner or operator under sub-paragraph (2) must (except in circumstances where the requirements reasonably arise from the owner or operator watching, monitoring and inspecting those works) be made within 30 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it and, where the works relate to the installation or construction of the authorised project, such requirements may require the protective measures referred to in sub-paragraph (2) to be retained in place at any time that the authorised project is installed.

(4) If an owner or operator, 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, this Part applies as if the removal of the apparatus had been required by the undertaker under paragraph 8(2).

(5) Nothing in this paragraph prevents the undertaker from submitting at any time or from time to time, but in no case less than 30 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) On the reasonable and evidenced request of an owner or operator affected by proposed works, the undertaker must extend the periods in this paragraph by a reasonable time.

(7) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency, but in that case the undertaker—

- (a) must undertake the works in such manner as has regard to the potential lack of suitable temporary or permanent protection of the owner's or operator's apparatus;
- (b) must give to the owner or operator in question, as soon as reasonably practicable, notice and a plan, section and description of the works; and
- (c) must comply with sub-paragraph (2) so far as is reasonably practicable in the circumstances.

**11.—**(1) Subject to the provisions of this paragraph, the undertaker must pay to an owner or operator the reasonable expenses incurred by the owner or operator in, or in connection with,—

- (a) the inspection, removal and relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus or alternative apparatus under any provision of this Part;
- (b) the cutting off of any apparatus from any other apparatus, or the making safe of any redundant apparatus in consequence of the exercise by the undertaker of any power under this Order;
- (c) the survey of any land, apparatus or works, the watching, inspection, superintendence and monitoring of works or the installation or removal of any temporary works in consequence of the exercise by the undertaker of any power under this Order;
- (d) the design, project management, supervision and implementation of works;
- (e) the negotiation and grant of necessary rights for the construction, adjustment, alteration, use, repair, maintenance, renewal, inspection, removal and replacement of alternative apparatus;
- (f) monitoring the effectiveness of any protective measures referred to in paragraph 10(2) and the installation of any additional protective measures reasonably required in order to deal with any deficiency in the expected level of protection afforded by those protective measures;
- (g) any other work or thing reasonably required in consequence of the exercise by the undertaker of any power under this Order or by the service by the undertaker of any notice, plan, section or description,

within a reasonable time of being notified by the owner or operator that it has incurred such expenses.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under this Part, that value being calculated after removal.

(3) If in accordance with this Part—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

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 an expert under paragraph 24 to be necessary, then, if such placing involves cost in the construction of works under this Part exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the owner in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) In determining whether the placing of apparatus of a type or capacity or of particular dimensions or the placing of apparatus at a particular depth, as the case may be, are necessary under sub-paragraph (3), regard must be had to current health and safety requirements, current design standards, relevant good practice and process design specification.

(5) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(6) An amount which apart from this sub-paragraph would be payable to an owner or operator in respect of works by virtue of sub-paragraph (1) must, if it confers a financial benefit on the owner or operator by deferment of the time for renewal of the apparatus in the ordinary course of the owner's or operator's business practice, be reduced by the amount that represents that benefit.

**12.—**(1) Subject to sub-paragraphs (2) and (3), if, by reason or in consequence of the construction of the authorised project or any such works referred to in paragraph 8(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 an owner or operator, or there is any interruption in any service provided by or operations of the owner or operator, the undertaker must—

- (a) bear and pay the cost reasonably incurred by the owner or operator in making good such damage or restoring the supply and operations; and
- (b) make compensation to the owner or operator and any other person whose supply or operations are affected by the interruption for any other expenses, loss, damages, penalty or costs incurred by them,

by reason or in consequence of any such damage or interruption.

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

(3) An owner or operator must give the undertaker reasonable notice of any such claim or demand, and no settlement or compromise of any claim made against the owner or operator by any third party may 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.

**13.—**(1) The undertaker must not in the exercise of the powers conferred by this Order unreasonably delay or prevent the construction, installation, adjustment, alteration, operation, use, repair, maintenance, renewal, inspection, removal or replacement of apparatus in the Wilton Land.

