

20xx No. []

INFRASTRUCTURE PLANNING

THE RAMPION 2 OFFSHORE WIND FARM

Order 20XX

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

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

[The application was examined by the Examining Authority appointed by the Secretary of State pursuant to section 61(b) and section 65(c) of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of that Act and with the Infrastructure Planning (Examination) Procedure Rules 2010(d). The Examining Authority has submitted a report to the Secretary of State under section 74(2)(e) of the 2008 Act.]

[The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(f) and, as a national policy statement has effect in relation to the proposed development, has had regard to the documents and matters referred to in section 104(2)(g) of the 2008 Act.]

[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.]

[The Secretary of State is satisfied that the parcels of common open space [or fuel or field allotment] land comprised within the Order land (as identified in the Book of Reference), when burdened with new rights authorised for compulsory acquisition and restrictive covenants authorised to be imposed under the terms of this Order, will be no less advantageous than they were before such acquisition or imposition, to the persons in whom they are vested, other persons, if any, entitled to rights of common or other rights, and the public, and that, accordingly, section 132(3)(h) of the 2008 Act applies.]

[The Secretary of State, in exercise of the powers conferred by sections 114, 115, 120(i) and 149A of the 2008 Act, makes the following Order—]

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 - (d)
 - (e)
 - (f)
 - (g)
 - (h)
 - (i)

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Rampion 2 Offshore Wind Farm Order 202X and comes into force on [].

Interpretation

2.—(1) In this Order—

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

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

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

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

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

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

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

“the 2003 Act” means the Communications Act 2003;

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

“the 2008 Act” means the Planning Act 2008;

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

“access land” has the same meaning as in Part 1 of the Countryside and Rights of Way Act 2000;

“access to works plan” means the plan or plans certified as the access to works plan or plans by the Secretary of State for the purposes of this Order under article 50 (certification of plans and documents etc);

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

“array area” means that part of the offshore Order limits identified in paragraph 3 of Part 1 of Schedule 1;

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

“authorised project” means the authorised development and the ancillary works authorised by this Order;

“the book of reference” means the document certified by the Secretary of State as the book of reference for the purposes of the Order under article 50;

“buoy” means any floating device used for navigational purposes or measurement purposes;

“cables” means any onshore and offshore cable up to 275kV for the transmission of electricity, including one or more cable crossings and in relation to onshore cable includes direct lay cables and/or cables pulled through cable ducts;

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“cable circuits” means a number of electrical conductors necessary to transmit electricity between two points within the authorised development; this comprises, three conductors which may be bundled as one cable or take the form of three separate cables], and, the circuit may include one or more auxiliary cables (normally fibre optic cables) for the purpose of control, monitoring, protection or general communications;

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

“cable ducts” means conduits for the installation of cables and fibre optic cables;

“cable protection” means physical measures for the protection of cables including but not limited to concrete mattresses and/or rock placement (but not material used for cable crossings);

“commence” means—

- (a) in relation to works seaward of MHWS, the first carrying out of any licensed marine activities authorised by the deemed marine licences, save for operations consisting of pre-construction surveys and monitoring approved under the deemed marine licences, and
- (b) in respect of any other works comprised in the authorised project or a stage thereof, the first carrying out of any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised project other than onshore site clearance, onshore site preparation works, demolition work, archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions, diversion and laying of services, erection of any temporary means of enclosure, temporary hardstanding, the temporary display of site notices or advertisements and the words “commencement” and “commenced” must be construed accordingly;

“commissioning” means the process of assuring that all systems and components of the authorised development are tested to verify that they function and are operable in accordance with the design objectives specified and operational requirements of the undertaker;

“connection works” means Work Nos. 4 to 12 and any related further associated development in connection with those works;

“construction compound” means a construction site associated with the cable installation works including hard standings, lay down and storage areas for construction materials and equipment, parking areas, offices, welfare facilities, and temporary means of enclosure for construction of the authorised project;

“deemed marine licences” means the marine licences set out in Schedules 11 and 12 (deemed marine licence under the 2009 Act);

“design and access statement” means the document certified as the design and access statement by the Secretary of State for the purposes of this Order under article 50;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order under article 50;

“HAT” means highest astronomical tide;

“highway” and “highway authority” have the same meaning as in the 1980 Act^(a)

“horizontal directional drilling” refers to a boring technique involving drilling in an arc between two points;

“HVAC” means high voltage alternating current;

“intrusive activities” means activities including anchoring of vessels, jacking up of vessels, depositing soil and seabed clearance;

“jacket foundation” means a lattice type structure constructed of steel, which may include scour protection and additional equipment such as, J-tubes, corrosion protection systems and access platforms;

(a)

“joint bay” means an excavation located at regular intervals along the cable route comprising Work No. 6 consisting of a concrete flat base slab constructed beneath the ground to facilitate the jointing together of the cables;

“land plans” means the plan or plans certified as the land plan or plans by the Secretary of State for the purposes of this Order under article 50;

“landfall” means the location at which the offshore cables and fibre optic cables come ashore;

“LAT” means lowest astronomical tide;

“lead local flood authority” has the meaning in section 6(7) (other definitions) of the Flood and Water Management Act 2010(a);

“link box” means the underground metal box placed within a plastic or concrete pit where the metal sheaths between adjacent export cable sections are connected and earthed installed within a ground level manhole or inspection chamber to allow access to the link box for regular maintenance or fault-finding purposes;

“location plan” means the plan or plans certified as the location plan or plans by the Secretary of State for the purposes of this Order under article 50;

“maintain” includes inspect and survey, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace, to the extent assessed in the environmental statement; and “maintenance” must be construed accordingly;

“maintain” includes inspect and survey, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace, to the extent assessed in the environmental statement; and “maintenance” must be construed accordingly;

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

“mean low water springs” or “MLWS” means the lowest level which spring tides reach on average over a period of time;

“MMO” means the Marine Management Organisation or its successor in function;

“monopile foundation” means a steel pile, driven and/or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“offshore substation” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks and a helicopter platform, containing—

- (a) electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation; and
- (b) housing accommodation, storage, workshop auxiliary equipment, and facilities for operating, maintaining and controlling the substation or wind turbine generators;

“offshore Order limits” means the offshore Order limits defined by the offshore Order limits and grid co-ordinates plan;

“the offshore Order limits and grid co-ordinates plan” means the plan showing the offshore Order limits and grid co-ordinates certified as the offshore Order limits defined by the offshore Order limits and grid co-ordinates plan by the Secretary of State for the purpose of this Order under article [46];

“offshore works” means Work Nos. 1, 2 and 3 and any related further associated development in connection with those works;

“onshore decommissioning plan” means a plan to decommission Work No. 4 to Work No. 12 (to the extent required) which includes a programme within which any works of decommissioning must be undertaken;

“the onshore limits of deviation plan” means the plan showing the limits of deviation for the authorised works onshore and certified as the onshore limits of deviation plan by the Secretary of State for the purpose of this Order under article 50;

“the onshore Order limits plan” means the plans certified by the Secretary of State as the onshore Order limits plan for the purposes of the Order under article 50;

“onshore substation” means a compound comprising the onshore HVAC substation, containing electrical equipment required to switch, transform and convert electricity and provide reactive power compensation, with external landscaping and means of access;

“onshore site preparation works” means operations consisting of site clearance, pre-planting of landscaping works, archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, creation of site accesses and the temporary display of site notices or advertisements;

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

“the Order limits” means the limits shown on the offshore Order limits and grid coordinates plan and the onshore Order limits plan within which the authorised project may be carried out, whose grid coordinates seaward of MHWS are set out in Part 1 of Schedule 1 to this Order;

“outline access management plan” means the document certified as the outline access management plan by the Secretary of State for the purposes of this Order under article 50;

“outline code of construction practice” means the document certified as the outline code of construction practice by the Secretary of State for the purposes of this Order under article 50;

“outline construction traffic management plan” means the document certified as the outline construction traffic management plan by the Secretary of State for the purposes of this Order under article 50;

“outline landscape and ecological management plan” means the document certified as the outline landscape plan by the Secretary of State for the purposes of this Order under article 50;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order under article 50;

“outline offshore written scheme of investigation” means the document certified as the outline offshore written scheme of investigation by the Secretary of State for the purposes of this Order under article 50;

“outline onshore written scheme of investigation” means the document certified as the outline onshore written scheme of investigation by the Secretary of State for the purposes of this Order under article 50;

“outline public rights of way management plan” means the plan or plans certified as the public rights of way management plan by the Secretary of State for the purposes of this Order under article 50;

“overlap area” means that part of the offshore Order limits identified in paragraph 4 of Part 1 of Schedule 1;

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

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

“public rights of way plan” means the plan or plans certified as public rights of way plan by the Secretary of State for the purposes of this Order under article 50;

“relevant planning authority” means in relation to any given provision of this Order (including the requirements) the local planning authority:

- (a) for the area of land to which the provision relates is situated; and
- (b) with the relevant legislative competence under the 1990 Act for the matter to which the provision relates;

“requirements” means, or a reference to a numbered requirement is to, those matters set out in Part 3 of Schedule 1 (requirements) to this Order;

“scour protection” means measures to prevent loss of seabed sediment around any structure placed in or on the seabed by use of protective aprons, mattresses or rock and gravel placement;

“SNCB” means a statutory nature conservation body, being an organisation charged by the government with advising on nature conservation matters;

“special category land plans” means the plan or plans certified as the special category land plan or plans by the Secretary of State for the purposes of this Order under article 50;

“stage” means a part of the authorised project within the onshore Order limits;

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act and a public communications provider as defined in section 151 of the 2003 Act;

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

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

“streets plan” means the plan or plans certified as the streets plan or plans by the Secretary of State for the purposes of this Order under article 50;

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

“transition joint bay” means the underground concrete bays in Work No. 5 where the offshore export cable circuits comprised in Work No. 4 and are jointed to the onshore export cable circuits;

“transition piece” means the metal structure attached to the top of the foundation where the base of the wind turbine generator is connected and may include additional equipment such as J-tubes, corrosion protection systems, boat access systems, access platforms, craneage, electrical transmission equipment and associated equipment;

“tree preservation order and hedgerow plan” means the plan or plans certified as the tree preservation order and hedgerow plan or plans by the Secretary of State for the purposes of this Order under article 50;

“undertaker” means Rampion Extension Development Limited (company number 12091939);

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

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

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

“works plan” means the plan or plans certified as the works plan by the Secretary of State for the purposes of the Order under article 50.

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

(a)
(b)

(3) All distances, directions, capacities and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development shall be taken to be measured along that work.

(4) Any reference in this Order to a work identified by the number of the work is to be construed as a reference to the work of that number authorised by this Order.

(5) Unless otherwise stated, references in this Order to points identified by letters are to be construed as references to the points so lettered on the works plan.

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

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

3.—(1) Subject to the provisions of this Order and to the requirements the undertaker is granted—

- (a) development consent for the authorised development; and
- (b) consent for the ancillary works,

to be carried out within the Order limits.

(2) Subject to the requirements, Work Nos. 1 to 4 must be constructed within the Order limits seaward of MHWS and Work Nos. 5 to 12 must be constructed within the Order limits landward of MLWS.

Power to maintain the authorised project

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

(2) The power to maintain conferred under paragraph (1) does not relieve the undertaker of any requirement to obtain any further licence under Part 4 of the 2009 Act (marine licensing) for offshore works not covered by the deemed marine licences.

Benefit of the Order

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

(2) Subject to paragraph (4), the undertaker may with the written consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order (including the deemed marine licences) and such related statutory rights as may be agreed between the undertaker and the transferee; and
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of the Order (including the deemed marine licences) and such related statutory rights as may be so agreed,

except where paragraph (7) applies, in which case no consent of the Secretary of State is required.

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

(4) The undertaker shall consult the Secretary of State before making an application for consent under this article by giving notice in writing of the proposed application.

(5) The Secretary of State shall consult the MMO before giving consent to the transfer or grant to another person of the benefit of the provisions of the deemed marine licences.

(6) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit, under paragraph (2)—

- (a) the benefit transferred or granted (“the transferred benefit”) shall include any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;
- (b) the transferred benefit shall reside exclusively with the transferee or, as the case may be, the lessee and the transferred benefit shall not be enforceable against the undertaker; and
- (c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (2) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(7) The consent of the Secretary of State is required for the exercise of powers under paragraph (2) except where—

- (a) the transferee or lessee is the holder of a licence under section 6 of the 1989 Act; or
- (b) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—
 - (i) no such claims have been made,
 - (ii) any such claim has been made and has been compromised or withdrawn,
 - (iii) compensation has been paid in final settlement of any such claim,
 - (iv) payment of compensation into court has taken place in lieu of settlement of any such claim, or
 - (v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation shall be payable.

(8) Prior to any transfer or grant under this article taking effect the undertaker must give notice in writing to the Secretary of State, and if such transfer or grant relates to the exercise of powers in their area, to the MMO and/or the relevant planning authority.

(9) A notice required under paragraphs (4) and (8) must—

- (a) state—
 - (i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;
 - (ii) subject to paragraph (10), the date on which the transfer will take effect;
 - (iii) the provisions to be transferred or granted;
 - (iv) the restrictions, liabilities and obligations that, in accordance with paragraph (6)(c), will apply to the person exercising the powers transferred or granted; and
 - (v) where paragraph (7) does not apply, confirmation of the availability and adequacy of funds for compensation associated with the compulsory acquisition of the Order land;
- (b) be accompanied by—
 - (i) where relevant, a plan showing the works or areas to which the transfer or grant relates; and
 - (ii) a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.

(10) The date specified under paragraph (9)(a)(ii) in respect of a notice served in respect of paragraph (8) must not be earlier than the expiry of fourteen days from the date of the Secretary of State’s receipt of the notice.

(11) The notice given under paragraph (8) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.

Application and modification of legislative provisions

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

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

(2) The provisions of the Neighbourhood Planning Act 2017(b) 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, insofar as they relate to temporary possession of land under articles [26] (temporary use of land for carrying out the authorised project) and 32 (temporary use of land for maintaining the authorised project) of this Order.

(3) 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 Environmental Permitting (England and Wales) Regulations 2016, to the extent that they require a permit for anything that would have required consent under section 109 of the Water Resources Act 1991 immediately before the repeal of that section;
- (b) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 of the Water Resources Act 1991(c) that require consent or approval for the carrying out of works;
- (c) section 23 of the Land Drainage Act 1991(d) (prohibition of obstructions etc. in watercourses); and
- (d) the provisions of any byelaws made under section 66 of the Land Drainage Act 1991(powers to make byelaws) that require consent or approval for the carrying out of works.

Disapplication of Rampion Offshore Wind Farm Order

7.—(1) On the coming into force of this Order, all of the powers conferred by the Rampion Offshore Wind Farm Order insofar as they relate to the overlap area shall cease to be exercisable under the Rampion Offshore Wind Farm Order.

(2) Nothing in this article shall prejudice or affect the operation of any of the provisions of the Rampion Offshore Wind Farm Order in their application to the remaining works or affect anything already done under that Order in relation to the overlap area before the coming into force of this Order.

(3) In this article “the Rampion Offshore Wind Farm Order” means the Rampion Offshore Wind Farm Order 2014.

Defence to proceedings in respect of statutory nuisance

8.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(e) (summary proceedings by persons aggrieved by statutory nuisances) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (statutory nuisances and inspections therefor) no order may be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction, maintenance or decommissioning of the authorised project and that the nuisance is attributable to the carrying out of the authorised project in accordance with a notice served under section 60 (control of noise on construction sites), or a

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(b)
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consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974(a); or

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

(b) the defendant shows that the nuisance—

(i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and that the nuisance is attributable to the use of the authorised project in compliance with requirement 28 (control of noise during operational phase); or

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

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

PART 3

STREETS

Street works

9.—(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 may—

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

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) In this article “apparatus” has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act.

Application of the 1991 Act

10.—(1) The provisions of the 1991 Act mentioned in paragraph (2) that apply in relation to the carrying out of street works under that Act and any regulations made or code of practice issued or approved under those provisions apply (with all necessary modifications) in relation to—

- (a) the carrying out of works under article 9 (street works); and
- (b) the temporary stopping up, temporary alteration or temporary diversion of a street by the undertaker under article 11 (temporary stopping up of streets),

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

(a) 1974 c.40. Sections 61(9) was amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c.25. There are other amendments to the 1974 Act which are not relevant to the Order.

(b) 1974 c.20. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c.25. There are other amendments to the 1974 Act which are not relevant to the Order.

(2) The provisions of the 1991 Act^(a) are—

- (a) subject to paragraph (3), section 55 (notice of starting date of works);
- (b) section 57 (notice of emergency works);
- (c) section 60 (general duty of undertakers to co-operate);
- (d) section 68 (facilities to be afforded to street authority);
- (e) section 69 (works likely to affect other apparatus in the street);
- (f) section 76 (liability for cost of temporary traffic regulation);
- (g) section 77 (liability for cost of use of alternative route); and
- (h) all provisions of that Act that apply for the purposes of the provisions referred to in subparagraphs (a) to (g).

(3) Section 55 of the 1991 Act as applied by paragraph (2) has effect as if references in section 57 of that Act to emergency works included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

Temporary stopping up of streets

11.—(1) The undertaker may, 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 or a class of traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limiting paragraph (1), the undertaker may use any street temporarily stopped up under the powers conferred by this article within the Order limits as a temporary working site.

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

(4) Without limiting paragraph (1), the undertaker may temporarily stop up, alter or divert the streets set out in column (2) of Schedule 3 (streets to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the streets plans, in column (3) of that schedule.

(5) The undertaker must not temporarily stop up, alter, divert or use as a temporary working site—

- (a) any street referred to in paragraph (4) without first consulting the street authority; and
- (b) any other street without the consent of the street authority, which may attach reasonable conditions to the consent.

(6) Any person who suffers loss by the suspension of any public right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Public rights of way

12.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised project—

- (a) stop up the public rights of way specified in columns (1) and (2) of Part 1 of Schedule 4 (public rights of way to be permanently stopped) to the extent specified in column (3) of that Part of that Schedule; and
- (b) provide the substitute public rights of way described in column (4) of Part 1 of Schedule 4 between the specified terminus points and where specified, on a detailed alignment to be agreed with the highway authority at the stage of the authorised project identified in column (5) of that Part of that Schedule.

