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STATUTORY INSTRUMENTS

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**2023 No. 834**

**INFRASTRUCTURE PLANNING**

**The A303 (Amesbury to Berwick Down)  
Development Consent Order 2023**

*Made* - - - - *14th July 2023*

*Coming into force* - - *4th August 2023*

An application has been made to the Secretary of State, under section 37 of the Planning Act 2008<sup>(1)</sup> (“the 2008 Act”) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009<sup>(2)</sup> for an Order granting development consent.

The application concerns development which traverses the Stonehenge part of the Stonehenge, Avebury and Associated Sites World Heritage Site, inscribed on the list of World Heritage in 1986 (reference number 373) by the United Nations Educational Scientific and Cultural Organization World Heritage Committee, pursuant to the Convention Concerning the Protection of the World Cultural and Natural Heritage 1972 and its setting.

The application was examined by a Panel of five members (“the Panel”) pursuant to Chapter 2 of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010<sup>(3)</sup>.

The Panel, having examined the application with the documents that accompanied the application, and the representations made and not withdrawn, has, in accordance with section 74(2) of the 2008 Act, made a report and recommendation to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the Panel, has decided to make an Order granting development consent for the development described in the application with modifications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 is satisfied that replacement land has been or will be given in exchange for the special category land (as defined in article 34 of this Order), and the replacement land (as defined in that article) has been or will be vested in the prospective seller and subject to the same rights, trusts and incidents as attach to the special category land, and that, accordingly, section 131(4) of the 2008 Act applies. In accordance with section 132(3) of the 2008 Act, the Secretary of State is satisfied, having considered the report and recommendation of the Panel, that the parcels of land comprised in the special category (rights) land (as defined in article 34 of this Order) when burdened with a new right created under this Order, will be no less advantageous than they were before the making

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(1) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).

(2) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/524, S.I. 2017/572, S.I. 2018/378 and S.I. 2019/734.

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

of this Order to the following person: (a) the persons in whom they are vested; (b) other persons, if any, entitled to rights of common or other rights; and (c) the public.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120, 122 and 123 of, and paragraphs 1 to 4, 10 to 17, 19 to 23, 26, 33, 36 and 37 of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

## PART 1

### PRELIMINARY

#### Citation and commencement

1. This Order may be cited as the A303 (Amesbury to Berwick Down) Development Consent Order 2023 and comes into force on 4th August 2023.

#### Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(4);

“the 1965 Act” means the Compulsory Purchase Act 1965(5);

“the 1980 Act” means the Highways Act 1980(6);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(7);

“the 1984 Act” means the Road Traffic Regulation Act 1984(8);

“the 1990 Act” means the Town and Country Planning Act 1990(9);

“the 1991 Act” means the New Roads and Street Works Act 1991(10);

“the 2008 Act” means the Planning Act 2008(11);

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

“affected person” has the same meaning as in section 59(12) (notice of persons interested in land which compulsory acquisition request relates) the 2008 Act;

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

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

“authorised person” means—

(a) a person acting in the course of that person’s duties who—

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(4) 1961 c. 33.

(5) 1965 c. 56.

(6) 1980 c. 66.

(7) 1981 c. 66.

(8) 1984 c. 27.

(9) 1990 c. 8.

(10) 1991 c. 22.

(11) 2008 c. 29.

(12) Section 69 was amended by section 240(2) of, and paragraph 16 of Schedule 13 to the Localism Act 2011 (c. 20).

- (i) is an employee, agent, contractor or sub-contractor of the undertaker; or
  - (ii) is authorised by the undertaker to exercise one or more of its functions under this Order; or
- (b) a constable, Police Community Support Officer, an officer of the Driver and Vehicle Standards Agency, an officer of the Health and Safety Executive, a person authorised for the purposes of section 44 (powers of fire-fighters etc. in an emergency etc.) of the Fire and Rescue Services Act 2004<sup>(13)</sup>, a person accredited by or under section 41 (accreditation under community safety accreditation schemes) of the Police Reform Act 2002<sup>(14)</sup>, a traffic officer, acting in the execution of that person's duties within the tunnel;

“book of reference” means the document listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the book of reference for the purposes of this Order;

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

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

“byway open to all traffic” has the same meaning as in section 66(1) (interpretation of Part 3) of the Wildlife and Countryside Act 1981<sup>(15)</sup>;

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

“classification of roads plan” means the plan listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the classification of roads plan for the purposes of this Order;

“commence” means beginning to carry out any material operation (as defined in section 56(4)<sup>(16)</sup> (time when development begun) of the 1990 Act) forming part of the authorised development other than operations consisting of archaeological investigations and mitigation works, ecological surveys and mitigation works, investigations for the purpose of assessing and monitoring ground conditions and levels, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, receipt of construction plant and equipment, erection of construction plant and equipment for the preliminary works, diversion and laying of underground apparatus and site clearance, and the temporary display of site notices or information, and “commencement” is to be construed accordingly;

“construct” includes execute, place, alter, replace, relay and remove and “construction” is to be construed accordingly;

“Convention” means the Convention Concerning the Protection of the World Cultural and Natural Heritage 1972<sup>(17)</sup>, which was ratified by the United Kingdom as a State Party on 29 May 1984;

“cycleway” means a way constituting or comprised in a highway, being a way over which the public have the following, but no other, rights of way, that is to say, a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the Road Traffic Act 1988<sup>(18)</sup>) with a right of way on foot and a right of way on horseback or leading a horse;

“Crown land plans” means the plans listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the Crown land plans for the purposes of this Order;

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<sup>(13)</sup> 2004 c. 21. Section 44 was amended by section 6 of the Emergency Workers (Obstruction) Act 2006 (c. 39).

<sup>(14)</sup> 2002 c. 30. Section 41 was amended by section 52 of, and paragraph 42 of Schedule 14 to, the Police and Justice Act 2006 (c. 48).

<sup>(15)</sup> 1981 c. 69.

<sup>(16)</sup> Section 56(4) was amended by section 32 of, and paragraph 10(2) of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34).

<sup>(17)</sup> The Convention was adopted by the General Conference at its seventeenth session, Paris, 16 November 1972.

<sup>(18)</sup> 1988 c. 52.

“de-trunking plans” means the plans listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the de-trunking plans for the purposes of this Order;

“ecological mitigation works” include bat roost and badger sett closures and provision of hibernacula;

“electronic transmission” means a communication transmitted—

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

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

and in this definition “electronic communications network” has the same meaning as in section 32(1) (meaning of electronic communications networks and services) of the Communications Act 2003<sup>(19)</sup>;

“engineering section drawings (cross sections)” means the drawings listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the engineering section drawings (cross sections) for the purposes of this Order;

“engineering section drawings (plan and profiles)” means the drawings listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the engineering section drawings (plan and profiles) for the purposes of this Order;

“environmental statement” means the document listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the environmental statement for the purposes of this Order;

“Esso” means Esso Petroleum Company, Limited (company number 00026538) whose registered office is at Ermyn House, Ermyn Way, Leatherhead, Surrey, KT22 8UX, and any successor in title;

“flood risk activity” has the same meaning as in regulation 2 (interpretation: general) of the Environmental Permitting (England and Wales) Regulations 2016<sup>(20)</sup>;

“footpath” and “footway” have the same meaning as in the 1980 Act;

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

“Historic England” means the Historic Buildings and Monuments Commission for England established under the National Heritage Act 1983<sup>(21)</sup>, the functions of which include acting as a statutory consultee and advising the government on the historic environment, including advice to the Department for Digital, Culture, Media and Sport which acts on behalf of government as state party to the Convention;

“land plans” means the plans listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the land plans for the purposes of this Order;

“limits of deviation” means the limits of deviation referred to in article 7 (limits of deviation);

“maintain” includes inspect (including recording the results of the inspection), repair, adjust, alter, remove or reconstruct, provided such works do not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement, and any derivative of “maintain” is to be construed accordingly;

“Order land” means the land shown coloured pink, the land shown hatched pink, the land shown coloured blue and the land shown coloured grey on the land plans, and which is described in the book of reference;

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<sup>(19)</sup> 2003 c. 21. Section 32(1) was amended by S.I. 2011/1210.

<sup>(20)</sup> S.I. 2016/1154.

<sup>(21)</sup> 1983 c. 47.

