

MONA OFFSHORE WIND PROJECT

Draft Development Consent Order

April 2023
Rev01

Image of an offshore wind farm

202[] No.

INFRASTRUCTURE PLANNING

The Mona Offshore Wind Farm Order 202[●]

Made - - - - - ***
Laid before Parliament ***
Coming into force ***

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

The application was examined by a panel of [x] members (appointed by the Secretary of State) in accordance with Part 6 of the 2008 Act and carried out in accordance with the Infrastructure Planning (Examination Procedure) Rules 2010(b).

The panel, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 74(2) of the 2008 Act, has submitted a report and recommendation to the Secretary of State.

The Secretary of State has considered the [representations made and not withdrawn], and the report and recommendation of the panel, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(c), and, as a national policy statement as effect in relation to the proposed development, has had regard to the documents and matters referred to in section 104(2) of the 2008 Act.

[The Secretary of State is satisfied that the open space forming special category land specified in the land plans and special category land plans (as defined in article 2 of this Order), when burdened with any new rights authorised to be compulsorily acquired under this Order, will be no less advantageous than it was before to the persons in whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public, and that, accordingly, section 132(3) of the 2008 Act applies.]

(a) 2008 c.29. Section 37 was amended by section 128(2) and Schedule 13, Part 1, paragraphs 1 to 5 of the Localism Act 2011 (c.20).
 (b) S.I. 2010/103. This instrument was amended by S.I. 2012/635
 (c) S.I. 2017/572.

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

The Secretary of State, in exercise of the powers conferred by sections [114, 115, 120 and 132, and schedule 5] to the 2008 Act, makes the following Order:

PART 1

Preliminary

Citation and commencement

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

Interpretation

2.—(1) Except for Schedules 14 and 15 (deemed marine licences), which are subject to the definitions in those Schedules, in this order—

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

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

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

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

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

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

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

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

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

“2008 Act” means the Planning Act 2008;

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

[“the access to works plan” means the document certified as the access to works plan by the Secretary of State under article 42 for the purposes of this Order;]

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

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

“apparatus” has the same meaning as in section 105(1) of the 1991 Act;

(a) 1961 c33.

(b) 1965 c56.

(c) 1980 c66.

(d) 1981 c66.

(e) 1989 c29.

(f) 1990 c8.

(g) 1991 c.22.

(h) 2003 c21.

(i) 2004 c.20 Section 105 was amended by section 69 of the Energy Act 2008 (c.32)

(j) 2009 c.23.

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

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

[“book of reference” means the document certified as the book of reference by the Secretary of State under article 42 for the purposes of this Order;]

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

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

“business day” means a day other than a Saturday or Sunday or a bank holiday in England and Wales;

“cable” means up to 400kV cables for the transmission of electricity and includes direct lay cables, cables laid in cable ducts or protective covers, and further includes fibre optic and other communications cables either within the cable or laid alongside;

“cable circuits” means a number of electrical conductors necessary to transmit electricity between two points within the authorised development comprising up to three electrical conductors, which may be attached together or take the form of single cables, and in either case the circuit may include one or more auxiliary cables for the purpose of control, monitoring, protection or general communications;

“cable crossings” means the crossing of existing cables and sub-sea cables, pipelines or other existing infrastructure by the cables authorised by this Order together with cable protection;

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

“cable protection” means measures to protect cables from physical damage including but not limited to concrete mattresses, with or without frond devices, and/or rock placement, the use of bagged solutions filled with grout or other materials;

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

“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 pre-construction surveys and monitoring, and unexploded ordnance surveys and clearance of unexploded ordnance approved under the deemed marine licences;

(b) in respect of any other works, the first carrying out of any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised project except for operations consisting of site clearance, demolition, early planting of landscaping works, archaeological investigations, environmental surveys, ecological mitigation, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, the diversion and laying of services, the erection of any temporary means of enclosure, the erection of welfare facilities, creation of site accesses and the temporary display of site notices or advertisements; and the words “commence” and “commencement” must be construed accordingly;

[“draft marine mammal mitigation protocol” means the document certified as the draft marine mammal mitigation protocol by the Secretary of State under article 42 (certification of documents and plans etc) of the Order;]

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 42 for the purposes of this Order;

(a) 1971 c80

“foundation” means any of: a monopile, multi-leg pin-piled jacket, multi-leg suction bucket jacket, or gravity base foundation;

“gravity base foundation” means a structure principally of steel, concrete, or steel and concrete with a base which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

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

“HVAC” means high voltage alternating current;

“inter-array cables” means the cables linking the wind turbine generators to each other and to the offshore substation platforms;

“interconnector cables” means the cables linking the offshore substation platforms to each other;

“intrusive activities” means activities including anchoring of vessels, jacking up of vessels, temporary deposits and temporary wet storage areas;

“jacket foundation” means a steel jacket/lattice-type structure constructed of steel, fixed to the seabed with steel pin piles or steel suction buckets and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“joint bay” means an excavation formed to enable the jointing of the cables;

“jointing” means a process by which two or more cables are connected to each other by means of cable joints within a joint bay;

“LAT” means lowest astronomical tide;

“LiDAR” means a light detection and ranging system used to measure weather and sea conditions;

[“the land plans” means the document certified as the lands plans by the Secretary of State under article 42 for the purposes of this Order;]

[“location plan” means the document provided as the location plan for the purpose of consultation under section 42 of the 2008 Act;]

“m” means metres and “m²” means square metres;

“maintain” includes inspect, maintain, repair, adjust and alter, and further includes remove, reconstruct and replace any of the ancillary works in Part 2 of Schedule 1 (Ancillary Works) and any component part of any wind turbine generator, offshore substation platform described in Part 1 of Schedule 1 (Authorised Development) (but not including the alteration, removal or replacement of foundations) to the extent assessed in the environmental statement; and “maintenance” shall 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 average height of all low waters above Chart Datum;

“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 platforms and equipment;

[“the offshore in-principle monitoring plan means the document certified as the offshore in-principle monitoring plan by the Secretary of State under article 42 for the purposes of this Order;]

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

(a) “highway” is defined in section 328(1) for “highway authority” see section 1. Relevant amendments are as follows: section 1 was amended by sections 8 and 102 and Schedules 4, paragraph 1 and Schedule 17 of the Local Government Act 1985 (c.51), by section 21 of the 1991 Act and by section 1(6) and Schedule 1, paragraphs 1 to 4 of the Infrastructure Act 2015 (c.7)

- (a) electrical equipment required to switch, transform or convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation, including high voltage power transformers, high voltage switchgear and busbars, substation auxiliary systems and low voltage distribution, instrumentation, metering equipment and control systems, standby generators, shunt reactors, auxiliary and uninterruptible power supply systems;
- (b) accommodation, storage, workshop auxiliary equipment and facilities for operating, maintaining and controlling the substation or wind turbine generators, including navigation, aviation and safety marking and lighting, systems for vessel access and retrieval, cranes, potable water supply, black water separation, stores, fuels and spares, communications systems and control hub facilities;

“offshore works” means Work Areas 1 to 3 and any related further associated development in connection with those Works;

“onshore works” means Work Areas. 3 to 23 inclusive and any related further associated development in connection with those Works;

[“the onshore substation design principles document” means the document certified as the onshore substation design principles document by the Secretary of State under article 42 for the purposes of this Order;]

“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;

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

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

[“the outline fisheries liaison and co-existence plan” means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State under article 42 for the purposes of this Order;]

[“the outline hydrological, ecological and landscape and ecology management plan” means the document certified as such by the Secretary of State under article 42 for the purposes of this Order;]

[“the outline navigation monitoring strategy” means the document certified as the outline navigation monitoring strategy by the Secretary of State under article 42 for the purposes of this Order;]

[“outline onshore and intertidal written scheme of investigation” means the document certified as the outline onshore and intertidal written scheme of investigation by the Secretary of State under article 42 for the purposes of this Order;]

[“the 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 42 for the purposes of this Order;]

[“the outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State under article 42 for the purposes of this Order;]

[“outline employment and skills plan” means the document certified as the outline employment and skills plan by the Secretary of State under article 42 for the purposes of this Order;]

“operation” means the undertaking of activities authorised by this Order which are not part of the construction, commissioning or decommissioning of the authorised development;

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

“platforms” means the offshore structures housing or incorporating electrical equipment such as switchgear and transformers and high voltage reactive controls, electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, vessel charging facilities, communication and control systems, auxiliary and

uninterruptible power supplies, energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

[“the public rights of way plan” means the document certified as the public rights of way plan by the Secretary of State under article 42 for the purposes of this Order;]

“relevant planning authority” means in 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 that provision relates;

“requirements” means those matters set out in Part 1 of Schedule 2 (requirements) to this Order;

“scour protection” means measures to prevent loss of seabed sediment around any structure placed in or on the seabed including by the use of bagged solutions, filled with grout or other materials, protective aprons, mattresses with or without frond devices, and rock and gravel placement;

“scheduled works” means the numbered works specified in Part 1 of Schedule 1 (authorised development) to this Order, or any part of them;

[“special category land plan” means the document certified as the special category land plan by the Secretary of State under article 42 for the purposes of this Order;]

“statutory historic body” means an organisation charged by the government with advising on matters related to historic buildings and monuments;

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

“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 part of a street;

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

“substation” means in relation to the onshore works an HVAC substation compound sited at Bodelwyddan containing electrical equipment (including power transformers, gantries, switchgear, reactive compensation equipment, electrical protection equipment devices (disconnectors, circuit breakers), cooling, harmonic filters, cables and back-up generators), control buildings, lightning protection masts, communications masts, access including internal roads, fencing and other associated equipment, structures or buildings;

“suction bucket foundation” means a tubular steel structure which partially or fully penetrates the seabed and associated equipment, including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

[“tree preservation order and hedgerow plan” means the document certified as the tree preservation order and hedgerow plan by the Secretary of State for the purposes of this Order under article 42;]

“trenchless installation technique compound” means a construction site associated with the cable or cable circuit works where horizontal directional drilling or other trenchless construction technique is proposed including hard standings, lay down and storage areas for construction materials and equipment, areas for spoil, areas for vehicular parking, bunded storage areas, areas comprising water and bentonite tanks, pumps and pipes, areas for welfare facilities including offices and canteen and washroom facilities, wheel washing facilities, workshop facilities and temporary fencing or other means of enclosure and areas for other facilities required for construction purposes;

(a) Section 48 was amended by section 124 (1) and (2) of the Local Transport Act 2008 (c.26).

(b) “Street authority” is defined in section 49, which was amended by section 1(6) and paragraphs 113 and 117 of Schedule 1 to the Infrastructure Act 2015.

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

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

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

“undertaker” means Mona Offshore Wind Limited (company registration number 13497266) whose registered office address is Chertsey Road, Sunbury on Thames, Middlesex, United Kingdom, TW16 7BP;

“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 including communications equipment, fixed to a foundation or transition piece; and

“the works plans” means the plans identified as “works plans – offshore” and “works plans – onshore” which provide a indicative work areas for the purpose of consultation under section 42 of the 2008 Act.

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

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

(4) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the relevant plans.

(6) References in this Order to numbered works are references to the works as numbered in Part 1 of Schedule 1 (authorised development).

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, the offshore works must be constructed within the Order limits seaward of MLWS and the onshore works must be constructed within the Order limits landward of MLWS.

Operation of generating station

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

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

Deemed marine licences under the 2009 Act

5. The marine licences set out in Schedules 14 and 15 are deemed to have been granted to the undertaker under Part 4 of the 2009 Act (marine licensing) for the licensed activities specified in Part 1 of each licence and subject to the conditions specified in Part 2 of each licence.

Power to maintain the authorised development

6.—(1) Subject to paragraph (2), the undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.

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

Benefit of the Order

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

(2) Subject to paragraph (5), 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 and such related statutory rights as may be agreed between the undertaker and the transferee; and
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order (included the deemed marine licences) and such related statutory rights as may be so agreed.

(3) The Secretary of State shall consult the either MMO or NRW before giving consent to the transfer or grant to another person of the benefit of the provisions of the relevant deemed marine licence.

(4) 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.

(5) Where this paragraph applies, no consent of the Secretary of State is required. This paragraph applies where—

- (a) the transferee or lessee is the holder of a licence under section 6 (licences authorising supply, etc.) 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 is payable.

(6) Where an agreement has been made in accordance with paragraph (3) references in this Order to the undertaker, will include references to the transferee or lessee.

(7) 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 or NRW and the relevant planning authority.

(8) A notice required under paragraphs (2) and (7) 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 (9), 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 sub-paragraph (5)(c), will apply to the person exercising the powers transferred or granted; and
 - (v) where paragraph (6) 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.

(9) The date specified under paragraph (8)(a)(ii) 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.

(10) Section 72(7) and (8) of the 2009 Act do not apply to a transfer of grant of the benefit of the provisions of any deemed marine licences to another person by the undertaker pursuant to an agreement under this article.

Application and modification of legislative provisions

8. The following enactments do not apply in relation to the construction of any work or the carrying out of any operation for the purpose of or in connection with, the construction of the authorised development or any maintenance of any part of the authorised development—

- (a) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw making powers of the authority) to the Water Resources Act 1991(a);

(a) 1991 c. 57. Paragraph 5 was amended by section 100(1) and (2) of the Natural Environment and Rural Communities Act 2006 (c. 16), section 84 of, and paragraph 3 of Schedule 11 to, the Marine and Coastal Access Act 2009 (c. 23), paragraphs 40 and 49 of Schedule 25 to the Flood and Water Management Act 2010 (c. 29) and S.I. 2013/755. Paragraph 6 was amended by paragraph 26 of Schedule 15 to the Environment Act 1995 (c. 25), section 224 of, and paragraphs 20 and 24 of Schedule 16, and Part 5(B) of Schedule 22, to, the Marine and Coastal Access Act 2009 and S.I. 2013/755. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995.

- (b) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991(a);
- (c) regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(b) in respect of a flood risk activity (including works affecting sea defences) only;
- (d) sections 23 (prohibition on obstructions etc. in watercourses) and 30 (authorisation of drainage works in connection with a ditch) of the Land Drainage Act 1991(c); and
- (e) the provisions of the Neighbourhood Planning Act 2017(d) in so far as they relate to the temporary possession of land under articles 29 (temporary use of land for carrying out the authorised development) and 30 (temporary use of land for maintaining the authorised development) of this Order.

Defence to proceedings in respect of statutory nuisance

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

- (a) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974(f);
- (b) is a consequence of the construction or maintenance of the authorised development and cannot reasonably be avoided; or
- (c) is a consequence of the use of the authorised development and cannot reasonably be avoided.

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

PART 3

Streets

Street works

10.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 3 (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 under it;

(a) As substituted by section 31 of, and paragraphs 25 and 38 of Schedule 2 to the Water Management Act 2010 (c. 29) and section 86(1) and (3) of the Water Act 2014 (c. 21).

(b) 2016/1154

(c) 1991 c. 59

(d) 2017 c.20

(e) 1990 c 43. Relevant amendments are as follows: section 82 was amended by section 107 and Schedule 17 paragraph 6 of the Environment Act 1995 (c.25) and section 5(2) of the Noise and Statutory Nuisance Act 1993 (c.40), and section 79 was amended by sections 101 and 102 of the Clean Neighbourhoods and Environment Act 2005 (c.16), by section 2 of the Noise and Statutory Nuisance Act 1993 and by section 120 and Schedule 22 paragraph 89 of the Environment Act 2005.

(f) 1974 c.40. Section 61 was amended by Schedule 7 to the Building Act 1984 (c.55), paragraph 15 of Schedule 15 to the Environmental Protection Act 1990 and Schedule 24 to the Environment Act 1995. There are other amendments to the 1974 Act which are not relevant to the Order.

(g) 1974 c. 40. Section 61 was amended by Schedule 7 to the Building Act 1984 (c .55), paragraph 15 of Schedule 3 to the Environmental Protection Act 1990 and Schedule 24 to the Environment Act 1995.

