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STATUTORY INSTRUMENTS

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**2014 No. 1599**

**The East Anglia ONE Offshore Wind Farm Order 2014**

**PART 7**

Miscellaneous and general

**Application of landlord and tenant law**

**30.**—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised project or the right to operate the same; and
- (b) any agreement entered into by the undertakers with any person for the construction, maintenance, use or operation of the authorised project, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

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

(3) Accordingly, no such enactment or rule of law shall 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).

**Operational land for purposes of the 1990 Act**

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

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

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

(2) In carrying out any activity authorised by paragraph (1), the undertakers shall do no unnecessary damage to any tree or shrub and shall 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, shall be determined under Part 1 of the 1961 Act.

(4) The undertakers may, for the purposes of the authorised project—

- (a) subject to paragraph (2), remove any hedgerows within the Order limits that may be required for the purposes of carrying out the authorised project; and
- (b) remove the important hedgerows as are within the Order limits and specified in Schedule 12 (removal of important hedgerows).

(5) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerow Regulations 1997(1).

### **Certification of plans etc.**

**33.**—(1) The undertakers shall, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

(a) the works plan—

- document reference 2.3(a) sheet 1-4 Sep-13 rev C;
- document reference 2.3(b) sheet 5-9 Sep-13 rev C;
- document reference 2.3(c) sheet 10-14 Sep-13 rev C;
- document reference 2.3(d) sheet 15-19 Sep-13 rev C;
- document reference 2.3(e) sheet 20-24 Sep-13 rev C;
- document reference 2.3(f) sheet 25-28 Sep-13 rev C;

(b) the order limits boundary coordinates plan—

- document reference 2.13 sheet 1 of 2 Nov-13 rev D;
- document reference 2.13 -sheet 2 Nov-12 rev A;

(c) the land plan—

- document reference 2.2(a) sheet 1-5 Sep-13 rev C;
- document reference 2.2(b) sheet 6-10 Sep-13 rev C;
- document reference 2.2(c) sheet 11-15 Sep-13 rev C;
- document reference 2.2(d) sheet 16-19 Sep-13 rev C;
- document reference 2.2(e) sheet 20-22 Sep-13 rev C;

(d) the important hedgerows plan—

- document reference 2.6 sheet 1 of 13 Sep-13 rev C;
- document reference 2.6 sheet 2 of 13 Sep-13 rev C;
- document reference 2.6 sheet 3 of 13 Sep-13 rev C;
- document reference 2.6 sheet 4 of 13 Sep-13 rev C;
- document reference 2.6 sheet 5 of 13 Sep-13 rev C;
- document reference 2.6 sheet 6 of 13 Sep-13 rev C;
- document reference 2.6 sheet 7 of 13 Sep-13 rev C;

document reference 2.6 sheet 8 of 13 Sep-13 rev C;  
document reference 2.6 sheet 9 of 13 Sep-13 rev C;  
document reference 2.6 sheet 10 of 13 Sep-13 rev C;  
document reference 2.6 sheet 11 of 13 Sep-13 rev C;  
document reference 2.6 sheet 12 of 13 Sep-13 rev C;  
document reference 2.6 sheet 13 of 13 Sep-13 rev C;

(e) the public rights of way plan—

document reference 2.4 sheet 1 of 13 Sep-13 rev C;  
document reference 2.4 sheet 2 of 13 Sep-13 rev C;  
document reference 2.4 sheet 3 of 13 Sep-13 rev C;  
document reference 2.4 sheet 4 of 13 Sep-13 rev C;  
document reference 2.4 sheet 6 of 13 Sep-13 rev C;  
document reference 2.4 sheet 7 of 13 Nov-13 rev E;  
document reference 2.4 sheet 8 of 13 Nov-13 rev E;  
document reference 2.4 sheet 9 of 13 Sep-13 rev C;  
document reference 2.4 sheet 10 of 13 Sep-13 rev C;  
document reference 2.4 sheet 11 of 13 Sep-13 rev C;  
document reference 2.4 sheet 12 of 13 Sep-13 rev C;  
document reference 2.4 sheet 13 of 13 Sep-13 rev C;