“Order limits” means the limits of land to be acquired permanently or used temporarily as shown on the land plans, and the limits of land within which the authorised development, as shown on the works plans, may be carried out;

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981<sup>(22)</sup>;

“planning authority” means Wiltshire Council;

“preliminary works” means—

- (a) archaeological investigation and archaeological mitigation works;
- (b) ecological mitigation works;
- (c) investigations for the purpose of assessing ground conditions;
- (d) remedial work in respect of any contamination or other adverse ground conditions;
- (e) erection of any temporary means of enclosure;
- (f) diversion and laying of underground apparatus;
- (g) site clearance;
- (h) Work No. 1H(viii) to (xiv) inclusive;
- (i) Work No. 5; and
- (j) Work No. 7;

“restricted byway” has the same meaning as in Part 2 (public rights of way and road traffic) of the Countryside and Rights of Way Act 2000<sup>(23)</sup>;

“rights of way and access plans” means the plans listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the rights of way and access plans for the purposes of this Order;

“Secretary of State” means the Secretary of State for Transport;

“shared use cycle track” means a way constituting or comprised in a highway, being a way over which the public have the following, but no other, rights of way, that is to say a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the Road Traffic Act 1988) and a right of way on foot;

“Southern Electric Power Distribution plc” means the company of that name (company number 04094290) whose registered office is at No.1 Forbury Place, 43 Forbury Road, Reading, United Kingdom, RG1 3JH);

“special category land plans” means the plans listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the special category land plans for the purposes of this Order;

“special road” means a highway which is a special road in accordance with section 16<sup>(24)</sup> (general provisions as to special roads) of the 1980 Act or by virtue of an order granting development consent;

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8) (statutory undertakers’ land) of the 2008 Act;

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<sup>(22)</sup> 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1992 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

<sup>(23)</sup> 2000 c. 37.

<sup>(24)</sup> Section 16 was amended by section 36 of, and paragraph 24 of Schedule 2 to the 2008 Act and section 57(1) of, and paragraph 13(2) to (4) of Schedule 1 to, the Infrastructure Act 2015 (c. 7).

“street” means a street within the meaning of section 48**(25)** (streets, street works and undertakers) of the 1991 Act, 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 (street works in England and Wales) of the 1991 Act;

“traffic authority” has the same meaning as in section 121A**(26)** (traffic authorities) of the 1984 Act;

“traffic officer” means an individual designated under section 2 (designation of traffic officers) of the Traffic Management Act 2004**(27)**;

“traffic regulation measures plans (clearways and prohibitions)” means the plans listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the traffic regulation measures plans (clearways and prohibitions) for the purposes of this Order;

“traffic regulation measures plans (speed limits)” means the plans listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the traffic regulation measures plans (speed limits) for the purposes of this Order;

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

“trunk road” means a highway which is a trunk road by virtue of—

- (a) section 10**(28)** (general provision as to trunk roads) or 19(1)**(29)** (provisions as to trunk roads) of the 1980 Act;
- (b) an order made or direction given under section 10 of that Act;
- (c) an order granting development consent; or
- (d) any other enactment;

“tunnel” means the road tunnel to be constructed as part of Work No. 1 and as shown by a solid blue line on the tunnel area plan;

“tunnel approaches” means the western and eastern approaches to the tunnel, the linear extent of which is shown by dashed blue lines on the tunnel area plan;

“tunnel area” means the extent of the public highway to be comprised in and along the tunnel and the tunnel approaches;

“tunnel area plan” means the plan listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the tunnel area plan for the purposes of this Order;

“tunnel limits of deviation plan” means the plan listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the tunnel limits of deviation plan for the purposes of this Order;

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

“undertaker” means Highways England Company Limited (company number 09346363) whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;

“works plans” means the plans listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the works plans for the purposes of this Order and

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

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

**(27)** 2004 c. 18.

**(28)** Section 10 was amended by section 22(2) of the 1991 Act, by section 36 of, and paragraph 22 of Schedule 2 to, the 2008 Act and by section 1(6) of, and paragraph 10 of Schedule 1 to, the Infrastructure Act 2015 (c. 7).

**(29)** Section 19(1) was amended by section 1(6) of, and paragraph 15 of Schedule 1 to, the Infrastructure Act 2015.

“World Heritage Site” means the Stonehenge part of the Stonehenge, Avebury and Associated Sites World Heritage Site as inscribed by the United Nations Educational, Scientific and Cultural Organization pursuant to the Convention.

(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) References in this Order to the creation and acquisition of rights over land include references to rights to oblige a party having an interest in land to grant those rights referenced in the Order, at the direction of the undertaker, either—

(a) to an affected person directly, where that affected person’s land or rights over land have been adversely affected by this Order, and, where that is the case, the rights referenced in the Order are to be granted for the benefit of the land in which that affected person has an interest at the time of the making of this Order; or

(b) to any statutory undertaker for the purposes of their undertaking.

(4) Subject to the provisions of this Order, 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.

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

(6) 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 plan to which the reference relates.

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

### **Disapplication of legislative provisions**

**3.—(1)** The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction or maintenance of the authorised development—

(a) section 28E (duties in relation to sites of scientific interest) of the Wildlife and Countryside Act 1981(**30**);

(b) section 23 (prohibition of obstructions, etc. in watercourses) of the Land Drainage Act 1991(**31**);

(c) section 32 (variation of awards) of the Land Drainage Act 1991;

(d) the provisions of any byelaws made under section 66(**32**) (powers to make byelaws) of the Land Drainage Act 1991;

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(30) 1981 c. 69. Section 28E was inserted by section 75(1) of, and paragraph 1 of Schedule 9 to, the Countryside and Rights of Way Act 2000 (c. 37). It was amended by section 105(1) of, and paragraph 79 of Schedule 11 to, the Natural Environment and Rural Communities Act 2006 (c. 16). There are other amendments which are not relevant to this Order.

(31) 1991 c. 59. Section 23 was amended by section 120 of, and paragraphs 192(1) and (2) of Schedule 22 to, the Environment Act 1995 (c. 25) and by section 31 of, and paragraph 32 of Schedule 2 to, the Flood and Water Management Act 2010 (c. 29). There are other amendments to section 23 which are not relevant to this Order.

(32) Section 66 was amended by section 31 of, and paragraph 38 of Schedule 2 to, the Flood and Water Management Act 2010 and section 86(3) of the Water Act 2014 (c. 21).



- (e) 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 Appropriate Authority) to the Water Resources Act 1991<sup>(33)</sup>;
  - (f) regulation 12 (requirement for an environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016<sup>(34)</sup> in respect of a flood risk activity only;
  - (g) the provisions of the Neighbourhood Planning Act 2017<sup>(35)</sup> in so far as they relate to temporary possession of land under articles 29 (temporary use of land for constructing the authorised development) and 30 (temporary use of land for maintaining the authorised development) of this Order; and
  - (h) section 33(1)(f) (effect of requirement for development consent on other consent regimes) of the 2008 Act in so far as it relates to any work or operation authorised to be carried out outside of the Order limits under articles 14 (protective works to buildings) or 15 (authority to survey and investigate land) of this Order.
- (2) Despite the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 (meaning of “development”) of the Community Infrastructure Levy Regulations 2010<sup>(36)</sup> any building comprised in the authorised development is deemed to be—
- (a) a building into which people do not normally go; or
  - (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

## PART 2

### WORKS PROVISIONS

#### *Principal Powers*

#### **Development consent, etc. granted by the Order**

4.—(1) Subject to the provisions of this Order, including the requirements in Schedule 2 (requirements), the undertaker is granted development consent for the authorised development.

(2) Any enactment applying to land within or adjacent to the Order limits has effect subject to the provisions of this Order.

#### **Maintenance of the authorised development**

5. 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.

#### **Planning permission**

6.—(1) Subject to paragraph (3), if planning permission is granted under the powers conferred by the 1990 Act for development any part of which is within the Order limits following the coming into force of this Order that is not—

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(33) 1991 c. 57. Paragraph 5 was amended by section 100 of the Natural Environment and Rural Communities Act 2006 (c. 16), section 84(2) of, and paragraph 3 of Schedule 11 to, the Marine and Coastal Access Act 2009 (c. 23), paragraph 49 of Schedule 2 to the Flood and Water Management Act 2010 and S.I. 2013/755. Paragraph 6 was amended by paragraph 26 of Schedule 15 to the Environment Act 1995 and section 224 of, and paragraph 24 of Schedule 16 and Part 5 of Schedule 22 to, the Marine and Coastal Access Act 2009. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995.