(2) If an owner or operator considers that the undertaker is in breach of sub-paragraph (1), it may refer the matter to an expert for determination under paragraph 24.

**14.—**(1) The undertaker must afford to owners of the Wilton Land rights for the construction, adjustment, alteration, use, repair, maintenance, renewal, inspection, removal and replacement of apparatus in the Wilton Land acquired by the undertaker or affecting the rights of, or permitted under the rights acquired by, the undertaker.

(2) The rights referred to in sub-paragraph (1) must be granted on terms and conditions that are materially no worse than the terms and conditions that apply to similar apparatus affecting the authorised project as may be agreed between the undertaker and the person wishing to construct, adjust, alter, use, repair, maintain, renew, inspect, remove or replace that apparatus in question or in default of agreement determined by an expert under paragraph 24.

(3) In settling the terms and conditions of any grant of rights, regard must be had to the terms and conditions applicable from time to time to the construction, adjustment, alteration, use, repair, maintenance, renewal, inspection, removal or replacement of other apparatus in the Wilton Complex.

#### **Access for construction and maintenance**

**15.—**(1) Before carrying out any construction works affecting access rights over the Wilton Site Roads, the undertaker must prepare a draft construction access plan and publicise and consult on the draft plan with owners and operators in the Wilton Complex.

(2) The undertaker must take account of the responses to consultation referred to in sub-paragraph (1) before approving the construction access plan.

(3) No works affecting access rights over the Wilton Site Roads may commence until 30 days after a copy of the approved construction access plan is served on owners and operators in the Wilton Complex.

(4) On the reasonable and evidenced request of an owner or operator in the Wilton Complex affected by proposed works, the undertaker must extend the period mentioned in sub-paragraph (3) by a reasonable time.

**16.—**(1) Before carrying out any maintenance works affecting access rights over the Wilton Complex, the undertaker must prepare a draft maintenance access plan and publicise and consult on the draft plan with owners and operators in the Wilton Complex.

(2) The undertaker must take account of the responses to consultation referred to in sub-paragraph (1) before approving the maintenance access plan.

(3) No works affecting access rights over the Wilton Complex may commence until 30 days after a copy of the approved maintenance access plan is served on owners and operators in the Wilton Complex.

(4) On the reasonable and evidenced request of an owner or operator in the Wilton Complex affected by proposed works, the undertaker must extend the period mentioned in sub-paragraph (3) by a reasonable time.

**17.—**(1) In preparing a construction access plan under paragraph 15 or a maintenance access plan under paragraph 16, the undertaker must—

- (a) establish the programme for major works in the Wilton Complex and plan the construction or maintenance of the authorised project to prevent (or, if such conflict cannot be reasonable prevented, to minimise) any conflict between the construction or maintenance of the authorised project and the programmed major works; and

- (b) establish where an owner or operator has a reasonable expectation to exercise access rights over particular Wilton Site Roads in respect of which rights are proposed to be restricted or extinguished, establish the purpose of that expectation and provide an alternative or replacement means of access whereby that expectation can be met.

(2) Where a reference is made to expert determination under paragraph 24 in relation to any disagreement about a construction access plan, the appointed expert must have regard to—

- (a) whether major works were, at the date of the consultation already programmed to take place;
- (b) the extent to which the authorised project can be accommodated simultaneously with the programmed major works;
- (c) the usual practice in respect of conditions or requirements subject to which authorisation is given by the owner of the Wilton Site Road;
- (d) the undertaker's programme in respect of the authorised project and the extent to which it is reasonable for it to carry out the authorised project at a different time;
- (e) the availability (or non-availability) of other times during which the authorised project could be carried out;
- (f) the programme in respect of the major works and the extent to which it is reasonable for the owner or operator at the Wilton Complex to carry out the major works at a different time; and
- (g) the financial consequences of the decision on the undertaker and on any owner and operator in the Wilton Complex.

(3) In this paragraph, "programmed", in relation to works, means works in respect of which the owner of the Wilton Site Roads has been notified of the dates between which the works are programmed to be carried out.