^(a)

(2) No public right of way specified in columns (1) and (2) of Part 1 of Schedule 4 may be wholly or partly stopped up under this article unless the permanent substitute public rights of way referred to in column (4) of Part 1 of Schedule 4 or an alternative temporary substitute public right of way agreed by the highway authority has first been provided by the undertaker, to the reasonable satisfaction of the highway authority.

(3) The undertaker may, in connection with the carrying out of the authorised project—

- (a) temporarily stop up the public rights of way specified in columns (1) and (2) of Part 2 of Schedule 4 to the extent specified in column (3); and
- (b) temporarily stop up any other public right of way to the extent agreed with the relevant highway authority.

Access to works

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

- (a) form, lay out and maintain a means of access, or improve or maintain an existing means of access, in the locations specified in columns (1) and (2) of Schedule 5 (access to works); and
- (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 for the purposes of the authorised project.

Agreements with street authorities

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

- (a) any temporary stopping up, alteration or diversion of a street authorised by this Order; or
- (b) the carrying out in the street of any of the works referred to in article 9(1) (street works).

(2) Such agreement may, without prejudice to the generality of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

Power to alter layout etc. of streets

15.—(1) Subject to paragraphs (2) and (3), the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with constructing, operating and maintaining the authorised project, alter the layout of any street and, without limitation on the scope of this paragraph, the undertaker may—

- (a) alter the level or increase the width of any kerb, footway, cycle track or verge; and
- (b) make and maintain passing place(s).

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

(3) The powers conferred by paragraph (1) must not be exercised without the consent of the street authority.

(4) Paragraphs (2) and (3) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

16.—(1) Subject to paragraphs (3) and (4) below the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised project and for that purpose may inspect, lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) is determined as if it were a dispute under section 106 of the Water Industry Act 1991(a) (right to communicate with public sewers).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not carry out any works to any public sewer or drain pursuant to paragraph (1) except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article—

- (a) damage or interfere with the bed or banks of any watercourse forming part of a main river;
- (b) construct any works in, under, over or within 8 metres of, any watercourse forming part of a main river, or within 16 metres of a tidally influenced main river without the prior written consent of the Environment Agency; or
- (c) construct any works within the bank top of any other watercourse without prior written consent of West Sussex County Council as local lead flood authority.

(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 the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by regulation 12 (requirement for a permit) of the Environmental Permitting (England and Wales) Regulations 2016(b).

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board or a local authority; and
- (b) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2016 have the same meaning as in those Regulations.

Protective work to buildings

17.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

(a)
(b)

- (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 part 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 part of the authorised project first becomes operational.
- (3) For the purpose of determining how the powers under this article are to be exercised, the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.
- (4) For the 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 power under paragraph (1) to carry out protective works to a building;
 - (b) a power under paragraph (3) to enter a building and land within its curtilage;
 - (c) a power under paragraph (4)(a) to enter a building and land within its curtilage; or
 - (d) a power under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise the power and, in a case falling within sub-paragraph (a), (c) or (d), specifying 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 the period of 10 days beginning with the day on which the notice was served, require the question of whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 43 (arbitration).

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

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of five years beginning with the day on which the part of the authorised project carried out in the vicinity of the building first becomes operational it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised 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 from any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance).

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

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article to the same extent as it applies in respect of the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

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

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage that may be caused to the building by the carrying out, maintenance or use of the authorised 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 the land onshore

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

- (a) survey or investigate the land;
 - (b) without prejudice to the generality of sub-paragraph (a), make trial pits or boreholes 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 prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land, including the digging of trenches; and
 - (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial pits or boreholes.
- (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 or occupier of the land.
- (3) Any person entering land under this article on behalf of the undertaker—
- (a) must, if so required on entering the land, produce written evidence of their authority to do so; and
 - (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial pits or boreholes.
- (4) No trial pits or boreholes may be made under this article—
- (a) in land forming a railway without the consent of Network Rail;
 - (b) in land held by or in right of the Crown without the consent of the Crown;
 - (c) in land located within the highway boundary without the consent of the highway authority; or
 - (d) in a private street without the consent of the street authority, but such consent must not be unreasonably withheld or delayed.
- (5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.
- (6) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

Removal of human remains

- 19.**—(1) In this article, “the specified land” means the land within the Order limits.
- (2) Before the undertaker carries out any development or works which will or may disturb any human remains in the specified land, it must remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.
- (3) Before any such remains are removed from the specified land, the undertaker must give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of 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, that person may cause such remains to be—
- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
 - (b) removed to, and cremated in, any crematorium,
- and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).
- (7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question 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 has been given to the undertaker in respect of any remains in the specified land;
 - (b) such notice is given and no application is made under paragraph (7) within 56 days after the giving of the notice, but the person who gave the notice fails to remove the remains within a further period of 56 days;
 - (c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or
 - (d) it is determined that the remains to which any such notice relates cannot be identified,
- subject to paragraph (10), the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves must be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.
- (10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.
- (11) On the re-interment or cremation of any remains under this article—
- (a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar General giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
 - (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) must be sent by the undertaker to the relevant planning authority mentioned in paragraph (4).

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

(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(37) (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) does not apply to a removal carried out in accordance with this article.

Public rights of navigation

20.—(1) Subject to paragraph (2), the rights of navigation over the places in the sea where any of the permanent structures are located within territorial waters will be extinguished.

(2) The extinguishment of the rights of navigation over the places identified in paragraph (1) will take effect 14 days after the undertaker has submitted a plan to the Secretary of State, Trinity House, the Maritime Coastguard Agency and the MMO showing the precise locations of the foundations of each of any such permanent structure to be constructed as part of the authorised development within territorial waters.

(3) In respect of the location of any individual permanent structure paragraph (1) will cease to have effect as soon as that permanent structure has been decommissioned in accordance with a decommissioning programme approved under section 106 of the 2004 Act and permanently removed, and the relevant rights of navigation will resume.

(4) The plan submitted in accordance with paragraph (2) will be published by the undertaker as required by the Secretary of State.

(5) In this article 20 “permanent structures” means wind turbine generators and offshore substations including their foundations.

Temporary suspension of public access to access land

21.—(1) This provision applies to the access land described in Schedule 6 (temporary suspension of public access to access land).

(2) The undertaker may, in connection with the authorised project temporarily—

- (a) interfere with such parts of the access land as are affected by the authorised project by constructing or maintaining the relevant part of the authorised project as the undertaker considers necessary or expedient; and
- (b) close to the public such parts of the access land as are affected by the authorised project during construction or maintenance of the relevant part of the authorised project.

(3) No fewer than 28 days before exercising any power under paragraph (2), the undertaker shall notify the [South Downs National Park Authority] of its intention to exercise such powers.

(4) During the period of any closure referred to in paragraph (2)(b), all rights of access to the public shall be suspended.

(5) The power conferred by paragraph (2) shall be exercised in a way which secures—

- (a) that no more of the relevant part of the access land is closed to the public at any time than is necessary in the circumstances; and
- (b) that all reasonable steps are taken to secure that the period of closure is kept to a minimum and that the minimum obstruction or interference is caused to the public which may be intending to use the part so closed.

(6) As soon as practicable following the exercise of any powers under paragraph (2), any temporary works, plant, machinery and fencing shall be removed and access to the access land shall be restored.

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

22.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised project or to facilitate, or is incidental, to it.

(2) This article is subject to article 23 (time limit for exercise of authority to acquire land compulsorily), paragraph (2) of article 24 (compulsory acquisition of rights), article 30 (acquisition of subsoil only), and article 32 (temporary use of land for carrying out the authorised project).

Time limit for exercise of authority to acquire land compulsorily

23.—(1) After the end of the period of 5 years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 27 (application of the 1981 Act)

in relation to any part of the Order Land.

(2) The authority conferred by article 32 (temporary use of land for carrying out the authorised project) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights and imposition of restrictive covenants

24.—(1) Subject to the provisions of this article, the undertaker may acquire compulsorily such rights or impose such restrictive covenants over the Order land, including rights and restrictive covenants for the benefit of a statutory undertaker or any other person, 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 and the benefit of restrictions already in existence.

(2) In the case of the Order land specified in column (1) of Schedule 7 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of such new rights and the imposition of such restrictive covenants for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to section 8 (other provisions as to divided land) of the 1965 Act, and Schedule 2A (counter-notice requiring purchase of land) of the 1965 Act (as substituted by paragraph 10 of Schedule 8 (modification of compensation and compulsory purchase enactments for the creation of new rights), where the undertaker creates a new right or acquires an existing right over land or imposes a restrictive covenant under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 8 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(5) In any case where the acquisition of new rights or imposition of a restriction under paragraph (1) or (2) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

Private Rights

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

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

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 24 (compulsory acquisition of rights and imposition of restrictive covenants) cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant—

- (a) as from the date of the acquisition of the right or the imposition of the restrictive covenant by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of lease of the land by agreement); or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right,

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenants under this article is entitled to compensation in accordance with the terms of section 152 of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(5) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 35 (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 or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;
 - (ii) the undertaker's appropriation of the land,
 - (iii) the undertaker's entry onto the land, or
 - (iv) the undertaker's taking temporary possession of the land,

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

- (b) any agreement made at any time between the undertaker and the person in or to whom the right 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 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.

(8) Reference in this article to private rights over land includes reference to any right of way, trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting

other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Power to override easements and other rights

26.—(1) The carrying out or use of development authorised by this Order (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by any contractors, servants or agents of the undertaker) and the doing of anything else authorised by this Order is authorised for the purpose specified in section 158(2) (nuisance: statutory authority) of the 2008 Act, notwithstanding that it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to the use of land arising by virtue of contract.

(2) Subject to article 53 (no double recovery), where any interest, right or restriction to which this article applies is interfered with or breached under paragraph (1), unless otherwise agreed, compensation—

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

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

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

- (a) is liable to pay compensation by virtue of paragraph (3); and
- (b) fails to discharge that liability,

the liability is enforceable against the undertaker.

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

(6) Subsection (2) of section 10 of the 1965 Act applies to paragraph (2) by virtue of section 152(5) (compensation in case where no right to claim in nuisance) of the 2008 Act.

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

Application of the 1981 Act

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

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 1 (application of Act), in subsection (1), omit the words “in themselves”.

(4) In section 1 (application of act), for subsection 2, substitute—

“(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”

(5) In section 4 (execution of declaration), for subsection (1) substitute—

“(1) The acquiring authority may execute in respect of any of the land which they are authorised to acquire by the compulsory purchase order a declaration in the prescribed form vesting the land in themselves, or in the case of land or a right that they are authorised to acquire for the benefit of a third party in the third party in question, from the end of such

period as may be specified in the declaration (not being less than 3 months from the date on which the service of notices required by section 6 is completed).”.

(6) In section 5(2) (earliest date for execution of declaration) omit the words from “, and this subsection” to the end.

(7) Section 5A (time limit for general vesting declaration)(a) is omitted.

(8) In section 5B (extension of time limit during challenge)(b) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order) substitute “section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent) the five year period mentioned in article [23] (time limit for exercise of authority to acquire land compulsorily) of the Rampion 2 Wind Farm Order [20xx]”.

(9) In section 6 (notices after execution of declaration), in subsection (1)(b) for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.

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

(11) In section 8 (vesting, and right to enter and take possession), after subsection (3), insert—

“(4) In this section references to the acquiring authority include any third party referred to in section 4(1).”.

(12) In section 10 (acquiring authority’s liability arising on vesting of the land), in subsection (1), after “vested in an acquiring authority” insert “or a third party”.

(13) In section 11 (recovery of compensation overpaid), for subsection (1) substitute—

“(1) This section applies where after the execution of a general vesting declaration a person (“the claimant”) claims compensation in respect of the acquisition of an interest in land by virtue of the declaration, and the acquiring authority pay compensation in respect of that interest.”.

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

“(2) But see article [28(1)] (acquisition of subsoil only) of the Rampion 2 Wind Farm Order [20xx], which excludes the acquisition of subsoil only from this Schedule.”

(15) References to the 1965 Act in the 1981 Act must be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 29 (modification of Part 1 of the 1965 Act) to the compulsory acquisition of land under this Order.

Modification of the 2017 Regulations

28.—(1) Schedule 1 to the 2017 Regulations is modified as follows.

(2) In paragraph (3) of Form 1, after “from the date on which the service of notices required by section 6 of the Act is completed”, insert—

“(1A) The [*insert land or rights or both*] described in Part [*insert number*] of the Schedule hereto as being for the benefit of third parties and more particularly delineated on the plan annexed hereto vests in the third parties in question as from the end of the period of [*insert period of 3 months or longer*] from the date on which the service of notices required by section 6 of the Act is complete.”.

(3) References to Form 2 to “in themselves” is substituted with “in themselves and any identified third parties”.

(4) In paragraph (b) of the notes on use of Form 2—

-
- (a)
 - (b)
 - (c)

- (a) after “Insert the name of the authority” insert “and where the context requires insert a reference to third parties”; and
- (b) omit “Thereafter rely on that definition wherever “b” appears in the text.”.

Modification of Part 1 of the 1965 Act

29.—(1) Part 1 of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1) (extension of time limit during challenge)(a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent), the five year period mentioned in article 23 (time limit for exercise of authority to acquire land compulsorily) of the Rampion 2 Offshore Wind Farm Order 20xx”.

(3) In section 11A (powers of entry: further notice of entry)(b)—

- (a) in subsection (1)(a), after “land” insert “under that provision”; and
- (b) in subsection (2), after “land” insert “under that provision”.

(4) In section 22(2) (interests omitted from purchase), for “section 4 of this Act” substitute “article 21 time limit for exercise of authority to acquire land compulsorily) of the Rampion 2 Offshore Wind Farm Order 20xx”.

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

- (a) for paragraphs 1(2) and 14(2) substitute—
“(2) But see article 30(3) (acquisition of subsoil only) of the Rampion 2 Offshore Wind Farm Order 20xx, which excludes the acquisition of subsoil only from this Schedule”; and
- (b) at the end insert—.

Acquisitions of subsoil only

30.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph (1) of article 22 (compulsory acquisition of land) or article 24 (compulsory acquisition of rights) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil only-

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) Section 153(4A) (reference of objection to Upper Tribunal: general) of the Town and Country Planning Act 1990.

(4) Paragraphs (2) and (3) do not apply where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

“PART 4

INTERPRETATION

-
- (a)
 - (b)
 - (c)

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 17 (protective work to buildings), article 32 (temporary use of land for carrying out the authorised development) or article 33 (temporary use of land for maintaining the authorised development) of the Rampion 2 Offshore Wind Farm Order 20xx.”

Rights under or over streets

31.—(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 which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person’s interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing of 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 the authorised project

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

- (a) enter on and take temporary possession of—
 - (i) the land specified in columns (1) and (2) of Schedule 9 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule; and
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
- (b) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from that land;
- (c) construct temporary works (including the provision of means of access), haul roads, security fencing, bridges, structures and buildings on that land;
- (d) use the land for the purposes of a working site with access to the working site in connection with the authorised project;
- (e) construct any works, or use the land, as specified in relation to that land in column 3 of Schedule 9, or any mitigation works;
- (f) construct such works on that land as are mentioned in Part 1 of Schedule 1 (authorised project); and
- (g) carry out mitigation works required pursuant to the requirements in Schedule 1.

(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 is not required to serve notice under paragraph (2) where the undertaker has identified a potential risk to the safety of any of—

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

and in such circumstances, the undertaker may enter the land under paragraph (1) subject to giving such period of notice as is reasonable practical in the circumstances.

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

- (a) in the case of land specified in paragraph (1)(a)(i) after the end of the period of one year beginning with the date of completion of the part of the authorised project specified in relation to that land in column (4) of Schedule 9; or
- (b) in the case of land specified in paragraph (1)(a)(ii) after the end of the period of one year beginning with the date of completion of the part of the authorised project for which temporary possession of the land was taken unless the undertaker has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(5) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or otherwise acquired the land or rights over land subject to temporary possession, the undertaker must before giving up possession of land of which temporary possession has been taken under this article, remove all works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace any building, structure, drain or electric line removed under this article;
- (b) remove any drainage works installed by the undertaker under this article;
- (c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 2 (streets subject to street works);
- (d) restore the land on which any permanent works have been constructed under paragraph (1)(e) or (1)(f);
- (e) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development;
- (f) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development;
- (g) remove or reposition any apparatus belonging to statutory undertakers or necessary mitigation works; or
- (h) restore the land on which any works have been carried out under paragraph (1)(g) insofar as the works relate to mitigation works identified in the environmental statement or required pursuant to the requirements in Schedule 1.

(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 any power conferred by this article.

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

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

(9) Subject to article 53 (no double recovery) nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out

of the authorised project, other than loss or damage for which compensation is payable under paragraph (6).

(10) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not precluded from—

- (a) acquiring new rights or imposing restrictive covenants over any part of that land under article 22 (compulsory acquisition of rights) to the extent that such land is listed in column (1) of Schedule 7 (land in which only new rights etc. may be acquired); or
- (b) acquiring any part of the subsoil (or rights in the subsoil) of that land under article 30 (acquisition of subsoil only).

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

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

Temporary use of land for maintaining the authorised project

33.—(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 land 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.

(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 is not required to serve notice under paragraph (3) where the undertaker has identified a potential risk to the safety of any of—

- (a) the authorised development or any of its parts;
- (b) the public; or
- (c) the surrounding environment.

(5) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised project for which possession of the land was taken.

(6) 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.

(7) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

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

(9) Subject to article 53 (no double recovery) nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance

of the authorised project, other than loss or damage for which compensation is payable under paragraph (7).

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

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

(12) In this article “the maintenance period”, in relation to any phase of the authorised project as approved under requirement 6, means the period of 5 years beginning with the date on which a phase of the authorised project first exports electricity to the national electricity transmission network and where the authorised development consists of the maintenance of any tree or shrub pursuant to requirements 10 and 11 where “the maintenance period” means a period of 5 years beginning with the date on which that tree or shrub is first planted.

Incorporation of the mineral code

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

- (a) for “the acquiring authority” substitute “the undertaker”;
- (b) for “undertaking” substitute “authorised project”; and
- (c) for “compulsory purchase order” substitute “this Order”.

Statutory undertakers

35. Subject to the provisions of Schedule 10 (protective provisions) article 24 (compulsory acquisitions of rights and impositions of restrictive covenants) the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plans within the Order land; and
- (b) extinguish the rights of, or restrictions for the benefit of, remove, relocate the rights of or reposition the apparatus belonging to statutory undertakers over or within the Order land.