(34) S.I. 2016/1154, amended by S.I. 2018/110.

(35) 2017 c. 20.

(36) S.I. 2010/948, amended by S.I. 2011/987.



- (a) itself a nationally significant infrastructure project under the 2008 Act or part of such a project; or
- (b) required to complete or enable the use or operation of any part of the development authorised by this Order,

then the construction, maintenance, use or operation of that development under the terms of the planning permission does not constitute a breach of the terms of this Order.

(2) Except as expressly provided, nothing in this Order is to prejudice the operation of, and the powers and duties of the undertaker under, the 1980 Act, the 1991 Act and the Town and Country Planning (General Permitted Development) (England) Order 2015(37).

(3) Within the World Heritage Site, the undertaker may not rely on planning permission granted by class B of Part 9 (development relating to roads) of Schedule 2 (permitted development rights) of the Town and Country Planning (General Permitted Development) (England) Order 2015 for any part of the authorised development.

### **Limits of deviation**

7.—(1) The following provisions of this article have effect subject to the requirement that the undertaker must, save for any works or operations authorised under articles 14 (protective works to buildings) or 15 (authority to survey and investigate land), construct the authorised development within the Order limits.

(2) In constructing and maintaining the non-linear works comprised in the authorised development, the undertaker may deviate laterally within the limits of deviation for those works shown on the works plans, to the extent the undertaker considers necessary.

(3) In constructing or maintaining the linear works comprised in the authorised development the undertaker may deviate laterally from the lines or situations shown on the works plans to the extent of the Order limits, so far as the undertaker considers to be necessary, save that—

- (a) in constructing or maintaining any linear work, other than Work No. 1F, in deviating laterally from the centrelines shown on the works plans, the situation of the centreline may be varied up to a maximum of 3 metres either side of the centreline of that work as shown on the works plans;
- (b) in constructing or maintaining Work No. 1F, the undertaker may deviate laterally within the Order limits so far as the undertaker considers to be necessary, and the lateral limits of deviation provided for in sub-paragraph (a) does not apply; and
- (c) in constructing or maintaining the authorised development comprised in Work No. 6(a), the undertaker may deviate laterally only within the bounds of the carriageway and verges of the existing A303 (to be de-trunked under this Order).

(4) Except in the case of Work No. 1F, in constructing or maintaining the authorised development, the undertaker may deviate vertically from the levels shown on the engineering section drawings (plan and profiles) and the engineering section drawings (cross sections)—

- (a) to any extent upwards as the undertaker considers to be necessary but not exceeding 0.5 metres, or, in relation to the parts of the authorised development referred to in column (1) of the table below, not exceeding the permitted limit for each such part, set out in the corresponding entry in column (2) of that table; and
- (b) subject to paragraph (5), to any extent downwards as the undertaker considers to be necessary, but not exceeding 1 metre, or, in relation to the parts of the authorised development referred to in column (1) of the table below, not exceeding the permitted limit for each such part, set out in the corresponding entry in column (3) of that table.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

<i>(1)</i> <i>Part of authorised development</i>	<i>(2)</i> <i>Upwards vertical limit of deviation</i>	<i>(3)</i> <i>Downwards vertical limit of deviation</i>
Works Nos. 1A and 2	1 metre	1 metre
Work Nos. 1B and 1H	0.5 metres	0.5 metres
Work Nos. 1C, 3A, 3B, 3C, 4, 5 and 7	0.5 metres	1 metre
(1) Work No. 1D, save for (2) the level of the ground above the structure comprised in Work No. 1D(i), which is to be reinstated at existing ground level subject to the limits in columns (2) and (3) which are to apply by reference to existing ground level	(1) 0.5 metres (2) 0.25 metres	(1) 3 metres (2) 0.25 metres
(1) Work No. 1E, save for (2) the level of the ground above the structures comprised in Work No. 1E(i), which is to be reinstated at existing ground level subject to the limits in columns (2) and (3) which are to apply by reference to existing ground level	(1) 0.5 metres (2) 0.25 metres	(1) 4 metres (2) 0.25 metres
(1) Work No. 1G save for (2) the level of the ground above the structures comprised in Work No. 1G(i) and (ii), which is to be reinstated at existing ground level subject to the limits in columns (2) and (3) which are to apply by reference to existing ground level	(1) 0.5 metres (2) 0.25 metres	(1) 3 metres (2) 0.25 metres
Work No. 6	0.25 metres	0.25 metres
Work No. 8	3 metres	3 metres, but not lower than the existing ground levels

(5) In constructing and maintaining the authorised development comprised in Work No. 1F the undertaker may deviate vertically—

- (a) upwards, to the maximum upper limit of deviation for the crown of the tunnel, as shown on the tunnel limits of deviation plan;
- (b) upwards, to the maximum upper limit of deviation for the finished road level shown on the tunnel limits of deviation plan; and

(c) downwards, to a depth not exceeding the level at 36 metres above ordnance datum.

(6) The maximum vertical limits of deviation referred to in paragraphs (4) and (5) do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State certifies accordingly, following consultation with the planning authority and any other person the Secretary of State considers appropriate having regard to the proposed deviation in question and the statutory roles and responsibilities of such person, that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

(7) Without limitation on the scope of paragraphs (2) to (6), in constructing or maintaining the authorised development the undertaker may—

- (a) subject to sub-paragraph (b), deviate by up to 3 metres from the points of commencement and termination of any linear works;
- (b) in relation to the points of commencement and termination of the parts of the authorised development referred to in column (1) of the table below, the undertaker may deviate from those points of commencement and termination so far as the undertaker considers it necessary, in a generally westerly direction by the corresponding limit set out in column (2) or in a generally easterly direction by the corresponding limit set out in column (3); and
- (c) in constructing or maintaining Work Nos. 1E, 1F and 1G, deviate from the design of any tunnel or tunnel structure and vary the number of tunnel cross-passages shown on the engineering section drawings (plan and profiles) and the engineering section drawings (cross sections) to the extent that to do so would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

<i>(1)</i> <i>Part of the authorised development</i>	<i>(2)</i> <i>Deviation permitted in a generally westerly direction</i>	<i>(3)</i> <i>Deviation permitted in a generally easterly direction</i>
Point of commencement of Work No. 1E and point of termination of Work No. 1D	200 metres	1 metre
Point of commencement of Work No. 1F and point of termination of Work No. 1E	200 metres	1 metre
Point of commencement of Work No. 1G and point of termination of Work No. 1F	1 metre	30 metres
Point of commencement of Work No. 1H and point of termination of Work No. 1G	1 metre	30 metres

(8) In this article, references to—

- (a) “linear works” are references to any works shown on the works plans by way of a centreline; and
- (b) “non-linear works” are references to any other works shown on the works plans.

(9) Despite the provisions of article 2(4), the distances and lengths referred to in this article are not to be taken as being approximate.

## *Streets*

### **Application of the 1991 Act**

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

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (highway authorities, highways and related works) of that Act; or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64(38) (dual carriageways and roundabouts) of the 1980 Act or section 184(39) (vehicle crossings over footways and verges) of that Act.

(2) In Part 3 of the 1991 Act in relation to works which are major highway works by virtue of paragraph (1), references to the highway authority concerned are to be construed as references to the undertaker.