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

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

Application of the 1991 Act

11.—(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 12 (temporary restriction of use 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.

(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 sub-paragraphs (a) to (g).

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

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

- (a) section 56(d) (power to give directions as to timing of street works);
- (b) section 56A(e) (power to give directions as to placing of apparatus);
- (c) section 58(f) (restriction on works following substantial road works);
- (d) section 58A(g) (restriction on works following substantial street works);
- (e) section 61(protected streets); and
- (f) schedule 3A(h) (restriction on works following substantial street works).

Temporary stopping up of streets

12.—(1) The undertaker may, in connection with the carrying out of the authorised development, temporarily stop up each of the public rights of way specified in column (1) of Schedule 4 (streets and rights of way to be temporarily stopped up or restricted) to the extent specified in column (2), by reference to the letters shown on the public rights of way plan.

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

(2) The rights of way specified in Schedule 4 (streets and rights of way to be temporarily stopped up or restricted) may not be temporarily stopped up under this article unless a diversion for the stopped up section of that right of way, is first provided by the undertaker to the standard defined in the public access management plan forming part of the code of construction practice to be approved in accordance with the requirements set out in Schedule 2, to the reasonable satisfaction of the highway authority.

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

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

Temporary stopping up of public rights of way

13. The undertaker may in connection with the carrying out of the authorised project, temporarily stop up each of the public rights of way specified in column (1) of Schedule 5 (public rights of way to be temporarily stopped up) to the extent specified in column (2), by reference to the letters shown on the public rights of way plan.

Temporary restriction of use of streets

14.—(1) The undertaker, during and for the purposes of carrying out the authorised development, 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 alteration or diversion of a street under this article if there would otherwise be no such access.

(4) The undertaker must not temporarily stop up or use as a temporary working site any street without the consent of the street authority, which may attach reasonable conditions to the consent.

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

(6) If a street authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (5), that street authority is deemed to have granted consent.

Access to works

15. The undertaker may, for the purposes of the authorised development, form and lay out means of access, or improve existing means of access for the purposes of the authorised development within the Order limits from the streets listed in Schedule 6 (access to works) and shown on the access to works plan.

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 development and for that purpose may inspect, lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

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

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

(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, damage or interfere with the bed or banks of, or construct any works in, under, over or within eight 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 Natural Resources Wales.

(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 environmental 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, Natural Resources Wales, 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.

(9) If a person who receives an application for consent or approval fails to notify the undertaker of a decision within 28 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be.

Authority to survey and investigate the land

17.—(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 development and—

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

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

(b) S.I. 2016/1154.

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

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

- (a) must, if so required before or after entering the land, produce written evidence of their authority to do so; and
- (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes are to be made under this article—

- (a) in land located within the highway boundary without the consent of the highway authority; or
- (b) in a private street without the consent of the street authority;
but such consent must not be unreasonably withheld or delayed

(5) 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) If either a highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

- (a) under paragraph (4)(a) in the case of a highway authority; or
- (b) under paragraph (4)(b) in the case of a street authority;
that authority is deemed to have granted consent.

(7) 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.

Protective work to buildings

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

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of five years beginning with the day on which that part of the authorised development 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 ten 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 44 (arbitration).

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

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of five years beginning with the day on which the part of the authorised development carried out in the vicinity of the building 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 development;

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

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

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

(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 development; and
- (b) any works the purpose of which is to remedy any damage that has been caused to the building by the carrying out, maintenance or use of the authorised development.

Removal of human remains

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

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

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

(3) As soon as reasonably practicable after the first publication of a notice under paragraph (2) the undertaker must send a copy of the notice to the relevant planning authority.

(4) At any time within fifty-six days after the first publication of a notice under paragraph (2) any person who is a personal representative or relative of any deceased person whose remains are interred in the specific land may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.

(5) Where a person has given notice under paragraph (4), 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 (10).

(6) If the undertaker is not satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in summary manner by the county court, and the court may make an order specifying who is to remove the remains and as to the payment of the costs of the application.

(7) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(8) If—

- (a) within the period of fifty-six days referred to in paragraph (4) no notice under that paragraph has been given to the undertaker in respect of any remains in the Order land;
- (b) such notice is given and no application is made under paragraph (6) within fifty-six days after the giving of the notice but the person who has given the notice fails to remove the remains within a further period of fifty-six days;
- (c) within fifty-six days after any order is made by the county court under paragraph (6) 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 under paragraph (4) relates cannot be identified;

subject to paragraph (9), 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.

(9) If the undertaker is satisfied that any person giving notice under paragraph (4) 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.

(10) 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 by the undertaker giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (8) must be sent by the undertaker to the relevant planning authority mentioned in paragraph (3).

(11) 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.

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

(13) Section 25 (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) of the Burial Act 1857^(a) is not to apply to a removal carried out in accordance with this article.

PART 5

Powers of acquisition

Compulsory acquisition of land

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

(2) This article is subject to paragraph (2) of article 22 (compulsory acquisition of rights) and paragraph (8) of article 29 (temporary use of land for carrying out the authorised development).

Time limit for exercise of authority to acquire land compulsorily

21.—(1) After the end of the period of 7 years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 (compulsory Purchase under Acquisition of Land Act of 1946) of the 1965 Act; and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act^(b) as applied by article 23 (application of the 1981 Act).

(2) The authority conferred by article 29 (temporary use of land for carrying out the authorised development) 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

22.—(1) The undertaker may acquire such rights over the Order land or impose restrictive covenants affecting the land as may be required for any purpose for which that land may be acquired under article 20 (compulsory acquisition of land), by creating them as well as acquiring rights already in existence.

(2) Subject to articles 24 (private rights) and 31 (statutory undertakers) in the case of the Order land specified in column (1) of Schedule 8 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of new rights in the land or the imposition of restrictive covenants as may be required for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to 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 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants)), where the undertaker acquires a right over land or the benefit of a restrictive covenant, the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 9 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of new restrictions) 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 the imposition of restrictive covenants under paragraph (1) is required for the purpose of diverting, replacing or protecting apparatus of a statutory

(a) 1857 c.81

(b) Section 4 was amended by sections 184 and 185 of, and paragraph 2 of Schedule 18 to, the Housing and Planning Act 2016 (c.22).

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.

Compulsory acquisition of land: minerals

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

- (a) paragraph 8(3) is not incorporated;
- (b) for “acquiring authority” substitute “undertaker”; and
- (c) for “undertaking” substitute “authorised development”.

Private rights

24.—(1) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to compulsory acquisition under article 20 (compulsory acquisition of land) cease to have effect in so far as their continuance would be inconsistent with the exercise of the powers under article 20—

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

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 22 (compulsory acquisition of rights) 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, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, for as long as the undertaker remains in lawful possession of the land.

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

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

- (6) Paragraphs (1) to (3) have effect subject to—
 - (a) any notice given by the undertaker before—

(a) Section 11(1) was amended by sections 186 to 188 of the Housing and Planning Act 2016 (c.22), Schedule 4 to the Acquisition of Land Act 1981 (c.67) a

- (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 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 trusts or incidents to which the land is subject.

Application of the 1981 Act

- 25.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.
- (2) The 1981 Act, as applied, has effect with the following modifications.
 - (3) In section 1 (application of Act) for sub-section (2) substitute—
 - “This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”
 - (4) Omit section 5 (earliest date for execution of declaration).
 - (5) Omit section 5A (time limit for general vesting declaration).
 - (6) In section 5B(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)” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)”; and
 - (b) for “the three year period mentioned in section 5A” substitute “the seven year period mentioned in article 19 (time limit for exercise of authority to acquire land compulsorily) of the Mona Offshore Wind Farm Order 202[•]”.
 - (7) In section 6 (notices after execution of declaration) for sub-section (1)(b) substitute—
 - “on every other person who has given information to the acquiring authority with respect to any of that land further to the invitation published and served under section 134 of the Planning Act 2008,”.
 - (8) In section 7 (constructive notice to treat) in sub-section (1)(a) omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.
 - (9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute –
 - “But see article 24 (acquisition of subsoil only) of the Mona Offshore Wind Farm Order 202[•] which excludes the acquisition of subsoil from this Schedule”.
 - (10) References to the 1965 Act in the 1981 Act are to be constructed 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 27 (modification of Part 1 of the 1965 Act) to the compulsory acquisition of the land under this Order.

Acquisition of subsoil only

26.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph (1) of article 20 (compulsory acquisition of land) and paragraph (1) of article 22 (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) Paragraph (2) does not prevent Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as modified by article 27 (modification of Part 1 of the 1965 Act) or paragraph 10 of Schedule 8 as the case may be) from applying where the undertaker acquires any part of, or rights in a cellar, vault, arch or other construction forming part of a house, building or factory.

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

- (a) Schedule 2A to the 1965 Act (as modified by article 27 (modification of Part 1 of the 1965 Act));
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

Modification of Part 1 of the 1965 Act

27.—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as set out in paragraphs (2) to (5).

(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 (legal challenges relating to applications for orders granting development consent) of the 2008 Act, the seven year period mentioned in article 19 (time limit for exercise of authority to acquire land compulsorily) of the Mona Wind Farm Order 202[●]”.

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

- (a) in sub-section (1)(a), after “land” insert “under that provision”;
- (b) in sub-section (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 Mona Offshore Wind Farm Order 202[●]”.

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

- (a) for paragraphs 1(2) and 14(2) substitute—
“But see article 26(3) (acquisition of subsoil only) of the Mona Offshore Wind Farm Order 202[●] which excludes the acquisition of subsoil only from this Schedule”; and
- (b) at the end insert—

“Part 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 16 (protective work to buildings), article 27 (temporary use of land for

carrying out the authorised development) or article 28 (temporary use of land for maintaining the authorised development) of the Mona Offshore Wind Farm Order 202[●]”.

Rights under or over streets

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

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

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

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing of cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out the authorised development

29.—(1) The undertaker may, in connection with the carrying out of the authorised development, but subject to article 21 (time limit for exercise of authority to acquire land compulsorily)—

- (a) enter on and take temporary possession of—
 - (i) the land specified in columns (1) of Schedule 7 (land of which only temporary possession may be taken) for the purpose specified in relation to that land in column (2) of that Schedule relating to the part of the authorised development specified in column (3) of that Schedule; and
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
- (b) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from that land;
- (c) construct temporary works (including the provision of means of access), structures and buildings on that land;
- (d) use the land for the purposes of a working site with access to the working site in connection with the authorised development;
- (e) construct any permanent works specified in relation to that land in column (3) of Schedule 7 (land of which only temporary possession may be taken), or any other mitigation works in connection with the authorised development; and
- (f) construct such works on that land as are mentioned in Part 1 (authorised development) of Schedule 1 (authorised development).

(2) Not less than three months before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken in respect of land specified under paragraph (1)(a)(ii).

(3) The undertaker must not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Schedule 7 (land of which only temporary possession may be taken); or
- (b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) 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, before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works (including ground strengthening works) have been constructed under paragraph (1)(e); or
- (c) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.

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

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

(7) Nothing in this article affects any liability to pay compensation under section 152 (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 carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker must not compulsorily acquire, acquire new rights over or impose restrictive covenants over the land referred to in paragraph (1)(a)(i).

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

(10) Section 13(a) (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use 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.

(11) Paragraph (1)(a)(ii) does not authorise the undertaker to take temporary possession of any land which the undertaker is not authorised to acquire under article 20 (compulsory acquisition of land) or article 22 (compulsory acquisition of rights).

Temporary use of land for maintaining the authorised development

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

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

(a) Section 13 was amended by Tribunals Courts and Enforcement Act 2007 (c.15)

- (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 may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.
- (5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.
- (6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.
- (7) Any dispute as to a person’s entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.
- (8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).
- (9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.
- (10) Section 13 (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.
- (11) In this article “the maintenance period”, in relation to any part of the authorised development means the period during which the authorised development exports electricity to the national electricity transmission network

Statutory undertakers

- 31.** Subject to the provisions of Schedule 10 (protective provisions) the undertaker may—
 - (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plans within the Order land and described in the book of reference; and
 - (b) extinguish the rights of, and remove, relocate the rights of or reposition the apparatus belonging to statutory undertakers over or within the Order land.

Recovery of costs of new connections

32.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 31 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 31 (statutory undertakers), any person who is—

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

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

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

(4) In this paragraph—

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

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

Funding

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

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

(2) The provisions are—

- (a) article 20 (compulsory acquisition of land);
- (b) article 22 (compulsory acquisition of rights);
- (c) article 24 (private rights);
- (d) article 26 (acquisition of subsoil only);
- (e) article 28 (rights under or over streets);
- (f) article 29 (temporary use of land for carrying out the authorised development);
- (g) article 30 (temporary use of land for maintaining the authorised development);
- (h) article 31 (statutory undertakers); and
- (i) article 32 (recovery of costs of new connections).

(3) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2) 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.

(a) 2003 c.21.

PART 6

Miscellaneous and general

Application of landlord and tenant law

34.—(1) This article applies to any agreement entered into by the undertaker under article 7 (benefit of Order) so far as it relates to the terms on which any land is subject to a lease granted by or under that agreement.

(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) No enactment or rule of law to which paragraph (2) applies is to apply 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.

Felling or lopping of trees and removal of hedgerows

35.—(1) Subject to Article 36 (trees subject to tree preservation orders) the undertaker may fell or lop any tree or shrub, or cut back its roots, within or encroaching upon land within the Order limits if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

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

- (a) do no unnecessary damage to any tree or shrub; and
- (b) pay compensation to any person for any loss or damage arising from such activity.

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

(4) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow within the Order limits that is required to be removed.

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

Trees subject to tree preservation orders

36.—(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 encroaching upon the Order limits that is subject to a tree preservation order which was made after [X], or cut back its roots, if it reasonably believes it to be necessary in order to do so in order to prevent the tree —

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

(a) S.I 1997/1160

- (b) from constituting an unacceptable source of danger (whether to children or to other persons).
- (3) In carrying out any activity authorised by paragraph (1)—
 - (a) the undertaker must not cause unnecessary damage to any tree and must pay compensation to any person for any loss or damage arising from such activity; and
 - (b) the duty contained in section 206(1) (replacement of trees) of the 1990 Act does not apply.
- (4) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.
- (5) 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.

Abatement of works abandoned or decayed

37. Where any of the offshore works or any part of them is abandoned or allowed to fall into decay, the Secretary of State may, following consultation with the undertaker, issue a written notice requiring the undertaker at its own expense either to repair, make safe and restore one or any of those works, or remove [Work Areas. 1 to 3] or any relevant part of it, without prejudice to any notice served under section 105(2) (requirement to prepare decommissioning programmes) of the 2004 Act^(a). The notice may also require the restoration of the site of the relevant part(s) of [Work Areas 1 to 3].

Saving provisions for Trinity House

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

Crown rights

39.—(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 use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to His Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to His Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

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

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

Protective provisions

40. Schedule 10 (protective provisions) has effect.

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

Operational land for the purposes of the 1990 Act

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

Certification of plans, etc.

42.—(1) — The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of all of the documents listed in Schedule 16 for certification that they are true copies of the documents referred to in this Order—

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

Service of notices

43.—(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 (5) to (8) by electronic transmission.

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

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

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

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

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

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

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

(a) 1978 c. 30.

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

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

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

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

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

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

No double recovery

44. Compensation is not 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.

Requirements, appeals, etc.

45.—(1) Sub-section (1) of section 78 (right to appeal against planning decisions and failure to take such decision) of the 1990 Act applies to the development consent granted by this Order and to the requirements except that it is modified so as to read for the purposes of this Order only as follows—

- (a) after “local planning authority” insert “or Secretary of State”;
- (b) after sub-section (b) insert the following—

“refuse or fails to determine an application for any consent, agreement or approval of that authority required by a requirement imposed on a grant of development consent or contained in a development consent order, or grant it subject to conditions; or”

- (c) after sub-section (1), insert the following—

“(1A) Where the appeal under sub-section (1) relates to a decision by the Secretary of State, the appeal will be decided by a Secretary of State who would not be responsible for determining an application for development consent with the subject matter of the [X] Order 202[] section 103(1) of the 2008 Act applied.”.