**18.** In exercising any right of access over any of the Wilton Site Roads, the undertaker must pay to the owner the reasonable expenses incurred by the owner in operating, repairing, maintaining, renewing, inspecting and replacing the Wilton Site Road together with any perimeter gatehouses and other security serving the Wilton Complex having regard to user, within a reasonable time of being notified by the owner that it has incurred such expenses.

### **Compliance with requirements, etc. of Wilton Complex**

**19.**—(1) Subject to sub-paragraph (2) in undertaking any works in the Wilton Land or exercising any rights relating to or affecting owners and operators in the Wilton Complex, the undertaker must comply with such conditions, requirements or regulations relating to health, safety, security and welfare as are operated in relation to access to or activities in the Wilton Complex.

(2) The undertaker is not bound by any condition, requirement or regulation that is—

- (a) introduced after the date on which notice of the works was given; or
- (b) determined by the expert following a determination under paragraph 24 to—
  - (i) create significant engineering, technical or programming difficulties; or
  - (ii) materially increase the cost of carrying out the works.

(3) Sub-paragraph (2) does not apply if the condition, requirement or regulation was introduced by way of legislation, direction or policy of the government, a relevant government agency, a local authority or the police.

### **Consultation, participation in community groups, co-operation on complaints, etc.**

**20.** Before undertaking any work in the Wilton Land or exercising any rights relating to or affecting the Wilton Land, the undertaker must consult the owners of the Wilton Land.

**21.** Before undertaking any works in the Wilton Land or exercising any identified powers (as defined in paragraph 5(6)) relating to or affecting owners or operators in the Wilton Complex, the undertaker must participate in any relevant consultation groups operated in the Wilton Complex.

**22.** Before undertaking any construction works on the Wilton Land or commencing the operation of Work No. 7, where any of these might reasonably be expected to give rise to significantly perceptible effects beyond the Wilton Land in terms of—

- (a) construction or operational noise and vibration management;
- (b) air quality, including dust emissions;
- (c) waste management;
- (d) traffic management and materials storage on site;
- (e) water management (surface water and groundwater); or
- (f) artificial light emissions,

the undertaker must participate in any relevant community environmental liaison group that might from time to time be established between the owners or operators at the Wilton Complex and local residents.

**23.** The undertaker must co-operate with the owners and operators in the Wilton Complex to respond promptly to any complaints raised in relation to the construction or operation of the authorised project in the Wilton Complex or the traffic associated with the authorised project.

## **Expert**

**24.—**(1) Except as provided in sub-paragraph (7), article 44 (arbitration) does not apply to this Part.

(2) Any difference under this Part must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified on the application of either party, with notice to the other, by the local authority.

(3) All parties involved in settling any difference must use best endeavours to do so within 60 days from the date of an expert first being proposed.

(4) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

(5) The expert must—

- (a) invite the parties to make submission to the expert in writing within a specified period;
- (b) permit a party to comment on the submissions made by the other party; and
- (c) give reasons for his or her decision.

(6) The expert must consider where relevant—

- (a) the development outcome sought by the undertaker;
- (b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;
- (c) the nature of the power sought to be exercised by the undertaker;
- (d) the nature of any operation or development undertaken or proposed to be undertaken by any party other than the undertaker;
- (e) the ability of any party other than the undertaker to undertake a relevant operation or development in a timely and cost-effective manner;
- (f) the effects of the undertaker's proposals on any party other than the undertaker and the effects of any operation or development undertaken by any party other than the undertaker;

- (g) whether this Order provides any alternative powers by which the undertaker could reasonably achieve the development outcome sought in a manner that would reduce or eliminate adverse effects on any party other than the undertaker;
- (h) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party; and
- (i) any other important and relevant consideration.

(7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 44.

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order grants development consent for 2 offshore wind turbine electricity generating stations in the North Sea between 125 kilometres and 290 kilometres off the United Kingdom coast together with associated development. The Order authorises the compulsory purchase of land and rights in land and the right to use land and to override easements and other rights.

The Order also grants deemed marine licences under Part 4 of the Marine and Coastal Access Act 2009 in connection with the wind farms.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 42 may be inspected free of charge at the offices of Redcar and Cleveland Borough Council, Redcar & Cleveland House, Kirkleatham Street, Redcar TS10 1RT.