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

- section 56(40) (power to give directions as to timing of street works);
- section 56A(41) (power to give directions as to placing of apparatus);
- section 58(42) (restriction on works following substantial road works);
- section 58A(43) (restriction on works following substantial street works);
- section 73A(44) (power to require undertaker to re-surface street);
- section 73B(45) (power to specify timing etc. of re-surfacing);
- section 73C(46) (materials, workmanship and standard of re-surfacing);
- section 78A(47) (contributions to costs of re-surfacing by undertaker); and
- Schedule 3A(48) (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 11 (temporary stopping up and restriction of use of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act(49) referred to in paragraph (4) are—

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- (38) Section 64 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the 1991 Act.
  - (39) Section 184 was amended by sections 35, 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48); by section 4 of, and paragraph 45 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11); and section 168 of, and paragraph 9 of Schedule 8 and Schedule 9 to, the 1991 Act.
  - (40) Section 56 was amended by sections 40 and 43 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
  - (41) Section 56A was inserted by section 44 of the Traffic Management Act 2004.
  - (42) Section 58 was amended by sections 40 and 51 of, and Schedule 1 to, the Traffic Management Act 2004.
  - (43) Section 58A was inserted by section 52 of the Traffic Management Act 2004.
  - (44) Section 73A was inserted by section 55 of the Traffic Management Act 2004.
  - (45) Section 73B was inserted by section 55 of the Traffic Management Act 2004.
  - (46) Section 73C was inserted by section 55 of the Traffic Management Act 2004.
  - (47) Section 78A was inserted by section 57 of the Traffic Management Act 2004.
  - (48) Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the Traffic Management Act 2004.
  - (49) Sections 54, 55, 57, 60, 68 and 69 were amended by section 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004.

section 54<sup>(50)</sup> (advance notice of certain works), subject to paragraph (6);  
section 55<sup>(51)</sup> (notice of starting date of works), subject to paragraph (6);  
section 57<sup>(52)</sup> (notice of emergency works);  
section 59<sup>(53)</sup> (general duty of street authority to co-ordinate works);  
section 60 (general duty of undertakers to co-operate);  
section 68 (facilities to be afforded to street authority);  
section 69 (works likely to affect other apparatus in the street);  
section 75 (inspection fees);  
section 76 (liability for cost of temporary traffic regulation); and  
section 77 (liability for cost of use of alternative route),  
and all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 9 (construction and maintenance of new, altered or diverted streets and other structures)—

- (a) affects the operation of section 87 (prospectively maintainable highways) of the 1991 Act, and the undertaker is not by reason of any duty under that article to maintain a street or to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) has effect in relation to street works to which the provisions of Part 3 of the 1991 Act apply.

### **Construction and maintenance of new, altered or diverted streets and other structures**

9.—(1) Subject to paragraphs (6), (7) and (8), any highway (other than a trunk road or special road) to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority in whose area the highway lies and, unless otherwise agreed in writing with the local highway authority, the highway, including any culverts or other structures laid under it, must be maintained by and at the expense of the local highway authority from its completion.

(2) Subject to paragraphs (3), (6), (7) and (8), where a highway (other than a trunk road or special road) is altered or diverted under this Order, the altered or diverted part of the highway must be completed to the reasonable satisfaction of the local highway authority and, unless otherwise agreed in writing with the local highway authority, that part of the highway, including any culverts or other structures laid under it, must be maintained by and at the expense of the local highway authority from its completion.

(3) Subject to paragraphs (6), (7) and (8), where a footpath or bridleway is altered or diverted under this Order along a vehicular private means of access, the altered or diverted part of the highway must, when completed to the reasonable satisfaction of the highway authority and unless otherwise agreed in writing, be maintained (including any culverts or other structures laid under that part of the highway) by and at the expense of the person or persons with the benefit of the vehicular private means of access.

(4) Where a street which is not, and is not intended to be, a public highway is constructed, altered or diverted under this Order, the street (or part of the street as the case may be) must, when

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<sup>(50)</sup> Section 54 was amended by section 49(1) of the Traffic Management Act 2004.

<sup>(51)</sup> Section 55 was amended by section 49(2) and 51(9) of the Traffic Management Act 2004.

<sup>(52)</sup> Section 57 was amended by section 52(3) of the Traffic Management Act 2004.

<sup>(53)</sup> Section 59 was amended by section 42 of the Traffic Management Act 2004.

completed to the reasonable satisfaction of the street authority, unless otherwise agreed in writing, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

- (5) Subject to paragraphs (6), (7) and (8), where a highway is de-trunked under this Order—
- (a) section 265(54) (transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road) of the 1980 Act applies in respect of that highway; and
  - (b) any alterations to that highway undertaken under powers conferred by this Order prior to and in connection with that de-trunking must, unless otherwise agreed in writing with the local highway authority, be maintained by and at the expense of the local highway authority from the date of de-trunking.

(6) In the case of any bridge constructed under this Order to carry a highway other than a trunk road or special road over a trunk road or special road, the highway surface must from its completion be maintained by and at the expense of the local highway authority and the structure of the bridge must be maintained by and at the expense of the undertaker.

(7) In the case of any bridge constructed under this Order to carry a highway (other than a trunk road or special road) over another highway which is not a trunk road or a special road, both the highway surface and structure of the bridge must be maintained by and at the expense of the local highway authority from their completion.

(8) In the case of a bridge constructed under this Order to carry a private right of way (whether or not it also carries a footpath or bridleway), the surface of the street and the structure of the bridge must be maintained by and at the expense of the undertaker.

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

(10) For the purposes of a defence under paragraph (9), the court must in particular have regard to the following matters—

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

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

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(54) Section 265 was amended by section 146 of, and paragraph 45 of Schedule 3 to, the 1984 Act and section 57 of and paragraph 52 of Schedule 1 to, the Infrastructure Act 2015 (c. 7).

### **Permanent stopping up of streets and private means of access**

**10.**—(1) Subject to the provisions of this article, the undertaker may, in connection with the construction of the authorised development, stop up each of the streets and private means of access shown on the rights of way and access plans and specified in columns (1) and (2) of Parts 1, 2, 3 and 4 of Schedule 3 (permanent stopping up of highways and private means of access and provision of new highways and private means of access) to the extent specified and described in column (3) of those Parts of that Schedule.

(2) No street or private means of access specified in columns (1) and (2) of Parts 1 and 3 of Schedule 3 (being a street or private means of access to be stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

- (a) the new street or private means of access to be constructed and substituted for it, which is specified in column (4) of those Parts of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street or private means of access to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street or private means of access until the completion and opening of the new street or private means of access in accordance with sub-paragraph (a).

(3) No street or private means of access specified in columns (1) and (2) of Parts 2 and 4 of Schedule 3 (being a street or private means of access to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all of the land which abuts on either side of the street or private means of access to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) the undertaker is in possession of the land; or
- (b) there is no right of access to the land from the street or private means of access concerned; or
- (c) there is a reasonably convenient access to the land otherwise than from the street or private means of access concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

(5) Where a street or private means of access has been stopped up under this article—

- (a) all rights of way over or along the street or private means of access so stopped up are extinguished; and
- (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the street or private means of access as is bounded on both sides by land owned by the undertaker.

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

(7) This article is subject to article 32 (apparatus and rights of statutory undertakers in stopped up streets).

### **Temporary stopping up and restriction of use of streets**

**11.**—(1) The undertaker may, during and for the purposes of constructing the authorised development, temporarily stop up, alter, divert or restrict the use of any street and may for any reasonable time—



- (a) divert the traffic from the street; and
  - (b) subject to paragraph (3), prevent all persons from passing along the street.
- (2) Without limitation on the scope of paragraph (1), the undertaker may use any street temporarily stopped up or restricted under the powers conferred by this article and within the Order limits as a temporary working site.
- (3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration, diversion or restriction of a street under this article if there would otherwise be no such access.
- (4) The undertaker must not temporarily stop up, alter, divert or restrict the use of any street for which it is not the street authority without the consent of the street authority, which may attach reasonable conditions to any consent, but its consent must not be unreasonably withheld or delayed.
- (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, as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

### Access to works

**12.** The undertaker may, for the purposes of the authorised development, form and lay out means of access, or improve existing means of access at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

#### *Supplemental Powers*

### Discharge of water

- 13.—**(1) Subject to paragraphs (3) and (4), the undertaker may use any watercourse, public sewer or drain for the drainage of water in connection with the construction or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.
- (2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991<sup>(55)</sup>.
- (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.
- (4) The undertaker must not make any opening into any public sewer or drain except—
- (a) in accordance with plans approved by the person to whom the sewer or drain belongs; and
  - (b) where that person has been given the opportunity to supervise the making of the opening.
- (5) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.
- (6) Nothing in this article overrides the requirement for an environmental permit under regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016<sup>(56)</sup>.

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<sup>(55)</sup> 1991 c. 56. Section 106 was amended by section 35(1) and (8) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and section 32 of, and paragraph 16(1) of Schedule 3 to, the Flood and Water Management Act 2010 (c. 29).

<sup>(56)</sup> S.I. 2016/1154, amended by S.I. 2018/110.

(7) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Homes England, the Environment Agency, an internal drainage board, a joint planning board, a local authority, a sewerage undertaker or an urban development corporation; and
- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(57), have the same meanings as in that Act.

### **Protective works to buildings**

14.—(1) Subject to the following provisions of this article, the undertaker may at the undertaker’s own expense carry out such protective works to any building lying within the Order limits or which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the 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 5 years beginning with the day on which that part of the authorised development is first opened for use.