(2) Sections 78 (right to appeal against planning decisions and failure to take such decisions) and 79 (determination of appeals) of the 1990 Act have effect in relation to any appeal under the terms of this article except that the Secretary of State in question is the Secretary of State who would be responsible for determining an application for development consent with the subject matter of this Order if section 103(1) (Secretary of State is to decide applications) of the 2008 Act applied.

Arbitration

46.—(1) Any difference under any provision of this Order, unless otherwise provided for, is to be referred to and settled in arbitration in accordance with the rules at Schedule 13 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

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

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

Date

Signed
Title
Department

SCHEDULE 1

Articles 3 and 4

Authorised Development

PART 1

Authorised Development

A nationally significant infrastructure project as defined in sections 14 (nationally significant infrastructure projects: general) and 15 (generating stations) of the 2008 Act located in the Irish Sea approximately 28 kilometres from the coast of North Wales comprising -

Work Area 1:

- (a) An offshore wind generating station with electrical output capacity of over 350MW comprising up to 107 wind turbine generators each fixed to seabed by a foundation;
- (b) A network of subsea inter-array cables between the wind turbine generators and offshore substation platforms including cables crossings and cable protection;
- (c) Up to four offshore substation platforms each fixed to seabed by a foundation; and
- (d) A network of subsea interconnector cables between the offshore substation platforms including cable crossings and protection.

Work Area 2:

- (a) Installation of up to 4 subsea cable circuits consisting of offshore export cables between Work Area 1 and Work Area 3 including cable protection and cable crossings

Work Area 2A:

Creation of entry/exit pits for trenchless installation techniques.

Intertidal and in the County of Conwy

Work Area 3:

Landfall connection works comprising:

- (a) Installation of up to four subsea cable circuits between Work Area 2 and Work Area 5;
- (b) Cofferdam works including piling and the creation of entrance and exit pits for trenchless installation techniques.

Work Area 4:

Use for temporary access during construction, operation and maintenance.

Onshore – in the County of Conwy:

Work Area 5:

- (a) Installation of up to four buried cable circuits between Work Area 3 and Work Area 7 including cable ducts;
- (b) Installation of up to four transition joint bays;
- (c) Creation of entry and exit pits for trenchless installation techniques;
- (d) Creation of construction access to Work Area 5, 6 and 7 including visibility splays;
- (e) Creation and improvement of accesses including works to junctions and visibility splays; and
- (f) Use of operational access from the public highway.

Work Area 6:

Within Work Area 5 and Work Area 7 construction of a temporary construction compound and laydown area of a size of no larger than 22,500m².

Work Area 7:

- (a) Installation of up to four buried cable circuits between Work Area 5 and Work Area 8 including cable ducts;
- (b) Trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (c) Construction of a haul road, temporary construction accesses and working areas;
- (d) Creation and improvement of accesses including works to junctions and visibility splays; and
- (e) Use of operational access from the public highway.

Work Area 8:

- (a) Installation of up to four buried cable circuits between Work Area 7 and Work Area 9A including cable ducts;
- (b) Trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (c) Construction of a haul road, temporary construction accesses and working areas;
- (d) Creation and improvement of accesses including works to junctions and visibility splays; and
- (e) Use of operational access from the public highway.

Work Area 9A:

- (a) Installation of up to four buried cable circuits between Work Area 8 and either Work Area 9B or Work Area 9C, including cable ducts;
- (b) Trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (c) Construction of a haul road, temporary construction accesses and working areas;
- (d) Creation and improvement of accesses including works to junctions and visibility splays; and
- (e) Use of operational access from the public highway.

Work Area 9B:

- (a) Installation of up to four buried cable circuits between Work Area 9A and Work Area 9D including cable ducts;
- (b) Trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (c) Construction of a haul road, temporary construction accesses and working areas;
- (d) Creation and improvement of accesses including works to junctions and visibility splays; and
- (e) Use of operational access from the public highway.

Work Area 9C:

- (a) Installation of up to four buried cable circuits between Work Area 9A and Work Area 9D including cable ducts;
- (b) Trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (c) Construction of a haul road, temporary construction accesses and working areas;

- (d) Creation and improvement of accesses including works to junctions and visibility splays;
and
- (e) Use of operational access from the public highway.

Work Area 9D:

- (a) Installation of up to four buried cable circuits between either Work Area 9B or Work Area 9C and Work Area 10A, including cable ducts;
- (b) Trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (c) Construction of a haul road, temporary construction accesses and working areas;
- (d) Creation and improvement of accesses including works to junctions and visibility splays;
and
- (e) Use of operational access from the public highway.

Work Area 10A:

- (a) Installation of up to four buried cable circuits between Work Area 9D and either Work Area 10B or Work Area 10C, including cable ducts;
- (b) Trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (c) Construction of a haul road, temporary construction accesses and working areas;
- (d) Creation and improvement of accesses including works to junctions and visibility splays;
and
- (e) Use of operational access from the public highway.

Work Area 10B:

- (a) Installation of up to four buried cable circuits between Work Area 10A and Work Area 10E including cable ducts;
- (b) Trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (c) Construction of a haul road, temporary construction accesses and working areas;
- (d) Creation and improvement of accesses including works to junctions and visibility splays;
and
- (e) Use of operational access from the public highway.

Work Area 10C:

- (a) Installation of up to four buried cable circuits between Work Area 10A and either Work Area 10D or 10E including cable ducts;
- (b) Trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (c) Construction of a haul road, temporary construction accesses and working areas;
- (d) Creation and improvement of accesses including works to junctions and visibility splays;
and
- (e) Use of operational access from the public highway.

Work Area 10D:

In the event Work Area 10C is not followed in its entirety to Work Area 10E, the option for:

- (a) Installation of up to four buried cable circuits between Work Area 10C and Work Area 10E including cable ducts;
- (b) Trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;

- (c) Construction of a haul road, temporary construction accesses and working areas;
- (d) Creation and improvement of accesses including works to junctions and visibility splays;
and
- (e) Use of operational access from the public highway.

Onshore – in the Counties of Conwy and Denbighshire:

Work Area 10E:

- (a) Installation of up to four buried cable circuits between either Work Area 10B, 10C, or 10D and Work Area 11 including cable ducts;
- (b) Trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (c) Construction of a haul road, temporary construction accesses and working areas;
- (d) Creation and improvement of accesses including works to junctions and visibility splays;
and
- (e) Use of operational access from the public highway.

Onshore – in the County of Denbighshire:

Work Area 11:

- (a) Installation of up to four buried cable circuits between Work Area 10E and work Area 12A including cable ducts;
- (b) Trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (c) Construction of a haul road, temporary construction accesses and working areas;
- (d) Creation and improvement of accesses including works to junctions and visibility splays;
and
- (e) Use of operational access from the public highway.

Work Area 12A:

- (a) Installation of up to four buried cable circuits between Work Area 11 and either Work Area 12B or 12C including cable ducts;
- (b) Trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (c) Construction of a haul road, temporary construction accesses and working areas;
- (d) Creation and improvement of accesses including works to junctions and visibility splays;
and
- (e) Use of operational access from the public highway.

Work Area 12B:

- (a) Installation of up to four buried cable circuits between Work Area 12A and Work Area 12D including cable ducts;
- (b) Trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (c) Construction of a haul road, temporary construction accesses and working areas;
- (d) Creation and improvement of accesses including works to junctions and visibility splays;
and
- (e) Use of operational access from the public highway.

Work Area 12C:

- (a) Installation of up to four buried cable circuits between Work Area 12A and Work Area 12D including cable ducts;
- (b) Trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (c) Construction of a haul road, temporary construction accesses and working areas;
- (d) Creation and improvement of accesses including works to junctions and visibility splays; and
- (e) Use of operational access from the public highway.

Work Area 12D:

- (a) Installation of up to four buried cable circuits between either Work Area 12B or 12C and Work Area 16 including cable ducts;
- (b) Trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (c) Construction of a haul road, temporary construction accesses and working areas;
- (d) Creation and improvement of accesses including works to junctions and visibility splays; and
- (e) Use of operational access from the public highway.

Work Area 13:

Creation and improvement of access to the public highway, including improvement and creation of junctions and visibility splays.

Work Area 14:

Creation and improvement of access to the public highway, including improvement and creation of junctions and visibility splays.

HVAC and National Grid works comprising either:

- (a) the development shown on sheets 13 to 15 of the works plans as “substation option 2” and consisting of Work Area 15A, and 16A, described below as “Option A”; or
- (b) the development shown on sheets 16 to 18 of the works plans as “substation option 7” and consisting of Work Area 15B, 16B and 17, described below as “Option B”.

Work Area 15A:

In the event of Option A, installation of up to two buried 400kV cable circuits with cable ducts (if required) from Work Area 16A between the HVAC substation to National Grid substation including:

- (a) cable ducts, trenchless installation techniques including the creation of entrance and exit pits and cable trenching works;
- (b) creation of construction access, construction of a haul road;
- (c) temporary construction working areas and laydown area;
- (d) permanent landscaping, ecological and environmental works;
- (e) Installation of up to four buried cable circuits between Work Area 17 and Work Area 18 including cable ducts, trenchless techniques including the creation of entrance and exit pits and cable trenching works;
- (f) Creation of construction access to works including visibility splays;
- (g) Creation of permanent access, including works to connect the access to Glascoed Road; and
- (h) within Work Area 15A and 16A creation of a temporary construction compound and laydown area of no more than 250,000m².

Work Area 16A:

In the event of Option A, Creation of substation compound area including:

- (a) Onshore HVAC substation containing (but not limited to) switchgear and electrical equipment including power transformers, reactive compensation equipment, filters, cooling equipment, control and welfare buildings, lightning rods, internal roads, safety fencing and other associated equipment, structures and buildings including noise-attenuation works;
- (b) installation of up to two buried 400kV cable circuits within cable ducts to Work Area 15A between the HVAC substation to National Grid substation including cable ducts, trenchless techniques including the creation of entrance and exit pits and cable trenching works;
- (c) installation of up to four buried cable circuits between Work Area 15 and Work Area 18 including cable ducts, trenchless techniques including the creation of entrance and exit pits and cable trenching works;
- (d) trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (e) Land reprofiling and creation of platform or foundations for HVAC substation;
- (f) Permanent landscaping, ecological and environmental works, drainage works including connections to existing drainage and creation of new sustainable drainage including attenuation pond(s), and utilities connections;
- (g) Utilities connections;
- (h) Drainage works including connections to existing drainage and creation of new sustainable drainage including attenuation pond(s);
- (i) permanent security fencing and security gate;
- (j) temporary construction areas, lay down areas and haul roads;
- (k) temporary and permanent access roads;
- (l) construction of a haul road, temporary construction accesses and working areas;
- (m) creation and improvement of accesses including works to junctions and visibility splays; and
- (n) within Work Area 15A and 16A creation of a temporary construction compound and laydown area of no more than 250,000m².

Work Area 15B:

In the event of Option B, installation of up to two buried 400kV cable circuits with cable ducts (if required) from Work Area 17 between the HVAC substation to National Grid substation including:

- (a) cable ducts, trenchless installation techniques including the creation of entrance and exit pits and cable trenching works;
- (b) creation of construction access, construction of a haul road;
- (c) temporary construction working areas and laydown area;
- (d) permanent landscaping, ecological and environmental works;
- (e) Installation of up to four buried cable circuits between Work Area 16B and Work Area 17 including cable ducts, trenchless techniques including the creation of entrance and exit pits and cable trenching works;
- (f) Creation of construction access to works including visibility splays;
- (g) Creation of permanent access, including works to connect the access to Glascoed Road;
- (h) installation of up to four buried cable circuits from Work Area 12B and/or 16B including cable ducts, trenchless techniques including the creation of entrance and exit pits and cable trenching works; and

- (i) within Work Area 15B and 17 creation of a temporary construction compound and laydown area of no more than 250,000m².

Work Area 16B:

In the event of Option B:

- (a) Installation of up to four buried cable circuits from Work Area 12D to Work Area 17 including cable ducts;
- (b) Trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (c) Construction of a haul road, temporary construction accesses and working areas;
- (d) Creation and improvement of accesses including works to junctions and visibility splays;
- (e) Use of operational access from the public highway; and

Work Area 17:

In the event of Option B, creation of substation compound area including:

- (a) Onshore HVAC substation containing (but not limited to) switchgear and electrical equipment including power transformers, reactive compensation equipment, filters, cooling equipment, control and welfare buildings, lightning rods, internal roads, safety fencing and other associated equipment, structures and buildings including noise-attenuation works;
- (b) installation of up to two buried 400kV cable circuits within cable ducts to Work Area 15B between the HVAC substation to National Grid substation including cable ducts, trenchless techniques including the creation of entrance and exit pits and cable trenching works;
- (c) installation of up to four buried cable circuits between Work Area 15B, 16B and Work Area 17 including cable ducts, trenchless techniques including the creation of entrance and exit pits and cable trenching works;
- (d) trenchless installation technique pit works including the creation of entrance and exit pits and cable trenching works;
- (e) Land reprofiling and creation of platform or foundations for HVAC substation;
- (f) Permanent landscaping, ecological and environmental works, drainage works including connections to existing drainage and creation of new sustainable drainage including attenuation pond(s), and utilities connections;
- (g) Utilities connections;
- (h) Drainage works including connections to existing drainage and creation of new sustainable drainage including attenuation pond(s);
- (i) permanent security fencing and security gate;
- (j) temporary construction areas, lay down areas and haul roads;
- (k) temporary and permanent access roads;
- (l) construction of a haul road, temporary construction accesses and working areas;
- (m) creation and improvement of accesses including works to junctions and visibility splays; and
- (n) within Work Area 15B and 17 creation of a temporary construction compound and laydown area of no more than 250,000m².

Work Area 18:

Within Work Area 8, 9A, and 9B creation of up to two temporary construction compounds and laydown area each of a size no more than 22,500m².

Work Area 19:

Within Work Area 9B creation of up to two temporary construction compounds and laydown area each of a size no more than 22,500m².

Work Area 20:

Within Work Area 10B and 10E creation of up to two temporary construction compounds and laydown area each of a size no more than 22,500m².

Work Area 21:

Within Work Area 11 creation of up to two temporary construction compounds and laydown area each of a size no more than 22,500m².

Work Area 22:

In the event of either Option A and Option B, within either Work Area 15A or Work Area 15B, creation of up to two temporary construction compounds and laydown area each of a size no more than 22,500m².

Work Area 23:

In the event of Option B, within Work Area 15B only, creation of a temporary construction compound and laydown area each of a size no more than 22,500m².

And in connection with such Work Areas 1 to 3 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) cable protection measures such as the placement of rock and/or concrete mattresses;
- (b) the removal of material from the seabed 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 and pre-trenching;
- (c) temporary landing places, moorings or other means of accommodating vessels in the construction or maintenance of the authorised project;
- (d) removal of static fishing equipment; and
- (e) marking buoys, beacons, fenders and other navigational warning or ship impact protection works.

And in connection with Work Areas 4 to 18 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—

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

- (a) bunds, embankments, swales, landscaping, fencing and boundary treatments and alteration of groynes;
- (b) provision of temporary and permanent ecological and environmental mitigation and compensation works;
- (c) spoil storage and associated control measures;
- (d) jointing bays, link boxes, cable ducts, cable protection, joint protection, manholes, marker posts, underground cable markers, tiles and tape, and lighting and other works associated with laying cables and/or pulling cables through cable ducts;

- (e) works for the provision of apparatus including cabling, water and electricity supply works, foul drainage provision, surface water management systems, temporary drainage during installations of cables and culverting;
- (f) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (g) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (h) landscaping works and habitat creation;
- (i) works for the benefit or protection of land affected by the authorised development;
- (j) working sites in connection with the construction of the authorised development, construction lay down areas and compounds and storage compounds;
- (k) works of restoration;
- (l) fencing or other means of enclosure; and
- (m) such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development.