Apparatus and rights of statutory undertakers in stopped up streets

36.—(1) Where a street is closed, altered, diverted or restricted under article 11 (temporary stopping up of streets), any statutory utility whose apparatus is under, in, on over, along or across the street may, and if reasonably requested to do so by the undertaker must—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(2) Subject to the following provisions of this article, the undertaker must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(3) If in the course of the execution of relocation works under paragraph (1)—

- (a) apparatus of a better type, or greater capacity or of greater dimensions is placed in substitution for existing apparatus; 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 to be necessary, then, if it involves cost in the execution of the relocation works 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 paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

(4) For the purposes of paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (2) (and having regard, where relevant, to paragraph (3)) 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 any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(6) Paragraphs (2) to (5) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 (street works in England and Wales) of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and
- (b) the allowable costs are to be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(7) In this article—

"relocation works" means work executed, or apparatus provided, under paragraph (2); and

"statutory utility" means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in this section 151(1) (interpretation) of the 2003 Act^(a).

Recovery of costs of new connections

37.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 35 (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 35, any person who is—

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

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

^(a) 2003 c. 21. There are amendments to section 151 which are not relevant to this Order.

(3) This article does not have effect in relation to apparatus to which article 36 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this paragraph—

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

“public utility undertaker” has the same meaning as in the 1980 Act.

Special Category Land

38.—(1) Upon entry by the undertaker onto the special category land under article 22 (compulsory acquisition of land) or article 24 (compulsory acquisition of rights), so much of the special category land as is required for the purposes of the exercise by the undertaker of the order rights 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 the Order rights.

(2) In this article—

“the order rights” means rights exercisable over the special category land by the undertaker under article 22 (compulsory acquisition of land); article 24 (compulsory acquisition of rights); article 32 (Temporary use of land for carrying out the authorised development) or article 33 (Temporary use of land for maintaining the authorised development);

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

“rights, trusts and incidents” includes all such provisions contained the [relevant Commons Regulation Act] or having effect under that Act [and s193 of the Law of Property Act 1925]].

PART 6 OPERATIONS

Operation of generating station

39.—(1) The undertaker is hereby authorised to operate the generating station comprised in the authorised project.

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

Deemed marine licences under the 2009 Act

40. The deemed marine licences set out in Schedules 11 and 12 (deemed marine licence under the 2009 Act are deemed to be granted to the undertaker under Part 4 (marine licensing) of the 2009 Act for the licensed marine activities and subject to the conditions set out in each Part of that Schedule.

PART 7 MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

41.—(1) This article applies to—

(a)

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

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

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for purposes of the 1990 Act

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

Felling or lopping of trees and removal of hedgerows

43.—(1) Subject to article 44 (trees subject to tree preservation orders) the undertaker may fell or lop or cut back the roots of any tree or shrub within or overhanging land within the Order limits or near any part of the authorised project if the undertaker reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with onshore site preparation works, the construction, maintenance or operation of the authorised project or its decommissioning 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 (determination of questions of disputed compensation) of the 1961 Act.

(4) The undertaker may, for the purpose of the authorised project—

- (a) subject to paragraph (2) above, remove any hedgerows within the Order limits and specified in Schedule 13, Part 1 (removal of hedgerows) that may be required for the purposes of carrying out the authorised project; and
- (b) remove the important hedgerows as are within the Order limits and specified in Schedule 13, Part 2 (removal of important hedgerows).

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

(a)

Trees subject to tree preservation orders

44.—(1) Subject to paragraph (2), the undertaker must not fell or lop or cut back the roots of any tree which is the subject of a tree preservation order.

(2) The undertaker may fell or lop any tree within or overhanging land within the Order limits subject to a tree preservation order whensoever made or cut back its roots, if it reasonably believes it to be necessary to do so in order to prevent the tree from obstructing or interfering with onshore site preparation works the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

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

(a) the undertaker shall do no unnecessary damage to any tree and shall pay compensation to any person for any loss or damage arising from such activity; and

(b) the duty contained in section 206(1) (replacement of trees) of the 1990 Act shall not apply.

(4) The authority given by paragraph (1) shall constitute a deemed consent under the relevant tree preservation order.

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

Abatement of works abandoned or decayed

45. Where Work Nos 1 to 4 or all of them or any part of them, is abandoned or allowed to fall into decay the Secretary of State may, following consultation with the undertaker, by notice in writing require the undertaker at its own expense either to repair, make safe and restore one or any of those Works, or any relevant part of them, or to remove them and, without prejudice to any notice served under section 105(2) of the 2004 Act(a) restore the site to a safe and proper condition, to such an extent and within such limits as may be specified in the notice.

Procedure in relation to certain approvals etc.

46.—(1) Where an application is made to or request is made of the relevant planning authority, a highway authority, a street authority, the Environment Agency, the local lead flood authority or the owner of a watercourse, sewer or drain for any agreement or approval required or contemplated by any of the provisions of the Order, such agreement or approval must, if given, be given in writing and not be unreasonably withheld and if no response is received in writing within 28 days, or 8 weeks in if accordance with Schedule 14 of this Order, of the application or request being made, then any such approval is deemed to have been given.

(2) Schedule 14 (procedure for discharge of requirements) has effect in relation to all agreements or approvals granted, refused or withheld in relation to the requirements in Part 3 of Schedule 1 (requirements).

Arbitration

47.—(1) Subject to article 48 any difference under any provision of this Order, unless otherwise provided for, shall be referred to and settled in arbitration in accordance with the rules at Schedule 14 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

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

(a)

Saving provisions for Trinity House

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

Crown rights

49.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary) belonging to—

- (a) Her Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) 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
- (c) 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.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

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

Certification of plans and documents, etc.

50.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the book of reference;
- (b) the environmental statement;
- (c) the design and access statement;
- (d) the location plan;
- (e) the land plans;
- (f) the offshore Order limits and grid coordinates plan;
- (g) the onshore Order limits plan;
- (h) the works plans;
- (i) the access to works plan;
- (j) the streets plan;
- (k) the public rights of way plan;
- (l) the outline public rights of way management strategy;
- (m) the special category land plans;
- (n) the tree preservation order and hedgerow plan;
- (o) the crown land plans - onshore and offshore;
- (p) the onshore limits of deviation plan;
- (q) the outline construction traffic management plan;
- (r) the outline construction method statement;
- (s) the outline code of construction practice;
- (t) the outline landscape and ecology management plan;
- (u) the outline onshore written scheme of investigation;

- (v) the outline offshore written scheme of investigation;
- (w) the outline project environmental management plan;
- (x) the outline marine mammal mitigation protocol; and
- (y) the outline operational drainage plan.

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

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

- (a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and
- (b) identifies that provision by number, or combination of numbers and letters, which is different from the number, or combination of numbers and letters by which the corresponding provision of this Order is identified in the Order as made,

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

Protective provisions

51. Schedule 10 (protective provisions) has effect.

Funding

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

- (a) a guarantee, the form and the amount of that guarantee approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land pursuant to the provisions referred to in paragraph (2); or
- (b) an alternative form of security and the form amount of that security for that purpose approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land pursuant to the provisions referred to in paragraph (2).

(2) The provisions are—

- (a) article 22 (compulsory acquisition of land);
- (b) article 24 (compulsory acquisition of rights);
- (c) article 25 (private rights);
- (d) article 26 (power to override easements and other rights);
- (e) article 30 (acquisition of subsoil only);
- (f) article 31 (rights under or over streets);
- (g) article 32 (temporary use of land for carrying out the authorised project);
- (h) article 33 (temporary use of land for maintaining the authorised project); and
- (i) article 35 (statutory undertakers).

(3) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under this Order is to be treated as enforceable against the guarantor or person providing the alternative form of security by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.

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

No double recovery

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

Disregard of certain improvements, etc

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

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

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

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

Set-off for enhancement in value of retained land

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

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) under article 24 (compulsory acquisition of rights and imposition of restrictive covenants), the tribunal must set off against the value of the rights so acquired—

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

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

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

Service of notices

56.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(a) (references to service by post) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address and otherwise—

- (a) in the case of the secretary or clerk of that body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at that time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by the description of “owner”, or as the case may be “occupier” of the land (describing it); and
- (b) either leaving it in the hands of the person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy of all or any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

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

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

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

Signed by Authority of the Secretary of State for Business, Energy and Industrial Strategy

Address	Head of [Name
Date	Department of Business, Energy and Industrial Strategy]

(a)

SCHEDULES

SCHEDULE 1

Article 2

AUTHORISED PROJECT

PART 1

THE AUTHORISED DEVELOPMENT

1. A nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act which is located in the English Channel approximately 13 kilometres to the south of the Sussex coast, comprising—

Work No. 1—

an offshore wind turbine generating station constructed within the array area which shall have a gross electrical output of over 100 megawatts and shall comprise—

- (a) no more than 116 wind turbine generators, with each wind turbine each fixed to the seabed by either monopile foundation or jacket foundation;
- (b) a network of cables between the wind turbine generators comprising work No. 1; and
- (c) a network of cables between the wind turbine generators comprising Work No. 1 and work No. 2 including one or more cable crossings,

and shall include associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising—

Work No. 2—

- (a) up to three offshore substations within the array area each fixed to the seabed within the area shown on the works plan by monopile foundation, or jacket foundation; and
- (b) up to two offshore interconnector cables in total each connecting one offshore substation to another.

Work No. 3—

- (a) up to four cable circuits in total between one or more of the offshore substations comprising Work No. 2 and the four cable circuits comprising Work No. 4 laid on or beneath the seabed within the offshore Order limits seaward of MLWS; and
- (b) up to four temporary horizontal directional drilling exit pits located seaward of MLWS.

Work No. 4— landfall connection works comprising up to four cable circuits and associated ducts laid underground by horizontal directional drilling within the Order limits seaward of MHWS and landward of MLWS connecting Work No. 3 and Work No. 5

In the district of Arun, in the county of West Sussex.

Work No. 5—onshore connection works consisting of—

- (a) up to 4 horizontal directional drilling launch and exit pits and associated cable ducts;
- (b) up to 4 transition joint bays; and
- (c) up to four cable circuits and associated cable ducts laid underground connecting Work No. 4 to Work No. 6.

In the districts of Arun, Adur Horsham and Mid Sussex in the county of West Sussex, and within the South Downs National Park.

Work No. 6— cable installation works consisting of up to four cable circuits and associated cable ducts laid underground from Work No. 5 to each of Works No. 7 and Work No. 11A.

Work No. 7— cable installation works comprising—

- (a) up to four horizontal directional drilling launch and exit pits; and
- (b) up to four cable circuits and associated cable ducts laid underground by horizontal directional drilling or other trenchless technologies.

Work No. 8A— temporary construction compounds to support the construction of Work Nos. 5, 6 and 7.

Work No. 8B— temporary soil storage areas.

Work No. 9— temporary construction and operational accesses connecting Work Nos. 5, 6, 7 and 8 to the local highway network.

Work No. 10— operational accesses connecting Work Nos. 5, 6 and 7 to the local highway network.

In the district of [Mid Sussex/Horsham], in the county of West Sussex.

Work No. 11A— onshore project substation and associated construction works.

Work No. 11B— surface water management measures, boundary treatment works and landscaping in connection with Work No. 11A.

Work No. 11C— temporary construction compound to support the construction of Work No. [11A].

[Work No. 11D— permanent access connecting A272 to Work No. 11A including a new access junction.]

In the district of [Mid Sussex/ and Horsham], in the county of West Sussex.

Work No. 12— onshore work connecting Work No. 11A to the National Grid substation at Bolney comprising 2 cable circuits and associated cable ducts laid underground,

and in connection with such Work Nos. 1 to 4 and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses;
- (c) vessels carrying out intrusive activities;
- (d) the removal of material from the seabed required for the construction of Work Nos. 1 to 4 and the disposal of inert material of natural origin within the Order limits produced during construction drilling, seabed preparation for foundation works, cable installation preparation such as sandwave clearance, boulder clearance, pre-trenching, horizontal directional drill arisings and excavation of exit pits;
- (e) removal of static fishing equipment; and
- (f) disposal of drill arisings in connection with any foundation drilling,

and in connection with such Work Nos. 5 to 12 and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) works to secure vehicular and/or pedestrian means of access including the creation of new tracks, footpaths, and/or widening, creation of passing places, upgrades, creation of bellmouths, creation of temporary slip roads and improvements of existing tracks, footpaths and roads;
- (b) temporary construction access tracks;
- (c) bunds, embankments, swales, landscaping, fencing and boundary treatments;
- (d) habitat creation;
- (e) jointing bays, link boxes, cable ducts, cable protection, joint protection, manholes, marker posts, underground cable marker, tiles and tape, and lighting and other works associated with cable laying;
- (f) works for the provision of apparatus including cabling, water and electricity supply works, foul drainage provision, surface water management systems and culverting;
- (g) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (h) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (i) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised project;
- (j) works for the benefit or protection of land affected by the authorised development;
- (k) working sites in connection with the construction of the authorised development, construction lay down areas and compounds, storage compounds and their restoration;
- (l) car parking areas, welfare facilities, temporary offices and workshops;
- (m) spoil and equipment storage;
- (n) works of restoration;
- (o) fencing and other means of enclosure;
- (p) works to alter the course of or otherwise interfere with non-navigable rivers, streams or watercourses;
- (q) bowsters septic tanks generators and standby generators;
- (r) ramps and temporary bridges;
- (s) works for the provision of apparatus including cabling water and electricity supply networks; and
- (t) archaeological works,

such other works, apparatus, plant and machinery of whatever nature as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development.

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

Table 1

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>	<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
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3. The grid coordinates for that part of the authorised project comprising Work No. 1A are specified below—

Table 2

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>	<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
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4. The grid coordinates for the overlap area are specified below—

Table 3

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>	<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>

PART 2

ANCILLARY WORKS

1. Works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction and/or maintenance of the authorised development;
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works;
- (c) temporary works for the benefit or protection of land or structures affected by the authorised development; and
- (d) temporary excavation of floatation pits in connection with the installation of the export cable within the offshore Order limits.

PART 3

REQUIREMENTS

Time limits

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

Detailed offshore design parameters

2.—(1) The total number of wind turbine generators comprised in the authorised project must not exceed 116 and a total rotor swept area of 5.1 square kilometres.

(2) Subject to sub-paragraph (3), each wind turbine generator forming part of the authorised project must not—

- (a) exceed a height of 325 metres when measured from LAT to the tip of the vertical blade;
- (b) exceed a rotor diameter of 295 metres;
- (c) have a distance of less than 22 metres from HAT to the lowest point of the rotating blade;
or
- (d) be less than 860m from the nearest wind turbine generator in all directions.

(3) The reference in sub-paragraph (2)(d) to the location of a wind turbine generator is a reference to the centre point of that wind turbine generator.

(4) There shall be no wind turbine generators constructed within the marine cable link area the coordinates of which are specified below—

Table 4

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>	<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>

(5) Wind turbine generator foundation structures forming part of the authorised scheme must be one of the following foundation options: monopile foundation, or jacket foundation.

(6) Wind turbine generator—

(a) jacket foundations employing pin piles forming part of the authorised project shall have—

- (i) no more than 4 legs per jacket;
- (ii) no more than 4 pin piles per jacket; and
- (iii) a pin pile diameter of no greater than 3 metres;

(b) jacket foundations with suction bucket shall have—

- (i) no more than 4 legs per wind turbine generator;
- (ii) a suction bucket diameter of no more than 15 metres; and
- (iii) a suction bucket penetration of no more than 25 metres; and

(c) monopile foundation forming part of the authorised project shall have a diameter greater than 13.5 metres.

(7) The total volume of scour protection for each wind turbine generators must not exceed 27,600 cubic metres.

3.—(1) There shall be no more than 3 offshore substations.

(2) The dimensions of any offshore substation forming part of the authorised project must not exceed—

- (a) 65 metres in height when measured from LAT and 115 metres in height with lightning protection and ancillary structures;
- (b) 80 metres in length; and
- (c) 50 metres in width.

(3) Offshore substation foundation structures forming part of the authorised scheme must comprise either monopile foundations or jacket foundations.

(4) Offshore substation installations with—

(a) jacket foundation employing pin piles forming part of the authorised project shall have—

- (i) no more than 6 legs per jacket;
- (ii) no more than 12 pin piles per jacket; and
- (iii) a pin pile diameter of no greater than 3.5 metres; and

(b) monopile foundation forming part of the authorised project shall have a diameter no greater than 12 metres.

4. The total volume of scour protection for each offshore substation must not exceed 26,400 cubic metres.

5.—(1) The total number of cable circuits shall not exceed four.

(2) The total length of the cables comprising Work No. 1 shall not exceed 250 kilometres.

(3) The total volume of cable protection (excluding cable crossings) comprising Work No 1 shall not exceed 130,000 cubic metres with a maximum footprint of 260,000 square metres.

(4) The number of cable crossings comprising Work No. 1 shall not exceed four unless otherwise agreed with the MMO.

(5) The maximum area impacted by cable crossings shall not exceed 10,000 square metres.

(6) The total volume of cable protection for cable crossings shall not exceed 20,000 cubic metres (pre- and post-lay).

(7) The total length of the interconnector cables comprising Work No. 2 shall not exceed 50 kilometres.

(8) The total volume of cable protection comprising Work No 2 shall not exceed 25,000 cubic metres with a maximum footprint of 48,000 square metres.

- (9) The total length of cables comprising Work No 3 shall not exceed 86 kilometres.
- (10) The total volume of cable protection comprising Work No. 3 shall not exceed 38,000 cubic metres with a maximum footprint of 61,000 square metres.

6.—(1) Cables comprising Works Nos. 4 and 7 (and which for the avoidance of doubt includes Sullington Hill Local Wildlife Site) shall be installed by means of horizontal directional drilling (HDD) or another trenchless technology.

(2) There shall be no more than 4 HDD drills used for Work No. 4 or each part of Work No. 7.

(3) All cables and joint bays comprising Works 5 to 12 shall be underground and the land above reinstated to pre-construction ground level save for manholes and link box chambers and once constructed all joint boxes shall be resilient to flooding.

Onshore design parameters

7. The landfall construction compound shall not exceed 100metres x 70metres.

Detailed design approval onshore - substation

8. Construction of the connection works in Work No. 11A shall not commence until details of—

- (a) the layout;
- (b) scale;
- (c) proposed finished ground levels; and
- (d) external appearance and materials,

which shall accord with the principles set out in the design and access statement have been submitted to and approved in writing by the relevant planning authority.