(3) Subject to paragraph (5), for the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works to a building under this article 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 which is adjacent to the building but outside its curtilage, enter the adjacent land (whether or not such adjacent land is inside or outside the Order limits) but not any building erected on it,

and if it is reasonably required, the undertaker may take possession, or exclusive possession, of the building and any land or part thereof for the purpose of carrying out the protective works.

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days’ notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (5)(c) or (5)(d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question of whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 57 (arbitration).

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

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first opened for use 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) Subject to article 37 (no double recovery) nothing in this article relieves the undertaker from any liability to pay compensation under section 152(58) (compensation in case where no right to claim in nuisance) of the 2008 Act.

(10) Section 13(59) (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto 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(60) (application of compulsory acquisition provisions) of the 2008 Act.

(11) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 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 which may be caused to the building by the construction, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

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

**15.—**(1) The undertaker may for the purposes of the construction, operation or maintenance of the authorised development enter on—

- (a) any land shown within the Order limits; and
- (b) where reasonably necessary, any land which is adjacent to, but outside the Order limits,

and—

- (i) survey or investigate the land (including any watercourses, groundwater, static water bodies or vegetation on the land);
- (ii) without limitation on the scope of sub-paragraph (i), make any excavations or trial holes and boreholes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil and groundwater and remove soil and water samples and discharge water from sampling operations on to the land;

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(58) Section 152 was amended by [S.I. 2009/1307](#).

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

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

(iii) without limitation on the scope of sub-paragraph (i), carry out ecological or archaeological investigations on such land, including making any excavations or trial holes on the land for such purposes; and

(iv) 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 and boreholes.

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

(3) The notice required under paragraph (2) must indicate the nature of the survey or investigation that the undertaker intends to carry out.

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

(a) must, if so required, before or after entering the land, produce written evidence of authority to do so; and

(b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes and boreholes.

(5) No trial holes or boreholes 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.

(6) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

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

## **Removal of human remains**

**16.—(1)** In this article—

“the burial authority” means the burial authority for the specified land, being Wiltshire Council; and

“the specified land” means any land within the Order limits.

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

(3) Subject to paragraph (12), before any such remains are removed from the specified land the undertaker must give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—

(a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the specified land; and

(b) displaying a notice in a conspicuous place on or near to the specified land.

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

(5) At any time within 56 days after the first publication of a notice under paragraph (3), any person who is a personal representative or relative of any deceased person whose remains are interred

in the specified land may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.

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

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

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

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

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

(9) If—

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

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

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

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

- (a) a certificate of re-interment or cremation must be sent 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 (9) must be sent by the undertaker to the burial authority.

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

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

- (13) In the case of remains in relation to which paragraph (12) applies, the undertaker—
- (a) may remove the remains;
  - (b) must apply for direction from the Secretary of State under paragraph (15) as to their subsequent treatment; and
  - (c) must deal with the remains in such manner, and subject to such conditions, as the Secretary of State directs.

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

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

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

(17) Section 25 (offence of removal of body from burial ground) of the Burial Act 1857(61) is not apply to a removal carried out in accordance with this article.

- (18) Section 239 (use and development of burial grounds) of the 1990 Act applies—
- (a) in relation to land, other than a right over land, acquired for the purposes of the authorised development (whether or not by agreement), so as to permit use by the undertaker in accordance with the provisions of this Order; and
  - (b) in relation to a right over land so acquired (whether or not by agreement), or the temporary use of land pursuant to articles 29 (temporary use of land for constructing the authorised development) or 30 (temporary use of land for maintaining the authorised development), so as to permit the exercise of that right or the temporary use by the undertaker in accordance with the provisions of this Order,

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

(19) The Town and Country Planning (Churches, Places of Religious Worship and Burial Grounds) Regulations 1950(62) do not apply to the authorised development.

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

**17.—**(1) The undertaker may fell or lop any tree or shrub within or overhanging land within the Order limits, or cut back its roots, if the undertaker reasonably believes it to be necessary to do so to prevent the tree or shrub—

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(61) 1857 c. 81. Section 25 was substituted by section 2 of the Church of England (Miscellaneous Provisions) Measure 2014 (No. 1).  
(62) S.I. 1950/792.



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

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

(4) The undertaker may, for the purposes of constructing, maintaining or operating 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" includes a hedgerow to which the Hedgerow Regulations 1997<sup>(63)</sup> apply and includes important hedgerows.

### **Maintenance of drainage works**

**18.**—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article "drainage" has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991<sup>(64)</sup>.

## **PART 3**

### **POWERS OF ACQUISITION AND POSSESSION OF LAND**

#### *Powers of acquisition*

#### **Compulsory acquisition of land**

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

(2) This article is subject to article 22 (compulsory acquisition of rights), article 27 (acquisition of subsoil, etc., only) and article 29(8) (temporary use of land for constructing the authorised development).

#### **Compulsory acquisition of land – incorporation of the minerals code**

**20.** Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981<sup>(65)</sup> are incorporated into this Order subject to the modifications that—

- (a) paragraph 8(3) is not incorporated; and
- (b) for "the acquiring authority" substitute "the undertaker".

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<sup>(63)</sup> S.I. 1997/1160.

<sup>(64)</sup> 1991 c. 59. The definition was substituted by section 100(2) of the Environment Act 1995 (c. 25).

<sup>(65)</sup> 1981 c. 67.



### **Time limit for exercise of powers to possess land temporarily or to acquire land compulsorily**

**21.**—(1) After the end of the period of 5 years beginning on the day on which this Order comes into force—

- (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 as modified by article 25 (modification of Part 1 of the 1965 Act); and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 26 (application of the 1981 Act),

in relation to any part of the Order land.

(2) The authority conferred by article 29 (temporary use of land for constructing the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker from 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) Subject to the following paragraphs of this article, the undertaker may acquire such rights over the Order land or impose such restrictive covenants affecting the Order land, including rights and restrictive covenants for the benefit of a statutory undertaker or any other person, as may be required for any purpose for which that land may be acquired under article 19 (compulsory acquisition of land), by creating them as well as acquiring rights already in existence.

(2) The powers of paragraph (1) may be exercised by a statutory undertaker or by an owner or occupier of land identified in column (4) of the table in Part 3 of Schedule 3 (permanent stopping up of highways and private means of access and provision of new highways and private means of access) to this Order, instead of by the undertaker in any case where the undertaker has given its prior consent to that in writing, and that consent may be given subject to terms and conditions.

(3) Where in consequence of paragraph (2), a statutory undertaker or an owner or occupier of land exercises the powers in paragraph (1) in place of the undertaker, except in relation to the payment of compensation the liability for which must remain with the undertaker, the statutory undertaker or the owner or occupier of land, as the case may be, is to be treated for the purposes of this Order, and by any person with an interest in the land affected, as being the undertaker in relation to the acquisition of the rights and the imposition of the restrictive covenants in question.

(4) In the case of the Order land specified in columns (1) and (2) of Schedule 4 (land in which only new rights etc., may be acquired) the undertaker's powers of compulsory acquisition under paragraph (1) are limited to the acquisition of such wayleaves, easements, new rights over the land or the imposition of such restrictive covenants as the undertaker may require for or in connection with the authorised development for the purposes specified in column (3) of Schedule 4 in relation to that land.

(5) The power under paragraph (1) to acquire the rights and to impose the restrictive covenants described in Schedule 4 for the benefit of statutory undertakers or for the benefit of any other person—

- (a) does not preclude the acquisition of such other rights and the imposition of such other restrictive covenants in respect of the same land in accordance with Schedule 4 as may be required for the benefit of any other statutory undertaker or any other person; and
- (b) must not be exercised by the undertaker in a way that precludes the acquisition of such other rights and the imposition of such other restrictive covenants in respect of the same land in accordance with Schedule 4 as are required for the benefit of any other statutory undertaker or any other person.

(6) Subject to section 8(66) (other provisions as to divided land) of, and Schedule 2A(67) (counter-notice requiring purchase of land not in notice to treat) to, the 1965 Act (as substituted by paragraph 5(8) of Schedule 5 (modification of compensation and compulsory purchase enactments for the creation of new rights)), 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.

(7) Schedule 5 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application 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.

(8) For the purposes of this article “statutory undertaker” includes Esso.