PART 2

Ancillary Works

1. Works within the Order limits which fall within the scope of the work assessed by the environmental statement comprising –

- (a) intrusive ground investigations including the making of boreholes and trial pits;
- (b) temporary landing places, moorings or other means of accommodating vessels in the construction and/or maintenance of the authorised development;
- (c) marking buoys, beacons, fenders and other navigational warning or ship impact protection works; and
- (d) temporary works to the benefit or protection of land, watercourses or structures affected by the authorised development.

SCHEDULE 2

Article 3

Requirements

Time limits

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

Offshore design parameters

2.—(1) The wind turbine generators to be constructed or operated as part of the authorised development must be located within the area delineated by the works plans.

(2) The offshore works must be constructed in accordance with the parameters assessed in the environmental statement and set out in Table 1.

Table 1

<i>Parameter</i>	<i>Value</i>
Maximum number of wind turbine generators	107
Maximum total rotor swept area (m ²)	5,252,350
Maximum height of wind turbine generators when measured from LAT to the tip of the vertical blade (m)	324
Maximum rotor diameter of each wind turbine generator (m)	280
Minimum distance from LAT to the lowest point of the rotating blade for each turbine (m)	34
Minimum distance between wind turbine generators in a row of wind turbine generators (m)	875
Minimum distance between rows of wind turbine generators (m)	1000
Maximum diameter of monopiles for wind turbine generators on monopile foundation (m)	16
Maximum diameter of pin piles for wind turbine generators on jacket pin-pile foundation (m)	5.5
Maximum diameter of gravity base at the seabed for wind turbine generators on gravity base foundations (m)	56
Maximum diameter of buckets for wind turbine generators on suction bucket jackets (m)	18
Maximum diameter of offshore substation platform monopile foundations (m)	16
Maximum diameter of offshore substation platform jacket pin-pile foundations (m)	5.5
Maximum diameter of gravity base at the seabed for offshore substation platforms on gravity base foundations (m)	80
Maximum diameter of buckets for offshore substation platforms on suction bucket jackets (m)	18
Maximum total seabed footprint for wind turbine generators (including scour protection) (m ²)	735,488
Maximum number of offshore substations	4
Maximum dimensions of offshore substations:	
Height of main structure when measured from LAT (m)	70
Length (m)	80
Width (m)	60

Maximum total seabed footprint area for offshore substation foundations (including scour protection) (m ²)	24,964
Maximum number of cable circuits	4
Maximum total length of cables (inter-array, interconnector and export) (km)	910
Maximum number of cable crossings (inter-array, interconnector and export)	101

Aviation safety

3.—(1) The undertaker must exhibit such lights, with such shape, colour and character and at such times as are required by Air Navigation Order 2016 and/or determined necessary for aviation safety in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the Civil Aviation Authority. Lighting installed specifically to meet Ministry of Defence aviation safety requirements must remain operational for the life of the authorised development unless otherwise agreed with the Ministry of Defence.

- (a) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, at least 14 days prior to the commencement of the offshore works, of the following—
- (b) the date of the commencement of construction of the offshore works;
- (c) the date any wind turbine generators are brought into use;
- (d) the maximum height of any construction equipment to be used;
- (e) the maximum heights of any wind turbine generator, meteorological mast and offshore electrical platform to be constructed; and
- (f) the latitude and longitude of each wind turbine generator, meteorological mast and offshore electrical platform to be constructed; 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 offshore works.

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

Stages of authorised development

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

- (a) in a single stage; or
- (b) in two or more stages.

(2) The onshore works may not be commenced until details of the stages of the onshore works have been submitted to and approved by the relevant planning authority.

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

Substation works

5.—(1) Construction of [Work No. X] must not commence until details of—

- (a) the layout;
- (b) scale;
- (c) proposed finished ground levels;
- (d) hard surfacing materials;
- (e) the dimensions, colour and materials used for the buildings;
- (f) security fencing;

- (g) vehicular and pedestrian access, parking and circulation areas; and
- (h) proposed and existing functional services above and below ground, including drainage, power and communications cables and pipelines, manholes and supports;

have been submitted to and approved by the relevant planning authority following consultation with [Natural Resources Wales] as appropriate.

(2) The details submitted under sub-paragraph (1) of this requirement must be in accordance with requirement 6 (detailed design parameters onshore) [and substantially in accordance with the onshore substation design principles statement.]

(3) [Work No. X] must be carried out in accordance with the approved details.

Detailed design parameters onshore

6.—(1) The onshore works must not exceed the parameters assessed in the environmental statement and set out in Table 2 and sub-paragraph (2).

Table 2

<i>Parameter</i>	<i>Value</i>
Maximum number of landfall transition joint bays	4

(2) In relation to [Work No. X]—

- (a) if air insulated switchgear is installed—
 - (i) the highest part of any external electrical equipment or enclosure, excluding lightning rods, must not exceed [X] above Ordnance Datum;
 - (ii) the highest part of any building must not exceed [X] above Ordnance Datum;
 - (iii) the total area of the fenced compound (excluding its accesses) must not exceed [X];
 - (iv) the total number of lightning rods within the fenced compound area must not exceed [X] and the height of any lightning rod must not exceed [x] above Ordnance Datum;
- (b) if gas insulated switchgear is installed—
 - (i) the highest part of any building must not exceed [x] above Ordnance Datum;
 - (ii) the highest part of any external electrical equipment, excluding lightning rods, must not exceed [x] above Ordnance Datum;
 - (iii) the total area of the fenced compound (excluding its accesses) must not exceed [x]; and
 - (iv) the total number of lightning rods within the fenced compound area must not exceed [x] and the height of any lightning rod must not exceed [x] above Ordnance Datum.

(3) Trenchless installation techniques must be used to install the cable ducts and electrical circuits where identified in the [*crossings schedule*] for the purpose of passing under a relevant obstruction unless otherwise agreed by the [relevant planning authority], following consultation with the relevant drainage boards, [Natural Resources Wales] and the highways authority.

Provision of landscaping

7.—(1) [Work No. X] must not be commenced until a written landscaping scheme and associated work programme in accordance with the [outline hydrological, ecological and landscape management plan] for the relevant work has been submitted to and approved by the [relevant planning authority] following consultation with [Natural Resources Wales] as appropriate.

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

- (a) location, number, species, size and planting density of any proposed planting including any trees; and
- (b) implementation timetables for all landscaping works.

Implementation and maintenance of landscaping

8.—(1) All landscaping works must be carried out in accordance with the landscaping schemes approved under requirement 7 (provision of landscaping).

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

Code of construction practice

9.—(1) No stage of the onshore works may commence until for that stage a code of construction practice has been submitted to and approved by the [relevant planning authority] following consultation with [Natural Resources Wales] as appropriate and in relation to sub-paragraph 2(k) the [Welsh Ministers].

(2) The code of construction practice must accord with the outline code of construction practice and include, as appropriate to the relevant stage —

- (a) spillage and emergency response plan
- (b) air quality and dust management plan
- (c) noise and vibration management plan
- (d) construction traffic management plan
- (e) construction workforce travel plan
- (f) communications plan
- (g) construction fencing plan
- (h) tree retention plan
- (i) surface water and groundwater protection plan
- (j) flood management plan
- (k) public rights of way management plan
- (l) soil management plan
- (m) site waste management plan
- (n) artificial light emissions plan
- (o) biosecurity protocol
- (p) outline construction method statements

(3) The code of construction practice approved in relation to the relevant stage of the onshore works must be followed in relation to that stage of the onshore works.

Highway accesses

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

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

Onshore archaeology

11.—(1) No stage of the onshore works may commence until for that stage an archaeological written scheme of investigation in accordance with the outline onshore and intertidal written scheme

of investigation as appropriate for the relevant stage has been submitted to and approved by the relevant planning authority.

(2) Pre-commencement surveys and investigations, including those necessary to allow production of any scheme required under sub-paragraph (1) must only take place in accordance the applicable details set out in the [outline onshore and intertidal written scheme of investigation].

Hydrological, ecological and landscape and ecology management plan

12.—(1) No stage of the onshore works may commence until for that stage [a written hydrological, ecological and landscape and ecology management plan] in accordance with the [outline hydrological, ecological and landscape and ecology management plan] as appropriate for the relevant stage, has, following consultation with [Natural Resources Wales], been submitted to and approved by the [relevant planning authority].

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

(3) Pre-commencement works must only take place in accordance with the relevant details set out in the [outline hydrological, ecological and landscape and ecology management plan as certified.]

[European protected species onshore

13.—(1) No stage of the onshore works other than surveying and investigation necessary to comply with this requirement may be undertaken until, for that stage, pre-construction survey work has been carried out to establish whether a European protected species or nationally protected species under the Wildlife and Countryside Act 1981 is present on any of the land affected, or likely to be affected, by any part of that stage of the onshore works.

(2) Where a European protected species or nationally protected species under the Wildlife and Countryside Act 1981 is shown to be present, the stage of the onshore works likely to affect the species must not commence until, after consultation with Natural Resources Wales, a scheme of protection and mitigation measures for that stage has been submitted to and approved by the relevant planning authority.

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

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

(5) In this paragraph, “nationally protected species” means any species protected under the Wildlife and Countryside Act 1981.]

Construction hours

14.—(1) Except as otherwise agreed in the code of construction practice and subject to sub-paragraphs (2) to (4), construction of the onshore works and construction-related traffic movements to or from the site of the relevant Work may take place only between the hours of [0700 and 1900 from Monday to Saturday, with no activity on Sundays or bank holidays].

(2) If agreed in advance with the [relevant planning authority], construction of the onshore works and construction-related traffic movements arriving or departing from the site of the relevant work may take place outside the hours specified in sub-paragraph (1) for certain identified works including—

- (a) Where continuous periods of construction are required, for works such as concrete pouring and finishing, electrical circuit pulling and jointing and testing, trenchless installation techniques, and dewatering pumps;
- (b) for the delivery and unloading of abnormal loads;

- (c) for the landfall works; and
- (d) for any other time-critical element of the onshore works.

(3) Except as provided in sub-paragraph (4), all construction works which are to be undertaken outside the hours specified in sub-paragraph (1) must be agreed in advance with the [relevant planning authority].

(4) In respect of trenchless installation techniques, where continuous 24-hour working is required and has been assessed in the environmental statement, the undertaker must notify the [relevant planning authority] in advance of such works.

Restoration of land used temporarily for construction

15. Any land landward of MLWS which is used temporarily for construction of the onshore works and not ultimately incorporated in permanent works or approved landscaping must be reinstated within [twelve months] of completion of the relevant stage of the onshore works in accordance with details approved by the relevant planning authority.

Control of operational artificial light emissions

16.—(1) [Work No. X] must not be brought into operation until a written scheme for the management and mitigation of internal and external artificial light emissions from [Work No. X] has been submitted to and approved by the [relevant planning authority].

(2) The approved scheme for the management and mitigation of artificial light emissions must be implemented and maintained during the lifetime of [Work No. X].

Control of noise during operational stage

17.—(1) The noise rating level for the operation of [Work No. X] must not exceed [X] at the nearest receptor identified in the environmental statement, at a position representative of the façade, in free-field conditions, of, any building authorised or lawfully occupied for residential or accommodation purposes at the date of the granting of this Order:

(2) The noise levels sets out in sub-paragraph (1) are to be measured in accordance with British Standard BS4142:2014+A1:2019, methods for rating and assessing industrial and commercial sound; and

(3) With a microphone placed 1.5m above the ground in free-field conditions (being at least 3.5m from the nearest vertical reflecting surface).

Skills and Employment Strategy

18.—(1) No stage of the onshore works may commence until, after consultation with the North Wales local authorities, a skills and employment strategy has been notified to the relevant planning authority.

(2) The skills and employment strategy must be substantially in accordance with the outline skills and employment strategy and must be implemented as notified.

(3) For the purposes of this requirement ‘North Wales local authorities’ means [Denbighshire County Council, Conwy County Borough Council, Gwynedd County Council, and the Isle of Anglesey County Council].

Offshore decommissioning

19. No offshore works may commence until a written decommissioning programme in compliance with any notice served upon the undertaker by the Secretary of State pursuant to section 105(2) (requirement to prepare decommissioning programmes) of the 2004 Act has been submitted to the [Secretary of State] for approval.

Onshore decommissioning

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

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

Requirement for written approval

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

Amendments to approved details

22. With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved under this Schedule, the approved details are taken to include any amendments that may subsequently be approved or agreed by the Secretary of State, the relevant planning authority or another person.

SCHEDULE 3

Article 9

Streets subject to street works

In the County of Conwy:

(1) <i>Street</i>	(2) <i>Extent as shown on the street works and access plan</i>

SCHEDULE 4

Articles 11 and 13

Streets and rights of way to be temporarily stopped up or restricted

In the County of Conwy:

(1) <i>Street to be temporarily stopped up or restricted</i>	(2) <i>Extent of temporary stopping up or restriction</i>

SCHEDULE 5

Article 12

Public rights of way to be temporarily stopped up or restricted

In the County of Conwy:

(1) <i>Public right of way to be temporarily stopped up or restricted</i>	(2) <i>Extent</i>

SCHEDULE 6

Article 13

Access to works

In the county of Conwy

(1) <i>Reference as shown on the street works and access plan</i>	(2) <i>Description of new access</i>

SCHEDULE 7

Article 27

Land of which only temporary possession may be taken

In the County of Conwy:

(1) <i>Number of plot shown on land plans</i>	(2) <i>Purpose for which temporary possession may be taken</i>	(3) <i>Relevant part of authorised development</i>

SCHEDULE 8

Article 20

Land in which only new rights etc. may be acquired

In the County of Conwy:

(1) <i>Number of plot shown on land plans</i>	(2) <i>Purpose for which rights may be acquired</i>
	(a)

SCHEDULE 9

Article 25

Modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants

Compensation enactments

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

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

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

“(5) (a) If—

- (a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the Compulsory Purchase Act 1965 (as modified by paragraph 4(5) of Schedule 8 to the Mona Offshore Wind Farm Order 202[•]);
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the Compulsory Purchase Act 1965 (as substituted by paragraph 4(8) of Schedule 8 to the Mona Offshore Wind Farm Order 202[•]) to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land, the authority is deemed for the purposes of sub-section (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.

(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(3) of this Schedule—

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

Application of Part 1 of the 1965 Act

3.—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 25 (modification of Part 1 of the 1965 Act) to the acquisition of land under article 18 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 20 (compulsory acquisition of rights)—

- (a) with the modifications specified in sub-paragraph 4(2); and
- (b) with such other modifications as may be necessary.

(2) The modifications referred to in sub-paragraph (1) are as follows.

References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

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

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

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

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

- (a) section 9(4) (failure by owners to convey);

(a) 1973 c.26.

- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land);

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

(5) Section 11 (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right or restriction, as well as the notice of entry required by sub-section (1) of that section (as it applies to a compulsory acquisition), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant; and sections 11A(a) (powers of entry: further notices of entry), 11B(b) (counter-notice requiring possession to be taken on specified date), 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

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

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 25(4) is also modified so as to enable the acquiring authority in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

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

“SCHEDULE 2A

Section 8

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

Introduction

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or a restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 (execution of declaration) of the 1981 Act as applied by article 23 (application of the 1981 Act) of the Mona Offshore Wind Farm Order 202[•] in respect of the land to which the notice to treat relates.