Programme of works

9.—(1) No part of the authorised project within the onshore Order limits may commence until a written programme identifying the stages of those works has been submitted to and approved by the relevant planning authorities.

(2) The scheme must be implemented as approved and each reference to a stage in these requirements shall be a reference to a stage in the programme as so approved.

Provision of landscaping

10.—(1) No stage of the onshore works may commence until for that stage a written landscape management plan and associated work programme (which accords with the outline landscape and ecological management plan) has been submitted to and approved by the relevant planning authority in consultation with the relevant SNCBs.

(2) The landscape management plan must include details of—

- (a) surveys, assessments and method statements as guided by BS 5837 and the Hedgerows Regulations 1997;
- (b) location, number, species, size and planting density of any proposed planting;
- (c) cultivation, importing of materials and other operations to ensure plant establishment;
- (d) existing trees and hedges to be retained with measures for their protection during the construction period; and
- (e) implementation timetables for all landscaping works.

(3) The landscape management plan for the relevant stage must be carried out as approved.

11.—(1) No stage of the onshore works to be undertaken within the South Downs National Park may commence until for that stage a written landscape management plan and associated work

programme (which accords with the outline landscape and ecological management plan) has been submitted to and approved by the South Downs National Park Authority in consultation with the relevant local planning authority.

(2) The landscape management plan for the relevant stage within the South Downs National Park must be carried out as approved.

Implementation and maintenance of landscaping

12.—(1) All landscape works must be carried out in accordance with the landscape plans approved under requirements 10 and 11 (provision of landscaping), and in accordance with the relevant recommendations of appropriate British Standards.

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

Ecological management plan

13.—(1) No stage of the connection works may commence until for that stage a written ecological management plan (which accords with the outline landscape and ecological management plan and the relevant recommendations of appropriate British Standards) reflecting the survey results and ecological mitigation and enhancement measures included in the environmental statement has been submitted to and approved by the relevant planning authority.

(2) The term “commence” as used in requirement 13(1) shall include any onshore site preparation works.

(3) The ecological management plan must include an implementation timetable and must be carried out as approved.

14.—(1) No stage of the connection works to be undertaken within the South Downs National Park may commence until for that stage a written ecological management plan (which accords with the outline landscape and ecological management plan) has been submitted to and approved by the South Downs National Park Authority in consultation with the relevant local planning authority.

(2) The term “commence” as used in requirement 14(1) shall include any onshore site preparation works.

(3) The ecological management plan for the relevant stage within the South Downs National Park must be carried out as approved.

Highway accesses

15.—(1) Construction of any new operational or temporary means of access to a highway, or alteration, or use of an existing means of access to a highway, shall not commence until an access plan for that access has been submitted to and approved by West Sussex County Council as the local highway authority.

(2) The access plan must include details of the siting, design, layout, visibility splays, access management measures and a maintenance programme relevant to the access it relates to.

(3) The highway accesses (including visibility splays) must be constructed and maintained in accordance with the approved details.

Operational highway accesses in the South Downs National Park

16.—(1) No stage of the connection works within the South Downs National Park shall commence until written details of the siting, design and layout of any new operational means of access to a highway to be used by vehicular traffic for that stage has, in consultation with the local highway authority, been submitted to and approved by South Downs National Park Authority.

- (2) The highway accesses shall be constructed in accordance with the approved details.

Fencing and other means of enclosure

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

(2) Any temporary fences, walls or other means of enclosure must be provided in accordance with the outline code of construction practice.

(3) All construction sites must remain securely fenced in accordance with the code of construction practice at all times during construction of the relevant stage of the connection works.

(4) Any temporary fencing must be removed on completion of the relevant stage of the connection works.

(5) No works to construct the onshore substation comprising Work No. 11A may commence until written details of all proposed permanent fences, walls or other means of enclosure of the onshore substation have been submitted to and approved by the relevant planning authority.

(6) The means of enclosure for the onshore substation shall be constructed in accordance with the approved details.

18.—(1) No stage of the connection works within the South Downs National Park shall commence until for that stage written details of the proposed temporary fencing or other means of enclosure of the connection works has been submitted to and approved by South Downs National Park Authority.

(2) The temporary fencing and other means of enclosure in each stage within the South Downs National Park shall be constructed in accordance with the approved details.

Surface and foul water drainage

19.—(1) No works to construct the onshore substation comprising Work No. 11A shall commence until written details of the surface and (if any) foul water drainage system (including means of pollution control) in accordance with the Outline Operation Drainage Plan have, after consultation with the relevant sewerage and drainage authorities and the Environment Agency, been submitted to and approved by the lead local flood authority.

(2) The surface and foul water drainage system for Work No. 11A must be constructed and maintained in accordance with the approved details.

Contaminated land and groundwater scheme

20.—(1) No part of the authorised development within the onshore Order limits and within the area of a relevant planning authority may be commenced until a scheme to deal with the contamination of any land (including groundwater) within that area that is likely to cause significant harm to persons or pollution of controlled waters or the environment has been submitted to, and approved by, the relevant planning authority in consultation with the Environment Agency and, to the extent that the plan relates to the intertidal area, the MMO.

(2) The scheme must include an investigation and assessment report, prepared by a specialist consultant approved by the relevant planning authority, to identify the extent of any contamination and the remedial measures to be taken for that stage to render the land fit for its intended purpose, together with a management plan which sets out long-term measures with respect to any contaminants remaining on the site.

(3) Such remediation as may be identified in the approved scheme must be carried out in accordance with the approved scheme.

Surface water

21.—(1) No part of the onshore substation station comprising Work No. 11A shall commence until, in respect of that installation, a detailed surface water scheme has been prepared in consultation with the Environment Agency and West Sussex County Council.

(2) The detailed surface water schemes must accord with the outline code of construction practice and Outline Operation Drainage Plan.

(3) Construction of the onshore substation must be carried out in accordance with the approved scheme.

Onshore Archaeology

22.—(1) No stage of the onshore connection works may commence until for that stage a written scheme of archaeological investigation (which must accord with the outline onshore written scheme of investigation) has been submitted to and approved by the relevant planning authority in consultation with West Sussex County Council and the Historic Buildings and Monuments Commission for England.

(2) The term “commence” as used in requirement 22(1) shall include any onshore site preparation works.

(3) Any archaeological investigations must be carried out in accordance with the approved scheme.

(4) The archaeological site investigations and post investigation assessment must be completed for that stage in accordance with the programme set out in the approved written scheme of archaeological investigation and provision made for analysis, publication and dissemination of results and archive deposition secured for that stage.

Public rights of way

23.—(1) No stage of the onshore works may commence until a public rights of way management plan for the management of public rights of way located within that stage and which must accord with the outline public rights of way management plan has been submitted to an approved in writing by the relevant planning authority (in respect of public rights of way in its area) and West Sussex County Council.

(2) The term “commence” as used in requirement 23(1) shall include any onshore site preparation works.

(3) The public rights of way management plan for each stage shall be implemented as approved.

Code of construction practice

24.—(1) No stage of any works landward of MLWS may commence until a detailed code of construction practice (which must accord with the outline code of construction practice) has been submitted to and approved by the relevant planning authority, in consultation with the Environment Agency, the relevant SNCBs, the relevant highway authority and, if applicable, the MMO.

(2) The term “commence” as used in requirement 23(1) shall include any onshore site preparation works.

(3) All construction works must be undertaken in accordance with the relevant approved code of construction practice.

(4) The code of construction practice shall include, as a minimum—

- (a) construction management plan;
- (b) outline materials management plan;
- (c) outline soil management plan;
- (d) a crossing schedule; and

- (e) arrangements for crossing watercourses where trenchless techniques are not required or are not practical.

Construction traffic management plan

25.—(1) No connection works may commence until written details of a construction traffic management plan (which accords with the outline construction traffic management plan) has been submitted to and approved by the relevant planning authority in consultation with the relevant highway authority. The construction traffic management plan shall include—

- (a) heavy goods vehicles (HGVs) used during the construction period shall avoid the Air Quality Management Area in Cowfold and the A24 through Findon wherever possible;
- (b) the provision of visibility splays designed to Design Manual for Roads and Bridges; and
- (c) measures for laying cables in the highway by either single lane control or short road closure depending on the location,

and shall be agreed between the undertaker and the relevant highway authority.

(2) The term “commence” as used in requirement 25(1) shall include any onshore site preparation works.

(3) The construction traffic management plan must be implemented as approved.

European protected species onshore

26.—(1) No stage of the connection 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 that stage of the connection works or in any of the trees to be lopped or felled as part of that stage of the connection works.

(2) Where a European protected species is shown to be present, the relevant part of the connection works must not begin until, after consultation with the relevant SNCBs and the relevant planning authority, a scheme of protection and mitigation measures has been submitted to and approved by the relevant planning authority or a European protected species licence granted by Natural England.

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

(4) In this Requirement, “European protected species” has the same meaning as in regulations 42 and 46 of the Conservation of Habitats and Species Regulations 2017(a).

(5) The term “commence” as used in requirement 26(1) shall include any onshore site preparation works.

Restoration of land used temporarily for construction

27.—(1) Any land landward of MLWS within the Order limits which is used temporarily for construction of the connection works and not ultimately incorporated in permanent works or approved landscaping, must be reinstated in accordance with such details as the relevant planning authority in consultation with, where appropriate, the MMO, and the relevant highway authority, may approve, as soon as reasonably practicable.

(2) Any loss of built heritage assets or historic landscape elements, or loss or disturbance to historic landscape as a consequence of temporary works will be subject to sensitive restoration and/or enhancements to the extent practicable in accordance with details that shall have been approved in advance in writing by the West Sussex County Council.

(3) Areas of temporary habitat loss shall be reinstated wherever practicable following completion of construction in the relevant area.

(a)

Effect on Local Wildlife Sites (LWS) and sites of ecological importance

28.—(1) The construction corridor through the Warningcamp Hill and New Down Local Wildlife Site (LWS) shall be no more than 30m for its entire length and works in the LWS shall be carried out in accordance with a method statement that shall have been agreed in advance with the South Downs National Park and West Sussex County Council.

(2) The construction corridor through areas of woodland, across tree lines and important hedgerows (as defined pursuant to the Hedgerow Regulations 1997) shall be narrowed to no more than 30m to its entire length and these areas shall be reinstated following cable installation with hedgerows and tree belts treated as complete units.

Control of noise during operational phase

29.—(1) Prior to commissioning of the onshore substation comprising Work No, 11A an operational noise management plan (NMP) for onshore substation shall be submitted to and approved by the relevant planning authority.

(2) The NMP must set out the particulars of—

- (a) the noise attenuation and mitigation measures to be taken to minimise noise resulting from the onshore substation, including any noise limits; and
- (b) a scheme for monitoring attenuation and mitigation measures provided under subparagraph (a) which must include—
 - (i) the circumstances under which noise will be monitored; (ii) the locations at which noise will be monitored;
 - (ii) the method of noise measurement which must be in accord with the relevant British Standards or other agreed noise;
 - (iii) measurement methodology appropriate to the circumstances); and
 - (iv) a complaints procedure.

(3) The NMP must be implemented as approved.

Onshore decommissioning

30.—(1) Within three months of the cessation of commercial operation of the connection works an onshore decommissioning plan must be submitted to the relevant planning authority for approval unless otherwise agreed in writing by the relevant planning authority.

(2) The relevant planning authority must provide its decision on the onshore decommissioning plan required under requirement 30(1) within three months of submission of such plan unless otherwise agreed in writing by the relevant planning authority and the undertaker.

(3) The decommissioning plan must be implemented as approved unless otherwise agreed in writing by the relevant planning authority.

Requirement for written approval

31. Where the approval, agreement or confirmation of the Secretary of State, relevant planning authority or another person is required under a requirement, that approval, agreement or confirmation must be given in writing.

Amendments to approved details

32.—(1) With respect to any requirement which requires the authorised project to be carried out in accordance with the details approved by the relevant planning authority or another person, the approved details must be carried out as approved unless an amendment or variation is previously agreed in writing by the relevant planning authority or that other person in accordance with subparagraph (2).

(2) Any amendments to or variations from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the relevant planning authority or that other person that the subject matter of the agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(3) The approved details must be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority or that other person.

SCHEDULE 2

Article 9

STREETS SUBJECT TO STREET WORKS

<i>(1) Area</i>	<i>(2) Street subject to street works</i>
District	Description of street Within the PEIR assessment boundary
Arun District Council	Ferry Road
Arun District Council	A259
Arun District Council	A284
Arun District Council	A27
Arun District Council	Crossbush Lane
Arun District Council	Clay Lane
Arun District Council	Blakehurst Lane
Horsham District Council	A24
Horsham District Council	London Road
Horsham District Council	A283
Horsham District Council	Water Lane
Horsham District Council	Spithandle Lane
Horsham District Council	B2135
Horsham District Council	B2116
Horsham District Council	A281
Horsham District Council	Kent Street
Horsham District Council	Wineham Lane
Horsham District Council	Bob Lane

SCHEDULE 3

Article 11

STREETS TO BE TEMPORARILY STOPPED UP

<i>(1) Area</i>	<i>(2) Public rights of way to be temporarily stopped up</i>	<i>(3) Extent of temporary stopping up</i>
Arun District Council	Clay Lane	TBC
Arun District Council	Blakehurst Lane	TBC
Arun District Council	Water Lane	TBC
Horsham District Council	B2116	TBC
Horsham District Council	Kent Street	TBC
Horsham District Council	Wineham Lane	TBC
Horsham District Council	Bob Lane	TBC

SCHEDULE 4

Article 12

PUBLIC RIGHTS OF WAY

PART 1

PUBLIC RIGHTS OF WAY TO BE STOPPED UP AND NEW WAY CREATED

<i>(1) Area</i>	<i>(2) Public rights of way to be stopped up</i>	<i>(3) Extent of stopping up</i>	<i>(4) New public right of way to be provided</i>	<i>(5) Stage at which new public right of way must be provided</i>
Horsham District Council	8T Footpath	TBC		
Horsham District Council	1T Footpath	TBC		

PART 2

PUBLIC RIGHTS OF WAY TO BE TEMPORARILY STOPPED UP

<i>(1) Area</i>	<i>(2) Public rights of way to be temporarily stopped up</i>	<i>(3) Extent of temporary stopping up</i>
Arun District Council	829 Footpath	TBC
Arun District Council	173 Footpath	TBC
Arun District Council	197 Byway	TBC
Arun District Council	172 Footpath	TBC

Arun District Council	169 Footpath	TBC
Arun District Council	174 Footpath	TBC
Arun District Council	206 Footpath	TBC
Arun District Council	2165 Footpath	TBC
Arun District Council	2207 Footpath	TBC
Arun District Council	2205 Footpath	TBC
Arun District Council	2202 1 Footpath	TBC
Arun District Council	2189 Footpath	TBC
Arun District Council	2213 Bridleway	TBC
Arun District Council	2219 Bridleway	TBC
Arun District Council	2221 Bridleway	TBC
Arun District Council	2226 Footpath	TBC
Arun District Council	2256 Footpath	TBC
Arun District Council	2256 1 Footpath	TBC
Arun District Council	2191 Bridleway	TBC
Arun District Council	2214 Bridleway	TBC
Arun District Council	3558 1 Bridleway	TBC
Horsham District Council	2252 Bridleway	TBC
Horsham District Council	2260 Bridleway	TBC
Horsham District Council	2173 Bridleway	TBC
Horsham District Council	2282 1 Bridleway	TBC
Horsham District Council	2092 Restricted Byway	TBC
Horsham District Council	2282 Bridleway	TBC
Horsham District Council	2688 Bridleway	TBC
Horsham District Council	2108 1 Bridleway	TBC
Horsham District Council	2689 Bridleway	TBC
Horsham District Council	2665 Bridleway	TBC
Horsham District Council	2691 Bridleway	TBC
Horsham District Council	2697 Bridleway	TBC
Horsham District Council	2698 Footpath	TBC
Horsham District Council	2701 Footpath	TBC
Horsham District Council	2703 Bridleway	TBC
	2710 Footpath	
Horsham District Council	2711 Bridleway	TBC
Horsham District Council	2514 Footpath	TBC
Horsham District Council	2594 Bridleway	TBC

Horsham District Council	2589 1 Bridleway	TBC
Horsham District Council	2588 Footpath	TBC
Horsham District Council	2519 Footpath	TBC
Horsham District Council	2520 Footpath	TBC
Horsham District Council	2519 Footpath	TBC
Horsham District Council	2372 Footpath	TBC
Horsham District Council	3514 Bridleway	TBC
Horsham District Council	2374 Footpath	TBC
Horsham District Council	2372 2 Bridleway	TBC
Horsham District Council	2372 1 Footpath	TBC
Horsham District Council	1841 Footpath	TBC
Horsham District Council	2808 Footpath	TBC
Horsham District Council	1774 Bridleway	TBC
Horsham District Council	1776 Footpath	TBC
Horsham District Council	1781 Footpath	TBC
Horsham District Council	1776 1 Footpath	TBC
Horsham District Council	1782 Footpath	TBC
Horsham District Council	1783 Footpath	TBC
Horsham District Council	1730 Bridleway	TBC
Horsham District Council	1787 Footpath	TBC
Horsham District Council	1786 Footpath	TBC
Horsham District Council	1789 Footpath	TBC
Horsham District Council	1792 Footpath	TBC
Horsham District Council	2383 Footpath	TBC
Horsham District Council	2382 Footpath	TBC
Horsham District Council	2384 Footpath	TBC
Horsham District Council	2382 Footpath	TBC
Horsham District Council	1785 Bridleway	TBC
Horsham District Council	1730 Bridleway	TBC

SCHEDULE 5

ACCESS TO WORKS

Article 13

<i>(1) Area</i>	<i>(2) Description of access</i>
Arun District Council	Access 1, Construction and operational access, vehicular access taken from Ferry Road.