### Private rights over land

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

- (a) from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry onto the land by the undertaker under section 11(1)(68) (powers of entry) of the 1965 Act,

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right or burden of the restrictive covenant—

- (a) from the date of the acquisition of the right or the benefit of the restrictive covenant by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry onto the land by the undertaker under section 11(1) of the 1965 Act, or
- (c) on commencement of any activity authorised by the Order which interferes with or breaches those rights,

whichever is the earlier.

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

(4) Any person who suffers loss by the extinguishment or suspension of any private right or by the imposition of any restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152(69) (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined, in case of dispute, as if it were a 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(70) (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—

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(66) Section 8 was amended by paragraphs 1 and 2 of Schedule 17 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

(67) Schedule 2A was inserted by paragraphs 1 and 3 of Schedule 17 to the Housing and Planning Act 2016.

(68) Section 11(1) was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), and sections 186(1) and (2), 187 and 188 of the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

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

(70) Section 138 was amended by section 23(1) and (4) of the Growth and Infrastructure Act 2013 (c. 27) and S.I. 2017/1285.

- (a) any notice given by the undertaker before—
    - (i) the completion of the acquisition of the land or the acquisition of the rights or the imposition of restrictive covenants over or affecting the land;
    - (ii) the undertaker’s appropriation of it;
    - (iii) the undertaker’s entry onto it; or
    - (iv) the undertaker’s taking temporary possession of it,that any or all of those paragraphs do not apply to any right specified in the notice; and
  - (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.
- (7) If any such agreement as is 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,

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

(8) References in this article to private rights over land include any right of way, trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

### **Power to override easements and other rights**

**24.—**(1) Any authorised activity which takes place on land within the Order limits (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by any contractors, servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, notwithstanding that it involves—

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

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

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

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

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

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

the liability is enforceable against the undertaker.

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

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

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

### **Modification of Part 1 of the 1965 Act**

**25.**—(1) Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied to this Order by section 125(71) (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1)(72) (extension of time limit during challenge) 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(73) (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the 5 year period mentioned in article 21 (time limit for exercise of powers to possess land temporarily or to acquire land compulsorily) of the A303 (Amesbury to Berwick Down) Development Consent Order 2023”.

(3) In section 11A(74) (powers of entry: further notice of entry)—

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

(4) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 21 (time limit for exercise of powers to possess land temporarily or to acquire land compulsorily) of the A303 (Amesbury to Berwick Down) Development Consent Order 2023”.

(5) In Schedule 2A(75) (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 27(4) (acquisition of subsoil, etc., only) of the A303 (Amesbury to Berwick Down) Order 2023, which excludes the acquisition of subsoil or airspace only from this Schedule.”; and

(b) after paragraph 29, insert—

## **“PART 4**

### **INTERPRETATION**

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under articles 14 (protective works to buildings), 15 (authority to survey and investigate land), 29 (temporary use of land for constructing the authorised development) or 30 (temporary use of land for maintaining the authorised development) of the A303 (Amesbury to Berwick Down) Development Consent Order 2023.”.

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

(72) Section 4A was inserted by section 202(1) of the Housing and Planning Act 2016 (c.22).

(73) Section 118 was amended by paragraphs 1 and 59 of Schedule 13, and Part 20 of Schedule 25 to, the Localism Act 2011 (c. 20) and section 92(4) of the Criminal Justice and Courts Act 2015 (c. 2).

(74) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016.

(75) Schedule 2A was inserted by section 199(1) of, and paragraphs 1 and 3 of Schedule 17 to, the Housing and Planning Act 2016.

## Application of the 1981 Act

- 26.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.
- (2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.
- (3) In section 1 (application of Act) for subsection (2) substitute—
- “(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”
- (4) In section 5(76) (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.
- (5) Omit section 5A(77) (time limit for general vesting declaration).
- (6) In section 5B(78) (extension of time limit during challenge) 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 5A” substitute “section 118(79) (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the 5 year period mentioned in article 21 (time limit for exercise of powers to possess land temporarily or to acquire land compulsorily) of the A303 (Amesbury to Berwick Down) Development Consent Order 2023”.
- (7) In section 6(80) (notices after execution of declaration), in subsection (1)(b), for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134(81) (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.
- (8) In section 7(82) (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (9) In Schedule A1(83) (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute—
- “(2) But see article 27(4) (acquisition of subsoil, etc., only) of the A303 (Amesbury to Berwick Down) Development Consent Order 2023, which excludes the acquisition of subsoil or airspace only from this Schedule.”
- (10) References to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 25 (modification of Part 1 of the 1965 Act)) to the compulsory acquisition of land under this Order.

## Acquisition of subsoil, etc., only

- 27.—(1) The undertaker may acquire compulsorily so much of, or such rights over, the subsoil of and airspace over the land referred to in paragraph (1) of article 19 (compulsory acquisition of land) 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) In the case of the Order land specified in columns (1) and (2) of Schedule 6 (land in which only subsoil or new rights in and above subsoil and surface may be acquired) the undertaker’s powers of compulsory acquisition under article 19 are limited to—

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(76) Section 5 was amended by section 183 of, and paragraphs 4 and 6 of Schedule 15 to, the Housing and Planning Act 2016.

(77) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016.

(78) Section 5B was inserted by section 202(2) of the Housing and Planning Act 2016.

(79) Section 118 was amended by paragraphs 1 and 59 of Schedule 13, and Part 20 of Schedule 25, to the Localism Act 2011 (c. 20) and section 92(4) of the Criminal Justice and Courts Act 2015 (c. 2).

(80) Section 6 was amended by section 4 of, and paragraph 52(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016.

(81) Section 134 was amended by section 142 of, and Part 21 of Schedule 25 to, the Localism Act 2011 (c. 20) and S.I. 2017/16.

(82) Section 7 was substituted by paragraphs 1 and 3 of Schedule 18 to the Housing and Planning Act 2016.

(83) Schedule A1 was inserted by paragraphs 1 and 6 of Part 1 of Schedule 18 to the Housing and Planning Act 2016.

- (a) the acquisition of such subsoil; and
- (b) the acquisition of such easements or other new rights and the imposition of restrictive covenants in the remaining subsoil and over the surface of the land,

as the undertaker may require for or in connection with the authorised development.

(3) Where the undertaker acquires any part of, or rights over, the subsoil or surface of or airspace over land referred to in paragraphs (1) or (2), the undertaker is not required to acquire an interest in any other part of the land.

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

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) section 153(4A)(84) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

(5) Paragraphs (3) and (4) are to be disregarded where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory or airspace above a house, building or manufactory.

(6) References in paragraph (2)(a) to subsoil are references to the subsoil lying at and below the depths specified in column (3) of Schedule 6 beneath the level of the surface of the land, and references to the remaining subsoil in paragraph (2)(b) are references to the part of the subsoil lying above the shallowest part of the subsoil acquired under paragraph (2)(a) but below the level of the surface of the land.

(7) For the purposes of paragraph (6) “the level of the surface of the land” means—

- (a) in the case of any land on which a building is erected, the level of the surface of the ground adjoining the building;
- (b) in the case of a river, dock, canal, navigation, watercourse or other water area, the level of the surface of the ground covered by water; or
- (c) in any other case, ground surface level,

at the time of this Order coming into force.

### **Rights over or under streets**

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

(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 in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker

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(84) Subsection (4A) of section 153 was inserted by section 200(1) and (2) of the Housing and Planning Act 2016.



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, as if it were a 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 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 possession of land*

#### **Temporary use of land for constructing the authorised development**

**29.**—(1) The undertaker may, in connection with the construction of the authorised development but subject to article 21 (time limit for exercise of powers to possess land temporarily or to acquire land compulsorily)—

- (a) enter on and take temporary possession of—
  - (i) the land specified in columns (1) and (2) of Schedule 7 (land of which only temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule;
  - (ii) any other Order land in respect of which no notice of entry has been served under section 11(85) (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(86) (execution of declaration) of the 1981 Act;
- (b) remove any buildings and vegetation from that land referred to in sub-paragraph (a);
- (c) construct temporary works (including the provision of means of access) and buildings on the land referred to in sub-paragraph (a); and
- (d) construct any works on the land referred to in sub-paragraph (a) as are mentioned in Schedule 1 (authorised development).

(2) 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 and explain the purpose for which entry is taken in respect of land specified under paragraph (1)(a)(ii).

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

- (a) in the case of any 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 (4) of Schedule 7; 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 (powers of entry) of the 1965 Act or made a declaration under section 4 (execution of declaration) of the 1981 Act in relation to that land.