(2) But see article 24 (acquisition of subsoil only) of the Mona Offshore Wind Farm Order 202[•] which excludes the acquisition of subsoil only from this Schedule.

(3) In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

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

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

3. 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

4. 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.

5. 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”).

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

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

8. 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

9. On a referral under paragraph (6), 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.

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

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

11. 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 9, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

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

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

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

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

SCHEDULE 10

Article 38

Protective provisions

1.[x]

SCHEDULE 11

Article 33, 34

Removal of hedgerows

PART 1

Removal of hedgerows

In the County of Conwy:

<i>(1) Grid coordinates</i>		<i>(2) Identifier as shown on the hedgerow and protected tree plan</i>	<i>(3) Grid coordinates</i>		<i>(4) Identifier as shown on the hedgerow and protected tree plan</i>
Easting	Northing		Easting	Northing	

PART 2

Removal of important hedgerows

In the county of Conwy

<i>(1) Grid coordinates</i>		<i>(2) Identifier as shown on the hedgerow and protected tree plan</i>	<i>(3) Grid coordinates</i>		<i>(4) Identifier as shown on the hedgerow and protected tree plans</i>
Easting	Northing		Easting	Northing	

Approval of matters specified in requirements

Interpretation

1. In this Schedule “application” means an application for any consent, agreement or approval required by a requirement whether or not the application seeks to discharge a requirement in whole or in part.

Applications made under requirements

2. Where an application has been made to the relevant planning authority for any agreement or approval required pursuant to a requirement included in this Order, the relevant planning authority must give notice to the undertaker of their decision, including the reasons, on the application, within a period of 13 weeks beginning with—

- (a) the day immediately following that on which the application is received by the relevant planning authority; or
- (b) such longer period as may be agreed by the undertaker and the relevant planning authority.

Further information

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

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

(3) If the requirement indicates that consultation must take place with a consultee the relevant planning authority must issue the consultation to the requirement consultee within five working days of receipt of the application. Where the consultee requires further information they must notify the relevant planning authority in writing specifying the further information required within 21 days of receipt of the consultation. The relevant planning authority must notify the undertaker in writing specifying any further information requested by the consultee within five working days of receipt of such a request.

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

Provision of information by Consultees

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

(2) Where any consultee requests further information in accordance with the timescales set out in paragraph 2(3) then they must respond to the consultation within 10 working days from the receipt of the further information requested.

Fees

5.—(1) Where an application is made to the relevant planning authority for agreement or approval in respect of a requirement the fee for the discharge of conditions as specified in the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (Wales)

Regulations 2015(a) (or any regulations replacing the same) is to be paid by the undertaker to the relevant planning authority in accordance with these regulations.

(2) Any fee paid under this Schedule must be refunded to the undertaker within four weeks of the application being rejected as invalidly made.

Appeal

6.—(1) The undertaker may appeal in the event that—

- (a) the relevant planning authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions; or
- (b) within the time period specified in paragraph (1).

(2) The is to be as follows—

- (a) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the relevant planning authority and any consultee required to be consulted pursuant to the requirement which is the subject of the appeal (together with the undertaker, these are the “appeal parties”);
- (b) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person (“the appointed person”) to determine the appeal and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for their attention should be sent, the date of such notification being the “start date” for the purposes of this sub-paragraph (2);
- (c) the relevant planning authority and any consultee required to be consulted pursuant to the requirement which is the subject of the appeal must submit written representations to the appointed person in respect of the appeal within ten working days of the start date and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (d) the appeal parties must make any counter-submissions to the appointed person within ten working days of receipt of written representations pursuant to sub-paragraph (2)(c); and
- (e) the appointed person must make their decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within thirty working days of the deadline for the receipt of counter-submissions pursuant to sub-paragraph (2)(d).

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

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

(5) Any further information required under sub-paragraph (4) must be provided by the appeal party from whom the further information was requested to the appointed person and other appeal parties, the relevant planning authority and any consultee required to be consulted pursuant to the requirement the subject of the appeal on the date specified by the appointed person (the “specified date”), and the appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within ten working days of the specified date but otherwise is to be in accordance with the process and time limits set out in sub-paragraphs (2)(c) to (2)(e).

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

- (a) allow or dismiss the appeal; or

(a) S.I 2015/1522(W.179)

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

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

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

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

(10) If an approval is given by the appointed person pursuant to this paragraph, it is to be deemed to be an approval for the purpose of Schedule 11 as if it had been given by the relevant planning authority. The relevant planning 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.

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

(12) On application by the relevant planning 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 Welsh Government's 'Development Management Manual Section 12 Annex: Award of costs' or any circular or guidance which may from time to time replace it.

SCHEDULE 13

Article 44

Arbitration rules

Primary objective

1.—(1) The primary objective of these arbitration rules is to achieve a fair, impartial, final and binding award on the substantive difference between the parties (save as to costs) within four months from the date the arbitrator is appointed pursuant to article 44 (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, will be subject to arbitration in accordance with the terms of this Schedule.

(3) The arbitration will be deemed to have commenced when a party ("the claimant") serves a written notice of arbitration on the other party ("the respondent").

Time periods

2.—(1) All time periods in these arbitration rules will be measured in business days and this will exclude weekends and bank holidays.

(2) Time periods will be calculated from the day after the arbitrator is appointed which will be either—

(a) the date the arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or

- (b) the date the arbitrator is appointed by the Secretary of State.

Timetable

3.—(1) The timetable for the arbitration will be that set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 15 days of the arbitrator being appointed, the claimant must provide both the respondent and the arbitrator with—

- (a) a written statement of claim which describes the nature of the difference between the parties, the legal and factual issues, the claimant's contentions as to those issues, and the remedy it is seeking; and
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 15 days of receipt of the claimant's statements under sub-paragraph (2) by the arbitrator and respondent, the respondent must provide the claimant and the arbitrator with—

- (a) a written statement of defence responding to the claimant's statement of claim, its statement in respect of the nature of the difference, the legal and factual issues in the claimant's claim, its acceptance of any element(s) of the claimant's claim, its contentions as to those 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 five days of the respondent serving its statements sub-paragraph (3), the claimant may make a statement of reply by providing both the respondent and the arbitrator with—

- (a) a written statement responding to the respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;
- (b) all statements of evidence and copies of documents in response to the respondent's submissions;
- (c) any expert report in response to the respondent's submissions;
- (d) any objections to the statements of evidence, expert reports or other documents submitted by the respondent; and
- (e) its written submissions in response to the legal and factual issues involved.

Procedure

4.—(1) The arbitrator will make an award on the substantive difference based solely on the written material submitted by the parties unless the arbitrator decides that a hearing is necessary to explain or resolve any matters.

(2) Either party may, within two days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(3) Within five days of receiving the last submission, the arbitrator will notify the parties whether a hearing is to be held and the length of that hearing.

(4) Within ten days of the arbitrator advising the parties that he will hold a hearing, the date and venue for the hearing will be fixed by agreement with the parties, save that if there is no agreement the arbitrator must direct a date and venue which he considers is fair and reasonable in all the circumstances. The date for the hearing must not be less than 35 days from the date of the arbitrator's direction confirming the date and venue of the hearing.

(5) A decision 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 will invite the parties to ask questions of the experts by way of clarification of any answers given by the expert(s) in response to the arbitrator's questions. Prior to the hearing the procedure for the expert(s) will be that—

- (a) at least 20 days before a hearing, the arbitrator will provide a list of issues to be addressed by the expert(s);
- (b) if more than one expert is called, they will jointly confer and produce a joint report or reports within ten days of the issues being provided; and
- (c) the form and content of a joint report will be as directed by the arbitrator and must be provided at least five days before the hearing.

(7) Within ten days of a hearing or a decision by the arbitrator that no hearing is to be held the parties may by way of exchange provide the arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The arbitrator will take these submissions into account in the award.

(8) The arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within four months of the date on which they are appointed, unless both parties otherwise agree to an extension to the date for the award.

(9) If a party fails to comply with the timetable, procedure or any other direction then the arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before them attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure and/or direction.

(10) The arbitrator's award must include reasons. The parties will accept that the extent to which reasons are given is to be proportionate to the issues in dispute and the time available to the arbitrator to deliver the award.

Arbitrator's powers

5.—(1) The arbitrator has all the powers of the arbitration Act 1996(a), including the non-mandatory sections, save where modified by these rules.

(2) There will be no discovery or disclosure, except that the arbitrator has the power to order the parties to produce such documents as are reasonably requested by another party no later than the statement of reply, or by the arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a redfern schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the arbitrator. In the absence of agreement, the arbitrator may vary the timescales and/or procedure—

- (a) if the arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;
- (b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the arbitrator's fees and expenses.

Costs

6.—(1) The costs of the arbitration will 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 will be confidential and will only be publically disclosed where required by law or with the agreement of both parties.

(2) The arbitrator may direct that the whole or part of a hearing is to be private or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(3) Nothing in this paragraph prevents any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

Marine Licence 1: Mona Offshore Wind Farm Generation Assets - Work
Nos. [x] – Natural Resources Wales

PART 1

Licensed marine activities

Interpretation

1.—(1) In this licence—

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

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

“2008 Act” means the Planning Act 2008;

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

“Annex 1 reef” means a reef of a type listed in Annex 1 to Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora;

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

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

“authorised deposits” means the substances and articles specified in paragraph 25 of Part 1 of this licence;

“authorised project” means the authorised development within Work Area 1 and the further associated development described in paragraph 3 of Part 1 of this licence or any part of that work or development;

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

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

“business day” means a day other than a Saturday or Sunday or a bank holiday in England and Wales;

“cable” means up to 400kV cables for the transmission of electricity and includes direct lay cables, cables laid in cable ducts or protective covers, and further includes fibre optic and other communications cables either within the cable or laid alongside;

“cable crossings” means the crossing of existing sub-sea cables, pipelines or other existing infrastructure by the cables authorised by this Order together with cable protection;

“cable protection” means measures to protect cables from physical damage including but not limited to concrete mattresses, with or without frond devices, and/or rock placement, the use of bagged solutions filled with grout or other materials;

“commence” means the first carrying out of any licensed activities, save for pre-construction surveys, monitoring surveys, unexploded ordnance surveys and clearance of unexploded ordnance, and “commenced” and “commencement” must be construed accordingly;

“commercial operation” means in relation to any part of the authorised project, the exporting, transmission or conversion, on a commercial basis, of electricity;

(a) 1989 c.29.

(b) 2004 c.20 Section 105 was amended by section 69 of the Energy Act 2008 (c.32)

(c) 2009 c.23.

(d) 1971 c.80

[“draft marine mammal mitigation protocol” means the document certified as the draft marine mammal mitigation protocol by the Secretary of State under article 42 (certification of documents and plans etc) of the Order;]

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form;

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

“foundation” means any of: a monopile, multi-leg pin-piled jacket, multi-leg suction bucket jacket, or gravity base foundation;

“gravity base foundation” means a structure principally of steel, concrete, or steel and concrete with a base which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“HAT” means highest astronomical tide;

“HVAC” means high voltage alternating current;

“inter-array cables” means the cables linking the wind turbine generators to each other and to the offshore substation platforms;

“interconnector cables” means the cables linking the offshore substation platforms to each other;

“intrusive activities” means activities including anchoring of vessels, jacking up of vessels, temporary deposits and temporary wet storage areas;

“jacket foundation” means a steel jacket/lattice-type structure constructed of steel, fixed to the seabed with steel pin piles or steel suction buckets and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“LAT” means lowest astronomical tide;

“LiDAR” means a light detection and ranging system used to measure weather and sea conditions;

“licensed activities” means those activities detailed in under article 2 of Schedule 14 (deemed marine licence)

“m” means metres and “m²” means metres squared;

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

“Marine Management Organisation” means the body created under the 2009 Act which is responsible for the regulation of the licence at Schedule [15] or any successor of that function and “MMO” must be construed accordingly;

“MCA” means the Maritime and Coastguard Agency, the executive agency of the Department for Transport;

“MCMS” means the Marine Case Management System web portal provided and operated by the MMO;

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

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

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

“Natural Resources Wales” means the body acting on behalf of the Welsh Ministers pursuant to those powers under the 2009 Act which is responsible for the regulation of this licence or any successor of that function and “NRW” must be construed accordingly;

[“the offshore in principle monitoring plan means the document certified as the offshore in principle monitoring plan by the Secretary of State under article 42 (certification of documents and plans etc) of the Order;]

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

- (a) electrical equipment required to switch, transform or convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation, including high voltage power transformers, high voltage switchgear and busbars, substation auxiliary systems and low voltage distribution, instrumentation, metering equipment and control systems, standby generators, shunt reactors, auxiliary and uninterruptible power supply systems;
- (b) accommodation, storage, workshop auxiliary equipment and facilities for operating, maintaining and controlling the substation or wind turbine generators, including navigation, aviation and safety marketing and lighting, systems for vessel access and retrieval, cranes, potable water supply, black water separation, stores, fuels and spares, communications systems and control hub facilities;

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

[“the outline fisheries liaison and co-existence plan” means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State under article 42 for the purposes of this Order;]

[“the outline navigation monitoring strategy” means the document certified as the outline navigation monitoring strategy by the Secretary of State under article 42 for the purposes of this Order;]

[“outline onshore and intertidal written scheme of investigation” means the document certified as the outline onshore and intertidal written scheme of investigation by the Secretary of State under article 42 for the purposes of this Order;]

[“the 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 42 for the purposes of this Order;]

[“the outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State under article 42 for the purposes of this Order;]

“operation” means the undertaking of activities authorised by this Order which are not part of the construction, commissioning or decommissioning of the authorised development;

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

“platforms” means the offshore structures housing or incorporating electrical equipment such as switchgear and transformers and high voltage reactive controls, electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, vessel charging facilities, communication and control systems, auxiliary and uninterruptible power supplies, energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“scour protection” means measures to prevent loss of seabed sediment around any structure placed in or on the seabed including by the use of bagged solutions, filled with grout or other materials, protective aprons, mattresses with or without frond devices, and rock and gravel placement;

“suction bucket foundation” means a tubular steel structure which partially or fully penetrates the seabed and associated equipment, including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“statutory historic body” means an organisation charged by the government with advising on matters related to historic buildings and monuments;

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

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

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

“undertaker” means Mona Offshore Wind Limited (company registration number 13497266) whose registered office address is Chertsey Road, Sunbury on Thames, Middlesex, United Kingdom, TW16 7BP;

“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 including communications equipment, fixed to a foundation or transition piece;

“works” means Work Area 1 and any related further associated development in connection with those Works; and

“the works plans” means the plans identified as “works plans – offshore” and “works plans – onshore” which provide an indicative work areas for the purpose of consultation under section 42 of the 2008 Act.

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

(3) In this licence, unless otherwise indicated—

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

(b) all coordinates are latitude and longitude degrees and minutes to two decimal places.

(4) Unless otherwise stated or agreed with the NRW, all notifications must be sent by the undertaker to the NRW [using MCMS]. Except where otherwise notified in writing by the relevant organisation, the addresses for correspondence for the purposes of this Schedule are—

(a) Centre for Environment, Fisheries and Aquaculture Science

Pakefield Road

Lowestoft

Suffolk

NR33 0HT

Tel: 01502 562 244

(b) [Cadw

Welsh Government

Ty’r Afon

Coed Bedwas Road

Caerphilly

CF83 8WT

Email: cadwplanning@gov.wales

Tel: 0300 025 6000]

- (c) Natural Resources Wales Marine Licensing Team
[TBC following discussions with relevant stakeholders]
- (d) Maritime and Coastguard Agency
Navigation Safety Branch
Bay 2/20
Spring Place
105 Commercial Road
Southampton
SO15 1EG
Tel: 020 3817 2433
- (e) Natural Resources Wales Advisory
[TBC following discussions with relevant stakeholders]
- (f) Trinity House
Tower Hill
London
EC3N 4DH
Tel: 020 7481 6900
- (g) United Kingdom Hydrographic Office
Admiralty Way
Taunton
Somerset
TA1 2DN
Tel: 01823 337 900

Details of licensed marine activities

2. Subject to the 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 of the substances and objects specified in paragraph 4 below;
- (b) the construction of works in or over the sea or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works or cable works;
- (d) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (e) site clearance and preparation works including debris, boulder clearance and the removal of out of service cables and static fishing equipment; and
- (f) the disposal of up to [x] cubic metres of inert material of natural origin within the Order limits produced during construction drilling or seabed preparation for foundation works, cable works and boulder clearance works at disposal site references to be provided to the NRW within the Order limits.