Arun District Council	Access 1a, Light Construction, vehicular access taken from Ferry Road.
Arun District Council	Access 1b, Light construction, vehicular access taken from Ferry Road.
Arun District Council	Access 1c, Light construction and operational access, vehicular access taken from Ferry Road.
Arun District Council	Access 1d, Construction access, vehicular access taken from Ferry Road.
Arun District Council	Access 2, Construction and operational access, vehicular access taken from Church Lane.
Arun District Council	Access 3, Construction and operational access, vehicular access taken from Church Lane.
Arun District Council	Access 4, Construction and operational access, vehicular access taken from the A259.
Arun District Council	Access 4a, Light construction access, vehicular access taken from the A259.
Arun District Council	Access 5, Construction and operational access, vehicular access taken from the A284.
Arun District Council	Access 6, Construction and operational access, vehicular access taken from the A284.
Arun District Council	Access 7, Construction and operational access, vehicular access taken from the A284.
Arun District Council	Access 7a, Light Construction access, vehicular access taken from Crossbush Lane.
Arun District Council	Access 7b, Light Construction access, vehicular access taken from Crossbush Lane.
Arun District Council	Access 8a, Construction and operational access, vehicular access taken from Crossbush Lane.
Arun District Council	Access 8b, Construction and operational access, vehicular access taken from Crossbush Lane.
Arun District Council	Access 9, Construction and operational access, vehicular access taken from Crossbush Lane.
Arun District Council	Access 10, Construction and operational access.
Horsham District Council	Access 11, Construction and operational access, vehicular access taken from A283.
Horsham District Council	Access 12, Construction and operational access, vehicular access taken from A283.
Horsham District Council	Access 12a, Construction access, vehicular access taken from the Hollow.
Horsham District Council	Access 12b, Light Construction and operational access, vehicular access taken from School Lane.
Horsham District Council	Access 12c, Light Construction and operational access.
Horsham District Council	Access 12d, Light Construction and operational access, vehicular access taken from the A283.
Horsham District Council	Access 13, Construction and operational access, vehicular access taken from the A283.
Horsham District Council	Access 14, Construction and operational access, vehicular access taken from the A283.
Horsham District Council	Access 15, Construction and operational access, vehicular access taken from the A283.
Horsham District Council	Access 16a, Construction and operational access, vehicular access taken from the A283.

Horsham District Council	Access 17a, Construction and operational access, vehicular access taken from the A283.
Horsham District Council	Access 17c, Construction and operational access, vehicular access taken from the A283.
Horsham District Council	Access 19, Construction access, vehicular access taken from Spithandle Lane.
Horsham District Council	Access 20, Construction and operational access, vehicular access taken from Spithandle Lane.
Horsham District Council	Access 20a, Construction and operational access, vehicular access taken from B2135.
Horsham District Council	Access 21, Construction and operational access, vehicular access taken from B2135.
Horsham District Council	Access 21a, Light construction and operational access, vehicular access taken from B2135
Horsham District Council	Access 22, Construction and operational access, vehicular access taken from B2135.
Horsham District Council	Access 23a, Construction and operational access, vehicular access taken from A281.
Horsham District Council	Access 24, Construction and operational access, vehicular access taken from B2116.
Horsham District Council	Access 25, Construction and operational access vehicular access taken from B2116.
Horsham District Council	Access 26, Construction and operational access, vehicular access taken from A281.
Horsham District Council	Access 27, Construction and operational access, vehicular access taken from A281.
Horsham District Council	Access 27a, Construction and operational access, vehicular access taken from A281.
Horsham District Council	Access 28, Construction and operational access, vehicular access taken from A272.
Horsham District Council	Access 28a, Construction access, vehicular access taken from A272.
Horsham District Council	Access 29, Construction and operational access, vehicular access taken from Kent Street.
Horsham District Council	Access 30, Construction and operational access vehicular access taken from Kent Street.
Horsham District Council	Access 30a, Construction and operational access vehicular access taken from Kent Street.
Horsham District Council	Access 30b, Construction and operational access vehicular access taken from Kent Street.
Horsham District Council	Access 31, Construction access, vehicular access taken from Wineham Lane.
Horsham District Council	Access 32, Construction and operational access, vehicular access taken from Wineham Lane.
Horsham District Council	Access 34, Construction and operational access vehicular access taken from Wineham Lane.
Horsham District Council	Access 34a, Construction and operational access, vehicular access taken from Wineham Lane.
Horsham District Council	Access 35, Construction and operational access, vehicular access taken from Wineham Lane.
Horsham District Council	Access 35a, Construction access, vehicular access taken from Kent Street.

SCHEDULE 6

Article 21

TEMPORARY SUSPENSION OF PUBLIC ACCESS TO ACCESS LAND

(1) Area

*(2) Area subject to temporary suspension of
public access*

SCHEDULE 7

Article 24

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

(1) Number of land shown on land plans

(2) Purpose for which rights may be acquired

SCHEDULE 8

Article 27

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

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restrictive covenant as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 4—

- (a) for the words “land is acquired or taken from” there is substituted the words “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for the words “acquired or taken from him” there is substituted the words “over which the right is exercisable or the restrictive covenant enforceable”.

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

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

(a)

- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) (powers of entry) of the 1965 Act (as modified by paragraph 7 of Schedule [7] to the Rampion 2 Offshore Wind Farm Order 20xx);
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 10 of Schedule [9] to the Rampion 2 Offshore Wind Farm Order 20xx) to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.”.

Application of Part 1 of the 1965 Act

4.—(1) The 1965 Act is to have effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is to be enforceable.

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

5. For section 7 (measure of compensation in case of severance) of the 1965 Act there is substituted the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (refusal to convey, failure to make title, etc);
- (b) paragraph 10(3) of Schedule 1 (persons without power to sell their interests) conveyance of the land or interest);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

7. Section 11 (powers of entry) of the 1965 Act is so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 18), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 11A (powers of entry: further notices of entry), 11B (counter- notice

requiring possession to be taken on specified date), 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

8. Section 20 (tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

9. Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 22(4) (application of the 1981 Act) is so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

10. For Schedule 2A to the 1965 Act substitute—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1.—(1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 (execution of declaration) of the 1981 Act as applied by article [25] (application of the 1981 Act) of the Rampion 2 Offshore Wind Farm Order 20xx in respect of the land to which the notice to treat relates.

(2) But see article 27(3) (acquisition of subsoil [or airspace] only) of the Rampion 2 Offshore Wind Farm Order 20xx which excludes the acquisition of subsoil [and airspace] only from this Schedule.

2. In this Schedule, “house”, except in paragraph 10, includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat;
- (b) accept the counter-notice; or
- (c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by the Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant;
- (b) the use to be made of the right or covenant proposed to be acquired or imposed; and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraw the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

SCHEDULE 9

Article 32

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) Area

(2) Number of land shown on onshore plan

PROTECTION FOR ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

PART 1 APPLICATION

Application

1. For the protection of the affected undertakers referred to in this Part (save for National Grid which is protected by Part 2 of this Schedule, Cadent Gas Limited which is protected by Part 3 of this Schedule) the following provisions must, unless otherwise agreed in writing between the undertaker and the affected undertaking concerned, have effect.

2. In this Part—

“affected undertaker” means—

- (a) any licence holder within the meaning of Part 1 (electricity supply) of the 1989 Act;
- (b) a gas transporter within the meaning of Part 1 (gas supply) of the Gas Act 1986(a);
- (c) a water undertaker within the meaning of the Water Industry Act 1991(b); and
- (d) a sewerage undertaker within the meaning of Part 1 (preliminary) of the Water Industry Act 1991,

for the area of the authorised development but, for the avoidance of doubt, does not include the undertakers specified in Part 2, Part 3, and Part 6 (National Grid, Cadent Gas Limited and Anglian Water Services Limited) of this Schedule, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained;

“alternative apparatus” means alternative apparatus adequate to enable the affected undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the 1989 Act), belonging to or maintained by that affected undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;
- (c) in the case of a water undertaker—
 - (i) mains, pipes or other apparatus belonging to or maintained by that affected undertaker for the purposes of water supply; and
 - (ii) any water mains or service pipes (or part of a water main or service pipe) that is the subject of an agreement to adopt made under section 51A (agreements to adopt water main or service pipe at future date) of the Water Industry Act 1991; and
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested in the affected undertaker in accordance with the Water Industry Act 1991; and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewerage disposal works, at future date) of that Act,

(a)
(b)

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties; and

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land.

Precedence of the 1991 Act in respect of apparatus in the streets

3. This Part does not apply to apparatus in respect of which the relations between the undertaker and the affected undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

No acquisition etc. except by agreement

4. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

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 an affected 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 affected undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the affected 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 an affected undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the affected 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 affected undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between the affected undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article [] (arbitration).

(5) The affected undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 47 (arbitration) and after the grant to the affected undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the affected undertaker in question that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land controlled by the undertaker,

that work, instead of being executed by the affected undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the affected undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

Facilities and rights for alternative apparatus

6.—(1) Where, in accordance with the provisions of this Part, the undertaker affords to an affected undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the affected undertaker in question or in default of agreement settled by arbitration in accordance with article [44] (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the affected 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 affected undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

7.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 5 that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 5, the undertaker must submit to the affected undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the affected undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the affected undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by an affected undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If an affected undertaker in accordance with sub-paragraph (2) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 6 apply as if the removal of the apparatus had been required by the undertaker under paragraph 5.

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the affected 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 following provisions of this paragraph, the undertaker must repay to an affected undertaker the reasonable expenses incurred by that affected undertaker in, or in connection

with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 5.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part, that value being calculated after removal.

(3) If in accordance with the provisions of this Part—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

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 47 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the affected 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 (2)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to an affected 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 affected undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Expenses and costs

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, 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 affected undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any affected undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that affected undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that affected undertaker for any other expenses, loss, damages, penalty or costs incurred by the affected 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 an affected undertaker, its officers, servants, contractors or agents.

(3) An affected undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise may be made without the consent of the undertaker which, if it withholds such consent, shall 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 an affected undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 2

FOR THE PROTECTION OF [NATIONAL GRID AS ELECTRICITY AND GAS UNDERTAKER]

PART 3

FOR THE PROTECTION OF [CADENT GAS LIMITED AS GAS UNDERTAKER]

PART 4

PROTECTION FOR OPERATORS OF ELECTRONIC COMMUNICATIONS
CODE NETWORKS

PART 5

PROTECTION OF [NETWORK RAIL INFRASTRUCTURE LIMITED]

PART 6

FOR THE PROTECTION OF [WATER UTILITY COMPANY]

PART 7

FOR THE PROTECTION OF THE ENVIRONMENT AGENCY [AND LOCAL
LEAD FLOOD AUTHORITY]

PART 8

FOR THE PROTECTION OF [HIGHWAYS ENGLAND]

PART 9
FOR THE PROTECTION OF [RAMPION OFFSHORE WIND FARM]

SCHEDULE 11 Article 40
DEEMED MARINE LICENCE UNDER THE 2009 ACT—
GENERATION ASSETS

PART 1
LICENSED MARINE ACTIVITIES

1.—(1) In this licence—

“the 2004 Act” means the Energy Act 2004;

“the 2008 Act” means the Planning Act 2008;

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

“array area” means that part of the offshore Order limits identified in paragraph 3 of Part 1 of Schedule 1 to the Order;

“array cable” means the network of offshore subsea cables connecting the wind turbine generators in Work No.1 to each other and connecting to the offshore substations comprising Work No. 2;

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this licence;

“authorised development” means Work No. 1 described in paragraph 3 of Part 1 of this licence or any part of that work;

“authorised project” means the authorised development and associated development described in Part 1 of Schedule 1 (authorised project) of the Order;

“buoy” means any floating device used for navigational purposes or measurement purposes;

“cable protection” means physical measures for the protection of cables including but not limited to concrete mattresses (but not material used for cable crossings);

“commence” means the first carrying out of any licensed marine activities in a phase as authorised by this marine licence, save for pre-construction monitoring surveys approved under this licence and “commenced” and “commencement” must be construed accordingly;

“condition” means a condition in Part 2 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands B75 7RL and any successor body to its functions;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 (marine licensing) of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order article 50 (certification of plans and documents etc);

“HAT” means highest astronomical tide;

“interconnector cable” means the cables connecting the offshore substations comprising Work No.2

“intrusive activities” means activities including anchoring of vessels, jacking up of vessels, depositing soil and seabed clearance;

“jacket foundation” means a lattice type structure constructed of steel, which may include scour protection and additional equipment such as, J-tubes, corrosion protection systems and access platforms;

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

“LAT” means lowest astronomical tide;

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect and survey, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace, to the extent assessed in the environmental statement; and “maintenance” must be construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence or any successor in function;

“MCA” means the Maritime and Coastguard Agency;

“MCZ” means a marine conservation zone designated under section 116(1) (marine conservation zones) of the 2009 Act or any area which is recommended for such designation to the relevant Secretary of State in accordance with the 2009 Act unless the Secretary of State determines that it shall not be designated as a marine conservation zone;

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

“monopile foundation” means a steel pile, typically cylindrical, driven and/or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“the offshore Order limits” means the offshore Order limits defined by the offshore Order limits and grid coordinates plan;

“the offshore Order limits and grid coordinates plan” means the plan certified as the offshore Order limits and grid coordinates plan by the Secretary of State for the purposes of the Order under article 50 of the Order;

“offshore substation” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks containing—

- (a) electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation; and
- (b) housing accommodation, storage, workshop auxiliary equipment, and facilities for operating, maintaining and controlling the substation or wind turbine generators;

“Order” means the Rampion 2 Offshore Wind Farm Order 20xx;

“outline marine mammal mitigation protocol” means the document certified as the outline marine mammal mitigation protocol by the Secretary of State under article 50 of the Order;

“outline offshore written scheme of investigation” means the document certified as the outline offshore written scheme of investigation by the Secretary of State under article 50 of the Order;

“phase” means a part of the authorised project to be carried out within the offshore Order limits which is identified in the phasing plan approved pursuant to condition 3 of Part 2 of this licence and for the avoidance of doubt boulder clearance activities and other seabed preparation works may comprise a phase;

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

“statutory historic body” means the Historic Buildings and Monuments Commission for England or its successor in function;

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

“mono suction bucket foundation” means a steel cylindrical structure which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential, and may include scour protection and additional equipment such as J-tubes;

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

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means Rampion Extension Development Limited;

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

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

“Work No. 1” means an offshore wind turbine generating station constructed within the array area which shall have a gross electrical output of over 100 megawatts and shall comprise—

- (a) no more than 116 wind turbine generators, with each wind turbine each fixed to the seabed by either monopile foundation or jacket foundation;
- (b) a network of cables between the wind turbine generators comprising work No. 1; and
- (c) a network of cables between the wind turbine generators comprising Work No. 1 and work No. 2 including one or more cable crossings;

“Work No. 2” means—

- (a) up to three offshore substations within the array area each fixed to the seabed within the area shown on the works plan by monopile foundation, or jacket foundation; and
- (b) up to two offshore interconnector cables in total each connecting one offshore substation to another;

“Work No. 3” means—

- (a) up to four cable circuits in total between one or more of the offshore substations comprising Work No. 2 and the four cable circuits comprising Work No. 4 laid on or beneath the seabed within the offshore Order limits seaward of MLWS; and
- (b) up to four temporary horizontal directional drilling exit pits located seaward of MLWS;

“Work No. 4” means landfall connection works comprising up to four cable circuits and associated ducts laid underground by horizontal directional drilling within the Order limits seaward of MHWS and landward of MLWS connecting Work No. 3 and Work No. 5; and

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order under article 50 of the Order.

(2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT); and
- (b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

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

- (a) Marine Management Organisation
Marine Licensing Team
Lancaster House Hampshire Court
Newcastle Business Park
Newcastle upon Tyne
NE4 7YH
Tel: 0300 123 1032;
- (b) Marine Management Organisation (local office)
Shoreham office
Pilots' Watch House
Basin Road South
Portslade
West Sussex
BN41 1WD;
Tel: 01323 81032;
- (c) Trinity House
Tower Hill
London
EC3N 4DH
Tel: 020 7481 6900;
- (d) The United Kingdom Hydrographic Office
Admiralty Way
Taunton
Somerset
TA1 2DN
Tel: 01823 337 900;
- (e) Maritime and Coastguard Agency
Navigation Safety Branch
Bay 2/20, Spring Place
146
105 Commercial Road
Southampton
SO15 1EG
Tel: 020 3817 2433;
- (f) Centre for Environment, Fisheries and Aquaculture Science
Pakefield Road
Lowestoft
Suffolk
NR33 0HT
Tel: 01502 562 244;
- (g) Natural England
4th Floor
Foss House
1-2 Peasholme Green

York
YO1 7PX
Tel: 0300 060 4911;

- (h) Historic England
Brooklands
24 Brooklands Avenue
Cambridge
CB2 8BU.

Details of licensed marine activities

2. Subject to the licence conditions, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea within the Order limits seaward of MHWS of the substances and articles specified in paragraph 4 below;
- (b) the disposal of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and other seabed preparation works for the laying of cables within Work No. 1;
- (c) the construction of works in or over the sea and/or on or under the sea bed;
- (d) dredging for the purposes of seabed preparation for foundation works and/or electrical circuit works; the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (e) boulder clearance works either by displacement ploughing or subsea grab technique or any other equivalent method;
- (f) removal of static fishing equipment; and
- (g) site preparation works.

3. Such activities are authorised in relation to the construction, maintenance and operation of Work No. 1 - an offshore wind turbine generating station constructed within the array area which shall have a gross electrical output of over 100 megawatts and shall comprise—

- (a) no more than 116 wind turbine generators, with each wind turbine each fixed to the seabed by either monopile foundation or jacket foundation;
- (b) a network of cables between the wind turbine generators comprising work No. 1; and
- (c) a network of cables between the wind turbine generators comprising Work No. 1 and work No. 2 including one or more cable crossings,

and in connection with such Work No. 1 and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection such as the placement of rock and/or concrete mattresses or other protection measures;
- (c) temporary landing places, moorings or other means of accommodating vessels in the construction and/or maintenance of the authorised development;
- (d) marking buoys, beacons, fenders and other navigational warning or ship impact protection works; and

- (e) such other works as may be necessary or expedient for the purpose of or in connection with the construction or use of the authorised development and which are within the scope of the environmental impact assessment recorded in the environmental statement.

4. The substances or articles authorised for deposit at sea are—

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

5. The grid coordinates for that part of the authorised development comprising Work No. 1 are specified below and more particularly on the offshore Order limits and grid coordinates plan—

<i>Point</i>	<i>Longitude</i>	<i>Latitude</i>
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6. This licence remains in force until the authorised project has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of sections 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 5 (benefit of the Order).