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(85) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c.22), and S.I. 2009/1307.

(86) Section 4 was amended by section 184 and 185 of, and paragraphs 1 and 2 of Schedule 18 to, the Housing and Planning Act 2016.



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

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works have been constructed under paragraph (1)(d);
- (c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development; or
- (d) 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 provisions of 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 as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) Subject to article 37 (no double recovery), nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(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(87) (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.

### **Temporary use of land for maintaining the authorised development**

**30.**—(1) Subject to paragraph (3), at any time during the maintenance period relating to any of the authorised development, the undertaker may—

- (a) enter upon and take temporary possession of any land within the Order limits if possession is reasonably required for the purpose of maintaining the authorised development;
- (b) enter on any land within the Order limits for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and
- (c) 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 upon and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and that notice must state the purpose for which the undertaker intends to take possession

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

of the land including the particulars of the part of the authorised development for which possession is to be taken.

(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 powers conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined as if it were a dispute 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 execution of any works, other than loss or damage for which compensation is payable under paragraph (6).

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

(10) Section 13 (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use of land 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) In this article "the maintenance period", in relation to any part of the authorised development, means the period of 5 years beginning with the date on which—

- (a) that part of the authorised development is first opened for public use (where that part of the authorised development is intended to be used by the public); or
- (b) in respect of any other part of the authorised development, that part is first brought into operational use by the undertaker.

### *Supplementary*

#### **Statutory undertakers**

**31.**—(1) Subject to the provisions of article 22(4) (compulsory acquisition of rights), Schedule 11 (protective provisions) and paragraph (2), the undertaker may—

- (a) exercise the powers conferred by article 19 (compulsory acquisition of land) and article 22 (compulsory acquisition of rights) in relation to so much of the Order land belonging to statutory undertakers; and
- (b) extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers over or within the Order land.

(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which the following provisions apply—

- (a) Part 3 (street works in England and Wales) of the 1991 Act; or
- (b) article 32 (apparatus and rights of statutory undertakers in stopped up streets).

### **Apparatus and rights of statutory undertakers in stopped up streets**

**32.**—(1) Where a street is stopped up under article 10 (permanent stopping up of streets and private means of access), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 10 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must—

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

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

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

(4) If in the course of the execution of relocation works under paragraph (2)—

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

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

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

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

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

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

- (a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and
  - (b) the allowable costs are to be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.
- (8) In this article—
- “relocation works” means work executed, or apparatus provided, under paragraph (2); and
  - “statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) (interpretation of chapter 1) of the Communications Act 2003<sup>(88)</sup>.

### Recovery of costs of new connection

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

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

- (a) the owner or occupier of premises the drains of which communicated with 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 article 32 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this article—

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

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

### Special category land

**34.**—(1) On the exercise by the undertaker of the relevant Order powers, the special category land is not to vest in the undertaker until the undertaker has acquired the replacement land and the Secretary of State (in consultation with the planning authority) has certified that a scheme for the provision of the replacement land as open space and a timetable for the implementation of the scheme has been received from the undertaker.

(2) On the requirements of paragraph (1) being satisfied, the special category land is to vest in the undertaker and be discharged from all rights, trusts and incidents to which it was previously subject.

(3) On the exercise of the relevant Order powers, the rights to be acquired over the special category (rights) land are to vest in the undertaker or, where the powers of article 22(1) (compulsory acquisition of rights) are with the undertaker’s consent under article 22(2) exercised by a statutory undertaker, vest in that statutory undertaker, and the special category (rights) land is to be discharged

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<sup>(88)</sup> 2003 c. 21.

from all private rights to which it was previously subject in accordance with article 23(2) (private rights over land).

(4) On the date on which the replacement land is laid out and provided in accordance with the scheme requirements at paragraph (1), the replacement land is to vest in any person in whom the special category land was vested immediately before it was vested in the undertaker and is to be subject to the same rights, trusts and incidents as attached to the special category land.

(5) In this article—

“the relevant Order powers” means the powers exercisable over the special category land by the undertaker under article 19 (compulsory acquisition of land) or article 22 (compulsory acquisition of rights);

“the special category land” means the land identified as forming open space and numbered 10-16 and 11-06 in the book of reference and shown on the special category land plans;

“the special category (rights) land” means the land identified as forming open space and numbered 10-18, 10-19, 11-04 and 11-05 in the book of reference and on the special category land plans; and

“the replacement land” means the land identified as such and numbered 10-17 and 11-33 in the book of reference and on the land plans.

### *Compensation*

#### **Disregard of certain interests and improvements**

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

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

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

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

#### **Set-off for enhancement in value of retained land**

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

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) under article 22 (compulsory acquisition of rights), the tribunal must set off against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are required; and

- (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,
- which will accrue to that person by reason of the construction of the authorised development.
- (3) The 1961 Act has effect, subject to paragraphs (1) and (2) as if this Order were a local enactment for the purposes of that Act.

#### **No double recovery**

37. 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.

## PART 4

### OPERATIONAL PROVISIONS

#### **Power to operate and use the tunnel**

38. The undertaker may operate and use the tunnel.

#### **Closing the tunnel**

39.—(1) The undertaker may, whenever in its opinion it is necessary to do so, close the tunnel, whether wholly or partially.

(2) Where the undertaker proposes to close the tunnel it must, except in an emergency, and subject to any tunnel closure management plan produced in accordance with paragraph 4 (outline environmental management plan) of Schedule 2 (requirements)—

- (a) give not less than 7 days' notice in such manner as the undertaker considers appropriate; and
- (b) throughout the period of such closure display signs at convenient situations on the roads communicating with the tunnel area giving warning of the closure.

(3) In this article “emergency” means any circumstance whether existing or imminent, which the undertaker considers is likely to cause danger to—

- (a) persons or property, including the tunnel or any person in or using the tunnel; or
- (b) the environment.

#### **No apparatus in the tunnel area without consent**

40. Regardless of anything contained in any enactment, no person is to enter upon, break up or interfere with the tunnel, or any part of it, for the purpose of placing or doing anything in or in relation to any sewer, drain, main, pipe, wire or other apparatus or executing any work except with the written consent of the undertaker and in accordance with such terms and conditions as the undertaker may determine, including as to payment, such consent not to be unreasonably withheld and any disputes as to failure to consent or over terms and conditions to be subject to the arbitration provisions in article 57 (arbitration).

## Removal of vehicles

**41.**—(1) If any obstruction is caused by a vehicle waiting, loading, unloading or breaking down in the tunnel area, the person in charge of the vehicle must immediately remove it; and if that person fails to do so an authorised person may take all reasonable steps to remove the obstruction.

(2) An authorised person who removes a vehicle under paragraph (1) may do so by towing or driving the vehicle or in such other manner as the authorised person may think necessary and may take such measures in relation to the vehicle as the authorised person considers necessary to enable the vehicle to be removed.

(3) Where an authorised person requires a person to remove a vehicle which is causing an obstruction in the circumstances described under paragraph (1) and the authorised person determines that the manner of removal proposed by the person required to remove it may cause danger to other persons using the road, the authorised person may require the vehicle to be moved in such other manner as the authorised person considers safe or may remove or arrange for the removal of the vehicle if the person required to remove it refuses to remove it in the manner so required.

(4) A vehicle removed by an authorised person under this article—

- (a) may be returned immediately to the person in charge of that vehicle; or
- (b) where immediate return of that vehicle to the person in charge of it is not practicable or appropriate, must be delivered to the undertaker or to a person authorised by the undertaker to keep vehicles so removed (“the custodian” in either case).

(5) The custodian is entitled to recover the relevant charges from any person responsible.

(6) The custodian may dispose of a vehicle at any time after its removal—

- (a) where the owner of the vehicle has disclaimed all rights of ownership of the vehicle;
- (b) where in the opinion of the authorised person the vehicle is in such a condition that it ought to be destroyed; or
- (c) in the case of a vehicle, not falling within sub-paragraph (a) or (b), which—
  - (i) does not display a licence (whether current or otherwise and whether or not the vehicle is required to display a licence), and
  - (ii) does not display any registration mark (whether indicating registration within or outside the United Kingdom).

(7) In a case to which paragraph (6) does not apply, the custodian must—

- (a) if the vehicle carries a United Kingdom registration mark, ascertain from records kept by the Secretary of State under the Vehicle Excise and Registration Act 1994(89) the name and address of the person by whom the vehicle is kept; or
- (b) if the vehicle does not carry such a registration mark, make such inquiries as appear to the custodian reasonably practicable to ascertain the owner of the vehicle.