3. Such activities are authorised in relation to the construction, maintenance and operation of—

Work Area 1:

- (a) An offshore wind generating station with electrical output capacity of over 350MW comprising up to 107 wind turbine generators each fixed to seabed by a foundation;

- (b) A network of subsea inter-array cables between the wind turbine generators and offshore substation platforms including cables crossings and cable protection;
- (c) Up to four offshore substation platforms each fixed to seabed by a foundation; and
- (d) A network of subsea interconnector cables between the offshore substation platforms including cable crossings and protection.

In connection with the licensed activities in Work Area 1 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 project 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) the removal of material from the seabed 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 and pre-trenching; and
- (d) temporary landing places, moorings or other means of accommodating vessels in the construction or maintenance of the authorised project;
- (e) removal of static fishing equipment; and
- (f) marking buoys, beacons, fenders and other navigational warning or ship impact protection works.

4. The substances and objects authorised for deposit at sea are—

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

5. The activities set out in paragraph 3 are to be located within Work Area 1 as delineated on the works plans.

6. This licence, Marine Licence 2 and any marine licence granted by NRW or the MMO for the Mona offshore wind transmission works when taken together do not authorise the construction of more than one Work Area 1 or the construction of Work Area 1 in excess of the maximum parameters for that work set out in Schedule 1 to the Order.

7. 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.

8. The provisions of section 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 apply only to a transfer not falling within article 7 (benefit of order) of the Order.

9. With respect to any condition which requires the licensed activities be carried out in accordance with the details, plans or schemes approved under this licence, the approved details, plans or schemes are taken to include any amendments that may subsequently be approved in writing by NRW.

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

PART 2

Conditions

Design parameters

11. The authorised project must be constructed in accordance with the parameters assessed in the environmental statement and set out in Table 3.

Table 3

<i>Parameter</i>	<i>Value</i>
Maximum number of wind turbine generators	107
Maximum total rotor swept area (m ²)	5,252,350
Maximum height of wind turbine generators when measured from LAT to the tip of the vertical blade (m)	324
Maximum rotor diameter of each wind turbine generator (m)	280
Minimum distance from LAT to the lowest point of the rotating blade for each turbine (m)	34
Minimum distance between wind turbine generators in a row of wind turbine generators (m)	875
Minimum distance between rows of wind turbine generators (m)	1000
Maximum diameter of monopiles for wind turbine generators on monopile foundation (m)	16
Maximum diameter of pin piles for wind turbine generators on jacket pin-pile foundation (m)	5.5
Maximum diameter of gravity base at the seabed for wind turbine generators on gravity base foundations (m)	56
Maximum diameter of buckets for wind turbine generators on suction bucket jackets (m)	18
Maximum diameter of offshore substation platform monopile foundations (m)	16
Maximum diameter of offshore substation platform jacket pin-pile foundations (m)	5.5
Maximum diameter of gravity base at the seabed for offshore substation platforms on gravity base foundations (m)	80
Maximum diameter of buckets for offshore substation platforms on suction bucket jackets (m)	18
Maximum total seabed footprint for wind turbine generators (including scour protection) (m ²)	735,488
Maximum number of offshore substations	4
Maximum dimensions of offshore substation (excluding towers, helipads, masts, and cranes):	
(a) Height of main structure when measured from LAT (m)	70
(b) Length (m)	80

(c) Width (m)	60
Maximum total seabed footprint area for offshore substation foundations (including scour protection) (m ²)	24,964
Maximum total length of cables (inter-array and interconnector) (km)	550
Maximum number of cable crossings (inter-array and interconnector) (km)	77

Maintenance of the authorised project

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

(2) Maintenance works include but are not limited to—

- (a) Major wind turbine component or offshore substation platform replacement;
- (b) Painting and applying other coatings to wind turbine generators or offshore substation platforms;
- (c) Bird waste and marine growth removal;
- (d) Cable remedial burial;
- (e) Cable repairs and replacement;
- (f) Access ladder and boat landing replacement;
- (g) Wind turbine generator and substation platform anode replacement; and
- (h) J-tube repair/replacement.

(3) No maintenance works authorised by this licence may be carried out until an operations and maintenance plan substantially in accordance with the outline operations and maintenance plan has been submitted to and approved by NRW in writing.

Extension of time periods

13. Any time period given in this licence to either the undertaker or NRW may be extended with the agreement of the other party such agreement not to be unreasonably withheld or delayed.

Notifications and inspections

14.—(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 NRW in accordance with condition 21;
 - (ii) the masters and transport managers responsible for the vessels notified to NRW in accordance with condition 21;
- (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) must confirm receipt of this licence in writing to NRW.

(2) Only those persons and vessels notified to NRW in accordance with condition 21 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 and 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).

(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 NRW considers necessary to inspect the works during the construction and operation of the authorised project.

(6) The undertaker must inform NRW 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 licensed activity.

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

(a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data;

(b) on completion of construction of all offshore activities,

and confirmation of notification must be provided to NRW within five days.

(8) The undertaker must ensure that a notice to mariners is issued at least 14 days prior to the commencement of the authorised project or any part thereof advising of the start date of each of Work No 1 and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to NRW, MCA and UKHO within five days.

(9) The undertaker must ensure that notices to mariners are updated and reissued at regular intervals during construction activities and at least five days before any planned operations and maintenance works (or otherwise agreed) and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under condition 19(1)(b). Copies of all notices must be provided to NRW and UKHO within five days.

(10) The undertaker must notify UKHO of completion (within 14 days) of the authorised project or any part thereof in order that all necessary amendments to nautical charts are made. Copies of all notices must be provided to NRW and MCA within five days.

(11) In case of damage to, or destruction or decay of, the authorised project or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify NRW, MCA, Trinity House, the Kingfisher Information Service of Seafish and UKHO.

(12) In case of the exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners and inform the Kingfisher Information Service of Seafish of the location and extent of exposure. Copies of all notices must be provided to NRW, MCA, Trinity House, and UKHO within five days.

Aids to navigation

15.—(1) The undertaker must during the period from commencement of construction of the authorised project to completion of decommissioning of the authorised project 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 commencement of construction of the authorised project to completion of decommissioning of the authorised project keep Trinity House and NRW informed of progress of the authorised project including—

(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 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 19(1)(h) using the reporting system provided by Trinity House.

(4) The undertaker must during the period from commencement of the licensed activities to completion of decommissioning of the authorised project notify Trinity House and NRW 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 14(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.

Chemicals, drilling and debris

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

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

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

(4) The undertaker must inform NRW in writing of the location and quantities of material disposed of each month under this licence by submission of a disposal return by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within the Order limits.

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

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

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

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to NRW in accordance with the marine pollution contingency plan agreed under condition 19(1)(e).

(10) All dropped objects must be reported to NRW using a dropped object procedure form as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident. On receipt of a dropped object procedure form NRW may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and NRW may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

Force majeure

17. 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 or of the vessel is threatened, within 48 hours the undertaker must notify full details of the circumstances of the deposit to NRW.

UXO clearance

18.—(1) No removal or detonation of unexploded ordnance can take place until the following have been submitted to and approved in writing by NRW in consultation with the relevant statutory nature conservation body and, in respect of the method statement, the MCA—

- (a) a method statement for unexploded ordnance clearance which must include—
 - (i) methodologies for—
 - (aa) identification and investigation of potential unexploded ordnance targets;
 - (bb) clearance of unexploded ordnance;
 - (cc) removal and disposal of large debris;
 - (ii) a plan showing the area in which clearance activities are proposed to take place;
 - (iii) a programme of works; and
 - (iv) any exclusion zones/ environmental micro-siting requirements;
- (b) a marine mammal mitigation protocol in accordance with the draft marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation body.

(2) The method statement (excluding the information required under sub-paragraphs (1)(a)(ii) and (1)(a)(iii)) and the marine mammal mitigation protocol must be submitted to NRW for approval at least three months prior to the date on which it is intended for unexploded ordnance clearance activities to begin.

(3) Any unexploded ordnance clearance activities must be undertaken in accordance with the method statement and marine mammal mitigation protocol approved under sub-paragraph (1).

(4) Subject to paragraph (6), an unexploded ordnance close out report must be submitted to NRW and the relevant statutory nature conservation body within three months following the end of the unexploded ordnance clearance activity and must include the following for each detonation undertaken—

- (a) co-ordinates, depth, current speed, charge utilised and the date and time of each detonation; and
- (b) whether any mitigation was deployed including feedback on practicalities of deployment of equipment and efficacy of the mitigation where reasonably practicable, or justification if this information is not available.

(5) Should there be more than one unexploded ordnance clearance activity, the report required under paragraph (5) will be provided at intervals agreed with NRW.

Pre-construction plans and documentation

19.—(1) The licensed activities or any phase of those activities must not commence until the following (insofar as relevant to that activity or phase of activity) have been submitted to and approved in writing by NRW, in consultation with Trinity House, the MCA and UKHO as appropriate—

- (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, to be approved in writing by NRW in consultation with Trinity House and the MCA setting out proposed details of the authorised project, including the:
 - (i) number, dimensions, specification, foundation type(s) and depth for each wind turbine generator and offshore substation platform;

- (ii) grid coordinates of the centre point of the proposed location for each wind turbine generator and offshore substation platform;
 - (iii) proposed layout of all cables;
 - (iv) location and specification of all other aspects of the authorised project; and
 - (v) any archaeological exclusion zones
- to ensure conformity with Work Area 1 and compliance with conditions 11 and 12;
- (b) A construction programme to include details of—
 - (i) the proposed construction start date;
 - (ii) proposed timings for mobilisation of plant delivery of materials and installation works;
 - (iii) an indicative written construction programme for all wind turbine generators and offshore substation platforms forming part of the authorised project and licensed activities;
 - (c) A monitoring plan (which accords with the offshore in principle monitoring plan) to include details of proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with conditions 22, 23, 24 to be submitted to NRW in accordance with the following:-
 - (i) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed monitoring;
 - (ii) at least four months prior to commencement of construction, detail on construction monitoring;
 - (iii) at least four months prior to completion of construction, details of operational monitoring, if required.

unless otherwise agreed in writing with NRW.
 - (d) an offshore construction method statement in accordance with the construction methods assessed in the environmental statement, including details of—
 - (i) cable specification, installation and monitoring, to include—
 - (aa) the technical specification of the inter-array cables and interconnector cables ,
 - (bb) a detailed cable specification and installation plan for the authorised project, incorporating a cable burial risk assessment encompassing the identification of any cable protection that exceeds 5 percent of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5 percent 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; and
 - (cc) details of cable monitoring including details of cable protection until the authorised project is decommissioned which includes a risk based approach to the management of unburied or shallow buried cables;
 - (ii) scour protection management and cable protection management including details of the need, type, sources, quantity and installation methods for scour protection and cable protection, with details updated and resubmitted for approval if changes to it are proposed following cable laying operations;
 - (iii) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation and cable installation works and having regard to any mitigation scheme pursuant to subparagraph 1(i);
 - (iv) contractors;
 - (v) associated ancillary works; and
 - (vi) guard vessels to be employed;

- (e) an offshore environmental management plan covering the period of construction and operation 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 during construction and operation of the authorised project in relation to all activities carried out;
 - (ii) a chemical risk assessment, including information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) waste management and disposal arrangements;
 - (iv) the appointment and responsibilities of a fisheries liaison officer;
 - (v) a fisheries liaison and coexistence plan (which accords with the outline fisheries liaison and co-existence plan) to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to condition [3] and to address the interaction of the licensed activities with fishing activities; and
 - (vi) measures to minimise disturbance to marine mammals and rafting birds from vessels;
 - (vii) measures to minimise the potential spread of invasive non-native species
- (f) an offshore written scheme of investigation for archaeology in relation to the Order limits, which must accord with the outline offshore written scheme of investigation and industry good practice, in consultation with the statutory historic body to include—
 - (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
 - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
 - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to NRW within four months of any survey being completed;
 - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
 - (v) monitoring of archaeological exclusion zones during and post construction;
 - (vi) 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 an 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 project, and to notify NRW that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
 - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised project; and
 - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities;
- (g) an offshore operations and maintenance plan (in accordance with the outline offshore operations and maintenance plan), to be submitted to NRW 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;
- (h) an aids to navigation management plan to be agreed in writing by NRW following consultation with Trinity House specifying how the undertaker will ensure compliance with condition 8 from the commencement of construction of the authorised project to the completion of decommissioning;
- (i) in the event that driven or part-driven pile foundations are proposed to be used or in the event that unexploded ordnance clearance is required, a marine mammal mitigation protocol (in accordance with the draft marine mammal mitigation protocol), the intention

of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation body; and

- (j) A mitigation scheme for any benthic habitats of conservation, and/or importance constituting Annex I reef habitats identified by the survey referred to in condition 23(4)(a) and in accordance with the offshore in principle monitoring plan

(2) Pre-commencement surveys and archaeological investigations and pre-commencement material operations which involve intrusive seabed works 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 NRW.

Offshore safety management

20. No part of the authorised project may commence until NRW, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the project, adequately addressed all MCA recommendations as appropriate to the authorised project contained within MGN654 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” (or any equivalent guidance that replaces or supersedes it) and its annexes.

Reporting of engaged agents, contractors and vessels

21.—(1) The undertaker must provide the following information in writing to NRW—

- (a) the name, function, company number (if applicable), registered or head office address (as appropriate) of any agent or contractor appointed to engage in the 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) The undertaker must notify NRW in writing of any vessel being used to carry on any licensed activity listed in this licence on behalf of the undertaker. Such notification must be received by NRW no less than 24 hours before the commencement of the licensed activity. Notification must include the master’s name, vessel type, vessel IMO number and vessel owner or operating company

(3) Any changes to the supplied details must be notified to NRW in writing at least 24 hours before the agent, contractor or vessel engages in the licensed activities.

Pre-construction monitoring and surveys

22.—(1) The undertaker must, in discharging condition 19(1)(c) submit a monitoring plan or plans in accordance with the offshore in principle monitoring plan for written approval by NRW in consultation with the relevant statutory nature conservation body, which must contain details of proposed monitoring and surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report.

(2) The survey proposals submitted under sub-paragraph (1) must be in general accordance with the principles set out in the offshore in principle monitoring plan and must specify each survey’s objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position or will enable the validation or otherwise of key predictions in the environmental statement.

(3) The baseline report proposals submitted under sub-paragraph (1) must ensure that the outcome of the agreed surveys, together with existing data and reports, are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(4) The pre-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with NRW, have due regard to, but not be limited to, the need to undertake—

- (a) an appropriate survey to determine the location, extent and composition of any benthic habitats of conservation, and/or ecological importance constituting Annex 1 reef habitats in the parts of the Order limits in which it is proposed to carry out construction works; and
- (b) a swath-bathymetry survey to IHO Order 1a standard that meets the requirements of MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works.

(5) The undertaker must carry out the surveys specified within the monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by NRW in consultation with the relevant statutory nature conservation body.

Construction monitoring

23.—(1) The undertaker must, in discharging condition 19(1)(c), submit details (which accord with the offshore in principle monitoring plan) for approval in writing by NRW in consultation with the relevant statutory nature conservation bodies of any proposed monitoring, including methodologies and timings, to be carried out during the construction of the authorised project. The monitoring proposals must specify each monitoring proposal's objectives.