8. With respect to any condition which requires any phase of the licensed activities be carried out in accordance with the plans, protocols or statements approved under this Schedule, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to or variations from the approved plans, protocols or statements must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the MMO that it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

10.—(1) Any difference under any provision of this licence, unless otherwise provided for, shall be referred to and settled in arbitration in accordance with the rules at Schedule 14 of the Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) Where the referral to arbitration under paragraph (1) relates to a difference with the Secretary of State, in the event that the parties cannot agree upon a single arbitrator within the specified time period stipulated in paragraph (1), either party may refer to the Centre for Effective Dispute Resolution for appointment of an arbitrator. (3) Should the Secretary of State fail to make an appointment under paragraph (1) within 14 days of a referral, the referring party may refer to the Centre for Effective Dispute Resolution for appointment of an arbitrator.

PART 2

CONDITIONS

Design parameters

1.—(1) The total number of wind turbine generators comprised in the authorised project must not exceed 116 and a total rotor swept area of 5.1 square kilometres.

(2) Subject to sub-paragraph (3), each wind turbine generator forming part of the authorised project must not—

- (a) exceed a height of 325 metres when measured from LAT to the tip of the vertical blade;
- (b) exceed a rotor diameter of 295 metres;
- (c) have a distance of less than 22 metres from HAT to the lowest point of the rotating blade; or
- (d) be less than 860m from the nearest wind turbine generator in all directions.

(3) The reference in sub-paragraph 1(2)(d) to the location of a wind turbine generator is a reference to the centre point of that wind turbine generator.

(4) Wind turbine generator foundation structures forming part of the authorised scheme must be one of the following foundation options: monopile foundation, or jacket foundation.

(5) No wind turbine generator—

- (a) jacket foundations employing pin piles forming part of the authorised project shall have—
 - (i) no more than 4 legs per jacket;
 - (ii) no more than 4 pin piles per jacket; and
 - (iii) a pin pile diameter of greater than 3 metres;
- (b) jacket foundations with suction bucket shall have—
 - (i) no more than 4 legs per wind turbine generator;
 - (ii) a suction bucket diameter of no more than 15 metres; and
 - (iii) a suction bucket penetration of no more than 25 metres; and
- (c) monopile foundation forming part of the authorised project shall have a diameter greater than 13.5 metres.

(6) The total volume of scour protection for each wind turbine generator must not exceed 27,600 cubic metres.

2.—(1) There shall be no more than 3 offshore substations.

(2) The dimensions of any offshore substation forming part of the authorised project must not exceed—

- (a) 65 metres in height when measured from LAT and 115 metres in height with lightning protection and ancillary structures;
- (b) 80 metres in length; and
- (c) 50 metres in width.

(3) Offshore substation foundation structures forming part of the authorised scheme must comprise either monopile foundations or jacket foundations.

(4) Offshore substation installations with—

- (a) jacket foundation employing pin piles forming part of the authorised project shall have—
 - (i) no more than 6 legs per jacket;
 - (ii) no more than 12 pin piles per jacket; and
 - (iii) a pin pile diameter of no greater than 3.5 metres; and

- (b) monopile foundation forming part of the authorised project shall have a diameter no greater than 12 metres.
- (5) The total number of scour protection for each offshore substation must not exceed 26,400 cubic metres.
- 3.—**(1) The total number of cable circuits shall not exceed four.
- (2) The total length of the cables comprising Work No. 1 shall not exceed 250 kilometres.
- (3) The total volume of cable protection (excluding cable crossings) comprising Work No 1 shall not exceed 130,000 cubic metres with a maximum footprint of 260,000 square metres.
- (4) The number of cable crossings comprising Work No. 1 shall not exceed four unless otherwise agreed with the MMO.
- (5) The maximum area impacted by cable crossings shall not exceed 10,000 square metres.
- (6) The total volume of cable protection for cable crossings shall not exceed 20,000 cubic metres (pre- and post-lay).
- (7) The total length of the interconnector cables comprising Work No. 2 shall not exceed 50 kilometres.
- (8) The total volume of cable protection comprising Work No 2 shall not exceed 25,000 cubic metres with a maximum footprint of 48,000 square metres.
- (9) The total length of cables comprising Work No 3 shall not exceed 86 kilometres.
- (10) The total volume of cable protection comprising Work No. 3 shall not exceed 38,000 cubic metres with a maximum footprint of 61,000 square metres.
- (11) No cable protection by way of concrete mattresses may be used in an MCZ.
- (12) Any cable protection authorised under this licence must be deployed within 15 years from the date of the Order unless otherwise agreed in writing with the MMO.
- (13) The cables comprising Work Nos. 1 to 3 shall be installed using one or more of the following installation methods: ploughing, trenching or jetting and shall be installed at a target burial depth of 1 metre below seabed surface.
- (14) The cables comprising Work No.4 shall be installed by HDD techniques.

Phasing Scheme

- 4.—**(1) No part of the authorised project to be carried out within the offshore Order limits shall commence until there has been submitted to and approved in writing by the MMO a written scheme for the phasing of the carrying and construction of such works.
- (2) The phasing scheme shall be implemented as approved.

Maintenance of the authorised project

- 5.—**(1) The undertaker may at any time maintain the authorised development, except to the extent that this licence or an agreement made under this licence provides otherwise.
- (2) No maintenance works whose likely effects are not assessed in the environmental statement may be carried out, unless otherwise approved by the MMO.
- (3) Maintenance works include but are not limited to—
 - (a) major wind turbine component or offshore substation platform replacement;
 - (b) painting wind turbine generators or offshore substation platforms;
 - (c) bird waste removal;
 - (d) cable remedial burial;
 - (e) array cable repairs;
 - (f) access ladder replacement;
 - (g) wind turbine generator anode replacement; and

(h) J-tube repair/replacement.

(4) Where the MMO's approval is required under paragraph (2), approval may be given only where it has been demonstrated to the satisfaction of the MMO that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Extension of time periods

6. Any time period given in this licence given to either the undertaker or the MMO may be extended with the agreement of the other party.

Notifications and inspections

7.—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
 - (i) all agents and contractors notified to the MMO in accordance with condition 17; and
 - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with condition 17; and
- (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) above must provide a completed confirmation form to the MMO confirming receipt of this licence.

(2) Only those persons and vessels notified to the MMO in accordance with condition 17 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; and
- (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised project.

(6) The undertaker must inform the MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any part of them and within five days of the completion of the licenced activity.

(7) The undertaker must inform the Kingfisher Information Service of Seafish by email to kingfisher@seafish.co.uk of details regarding the vessel routes, timings and locations relating to the construction of the authorised project or relevant phase—

- (a) at least fourteen days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) on completion of construction of all offshore activities and confirmation of notification must be provided to the MMO within 5 days thereof.

(8) A notice to mariners must be issued at least fourteen days prior to the commencement of the licensed activities advising of the start date of the relevant phase and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO and UKHO within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under condition 13(1)(b). Copies of all notices must be provided to the MMO and UKHO within five days.

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

(11) In case of damage to, or destruction or decay of, the authorised project seaward of MHWS or any part thereof the undertaker must as soon as possible and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, MCA, Trinity House, the Kingfisher Information Service of Seafish and the UK Hydrographic Office.

(12) In case of the development of a cable exposure, the undertaker must notify mariners by issuing a notice to mariners and notify the MMO and the Kingfisher Information Service within three working days following the undertaker becoming aware of it.

Aids to navigation

8.—(1) The undertaker must during the whole period from commencement of the first phase of the licensed activities to completion of decommissioning of the authorised project seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised project to completion of decommissioning of the authorised project seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised project seaward of MHWS including the following—

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

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to condition 13(1)(j) using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning of the authorised project seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 8(11) are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

9.—(1) The undertaker must colour all structures yellow (colour code RAL 1023) from at least highest astronomical tide to a height directed by Trinity House, or must colour the structure as directed by Trinity House from time to time.

(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must ensure that the wind turbine generators are painted light grey (colour code RAL 7035).

Aviation safety

10.—(1) The undertaker must exhibit such lights, with such shape, colour and character as are required in writing by Air Navigation Order 2016(a) and determined necessary for aviation safety

in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the Civil Aviation Authority

(2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, and the MMO, at least 14 days prior to the commencement of a phase of the authorised project, in writing of the following information in respect of the phase (as relevant)—

- (a) the date of the commencement of construction of the phase of the authorised project;
- (b) the date any wind turbine generators are intended to be brought into use;
- (c) the maximum height of any construction equipment to be used for the phase;
- (d) the maximum heights of any wind turbine generator and offshore substation platform to be constructed for the phase; and
- (e) the latitude and longitude of each wind turbine generator and offshore substation platform to be constructed as part of the relevant phase,

and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the authorised project. Copies of such notifications must be provided to the MMO.

Chemicals, drilling and debris

11.—(1) Unless otherwise agreed in writing by the MMO all chemicals used in the construction of the authorised project 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(b).

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

Force majeure

12.—(1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Pre-construction plans and documentation

13.—(1) No relevant phase of the licensed activities must commence until the following (insofar as relevant to that activity or phase of activity) has been submitted to and approved in writing by the MMO, in consultation with (where relevant) Trinity House and the MCA—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, which shows—
 - (i) the proposed location, including grid co-ordinates of the centre point of the proposed location for each wind turbine generator and offshore substation platform, subject to any micro-siting required due to anthropological constraints, marine heritage receptors, environmental constraints including wind loading standards and projected changes in climate conditions during the operational life of the project and marine designated areas or difficult ground conditions and choice of foundation types for all wind turbine generators and offshore accommodation platforms;
 - (ii) the number, specifications and dimensions of the wind turbine generators in that phase;
 - (iii) the proposed length location and arrangement of cable comprising that phase and how this relates to the overall cable arrangements comprising Work Nos. 1-3) and any associated micro-siting to avoid marine heritage receptors unless alternative mitigation is agreed in writing with the MMO and the statutory historic body; and

- (iv) the dimensions of all monopile foundations, mono suction bucket foundations or jacket foundations for the relevant phase,

to ensure conformity with the description of Work Nos. 1 to 3 and compliance with conditions 1 to 3 above;

- (b) a construction programme to include details of—
 - (i) the proposed construction start date for the relevant phase;
 - (ii) proposed timings for mobilisation of plant delivery of materials and installation works for that phase; and
 - (iii) an indicative written construction programme for all wind turbine generators offshore substation platforms and cable comprised in the phase as part of Work No. 1 at paragraph 3 of Part 1 (licenced marine activities) of this Schedule (insofar as not shown in paragraph (ii) above),

unless otherwise agreed in writing with the MMO;

- (c) a construction method statement in accordance with the construction methods assessed in the environmental statement for the relevant phase and including details of—
 - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during the relevant phase to include seabed preparation for foundation and cable installation works where relevant and having regard to any mitigation scheme pursuant to subparagraph 14(1)(f);
 - (ii) advisory safe passing distances for vessels around construction sites;
 - (iii) cable installation;
 - (iv) contractors;
 - (v) vessels and vessels transit corridors;
 - (vi) codes of conduct for vessel operators;
 - (vii) associated ancillary works; and
 - (viii) guard vessels to be employed;
- (d) a project environment monitoring plan for the relevant phase to include details of—
 - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents arising from the relevant phase of the authorised project in relation to all activities carried out during that phase;
 - (ii) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) a marine biosecurity plan detailing how the risk of introduction and spread of invasive non-native species will be minimised;
 - (iv) waste management and disposal arrangements;
 - (v) a vessel management plan including a code of conduct for vessel operators;
 - (vi) the appointment and responsibilities of a fisheries liaison officer;
 - (vii) all spatial data for archaeological exclusion zones and application of a protocol for archaeological discoveries;
 - (viii) the appointment of a diving liaison officer and associated communication plan for liaison with the diving industry including an advisory exclusion zone during all piling operations and a soft start programme for these works; and
 - (ix) measures to reduce direct and indirect disturbance and displacement effects to ornithological features;
- (e) a scour protection management plan (where relevant) providing details of the need, type, sources, quantity and installation methods for scour protection, which must be updated and resubmitted for approval if changes to it are proposed following cable laying operations;

- (f) proposed pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting to the extent required for the relevant phase;
 - (g) in the event that driven or part-driven pile foundations are proposed to be used during the relevant phase, a piling marine mammal mitigation plan which shall accord with the outline marine mammal mitigation protocol certified as such by the Secretary of State pursuant to article 50 of the Order. The intention of which is to prevent injury to marine mammals, including details of soft start procedures with specified duration periods following current best practice as advised by the relevant statutory nature conservation bodies;
 - (h) a cable specification and installation plan for the phase, to include—
 - (i) technical specification of offshore cables below MHWS, 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 sandwave and other seabed clearance plan for all designated sites affected, including details of the volumes of material to be dredged, timing of works, locations for disposal and monitoring proposals;
 - (iii) a detailed cable laying plan for the Order limits (to the extent relevant for the phase), incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection;
 - (iv) a cable protection plan (to the extent relevant for the phase) for all designated sites where cable protection is required, including details of the volumes, material, locations and seabed footprints for cable protection measures, where required, consideration of alternative methods of protection and monitoring proposals and provision for review and update of the plan for a period of 15 years from the date of the grant of the Order;
 - (v) proposals for the volume and areas of cable protection to be used for each cable crossing (to the extent relevant for the phase) and arrangements for crossing and proximity agreements to be put in place with existing pipelines and cable operators; and
 - (vi) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised project which includes a risk based approach to the management of unburied or shallow buried cables;
 - (i) an offshore operations and maintenance plan, to be submitted to the MMO at least four months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase;
 - (j) an aid to navigation management plan for the phase to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 8; and
 - (k) a fisheries liaison and co-existence plan.
- (2) The licensed activities or any phase of those activities must not commence unless no later than 6 months prior to the commencement a written scheme of archaeological investigation has been submitted to and approved by the MMO, in accordance with the outline marine written scheme of investigation, and in accordance with industry good practice, in consultation with the statutory historic body to include—
- (a) details of responsibilities of the undertaker, archaeological consultant and contractor;
 - (b) a methodology for further site investigation including any specifications for geophysical geotechnical and diver or remotely operated vehicle investigations including for unexploded ordnance;

- (c) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within six months of any survey being completed;
 - (d) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones prior to construction;
 - (e) monitoring of archaeological exclusion zones during and post construction, including provision of a report on such monitoring;
 - (f) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS ('Online Access to the Index of archaeological investigations') form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
 - (g) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme;
 - (h) implementation of the Offshore Renewables Protocol for Reporting Archaeological Discoveries as set out by The Crown Estate; and
 - (i) a timetable for any further site investigations.
- (3) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive activities must only take place in accordance with a specific outline written scheme of investigation (which must accord with the details set out in the offshore written scheme of investigation) which has been submitted to and approved by the MMO.
- (4) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 5,000kJ.

14.—(1) Each programme, statement, plan, protocol or scheme required to be approved under condition 13 (save for that required under condition 13(1)(f)) must be submitted for approval at least four months prior to the intended commencement of licensed activities for the relevant phase, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) The pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting required under condition 13(1)(f) must be submitted in accordance with the following, unless otherwise agreed in writing with the MMO—

- (a) at least four months prior to the first survey, detail of any pre-construction surveys and an outline of all proposed monitoring;
- (b) at least four months prior to construction, detail on construction monitoring; and
- (c) at least four months prior to commissioning, detail of post-construction (and operational) monitoring.

(3) The MMO shall determine an application for approval made under condition 13 within a period of four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 13, unless otherwise agreed in writing by the MMO.

Safety Zones

15. The licensed activities or any phase of those activities must not commence until (insofar as relevant to that activity or phase of activity) an application has been made to the Secretary of State for a safety zone pursuant to the Energy Act 2004.

Offshore safety management

16. No phase of the licensed activities may commence until the MMO, in consultation with the MCA, has given written approval of an Emergency Response Co-operation Plan (ERCoP) which

includes full details of the plan for emergency response and co-operation for the construction, operation and decommissioning phases of that phase of the licensed activities in accordance with the MCA recommendations contained MGN 654 “Safety of navigation: OREIs – Guidance on UK Navigational Practice, Safety and Emergency Response” (or any equivalent guidance that replaces or supersedes it), and has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that part of the authorised scheme, adequately addressed all MCA recommendations contained within MGN654 and its annexes.

Reporting of engaged agents, contractors and vessels

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

- (a) the name and function of any agent or contractor appointed to engage in the phase of licensed activities within seven days of appointment; and
 - (b) each week during the construction of the authorised project a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.
- (2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

Timing of monitoring report

18. Any monitoring report compiled in accordance with the monitoring plans provided under conditions 17, 18 and 19 must be provided to the MMO no later than four months following completion of the monitoring to which it relates, unless otherwise agreed with the MMO.

Updating of cable monitoring plan

19. Following installation of cables, the cable monitoring plan required under condition 12(1)(h)(vi) must be updated with the results of the post-installation surveys. The plan must be implemented during the operational lifetime of the project and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

Piling

20.—(1) (1) There shall be no more than 4 hours of piling in each 24 hour period and no more than—

- (a) 2 monopiles; or
- (b) 4 pin piles,

driven per day.

Reporting of cable protection

21.—(1) Not more than 4 months following completion of the construction phase of the project, the undertaker shall provide the MMO and the relevant SNCBs with a report setting out details of the cable protection used for the authorised scheme.

(2) The report shall include the following information—

- (a) location of the cable protection;
- (b) volume of cable protection; and
- (c) any other information relating to the cable protection as agreed between the MMO and the undertaker.

Decommissioning

22.—(1) Prior to any decommissioning activities being undertaken the undertaker shall submit and secure the written approval of the MMO for a decommissioning mammal protection protocol (Decommissioning MPP).

(2) The Decommissioning MPP shall be implemented as approved.