(f) the access to works plan—

document reference 2.5 sheet 1 of 22 Sep-13 rev C;  
document reference 2.5 sheet 2 of 22 Sep-13 rev C;  
document reference 2.5 sheet 3 of 22 Sep-13 rev C;  
document reference 2.5 sheet 4 of 22 Sep-13 rev C;  
document reference 2.5 sheet 5 of 22 Sep-13 rev C;  
document reference 2.5 sheet 6 of 22 Sep-13 rev C;  
document reference 2.5 sheet 7 of 22 Sep-13 rev C;  
document reference 2.5 sheet 8 of 22 Sep-13 rev C;  
document reference 2.5 sheet 9 of 22 Sep-13 rev C;  
document reference 2.5 sheet 10 of 22 Sep-13 rev C;  
document reference 2.5 sheet 11 of 22 Nov-13 rev D;  
document reference 2.5 sheet 12 of 22 Nov-13 rev E;  
document reference 2.5 sheet 13 of 22 Sep-13 rev C;  
document reference 2.5 sheet 14 of 22 Sep-13 rev C;  
document reference 2.5 sheet 15 of 22 Sep-13 rev C;  
document reference 2.5 sheet 16 of 22 Sep-13 rev C;  
document reference 2.5 sheet 17 of 22 Sep-13 rev C;  
document reference 2.5 sheet 18 of 22 Sep-13 rev C;  
document reference 2.5 sheet 19 of 22 Sep-13 rev C;

- document reference 2.5 sheet 20 of 22 Sep-13 rev C;  
document reference 2.5 sheet 21 of 22 Sep-13 rev C;  
document reference 2.5 sheet 22 of 22 Sep-13 rev C;
- (g) the book of reference (November 2013 – version 6);
  - (h) the outline converter station design principles statement (November 2013 – version 3);
  - (i) the outline written scheme of investigation: archaeology and cultural heritage (onshore) (July 2013 rev 1);
  - (j) the outline code of construction practice (October 2013 – version 3);
  - (k) the outline landscape and ecological management strategy (October 2013 – version 2);
  - (l) the outline traffic management plan (October 2013 – version 3);
  - (m) the outline travel plan (October 2013 – version 3);
  - (n) the outline access management plan (October 2013 – version 3);
  - (o) the outline Bawdsey bed level monitoring and remediation strategy (October 2013 – version 1);
  - (p) the draft written scheme of investigation: archaeology and cultural heritage (offshore) (July 2013 – version 1);
  - (q) the outline offshore operations and maintenance and monitoring plan (October 2013 – version 1);
  - (r) the outline navigation monitoring strategy (October 2013 – version 1);
  - (s) the outline skills strategy (October 2013 – version 1); and
  - (t) the environmental statement and the further environmental information

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

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

### **Arbitration**

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

### **Requirements, appeals, etc.**

**35.—**(1) The provisions of section 72 of the 1990 Act shall apply so that requirements 10 to 32 are deemed to be imposed as and as if they were conditions imposed upon the grant of planning permission pursuant to section 72 of the 1990 Act and the development consent granted by this Order was a planning permission granted under the 1990 Act.

(2) Subsection (1) of section 78 of the 1990 Act shall apply to the development consent granted by this Order and to the requirements specified in paragraph (1) except that it shall be modified so as to read for the purposes of this Order only as if there were inserted after paragraph (b) the following—

- “(bb) refuse 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”.

(3) Sections 78 and 79 of the 1990 Act shall have effect in relation to any appeal under the terms of this article except that the Secretary of State in question shall be 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) of the 2008 Act applied.

(4) The terms of any development order, and other rules and regulations, including without limitation regulations requiring environmental impact assessment, and which apply to applications pursuant to conditions or the subject matter of section 78 of the 1990 Act shall apply to any application or appeal made under the requirements specified in paragraph (1).

#### **Abatement of works abandoned or decayed**

**36.** Where Work No. 1(a) to (c) and Work No. 2 or any part of it is abandoned or allowed to fall into decay the Secretary of State may, following consultation with the undertakers, issue a written notice requiring the undertakers at its own expense to repair and restore or remove Work No. 1(a) to (c) and Work No. 2 or any relevant part of it, without prejudice to any notice served under section 105(2) of the 2004 Act. The notice may also require the restoration of the site of the relevant part(s) of Work No. 1(a) to (c) and Work No. 2 to a safe and proper condition within an area and to such an extent as may be specified in the notice.

#### **Saving provisions for Trinity House**

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

#### **Crown rights**

**38.—(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 undertakers or any licensee—

- (a) to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—
  - (i) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;
  - (ii) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or
  - (iii) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department; or
- (b) to exercise any right under this Order compulsorily to acquire an interest in any land which is Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown without the consent in writing of the appropriate Crown authority (as defined in the 2008 Act).

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

#### **Protective provisions**

**39.** Schedule 12 (protective provisions) shall have effect.