(2) In the event that driven or part-driven pile foundations are proposed, such monitoring must include measurements of underwater sound generated by the installation of the first four piled foundations of each piled foundation type to be installed unless NRW otherwise agrees in writing.

(3) The undertaker must carry out the monitoring approved under sub-paragraph (1), including any further underwater sound monitoring required in writing by NRW, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with NRW in consultation with the relevant statutory nature conservation bodies.

(4) The results of the initial underwater sound measurements monitored in accordance with sub-paragraph (2) must be provided to NRW within six weeks of the installation of the first four piled foundations. The assessment of this report by NRW will determine whether any further underwater sound monitoring is required. If, in the reasonable opinion of NRW in consultation with the relevant statutory nature conservation body, the assessment shows significantly different underwater sounds modelling result to those predicted to those assessed in the environmental statement or failures in mitigation, all piling activity must cease until an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.

(5) The undertaker must carry out the surveys specified in the offshore monitoring plan in accordance with that plan, including any further underwater sound monitoring required in writing by NRW under sub-paragraph (5), unless otherwise agreed in writing by NRW in consultation with the relevant statutory nature conservation body.

(6) Construction monitoring must include vessel traffic monitoring in accordance with the outline navigation monitoring strategy, including the provision of reports on the results of that monitoring at the end of each year of the construction period to NRW, MCA and Trinity House.

(7) In the event that piled foundations are proposed to be used, the details submitted in accordance with the marine mammal mitigation protocol must include proposals for monitoring marine mammals to ensure the ongoing efficacy of the marine mammal mitigation protocol.

Post-construction monitoring

24.—(1) The undertaker must, in discharging condition 19(1)(c) submit details (which accord with the offshore in principle monitoring plan) for approval in writing by NRW in consultation with relevant statutory nature conservation bodies of proposed post-construction monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results.

(2) The monitoring proposals must specify each monitoring proposal's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(3) The post-construction monitoring referred to in sub-paragraph (1) must, unless otherwise agreed in writing with NRW, have due regard to, but not be limited to, the need to—

- (a) in the event that such habitats were identified in the pre-construction survey undertake appropriate monitoring to determine any change in the location, extent and composition of any benthic habitats of conservation, and/or ecological importance constituting Annex 1 reef habitats in the parts of the Order limits in which construction works were carried out. The monitoring design must be informed by the results of the pre-construction benthic survey;
- (b) undertake, within 12 months of completion of the licensed activities, a full sea floor coverage swath-bathymetry survey that meets the requirements of MGN 654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables (including fibre optic cables) have been buried or protected; and
- (c) undertake post-construction traffic monitoring in accordance with the outline marine traffic monitoring plan, including the provision of reports on the results of that monitoring to NRW, MCA and Trinity House.

(4) The undertaker must carry out the monitoring agreed under sub-paragraph (1) and provide the agreed reports to NRW in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with NRW in consultation with the relevant statutory nature conservation bodies.

(5) Following the installation of cables, details of cable monitoring required under 19(1)(d) must be updated with the results of the post installation surveys. The statement must be implemented until the authorised scheme is implemented and reviewed as specified within the statement, following cable burial surveys, or as instructed by NRW.

Reporting of scour and cable protection

25.—(1) Not more than 6 months following completion of the construction of the authorised project, the undertaker must provide NRW and the relevant statutory nature conservation bodies with a report setting out details of the cable protection and scour protection used for the authorised project.

(2) The report must include the following information—

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

Completion of construction

26.—(1) The undertaker must submit a close-out report to NRW and the relevant statutory nature conservation body within six months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the following details—

- (a) the final number of installed wind turbine generators;
- (b) the installed wind turbine generator parameters;
- (c) as built plans;
- (d) latitude and longitude coordinates of the centre point of the location for each wind turbine generator and substation provided as Geographical Information System data referenced to WGS84 datum; and
- (e) latitude and longitude coordinates of the cables; provided as Geographical Information System data referenced to WGS84 datum.

(2) Following completion of construction, no further construction activities can be undertaken under this licence.

Marine Licence 2: Mona Offshore Wind Farm Generation Assets - Work
Nos. [x] – Marine Management Organisation

PART 1

Licensed marine activities

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

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

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

“2008 Act” means the Planning Act 2008;

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

“Annex 1 reef” means a reef of a type listed in Annex 1 to Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora;

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

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

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

“authorised project” means the authorised development within Work Area 1 and the further associated development described in paragraph 3 of Part 1 of this licence or any part of that work or development;

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

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

“business day” means a day other than a Saturday or Sunday or a bank holiday in England and Wales;

“cable” means up to 400kV cables for the transmission of electricity and includes direct lay cables, cables laid in cable ducts or protective covers, and further includes fibre optic and other communications cables either within the cable or laid alongside;

“cable crossings” means the crossing of existing sub-sea cables, pipelines or other existing infrastructure by the cables authorised by this Order together with cable protection;

“cable protection” means measures to protect cables from physical damage including but not limited to concrete mattresses, with or without frond devices, and/or rock placement, the use of bagged solutions filled with grout or other materials;

“commence” means the first carrying out of any licensed activities, save for pre-construction surveys, monitoring surveys, unexploded ordnance surveys and clearance of unexploded ordnance, and “commenced” and “commencement” must be construed accordingly;

“commercial operation” means in relation to any part of the authorised project, the exporting, transmission or conversion, on a commercial basis, of electricity;

(a) 1989 c.29.

(b) 2004 c.20 Section 105 was amended by section 69 of the Energy Act 2008 (c.32)

(c) 2009 c.23.

(d) 1971 c.80

[“draft marine mammal mitigation protocol” means the document certified as the draft marine mammal mitigation protocol by the Secretary of State under article 42 (certification of documents and plans etc) of the Order;]

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form;

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

“foundation” means any of: a monopile, multi-leg pin-piled jacket, multi-leg suction bucket jacket, or gravity base foundation;

“gravity base foundation” means a structure principally of steel, concrete, or steel and concrete with a base which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“HAT” means highest astronomical tide;

“HVAC” means high voltage alternating current;

“inter-array cables” means the cables linking the wind turbine generators to each other and to the offshore substation platforms;

“interconnector cables” means the cables linking the offshore substation platforms to each other;

“intrusive activities” means activities including anchoring of vessels, jacking up of vessels, temporary deposits and temporary wet storage areas;

“jacket foundation” means a steel jacket/lattice-type structure constructed of steel, fixed to the seabed with steel pin piles or steel suction buckets and associated equipment including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“LAT” means lowest astronomical tide;

“LiDAR” means a light detection and ranging system used to measure weather and sea conditions;

“licensed activities” means those activities detailed in under article 2 of Schedule 15 (deemed marine licence)

“m” means metres and “m²” means metres squared;

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

“Marine Management Organisation” means the body created under the 2009 Act which is responsible for the regulation of this licence or any successor of that function and “MMO” must be construed accordingly;

“MCA” means the Maritime and Coastguard Agency, the executive agency of the Department for Transport;

“MCMS” means the Marine Case Management System web portal provided and operated by the MMO;

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

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

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

“Natural Resources Wales” means the body acting on behalf of the Welsh Ministers pursuant to those powers under the 2009 Act which is responsible for the regulation of the licence at Schedule 14 or any successor of that function and “NRW” must be construed accordingly;

[“the offshore in principle monitoring plan means the document certified as the offshore in principle monitoring plan by the Secretary of State under article 42 (certification of documents and plans etc) of the Order;]

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

- (a) electrical equipment required to switch, transform or convert electricity generated at the wind turbine generators to a higher voltage and provide reactive power compensation, including high voltage power transformers, high voltage switchgear and busbars, substation auxiliary systems and low voltage distribution, instrumentation, metering equipment and control systems, standby generators, shunt reactors, auxiliary and uninterruptible power supply systems;
- (b) accommodation, storage, workshop auxiliary equipment and facilities for operating, maintaining and controlling the substation or wind turbine generators, including navigation, aviation and safety marketing and lighting, systems for vessel access and retrieval, cranes, potable water supply, black water separation, stores, fuels and spares, communications systems and control hub facilities;

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

[“the outline fisheries liaison and co-existence plan” means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State under article 42 for the purposes of this Order;]

[“the outline navigation monitoring strategy” means the document certified as the outline navigation monitoring strategy by the Secretary of State under article 42 for the purposes of this Order;]

[“outline onshore and intertidal written scheme of investigation” means the document certified as the outline onshore and intertidal written scheme of investigation by the Secretary of State under article 42 for the purposes of this Order;]

[“the 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 42 for the purposes of this Order;]

[“the outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State under article 42 for the purposes of this Order;]

“operation” means the undertaking of activities authorised by this Order which are not part of the construction, commissioning or decommissioning of the authorised development;

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

“platforms” means the offshore structures housing or incorporating electrical equipment such as switchgear and transformers and high voltage reactive controls, electrical systems such as metering and control systems, J-tubes, landing facilities for vessels and helicopters, re-fuelling facilities, vessel charging facilities, communication and control systems, auxiliary and uninterruptible power supplies, energy storage systems, standby electricity generation equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“scour protection” means measures to prevent loss of seabed sediment around any structure placed in or on the seabed including by the use of bagged solutions, filled with grout or other materials, protective aprons, mattresses with or without frond devices, and rock and gravel placement;

“suction bucket foundation” means a tubular steel structure which partially or fully penetrates the seabed and associated equipment, including scour protection, J-tubes, corrosion protection systems and access platforms and equipment;

“statutory historic body” means an organisation charged by the government with advising on matters related to historic buildings and monuments;

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

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

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

“undertaker” means Mona Offshore Wind Limited (company registration number 13497266) whose registered office address is Chertsey Road, Sunbury on Thames, Middlesex, United Kingdom, TW16 7BP;

“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 including communications equipment, fixed to a foundation or transition piece;

“works” means Work Area 1 and any related further associated development in connection with those Works; and

“the works plans” means the plans identified as “works plans – offshore” and “works plans – onshore” which provide an indicative work area for the purpose of consultation under section 42 of the 2008 Act.

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

(3) In this licence, unless otherwise indicated—

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

(b) all coordinates are latitude and longitude degrees and minutes to two decimal places.

(4) Unless otherwise stated or agreed with the MMO, all notifications must be sent by the undertaker to the MMO using MCMS. Except where otherwise notified in writing by the relevant organisation, the addresses for correspondence for the purposes of this Schedule are—

(a) Centre for Environment, Fisheries and Aquaculture Science

Pakefield Road

Lowestoft

Suffolk

NR33 0HT

Tel: 01502 562 244

(b) [Historic England

3rd Floor Canada House

3 Chepstow Street

Manchester

M1 5FW

Tel: 0161 242 1416]

- (c) Marine Management Organisation
Marine Licensing Team
Lancaster House
Hampshire Court
Newcastle upon Tyne
NE4 7YH
Email: marine.consent@marinemanagement.org.uk
Tel: 0300 123 1032
- (d) *Marine Management Organisation (local office)*
[TBC following discussions with relevant stakeholders]
- (e) Marine Management Organisation
Marine Pollution Response Team
Tel. (during office hours): 0300 200 2024,
Tel. (outside office hours): 07770 977 825 or 0845 051 8486
Email: dispersants@marinemanagement.org.uk
- (f) Maritime and Coastguard Agency
Navigation Safety Branch
Bay 2/20
Spring Place
105 Commercial Road
Southampton
SO15 1EG
Tel: 020 3817 2433
- (g) Natural England
[address to be provided at application]
- (h) Trinity House
Tower Hill
London
EC3N 4DH
Tel: 020 7481 6900
- (i) United Kingdom Hydrographic Office
Admiralty Way
Taunton
Somerset
TA1 2DN
Tel: 01823 337 900

Details of licensed marine activities

2. Subject to the 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 of the substances and objects specified in paragraph 4 below;
- (b) the construction of works in or over the sea or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works or cable works;

- (d) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (e) site clearance and preparation works including debris, boulder clearance and the removal of out of service cables and static fishing equipment; and
- (f) the disposal of up to [x] cubic metres of inert material of natural origin within the Order limits produced during construction drilling or seabed preparation for foundation works, cable works and boulder clearance works at disposal site references to be provided to the MMO within the Order limits.

3. Such activities are authorised in relation to the construction, maintenance and operation of—

Work Area 1:

- (a) An offshore wind generating station with electrical output capacity of over 350MW comprising up to 107 wind turbine generators each fixed to seabed by a foundation;
- (b) A network of subsea inter-array cables between the wind turbine generators and offshore substation platforms including cables crossings and cable protection;
- (c) Up to four offshore substation platforms each fixed to seabed by a foundation; and
- (d) A network of subsea interconnector cables between the offshore substation platforms including cable crossings and protection.

In connection with the licensed activities in Work Area 1 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 project 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) the removal of material from the seabed 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 and pre-trenching; and
- (d) temporary landing places, moorings or other means of accommodating vessels in the construction or maintenance of the authorised project;
- (e) removal of static fishing equipment; and
- (f) marking buoys, beacons, fenders and other navigational warning or ship impact protection works.

4. The substances and objects authorised for deposit at sea are—

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

5. The activities set out in paragraph 3 are to be located within Work Area 1 as delineated on the works plans.

6. This licence, Marine Licence 1 and any marine licence granted by NRW or the MMO for the Mona offshore wind transmission works when taken together do not authorised the construction of

more than one Work Area 1 or the construction of Work Area 1 in excess of the maximum parameters for that work set out in Schedule 1 to the Order.

7. 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.

8. The provisions of section 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 apply only to a transfer not falling within article 7 (benefit of order) of the Order.

9. With respect to any condition which requires the licensed activities be carried out in accordance with the details, plans or schemes approved under this licence, the approved details, plans or schemes are taken to include any amendments that may subsequently be approved in writing by MMO.

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

PART 2

Conditions

Design parameters

11. The authorised project must be constructed in accordance with the parameters assessed in the environmental statement and set out in Table 4.

Table 4

<i>Parameter</i>	<i>Value</i>
Maximum number of wind turbine generators	107
Maximum total rotor swept area (m ²)	5,252,350
Maximum height of wind turbine generators when measured from LAT to the tip of the vertical blade (m)	324
Maximum rotor diameter of each wind turbine generator (m)	280
Minimum distance from LAT to the lowest point of the rotating blade for each turbine (m)	34
Minimum distance between wind turbine generators in a row of wind turbine generators (m)	875
Minimum distance between rows of wind turbine generators (m)	1000
Maximum diameter of monopiles for wind turbine generators on monopile foundation (m)	16
Maximum diameter of pin piles for wind turbine generators on jacket pin-pile foundation (m)	5.5
Maximum diameter of gravity base at the seabed for wind turbine generators on gravity base foundations (m)	56
Maximum diameter of buckets for wind turbine generators on suction bucket jackets (m)	18
Maximum diameter of offshore substation platform monopile foundations (m)	16
Maximum diameter of offshore substation platform jacket pin-pile foundations (m)	5.5

Maximum diameter of gravity base at the seabed for offshore substation platforms on gravity base foundations (m)	80
Maximum diameter of buckets for offshore substation platforms on suction bucket jackets (m)	18
Maximum total seabed footprint for wind turbine generators (including scour protection) (m ²)	735,488
Maximum number of offshore substations	4
Maximum dimensions of offshore substation (excluding towers, helipads, masts, and cranes):	
(a) Height of main structure when measured from LAT (m)	70
(b) Length (m)	80
(c) Width (m)	60
Maximum total seabed footprint area for offshore substation foundations (including scour protection) (m ²)	24,964
Maximum total length of cables (inter-array and interconnector) (km)	550
Maximum number of cable crossings (inter-array and interconnector) (km)	77

Maintenance of the authorised project

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

(2) Maintenance works include but are not limited to—

- (a) Major wind turbine component or offshore substation platform replacement;
- (b) Painting and applying other coatings to wind turbine generators or offshore substation platforms;
- (c) Bird waste and marine growth removal;
- (d) Cable remedial burial;
- (e) Cable repairs and replacement;
- (f) Access ladder and boat landing replacement;
- (g) Wind turbine generator and substation platform anode replacement; and
- (h) J-tube repair/replacement.