SCHEDULE 12

Article 38

DEEMED MARINE LICENCE UNDER THE 2009 ACT— TRANSMISSION ASSETS

PART 1

LICENSED MARINE ACTIVITIES

1.—(1) In this licence—

“the 2004 Act” means the Energy Act 2004;

“the 2008 Act” means the Planning Act 2008;

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

“array area” means that part of the offshore Order limits identified in paragraph 3 of Part 1 of Schedule 1 to the Order;

“array cable” means the network of offshore subsea cables connecting the wind turbine generators in Work No.1 to each other and connecting to the offshore substations comprising Work No. 2;

“authorised deposits” means the substances and articles specified in paragraph 4 of Part 1 of this licence;

“authorised development” means Work No. 1 described in paragraph 3 of Part 1 of this licence or any part of that work;

“authorised project” means the authorised development and associated development described in Part 1 of Schedule 1 (authorised project) of the Order;

“buoy” means any floating device used for navigational purposes or measurement purposes;

“cable protection” means physical measures for the protection of cables including but not limited to concrete mattresses and/or rock placement (but not material used for cable crossings);

“commence” means the first carrying out of any licensed marine activities in a phase authorised by this marine licence, save for pre-construction monitoring surveys approved under this licence and “commenced” and “commencement” must be construed accordingly;

“condition” means a condition in Part 2 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands B75 7RL and any successor body to its functions;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 (marine licensing) of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order article 50 (certification of plans and documents etc);

“HAT” means highest astronomical tide;

“interconnector cable” means the cables connecting the offshore substations comprising Work No.2;

“jacket foundation” means a lattice type structure constructed of steel, which may include scour protection and additional equipment such as, J-tubes, corrosion protection systems and access platforms;

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

“LAT” means lowest astronomical tide;

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect and survey, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace, to the extent assessed in the environmental statement; and “maintenance” must be construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“MCA” means the Maritime and Coastguard Agency;

“MCZ” means a marine conservation zone designated under section 116(1) (marine conservation zones) of the 2009 Act or any area which is recommended for such designation to the relevant Secretary of State in accordance with the 2009 Act unless the Secretary of State determines that it shall not be designated as a marine conservation zone;

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

“monopile foundation” means a steel pile, typically cylindrical, driven and/or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“the offshore Order limits” means the offshore Order limits defined by the offshore Order limits and grid coordinates plan;

“the offshore Order limits and grid coordinates plan” means the plan certified as the offshore Order limits and grid coordinates plan by the Secretary of State for the purposes of the Order under article 50 of the Order;

“offshore substation” means a structure above LAT and attached to the seabed by means of a foundation, with one or more decks containing—

- (a) electrical equipment required to switch, transform, convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation; and
- (b) housing accommodation, storage, workshop auxiliary equipment, and facilities for operating, maintaining and controlling the substation or wind turbine generators;

“Order” means the Rampion 2 Offshore Wind Farm Order 20xx;

“outline marine mammal mitigation protocol” means the document certified as the outline marine mammal mitigation protocol by the Secretary of State under article 50 of the Order;

“outline offshore written scheme of investigation” means the document certified as the outline offshore written scheme of investigation by the Secretary of State under article 50 of the Order;

“phase” means a part of the authorised project to be carried out within the offshore Order limits which is identified in the phasing plan approved pursuant to condition 3 of Part 2 of this licence and for the avoidance of doubt boulder clearance activities and other sea bed preparation works may comprise a phase;

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

“statutory historic body” means the Historic Buildings and Monuments Commission for England or its successor in function;

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

“mono suction bucket foundation” means a steel cylindrical structure which partially or fully penetrates the seabed and remains in place using its own weight and hydrostatic pressure differential, and may include scour protection and additional equipment such as J-tubes;

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

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means Rampion Extension Development Limited;

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

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

“Work No. 1” means an offshore wind turbine generating station constructed within the array area which shall have a gross electrical output of over 100 megawatts and shall comprise—

- (a) no more than 116 wind turbine generators, with each wind turbine each fixed to the seabed by either monopile foundation or jacket foundation;
- (b) a network of cables between the wind turbine generators comprising work No. 1; and
- (c) a network of cables between the wind turbine generators comprising Work No. 1 and work No. 2 including one or more cable crossings;

“Work No. 2” means—

- (a) up to three offshore substations within the array area each fixed to the seabed within the area shown on the works plan by monopile foundation, or jacket foundation; and
- (b) up to two offshore interconnector cables in total each connecting one offshore substation to another;

“Work No. 3” means—

- (a) up to four cable circuits in total between one or more of the offshore substations comprising Work No. 2 and the four cable circuits comprising Work No. 4 laid on or beneath the seabed within the offshore Order limits seaward of MLWS; and
- (b) up to four temporary horizontal directional drilling exit pits located seaward of MLWS;

“Work No.4” means landfall connection works comprising up to four cable circuits and associated ducts laid underground by horizontal directional drilling within the Order limits seaward of MHWS and landward of MLWS connecting Work No. 3 and Work No. 5; and

“works plan” means the plan certified as the works plan by the Secretary of State pursuant to article 50 of the Order.

(2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT); and
- (b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

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

- (a) Marine Management Organisation
Marine Licensing Team

- Lancaster House
Hampshire Court
Newcastle Business Park
Newcastle upon Tyne
NE4 7YH
Tel: 0300 123 1032;
- (b) Marine Management Organisation (local office)
Shoreham office
Pilots' Watch House
Basin Road South
Portslade
West Sussex
BN41 1WD;
- (c) Trinity House
Tower Hill
London EC3N 4DH
Tel: 020 7481 6900;
- (d) The United Kingdom Hydrographic Office
Admiralty Way
Taunton
Somerset
TA1 2DN
Tel: 01823 337 900;
- (e) Maritime and Coastguard Agency Navigation Safety Branch
Bay 2/20, Spring Place
105 Commercial Road
Southampton
SO15 1EG
Tel: 020 3817 2433;
- (f) Centre for Environment, Fisheries and Aquaculture Science
Pakefield Road
Lowestoft
Suffolk
NR33 0HT
Tel: 01502 562 244;
- (g) Natural England 4th Floor
Foss House
1-2 Peasholme Green
York
YO1 7PX
Tel: 0300 060 4911;
- (h) Historic England
Brooklands

24 Brooklands Avenue
Cambridge
CB2 8BU.

Details of licensed marine activities

2. Subject to the licence conditions, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea within the Order limits seaward of MHWS of the substances and articles specified in paragraph 4 below;
- (b) the deposit at sea within the Order limits seaward of MHWS of inert material of natural origin produced during construction drilling or seabed preparation for foundation works and sandwave and other seabed preparation and cable installation works comprising Work Nos. 2, 3 and 4;
- (c) the deposit at sea within the Order limits seaward of MHWS of material generated construction of floatation pits and exit pits in connection with horizontal directional drilling comprising Work Nos. 3 and 4 provided that such material may subsequently be used to the extent required for reinstatement of the floatation pits;
- (d) the construction of works in or over the sea and/or on or under the sea bed;
- (e) dredging for the purposes of seabed preparation for foundation works and/or electrical circuit works;
- (f) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (g) boulder clearance works either by displacement ploughing or subsea grab technique or any other equivalent method;
- (h) removal of static fishing equipment; and
- (i) site preparation works.

3. Such activities are authorised in relation to the construction, maintenance and operation of—

Work No. 2—

- (a) up to three offshore substations within the array area each fixed to the seabed within the area shown on the works plan by monopile foundation, or jacket foundation; and
- (b) up to two offshore interconnector cables in total each connecting one offshore substation to another;

Work No. 3—

- (a) up to four cable circuits in total between one or more of the offshore substations comprising Work No. 2 and the four cable circuits comprising Work No. 4 laid on or beneath the seabed within the offshore Order limits seaward of MLWS; and
- (b) up to four temporary horizontal directional drilling exit pits located seaward of MLWS; and

Work No. 4—

landfall connection works comprising up to four cable circuits and associated ducts laid underground by horizontal directional drilling within the Order limits seaward of MHWS and landward of MLWS connecting Work No. 3 and Work No. 5,

and in connection with such Work Nos. 2, 3 and 4 and to the extent that they do not otherwise form part of any such work, further associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant

part of the authorised project and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses or other protection measures;
- (c) temporary landing places, moorings or other means of accommodating vessels in the construction and/or maintenance of the authorised development;
- (d) marking buoys, beacons, fenders and other navigational warning or ship impact protection works; and
- (e) such other works as may be necessary or expedient for the purpose of or in connection with the construction or use of the authorised development and which are within the scope of the environmental impact assessment recorded in the environmental statement.

4. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic material;
- (f) material extracted from within the offshore Order limits during construction drilling and seabed preparation works for foundation works and seabed preparation works and cable installation and from the construction of floatation pits and exit pits in connection with horizontal directional drilling comprising Work No.3 and Work No.4; and
- (g) marine coatings, other chemicals and timber.

5. The grid coordinates for that part of the authorised development project comprising Work Nos. 2, 3 and 4 are specified below and more particularly on the offshore Order limits and grid coordinates plan—

<i>Point</i>	<i>Longitude</i>	<i>Latitude</i>
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6. This licence remains in force until the authorised project has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.

7. The provisions of sections 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 5 (benefit of the Order).

8. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this Schedule, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

9. Any amendments to or variations from the approved plans, protocols or statements must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the MMO that it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

10.—(1) Any difference under any provision of this licence, unless otherwise provided for, shall be referred to and settled in arbitration in accordance with the rules at Schedule 15 of the Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) Where the referral to arbitration under paragraph (1) relates to a difference with the Secretary of State, in the event that the parties cannot agree upon a single arbitrator within the specified time period stipulated in paragraph (1), either party may refer to the Centre for Effective Dispute Resolution for appointment of an arbitrator. (3) Should the Secretary of State fail to make an appointment under paragraph (1) within 14 days of a referral, the referring party may refer to the Centre for Effective Dispute Resolution for appointment of an arbitrator.

PART 2

CONDITIONS

Design parameters

1.—(1) The total number of wind turbine generators comprised in the authorised project must not exceed 116 and a total rotor swept area of 5.1 square kilometres.

(2) Subject to sub-paragraph (3), each wind turbine generator forming part of the authorised project must not—

- (a) exceed a height of 325 metres when measured from LAT to the tip of the vertical blade;
- (b) exceed a rotor diameter of 295 metres;
- (c) have a distance of less than 22 metres from HAT to the lowest point of the rotating blade; and
- (d) be less than 860m from the nearest wind turbine generator in all directions.

(3) The reference in sub-paragraph 1(2)(d) to the location of a wind turbine generator is a reference to the centre point of that wind turbine generator.

(4) Wind turbine generator foundation structures forming part of the authorised scheme must be one of the following foundation options: monopile foundation, or jacket foundation.

(5) No wind turbine generator—

- (a) jacket foundations employing pin piles forming part of the authorised project shall have—
 - (i) no more than 4 legs per jacket;
 - (ii) no more than 4 pin piles per jacket; and
 - (iii) a pin pile diameter of greater than 3 metres;
- (b) jacket foundations with suction bucket shall have—
 - (i) no more than 4 legs per wind turbine generator;
 - (ii) a suction bucket diameter of no more than 15 metres; and
 - (iii) a suction bucket penetration of no more than 25 metres; and
- (c) monopile foundation forming part of the authorised project shall have a diameter greater than 13.5 metres.

(6) The total volume of scour protection for each wind turbine generators must not exceed 27,600 cubic metres.

2.—(1) There shall be no more than 3 offshore substations.

(2) The dimensions of any offshore substation forming part of the authorised project must not exceed—

- (a) 65 metres in height when measured from LAT and 115 metres in height with lightning protection and ancillary structures;

- (b) 80 metres in length; and
 - (c) 50 metres in width.
- (3) Offshore substation foundation structures forming part of the authorised scheme must comprise either monopile foundations or jacket foundations.
- (4) Offshore substation installations with—
- (a) jacket foundation employing pin piles forming part of the authorised project shall have—
 - (i) no more than 6 legs per jacket;
 - (ii) no more than 12 pin piles per jacket; and
 - (iii) a pin pile diameter of no greater than 3.5 metres; and
 - (b) monopile foundation forming part of the authorised project shall have a diameter no greater than 12 metres.
- (5) The total volume of scour protection for each offshore substation must not exceed 26,400 cubic metres.
- 3.—**(1) The total number of cable circuits shall not exceed four.
- (2) The total length of the cables comprising Work No. 1 shall not exceed 250 kilometres.
- (3) The total volume of cable protection (excluding cable crossings) comprising Work No 1 shall not exceed 130,000 cubic metres with a maximum footprint of 260,000 square metres.
- (4) The number of cable crossings comprising Work No. 1 shall not exceed four unless otherwise agreed with the MMO.
- (5) The maximum area impacted by cable crossings shall not exceed 10,000 square metres.
- (6) The total volume of cable protection for cable crossings shall not exceed 20,000 cubic metres (pre- and post-lay).
- (7) The total length of the interconnector cables comprising Work No. 2 shall not exceed 50 kilometres.
- (8) The total volume of cable protection comprising Work No 2 shall not exceed 25,000 cubic metres with a maximum footprint of 48,000 square metres.
- (9) The total length of cables comprising Work No 3 shall not exceed 86 kilometres.
- (10) The total volume of cable protection comprising Work No. 3 shall not exceed 38,000 cubic metres with a maximum footprint of 61,000 square metres.
- (11) No cable protection by way of concrete mattresses may be used in an MCZ.
- (12) Any cable protection authorised under this licence must be deployed within 15 years from the date of the Order unless otherwise agreed in writing with the MMO.
- (13) The cables comprising Work Nos. 1 to 3 shall be installed using one or more of the following installation methods: ploughing, trenching or jetting and shall be installed at a target burial depth of 1 metre below seabed surface.
- (14) The cables comprising Work No. 4 shall be installed by HDD techniques.

Phasing Scheme

- 4.—**(1) No part of the authorised project to be carried out within the offshore Order limits shall commence until there has been submitted to and approved in writing by the MMO a written scheme for the phasing of the carrying and construction of such works.
- (2) The phasing scheme shall be implemented as approved.

Maintenance of the authorised project

- 5.—**(1) The undertaker may at any time maintain the authorised development, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) No maintenance works whose likely effects are not assessed in the environmental statement may be carried out, unless otherwise approved by the MMO.

(3) Maintenance works include but are not limited to—

- (a) major wind turbine component or offshore substation platform replacement;
- (b) painting wind turbine generators or offshore substation platforms;
- (c) bird waste removal;
- (d) cable remedial burial;
- (e) array cable repairs;
- (f) access ladder replacement;
- (g) wind turbine generator anode replacement; and
- (h) J-tube repair/replacement.

(4) Where the MMO's approval is required under paragraph (2), approval may be given only where it has been demonstrated to the satisfaction of the MMO that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Extension of time periods

6. Any time period given in this licence given to either the undertaker or the MMO may be extended with the agreement of the other party.

Notifications and inspections

7.—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
 - (i) all agents and contractors notified to the MMO in accordance with condition 17; and
 - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with condition 17; and
- (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) above must provide a completed confirmation form to the MMO confirming receipt of this licence.

(2) Only those persons and vessels notified to the MMO in accordance with condition 17 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; and
- (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised project.

(6) The undertaker must inform the MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any phase of them and within five days of the completion of the licensed activity.

(7) The undertaker must inform the Kingfisher Information Service of Seafish by email to kingfisher@seafish.co.uk of details regarding the vessel routes, timings and locations relating to the construction of the authorised project or relevant phase—

- (a) at least fourteen days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) on completion of construction of all offshore activities.

(8) A notice to mariners must be issued at least fourteen days prior to the commencement of the licensed activities or any phase of them advising of the start date of the relevant phase and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO and UKHO within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under condition 13(1)(b). Copies of all notices must be provided to the MMO and UKHO within five days.

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

(11) In case of damage to, or destruction or decay of, the authorised project seaward of MHWS or any part thereof the undertaker must as soon as possible and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, MCA, Trinity House, the Kingfisher Information Service of Seafish and the UK Hydrographic Office.

(12) In case of the development of a cable exposure, the undertaker must notify mariners by issuing a notice to mariners and notify the MMO and the Kingfisher Information Service within three working days following the undertaker becoming aware of it.

Aids to navigation

8.—(1) The undertaker must during the whole period from commencement of the first phase of the licensed activities to completion of decommissioning of the authorised project seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised project to completion of decommissioning of the authorised project seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised project seaward of MHWS including the following—

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

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation in accordance with the frequencies set out in the aids to navigation management plan agreed pursuant to condition 13(1)(j) using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning of the authorised project seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 7(11) are invoked, the undertaker must lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

9.—(1) The undertaker must colour all structures yellow (colour code RAL 1023) from at least highest astronomical tide to a height directed by Trinity House, or must colour the structure as directed by Trinity House from time to time.

(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must ensure that the wind turbine generators are painted light grey (colour code RAL 7035).

Aviation safety

10.—(1) The undertaker must exhibit such lights, with such shape, colour and character as are required in writing by Air Navigation Order 2016(a) and determined necessary for aviation safety in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the Civil Aviation Authority

(2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, and the MMO, at least 14 days prior to the commencement of a phase of the authorised project, in writing of the following information in respect of the phase (as relevant)—

- (a) the date of the commencement of construction of the phase of the authorised project;
- (b) the date any wind turbine generators are intended to be brought into use;
- (c) the maximum height of any construction equipment to be used for the phase;
- (d) the maximum heights of any wind turbine generator and offshore substation platform to be constructed for the phase; and
- (e) the latitude and longitude of each wind turbine generator and offshore substation platform to be constructed as part of the relevant phase,

and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the authorised project. Copies of such notifications must be provided to the MMO.

Chemicals, drilling and debris

11.—(1) Unless otherwise agreed in writing by the MMO all chemicals used in the construction of the authorised project 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(b) (as amended).

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

Force majeure

12.—(1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO.

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Pre-construction plans and documentation

13.—(1) No relevant phase of the licensed activities must not commence until the following (insofar as relevant to that activity or phase of activity) has been submitted to and approved in writing by the MMO, in consultation with Trinity House and the MCA for the phase—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, which shows—
 - (i) the proposed location, including grid co-ordinates of the centre point of the proposed location for each wind turbine generator and offshore substation platform, subject to

any micro-siting required due to anthropological constraints, marine heritage receptors, environmental constraints including wind loading standards and projected changes in climate conditions during the operational life of the project and marine designated areas or difficult ground conditions and choice of foundation types for all wind turbine generators and offshore substations;

- (ii) the number, specifications and dimensions of any offshore substation in that phase;
- (iii) the length location and arrangement of array cables and export cables comprising Work Nos. 1-3 and any associated micro-siting to avoid marine heritage receptors unless alternative mitigation is agreed in writing with the MMO and the statutory historic body; and
- (iv) the dimensions of all monopile foundations, mono suction bucket foundations or jacket foundations,

to ensure conformity with the description of Work Nos. 1 to 3 and compliance with conditions 1 to 3 above;

(b) a construction programme to include details of—

- (i) the proposed construction start date for the relevant phase;
- (ii) proposed timings for mobilisation of plant delivery of materials and installation works for that phase; and
- (iii) an indicative written construction programme for all wind turbine generators offshore substation platforms and cable comprised in the phase (insofar as not shown in paragraph (ii) above),

unless otherwise agreed in writing with the MMO;

(c) a construction method statement/code of construction practice in accordance with the construction methods assessed in the environmental statement for the relevant phase and including details of—

- (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during the relevant phase to include seabed preparation for foundation and cable installation works and having regard to any mitigation scheme pursuant to subparagraph 13(1)(f));
- (ii) advisory safe passing distances for vessels around construction sites;
- (iii) cable installation;
- (iv) contractors;
- (v) vessels and vessels transit corridors;
- (vi) codes of conduct for vessel operators;
- (vii) associated ancillary works; and
- (viii) guard vessels to be employed;

(d) a project environment monitoring plan for the relevant phase to include details of—

- (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents of the authorised project in relation to all activities carried out;
- (ii) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
- (iii) a biosecurity plan detailing how the risk of introduction and spread of invasive non-native species will be minimised;
- (iv) waste management and disposal arrangements;
- (v) a code of conduct for vessel operators;
- (vi) the appointment and responsibilities of a fisheries liaison officer;

- (vii) all spatial data for archaeological exclusion zones and application of a protocol for archaeological discoveries;
- (viii) the appointment of a diving liaison officer and associated communication plan for liaison with the diving industry including an advisory exclusion zone during all piling operations and a soft start programme for these works; and
- (ix) measures to reduce direct and indirect disturbance and displacement effects to ornithological features;
- (e) a scour protection management plan (where relevant) providing details of the need, type, sources, quantity and installation methods for scour protection, which must be updated and resubmitted for approval if changes to it are proposed following cable laying operations;
- (f) proposed pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting to the extent required for the relevant phase;
- (g) in the event that driven or part-driven pile foundations are proposed to be used during the relevant phase, a piling marine mammal mitigation plan which shall accord with the outline marine mammal mitigation protocol certified as such by the Secretary of State pursuant to article 50 of the Order, the intention of which is to prevent injury to marine mammals, including details of soft start procedures with specified duration periods following current best practice as advised by the relevant statutory nature conservation bodies;
- (h) a cable specification and installation plan for the phase, to include—
 - (i) technical specification of offshore cables below MHWS, 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 sandwave clearance plan for all designated sites affected, including details of the volumes of material to be dredged, timing of works, locations for disposal and monitoring proposals;
 - (iii) a detailed cable laying plan for the Order limits, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection;
 - (iv) a cable protection plan for all designated sites where cable protection is required, including details of the volumes, material, locations and seabed footprints for cable protection measures, where required, consideration of alternative methods of protection and monitoring proposals and provision for review and update of the plan for a period of 15 years from the date of the grant of the Order;
 - (v) proposals for the volume and areas of cable protection to be used for each cable crossing and arrangements for crossing and proximity agreements to be put in place with existing pipelines and cable operators; and
 - (vi) proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised project which includes a risk based approach to the management of unburied or shallow buried cables, and, where necessary, details of micrositing through any European Site;
- (i) for the operational phase of the authorised project an offshore operations and maintenance plan, to be submitted to the MMO at least four months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase;
- (j) an aid to navigation management plan for the phase to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 8; and
- (k) a fisheries liaison and co-existence plan.

(2) The licensed activities or any phase of those activities must not commence unless no later than 6 months prior to the commencement a written scheme of archaeological investigation has been submitted to and approved by the MMO, in accordance with the outline offshore written scheme of investigation, and in accordance with industry good practice, in consultation with the statutory historic body to include—

- (a) details of responsibilities of the undertaker, archaeological consultant and contractor;
- (b) a full review of high resolution geophysical survey data and arrangements to document the same with West Sussex County Council;
- (c) a methodology for further site investigation including any specifications for geophysical geotechnical and diver or remotely operated vehicle investigations including for unexploded ordnance;
- (d) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within six months of any survey being completed;
- (e) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones prior to construction;
- (f) monitoring of archaeological exclusion zones during and post construction, including provision of a report on such monitoring;
- (g) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS ('Online AccesS to the Index of archaeological investigations') form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
- (h) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme;
- (i) implementation of the Offshore Renewables Protocol for Reporting Archaeological Discoveries as set out by The Crown Estate; and
- (j) a timetable for any further site investigations.

(3) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive activities must only take place in accordance with a specific outline written scheme of investigation (which must accord with the details set out in the outline offshore written scheme of investigation) which has been submitted to and approved by the MMO.

(4) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 5,000kJ.

14.—(1) Each programme, statement, plan, protocol or scheme required to be approved under condition 14 (save for that required under condition 13(1)(f)) must be submitted for approval at least four months prior to the intended commencement of licensed activities for the relevant phase, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(2) The pre-construction monitoring surveys, construction monitoring, post-construction monitoring and related reporting required under condition 13(1)(f) must be submitted in accordance with the following, unless otherwise agreed in writing with the MMO—

- (a) at least four months prior to the first survey, detail of any pre-construction surveys and an outline of all proposed monitoring;
- (b) at least four months prior to construction, detail on construction monitoring; and
- (c) at least four months prior to commissioning, detail of post-construction (and operational) monitoring.

(3) The design plan required for each phase of the licenced activities pursuant to condition 13(1)(a) must be prepared by the undertaker and determined by the MMO in accordance with the Development Principles.

(4) The MMO shall determine an application for approval made under condition 13 within a period of four months commencing on the date the application is received by the MMO, unless otherwise agreed in writing with the undertaker.

(5) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 14, unless otherwise agreed in writing by the MMO.

Safety Zones

15.—(1) The licensed activities or any phase of those activities must not commence until (insofar as relevant to that activity or phase of activity) an application has been made to the Secretary of State for a safety zone pursuant to the Energy Act 2004.

Offshore safety management

16. No phase of the authorised scheme may commence until the MMO, in consultation with the MCA, has given written approval of an Emergency Response Co-operation Plan (ERCoP) which includes full details of the plan for emergency response and co-operation for the construction, operation and decommissioning phases of that phase of the authorised project in accordance with the MCA recommendations contained within MGN654 “Safety of navigation: OREIs – Guidance on UK Navigational Practice, Safety and Emergency Response” (or any equivalent guidance that replaces or supersedes it), and has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that part of the authorised scheme, adequately addressed all MCA recommendations contained within MGN654 and its annexes.

Reporting of engaged agents, contractors and vessels

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

- (a) the name and function of any agent or contractor appointed to engage in the phase of licensed activities within seven days of appointment; and
- (b) each week during the construction of the authorised project a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.

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

Timing of monitoring report

18. Any monitoring report compiled in accordance with the monitoring plans provided under conditions 13 must be provided to the MMO no later than four months following completion of the monitoring to which it relates, unless otherwise agreed with the MMO.

Updating of cable monitoring plan

19. Following installation of cables, the cable monitoring plan required under condition 13(1)(h)(vi) must be updated with the results of the post-installation surveys. The plan must be implemented during the operational lifetime of the project and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

Piling

20.—(1) There shall be no more than 4 hours of piling in each 24 hour period and no more than—

- (a) 2 monopiles; or
- (b) 4 pin piles.

driven per day.

Reporting of cable protection

21.—(1) Not more than 4 months following completion of the construction phase of the project, the undertaker shall provide the MMO and the relevant SNCBs with a report setting out details of the cable protection used for the authorised scheme.

(2) The report shall include the following information—

- (a) location of the cable protection;
- (b) volume of cable protection; and
- (c) any other information relating to the cable protection as agreed between the MMO and the undertaker.

Decommissioning

22.—(1) Prior to any decommissioning activities being undertaken the undertaker shall submit and secure the written approval of the MMO for a decommissioning mammal protection protocol (Decommissioning MPP).

(2) The Decommissioning MPP shall be implemented as approved.

SCHEDULE 13

Article 43

HEDGEROWS

PART 1

REMOVAL OF HEDGEROWS

<i>(1) Area</i>	<i>(2) Location of hedgerow</i>

PART 2

REMOVAL OF IMPORTANT HEDGEROWS

<i>(1) Area</i>	<i>(2) Reference of hedgerow</i>

SCHEDULE 14

Article 46

PROCEDURE FOR DISCHARGE OF CERTAIN APPROVALS

Applications made for certain approvals

1.—(1) Where an application has been made to a discharging authority for any consent, agreement or approval required or contemplated by any of the provisions of this Order the discharging authority must give notice to the undertaker of its decision on the application before the end of the decision period.

(2) For the purposes of sub-paragraph (1), the decision period is—

- (a) where no further information is requested under paragraph 2, 42 days from the day immediately following that on which the application is received by the discharging authority;
- (b) where further information is requested under paragraph 2, 42 days from the day immediately following that on which the further information has been supplied by the undertaker under paragraph 2; or
- (c) such longer period as may be agreed by the undertaker and the discharging authority in writing before the end of the period in paragraph (a) or (b).

Further information

2.—(1) In relation to any application to which this Schedule applies, the discharging authority has the right to request such further information from the undertaker as is necessary to enable it to consider the application.

(2) If the discharging authority considers such further information to be necessary it must, within 10 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the discharging authority does not give such notification as specified in sub-paragraph (2) it is to be deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

Fees

3.—(1) Where an application is made to the discharging authority for consent, agreement or approval in respect of a requirement, a fee of £[X] is to be paid to that authority.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 42 days of—

- (a) the application being rejected as invalidly made; or
- (b) the discharging authority failing to determine the application within the decision period as determined under paragraph 1, unless within that period the undertaker agrees, in writing, that the fee is to be retained by the discharging authority and credited in respect of a future application.

Appeals

4.—(1) The undertaker may appeal in the event that—

- (a) the discharging authority refuses an application for any consent, agreement or approval required or contemplated by any of the provisions of this Order or grants it subject to conditions;
- (b) the discharging authority does not give notice of its decision to the undertaker within the decision period specified in paragraph 1;
- (c) on receipt of a request for further information under paragraph 2 the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or
- (d) on receipt of any further information requested, the discharging authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The appeal process is as follows—

- (a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision or determination, or (where no determination has been made) expiry of the decision period as determined under paragraph 1;
- (b) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the discharging authority and the requirement consultees;

- (c) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person to determine the appeal (“the appointed person”) and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for that person’s attention should be sent;
 - (d) the discharging authority and the requirement consultees must submit written representations to the appointed person in respect of the appeal within 20 business days of the date on which the appeal parties are notified of the appointment of a person under paragraph (c) and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person; or
 - (e) the appeal parties shall make any counter-submissions to the appointed person within 20 business days of receipt of written representations under paragraph (d).
- (3) The appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.
- (4) The appointment of the person pursuant to sub-paragraph (c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.
- (5) If the appointed person considers that further information is necessary to enable consideration of the appeal the appointed person must, as soon as practicable, notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.
- (6) Any further information required under sub-paragraph (5) is to be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations concerning matters contained in the further information must be submitted to the appointed person, and made available to all appeal parties within 10 business days of that date.
- (7) On an appeal under this paragraph, the appointed person may—
- (a) allow or dismiss the appeal; or
 - (b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not), and may deal with the application as if it had been made to the appointed person in the first instance.
- (8) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the prescribed time limits, or set by the appointed person under this paragraph.
- (9) The appointed person may proceed to a decision even though no written representations have been made within the prescribed time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.
- (10) The decision of the appointed person on an appeal is to be final and binding on the appeal parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.
- (11) If an approval is given by the appointed person under this Schedule, it is deemed to be an approval for the purpose of any consent, agreement or approval required under the Order or for the purpose of Schedule 1 (requirements) as if it had been given by the discharging authority. The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person’s determination.
- (12) Except where a direction is given under sub-paragraph (13) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person are to be met by the undertaker.
- (13) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to the Planning Practice Guidance published by the

Department for Communities and Local Government on 6th March 2014 or any circular or guidance which may from time to time replace it.

Interpretation of Schedule 15

5. In this Schedule—

“the appeal parties” means the discharging authority, the undertaker and any requirement consultees. “business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971; and

“requirement consultee” means any body named in a requirement which is the subject of an appeal as a body to be consulted by the discharging authority in discharging that requirement.

SCHEDULE 15

Article 47

ARBITRATION RULES

Primary objective

1.—(1) The primary objective of these Arbitration Rules is to achieve a fair, impartial, final and binding award on the substantive difference between the parties (save as to costs) within 4 months from the date the Arbitrator is appointed pursuant to article 47 (arbitration) of the Order.

(2) The Parties will first use their reasonable endeavours to settle a dispute amicably through negotiations undertaken in good faith by the senior management of the Parties. Any dispute which is not resolved amicably by the senior management of the Parties within twenty business days of the dispute arising, or such longer period as agreed in writing by the Parties, shall be subject to arbitration in accordance with the terms of this Schedule.

(3) The Arbitration shall be deemed to have commenced when a party (“the Claimant”) serves a written notice of arbitration on the other party (“the Respondent”).

Time periods

2.—(1) All time periods in these Arbitration Rules will be measured in business days and this will exclude weekends, bank and public holidays.

(2) Time periods will be calculated from the day after the Arbitrator is appointed which shall be either—

- (a) the date the Arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or
- (b) the date the Arbitrator is appointed by the Secretary of State.

Timetable

3.—(1) The timetable for the arbitration will be that set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 15 days of the Arbitrator being appointed, the Claimant shall provide both the Respondent and the Arbitrator with—

- (a) a written Statement of Claim which describes the nature of the difference between the parties, the legal and factual issues, the Claimant’s contentions as to those issues, and the remedy it is seeking; and
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 15 days of receipt of the Claimant's statements under sub-paragraph (2) by the Arbitrator and Respondent, the Respondent shall provide the Claimant and the Arbitrator with—

- (a) a written Statement of defence responding to the Claimant's Statement of Claim, its statement in respect of the nature of the difference, the legal and factual issues in the Claimant's claim, its acceptance of any element(s) of the Claimant's claim, its contentions as to those elements of the Claimant's claim it does not accept;
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports; and
- (c) any objections it wishes to make to the Claimant's statements, comments on the Claimant's expert report(s) (if submitted by the Claimant) and explanations for the objections.

(4) Within 5 days of the Respondent serving its statements sub-paragraph (3), the Claimant may make a Statement of Reply by providing both the Respondent and the Arbitrator with—

- (a) a written statement responding to the Respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;
- (b) all statements of evidence and copies of documents in response to the Respondent's submissions;
- (c) any expert report in response to the Respondent's submissions;
- (d) any objections to the statements of evidence, expert reports or other documents submitted by the Respondent; and
- (e) its written submissions in response to the legal and factual issues involved.

Procedure

4.—(1) The Arbitrator shall make an award on the substantive difference based solely on the written material submitted by the parties unless the Arbitrator decides that a hearing is necessary to explain or resolve any matters.

(2) Either party may, within 2 days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(3) Within 5 days of receiving the last submission, the Arbitrator will notify the parties whether a hearing is to be held and the length of that hearing.

(4) Within 10 days of the Arbitrator advising the parties that he will hold a hearing, the date and venue for the hearing will be fixed by agreement with the parties, save that if there is no agreement the Arbitrator shall direct a date and venue which he considers is fair and reasonable in all the circumstances. The date for the hearing shall not be less than 35 days from the date of the Arbitrator's direction confirming the date and venue of the hearing.

(5) A decision will be made by the Arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the Arbitrator, then any expert(s) attending the hearing may be asked questions by the Arbitrator.

(6) There will be no process of examination and cross-examination of experts, but the Arbitrator shall invite the parties to ask questions of the experts by way of clarification of any answers given by the expert(s) in response to the Arbitrator's questions. Prior to the hearing the procedure for the expert(s) will be that—

- (a) at least 20 days before a hearing, the Arbitrator will provide a list of issues to be addressed by the expert(s);
- (b) if more than one expert is called, they will jointly confer and produce a joint report or reports within 10 days of the issues being provided; and
- (c) the form and content of a joint report shall be as directed by the Arbitrator and must be provided at least 5 days before the hearing.

(7) Within 10 days of a Hearing or a decision by the Arbitrator that no hearing is to be held the Parties may by way of exchange provide the Arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The Arbitrator shall take these submissions into account in the Award.

(8) The Arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within 4 months of the date on which they are appointed, unless both parties otherwise agree to an extension to the date for the award.

(9) If a party fails to comply with the timetable, procedure or any other direction then the Arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before them attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure and/or direction.

(10) The Arbitrator's award shall include reasons. The parties shall accept that the extent to which reasons are given shall be proportionate to the issues in dispute and the time available to the Arbitrator to deliver the award.

Arbitrator's powers

5.—(1) The Arbitrator has all the powers of the Arbitration Act 1996(a), including the non-mandatory sections, save where modified by these Rules.

(2) There shall be no discovery or disclosure, except that the Arbitrator shall have the power to order the parties to produce such documents as are reasonably requested by another party no later than the Statement of Reply, or by the Arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the Arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the Arbitrator. In the absence of agreement, the Arbitrator may vary the timescales and/or procedure—

(a) if the Arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then; and

(b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the Arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the Arbitrator's fees and expenses.

Costs

6.—(1) The costs of the Arbitration shall include the fees and expenses of the Arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the Arbitration.

(2) Subject to sub-paragraph (3), the Arbitrator will award recoverable costs on the general principle that each party should bear its own costs.

(3) The Arbitrator may depart from the general principle in sub-paragraph (2) and make such other costs award as it considers reasonable where a party has behaved unreasonably as defined within the National Planning Practice Guidance or such other guidance as may replace it.

Confidentiality

7.—(1) Subject to sub-paragraphs (2) and (3), any arbitration hearing and documentation shall be open to and accessible by the public.

(a)

(2) The Arbitrator may direct that the whole or part of a hearing is to be private or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(3) Nothing in this paragraph shall prevent any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants development consent for, and authorises the construction, operation and maintenance of an offshore wind farm in the English Channel approximately 13 kilometres south of the West Sussex Coast together with associated development. This Order imposes requirements in connection with the development and authorises the compulsory purchase of land (including rights in land) and the right to use land and to override easements and other rights.

This Order also grants deemed marine licences under Part 4 of the Marine and Coastal Access Act 2009 in connection with the wind farms. The marine licences impose conditions in connection with the deposits and works for which they grant consent.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 50 (certification of plans and documents etc) together with a copy of any guarantee or alternative form of security approved by the Secretary of State pursuant to article 52, may be inspected free of charge at the offices of Rampion Extension Development Limited at [ADDRESS].