(3) No maintenance works authorised by this licence may be carried out until an operations and maintenance plan substantially in accordance with the outline operations and maintenance plan has been submitted to and approved by the MMO in writing.

Extension of time periods

13. Any time period given in this licence to either the undertaker or the MMO may be extended with the agreement of the other party such agreement not to be unreasonably withheld or delayed.

Notifications and inspections

14.—(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 21;
 - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with condition 21;

- (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) must confirm receipt of this licence in writing to the MMO.
- (2) Only those persons and vessels notified to the MMO in accordance with condition 21 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 and 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).
- (5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during the construction and operation of the authorised project.
- (6) The undertaker must inform the MMO Local 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 licensed activity.
- (7) The undertaker must inform the Kingfisher Information Service of Seafish by email to kingfisher@seafish.co.uk of details of the vessel routes, timings and locations relating to the construction of the authorised project or relevant part—
- (a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data;
 - (b) on completion of construction of all offshore activities,
- and confirmation of notification must be provided to the MMO within five days.
- (8) The undertaker must ensure that a notice to mariners is issued at least 14 days prior to the commencement of the authorised project or any part thereof advising of the start date of each of Work No 1 and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UKHO within five days.
- (9) The undertaker must ensure that notices to mariners are updated and reissued at regular intervals during construction activities and at least five days before any planned operations and maintenance works (or otherwise agreed) and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under condition 19(1)(b). Copies of all notices must be provided to the MMO and UKHO within five days.
- (10) The undertaker must notify UKHO of completion (within 14 days) of the authorised project or any part thereof in order that all necessary amendments to nautical charts are made. Copies of all notices must be provided to the MMO and MCA within five days.
- (11) In case of damage to, or destruction or decay of, the authorised project or any part thereof, excluding the exposure of cables, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, MCA, Trinity House, the Kingfisher Information Service of Seafish and UKHO.
- (12) In case of the exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners and inform the Kingfisher Information Service of Seafish of the location and extent of exposure. Copies of all notices must be provided to the MMO, MCA, Trinity House, and UKHO within five days.

Aids to navigation

15.—(1) The undertaker must during the period from commencement of construction of the authorised project to completion of decommissioning of the authorised project 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 commencement of construction of the authorised project to completion of decommissioning of the authorised project keep Trinity House and the MMO informed of progress of the authorised project including—

- (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 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 20(1)(h) using the reporting system provided by Trinity House.

(4) The undertaker must during the period from commencement of the licensed activities to completion of decommissioning of the authorised project 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 14(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.

Chemicals, drilling and debris

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

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

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

(4) The undertaker must inform the MMO in writing of the location and quantities of material disposed of each month under this licence by submission of a disposal return by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within the Order limits.

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

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

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

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 20(1)(d)(i).

(10) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident. On receipt of the Dropped Object Procedure Form the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

Force majeure

17. 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 or of the vessel is threatened, within 48 hours the undertaker must notify full details of the circumstances of the deposit to the MMO.

UXO clearance

18.—(1) No removal or detonation of unexploded ordnance can take place until the following have been submitted to and approved in writing by the MMO in consultation with the relevant statutory nature conservation body and, in respect of the method statement, the MCA—

- (a) a method statement for unexploded ordnance clearance which must include—
 - (i) methodologies for—
 - (aa) identification and investigation of potential unexploded ordnance targets;
 - (bb) clearance of unexploded ordnance;
 - (cc) removal and disposal of large debris;
 - (ii) a plan showing the area in which clearance activities are proposed to take place;
 - (iii) a programme of works; and
 - (iv) any exclusion zones/ environmental micro-siting requirements;
- (b) a marine mammal mitigation protocol in accordance with the draft marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation body.

(2) The method statement (excluding the information required under sub-paragraphs (1)(a)(ii) and (1)(a)(iii)) and the marine mammal mitigation protocol must be submitted to the MMO for approval at least three months prior to the date on which it is intended for unexploded ordnance clearance activities to begin.

(3) Any unexploded ordnance clearance activities must be undertaken in accordance with the method statement and marine mammal mitigation protocol approved under sub-paragraph (1).

(4) Subject to paragraph (6), an unexploded ordnance clearance report must be submitted to the MMO and the relevant statutory nature conservation body within three months following the end of the unexploded ordnance clearance activity and must include the following for each detonation undertaken—

- (a) co-ordinates, depth, current speed, charge utilised and the date and time of each detonation; and
- (b) whether any mitigation was deployed including feedback on practicalities of deployment of equipment and efficacy of the mitigation where reasonably practicable, or justification if this information is not available.

(5) Should there be more than one unexploded ordnance clearance activity, the report required under paragraph (4) will be provided at intervals agreed with the MMO.

Pre-construction plans and documentation

19.—(1) The licensed activities or any phase of those activities must not commence until the following (insofar as relevant to that activity or phase of activity) have been submitted to and approved in writing by the MMO, in consultation with Trinity House, the MCA and UKHO as appropriate—

- (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, to be approved in writing by the MMO in consultation with Trinity House and the MCA setting out proposed details of the authorised project, including the:
 - (i) number, dimensions, specification, foundation type(s) and depth for each wind turbine generator and offshore substation platform;
 - (ii) grid coordinates of the centre point of the proposed location for each wind turbine generator and offshore substation platform;
 - (iii) proposed layout of all cables;
 - (iv) location and specification of all other aspects of the authorised project; and
 - (v) any archaeological exclusion zonesto ensure conformity with Work Area 1 and compliance with conditions 11 and 12;
- (b) A construction programme to include details of—
 - (i) the proposed construction start date;
 - (ii) proposed timings for mobilisation of plant delivery of materials and installation works;
 - (iii) an indicative written construction programme for all wind turbine generators and offshore substation platforms forming part of the authorised project and licensed activities;
- (c) A monitoring plan (which accords with the offshore in principle monitoring plan) to include details of proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with conditions 22, 23, 24 to be submitted to the MMO in accordance with the following:-
 - (i) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed monitoring;
 - (ii) at least four months prior to construction, detail on construction monitoring;
 - (iii) at least four months prior to completion of construction, details of operational monitoring, if required
unless otherwise agreed in writing with the MMO.
- (d) an offshore construction method statement in accordance with the construction methods assessed in the environmental statement, including details of—
 - (i) cable specification, installation and monitoring, to include—
 - (aa) the technical specification of the inter-array cables and interconnector cables ,
 - (bb) a detailed cable specification and installation plan for the authorised project, incorporating a cable burial risk assessment encompassing the identification of any cable protection that exceeds 5 percent of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5 percent 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; and
 - (cc) details of cable monitoring including details of cable protection until the authorised project is decommissioned which includes a risk based approach to the management of unburied or shallow buried cables;

- (ii) scour protection management and cable protection management including details of the need, type, sources, quantity and installation methods for scour protection and cable protection, with details updated and resubmitted for approval if changes to it are proposed following cable laying operations;
- (iii) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation and cable installation works and having regard to any mitigation scheme pursuant to subparagraph 1(j);
- (iv) contractors;
- (v) associated ancillary works; and
- (vi) guard vessels to be employed;
- (e) an offshore environmental management plan covering the period of construction and operation 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 during construction and operation of the authorised project in relation to all activities carried out;
 - (ii) a chemical risk assessment, including information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) waste management and disposal arrangements;
 - (iv) the appointment and responsibilities of a fisheries liaison officer;
 - (v) a fisheries liaison and coexistence plan (which accords with the outline fisheries liaison and co-existence plan) to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to condition 3 and to address the interaction of the licensed activities with fishing activities; and
 - (vi) measures to minimise disturbance to marine mammals and rafting birds from vessels;
 - (vii) measures to minimise the potential spread of invasive non-native species
- (f) an offshore written scheme of investigation for archaeology in relation to the Order limits, which must accord with the outline offshore written scheme of investigation and industry good practice, in consultation with the statutory historic body to include—
 - (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
 - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
 - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
 - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
 - (v) monitoring of archaeological exclusion zones during and post construction;
 - (vi) 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 project, 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;
 - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised project; and
 - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order

limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities;

- (g) an offshore operations and maintenance plan (in accordance with the outline 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;
- (h) an aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House specifying how the undertaker will ensure compliance with condition 8 from the commencement of construction of the authorised project to the completion of decommissioning;
- (i) in the event that driven or part-driven pile foundations are proposed to be used or in the event that unexploded ordnance clearance is required, a marine mammal mitigation protocol (in accordance with the draft marine mammal mitigation protocol), the intention of which is to prevent injury to marine mammals, following current best practice as advised by the relevant statutory nature conservation body; and
- (j) A mitigation scheme for any benthic habitats of conservation, and/or importance constituting Annex I reef habitats identified by the survey referred to in condition 22(4)(a) and in accordance with the offshore in principle monitoring plan

(2) Pre-commencement surveys and archaeological investigations and pre-commencement material operations which involve intrusive seabed works 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.

Offshore safety management

20. No part of the authorised project may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the project, adequately addressed all MCA recommendations as appropriate to the authorised project contained within MGN654 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” (or any equivalent guidance that replaces or supersedes it) and its annexes.

Reporting of engaged agents, contractors and vessels

21.—(1) The undertaker must provide the following information in writing to the MMO—

- (a) the name, function, company number (if applicable), registered or head office address (as appropriate) of any agent or contractor appointed to engage in the 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) The undertaker must notify the MMO in writing of any vessel being used to carry on any licensed activity listed in this licence on behalf of the undertaker. Such notification must be received by the MMO no less than 24 hours before the commencement of the licensed activity. Notification must include the master’s name, vessel type, vessel IMO number and vessel owner or operating company

(3) Any changes to the supplied details must be notified to the MMO in writing at least 24 hours before the agent, contractor or vessel engages in the licensed activities.

Pre-construction monitoring and surveys

22.—(1) The undertaker must, in discharging condition 19(1)(c) submit a monitoring plan or plans in accordance with the offshore in principle monitoring plan for written approval by the MMO in consultation with the relevant statutory nature conservation body, which must contain details of

proposed monitoring and surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report.

(2) The survey proposals submitted under sub-paragraph (1) must be in general accordance with the principles set out in the offshore in principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position or will enable the validation or otherwise of key predictions in the environmental statement.

(3) The baseline report proposals submitted under sub-paragraph (1) must ensure that the outcome of the agreed surveys, together with existing data and reports, are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(4) The pre-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) an appropriate survey to determine the location, extent and composition of any benthic habitats of conservation, and/or ecological importance constituting Annex 1 reef habitats in the parts of the Order limits in which it is proposed to carry out construction works; and
- (b) a swath-bathymetry survey to IHO Order 1a standard that meets the requirements of MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works.

(5) The undertaker must carry out the surveys specified within the monitoring plan or plans in accordance with that plan or plans, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

Construction monitoring

23.—(1) The undertaker must, in discharging condition 19(1)(c), submit details (which accord with the offshore in principle monitoring plan) for approval in writing by the MMO in consultation with the relevant statutory nature conservation bodies of any proposed monitoring, including methodologies and timings, to be carried out during the construction of the authorised project. The monitoring proposals must specify each monitoring proposal's objectives.

(2) In the event that driven or part-driven pile foundations are proposed, such monitoring must include measurements of underwater sound generated by the installation of the first four piled foundations of each piled foundation type to be installed unless the MMO otherwise agrees in writing.

(3) The undertaker must carry out the monitoring approved under sub-paragraph (1), including any further underwater sound monitoring required in writing by the MMO, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(4) The results of the initial underwater sound measurements monitored in accordance with sub-paragraph (2) must be provided to the MMO within six weeks of the installation of the first four piled foundations. The assessment of this report by the MMO will determine whether any further underwater sound monitoring is required. If, in the reasonable opinion of the MMO in consultation with the relevant statutory nature conservation body, the assessment shows significantly different underwater sounds modelling result to those predicted to those assessed in the environmental statement or failures in mitigation, all piling activity must cease until an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.

(5) The undertaker must carry out the surveys specified in the offshore monitoring plan in accordance with that plan, including any further underwater sound monitoring required in writing by the MMO under sub-paragraph (4), unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

(6) Construction monitoring must include vessel traffic monitoring in accordance with the outline navigation monitoring strategy, including the provision of reports on the results of that monitoring at the end of each year of the construction period to the MMO, MCA and Trinity House.

(7) In the event that piled foundations are proposed to be used, the details submitted in accordance with the marine mammal mitigation protocol must include proposals for monitoring marine mammals to ensure the ongoing efficacy of the marine mammal mitigation protocol.

Post-construction monitoring

24.—(1) The undertaker must, in discharging condition 19(1)(c) submit details (which accord with the offshore in principle monitoring plan) for approval in writing by the MMO in consultation with relevant statutory nature conservation bodies of proposed post-construction monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results.

(2) The monitoring proposals must specify each monitoring proposal's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(3) The post-construction monitoring referred to in sub-paragraph (1) must, unless otherwise agreed in writing with the MMO, have due regard to, but not be limited to, the need to—

- (a) in the event that such habitats were identified in the pre-construction survey undertake appropriate monitoring to determine any change in the location, extent and composition of any benthic habitats of conservation, and/or ecological importance constituting Annex 1 reef habitats in the parts of the Order limits in which construction works were carried out. The monitoring design must be informed by the results of the pre-construction benthic survey;
- (b) undertake, within 12 months of completion of the licensed activities, a full sea floor coverage swath-bathymetry survey that meets the requirements of MGN 654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables (including fibre optic cables) have been buried or protected; and
- (c) undertake post-construction traffic monitoring in accordance with the outline marine traffic monitoring plan, including the provision of reports on the results of that monitoring to the MMO, MCA and Trinity House.

(4) The undertaker must carry out the monitoring agreed under sub-paragraph (1) and provide the agreed reports to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(5) Following the installation of cables, details of cable monitoring required under 19(1)(d) must be updated with the results of the post installation surveys. The statement must be implemented until the authorised scheme is implemented and reviewed as specified within the statement, following cable burial surveys, or as instructed by the MMO.

Reporting of scour and cable protection

25.—(1) Not more than 6 months following completion of the construction of the authorised project, the undertaker must provide the MMO and the relevant statutory nature conservation bodies with a report setting out details of the cable protection and scour protection used for the authorised project.

(2) The report must include the following information—

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

Completion of construction

26.—(1) The undertaker must submit a close-out report to the MMO and the relevant statutory nature conservation body within six months of the date of completion of construction. The close out report must confirm the date of completion of construction and must include the following details—

- (a) the final number of installed wind turbine generators;
- (b) the installed wind turbine generator parameters;
- (c) as built plans;
- (d) latitude and longitude coordinates of the centre point of the location for each wind turbine generator and substation provided as Geographical Information System data referenced to WGS84 datum; and
- (e) latitude and longitude coordinates of the cables; provided as Geographical Information System data referenced to WGS84 datum.

(2) Following completion of construction, no further construction activities can be undertaken under this licence.

SCHEDULE 16

Article 42

Documents to be certified

The following documents, including those listed in Table 5, are the list referred to in article 42—

Table 5

<i>Document Number</i>	<i>Name</i>	<i>Date</i>
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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 generating station located in the Irish Sea approximately 28 kilometres from the coast of North Wales, together with associated development. This Order imposes requirements in connection with the development and authorises the compulsory purchase of land (including rights in land) and the right to use land and to override easements and other rights.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 42 (certification of plans) together with a copy of any guarantee or alternative form of security approved by the Secretary of State pursuant to article 31 (funding), may be inspected free of charge at the offices of [X].