(8) If the custodian, having taken the relevant steps required under paragraph (7), has been unable to ascertain the name and address of the owner of the vehicle, the custodian may dispose of the vehicle.

(9) A custodian who has ascertained the name and address of the owner of the vehicle must issue a notice to the owner at the owner’s address in the form prescribed in paragraph (10).

(10) A notice under paragraph (9) must—

- (a) contain the specified information; and
- (b) state—



- (i) the place to which the vehicle has been removed;
- (ii) that if the recipient is the owner of the vehicle, the recipient is required to remove the vehicle from the custody of the custodian and pay the relevant charges within the period specified; and
- (iii) that the custodian intends to dispose of the vehicle if it is not removed within that period.

(11) The periods specified in paragraph (10)(b)(ii) and (iii) must be not less than 7 days beginning with the day on which the notice is served.

(12) If the person to whom the notice issued under paragraph (9) fails to comply with all of its requirements, the custodian may dispose of the vehicle at any time after the date specified in the notice in accordance with paragraph (10).

(13) As soon as reasonably practicable following the disposal of a vehicle under this article the custodian must—

- (a) where the vehicle carried a GB registration mark or a mark indicating registration in Northern Ireland, give information relating to the disposal to—
  - (i) the Secretary of State;
  - (ii) the chief officer of the police force in whose area the vehicle was removed under paragraph (1); and
  - (iii) HPI Ltd.
- (b) where the vehicle carried a mark indicating registration outside the United Kingdom, give information relating to the disposal to—
  - (i) the Secretary of State;
  - (ii) the Commissioners of Customs and Excise; and
  - (iii) the chief officer of the police force in whose area the vehicle was removed under paragraph (1);
- (c) where the vehicle did not carry any registration mark, give information relating to the disposal to the chief officer of the police force in whose area the vehicle was removed under paragraph (1);
- (d) in the case of any vehicle, information relating to the disposal must be given to any person who appears to the custodian to have been the owner of the vehicle immediately before it was disposed of.

(14) Where, by virtue of paragraph (5), any sum is recoverable in respect of a vehicle by a custodian, the custodian is entitled to retain custody of the vehicle until that sum is paid.

(15) A person (“the claimant”) may take possession of a vehicle (with its contents) which has been removed and delivered to a custodian and has not been disposed of under this article, if the conditions specified in paragraph (16) are satisfied.

(16) The conditions are that—

- (a) the claimant satisfies the custodian that the claimant is the owner of the vehicle or that the claimant is authorised by the owner to take possession of the vehicle;
- (b) all outstanding relevant charges are paid to the custodian; and
- (c) the claimant takes possession of the vehicle within 7 days of the custodian being satisfied that—
  - (i) the claimant is the owner of the vehicle or is authorised by the owner to take possession; and
  - (ii) any relevant charges have been paid to the custodian.

(17) Where it appears to the custodian that more than one person is the owner of the vehicle, or person authorised by the owner, the custodian must give possession of the vehicle to the first claimant who satisfies the conditions set out in paragraph (16).

(18) If before the end of the period of one year beginning with the date on which a vehicle is disposed of pursuant to this article, a person claims to have been the owner of the vehicle at the time when it was disposed of and the conditions specified in paragraph (19) are fulfilled, a sum calculated in accordance with paragraph (20) is payable by the custodian to the owner.

(19) The conditions are that—

- (a) the person claiming satisfies the custodian that the person so claiming was the owner of the vehicle at the time it was disposed of;
- (b) the claim is made before the end of the period of one year beginning with the date on which the vehicle was disposed of; and
- (c) no previous claim in respect of the vehicle has been made.

(20) The sum payable under paragraph (18) is calculated by deducting from the proceeds of sale the relevant charges that would have been payable had the vehicle been claimed by the owner immediately before its disposal.

(21) Where it appears to the custodian of a vehicle that more than one person is the owner, the custodian must treat the first person who makes a claim that satisfies the conditions set out in paragraph (19) as the owner for the purposes of this article.

(22) For the purposes of this article the owner of a vehicle is taken to be the person by whom the vehicle is kept and in determining for those purposes who was the owner of the vehicle at any time, it is presumed (unless the contrary appears) that the owner was the person in whose name the vehicle was at that time registered under the Vehicle Excise and Registration Act 1994.

(23) For the purposes of this article “breaking down” includes by way of a mechanical defect, lack of fuel, oil, water or power required for the vehicle or any other circumstances in which a person in charge of the vehicle could not immediately, safely and without damage to the vehicle or its accessories drive it under its own power away from the tunnel area.

(24) In this article—

“GB registration mark” means a registration mark issued in relation to a vehicle under the Vehicle Excise and Registration Act 1994;

“HPI Ltd” means HPI Limited (company number 04068979), whose registered office is at Capitol House, Bond Court, Leeds, Yorkshire, England, LS1 5EZ, being a company incorporated under the Companies Act 1985 and includes its successors and assigns;

“information relating to the disposal” means, in relation to a vehicle—

- (a) any information which is sufficient to relate the information now being given to any information previously given to the same person in respect of the removal, storage or disposal of the vehicle;
- (b) such of the specified information as has not been previously given to the same person in respect of the removal, storage or disposal of the vehicle; and
- (c) information as to whether the vehicle was disposed of by destruction or by sale and if by sale, the sum realised.

“owner”, in relation to a vehicle which is the subject of a hiring agreement or hire-purchase agreement, includes the person entitled to possession of the vehicle under the agreement;

“person responsible”, in relation to a vehicle, means—

- (a) the owner of the vehicle at the time when it was put in the place from which it was removed as mentioned in paragraph (1), unless the owner demonstrates that the owner was not concerned in, and did not know of, the vehicle being put in the tunnel area;
- (b) any person by whom the vehicle was put in that place;
- (c) any person convicted of an offence under section 2(1) (penalty for unauthorised dumping) of the Refuse Disposal (Amenity) Act 1978<sup>(90)</sup> in consequence of the putting of the vehicle in that place;

“relevant charges” means the sums and charges prescribed by the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008<sup>(91)</sup>;

“specified information”, in relation to a vehicle, means such of the following information as can be, or could have been, ascertained from an inspection of the vehicle, or has been ascertained from any other source—

- (a) in the case of a vehicle which carries a GB registration mark, or a mark indicating registration in a country outside Great Britain, particulars of such mark; and
- (b) the make of the vehicle; and

“vehicle” means any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle.

### **Removal of obstructions**

**42.**—(1) Where an obstruction or hazard is caused in the tunnel area by a load falling from a vehicle and the person in charge of the vehicle fails to remove it, an authorised person may take all reasonable steps to remove the load.

(2) An authorised person—

- (a) may return a load which the authorised person has removed immediately to the person in charge of the vehicle from which it has fallen; or
- (b) where a return of the load which the authorised person has removed to the person in charge of the vehicle from which it has fallen is not practicable or appropriate, must deliver the load to the undertaker or to a person authorised by the undertaker to keep loads so removed (“the custodian” in either case).

(3) The custodian must take reasonable steps to ascertain the identity of the owner of the load.

(4) Where the custodian has been unable to ascertain contact details for the owner of the load, the custodian may dispose of or sell the load as the custodian thinks fit.

(5) Where the custodian has been able to ascertain contact details for the owner of the load, the custodian must notify such person that—

- (a) the load is in the possession of the custodian;
- (b) the owner must take possession of the load within 5 weeks of the date of the notice;
- (c) the owner may only take possession of the load on the payment of the custodian’s expenses in removing and storing the load; and
- (d) if the owner fails to act in accordance with the requirements in the notice, title in the load vests in the custodian.

(6) The custodian may recover any expenses reasonably incurred in the removal and storage of a load from the owner of the load.

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<sup>(90)</sup> 1978 c. 3. Section 2(1) was amended by section 46 of the Criminal Justice Act 1982 (c. 48).

<sup>(91)</sup> S.I. 2008/2095, as amended by S.I. 2008/3013.

(7) Unless the owner of the load acts in accordance with the notice requirements, title in the load vests in the custodian on the date specified in the notice.

(8) Where a load consists of, or includes, liquids or semi-liquids or items which are loose or an aggregate, or noxious, perishable or otherwise hazardous or difficult to collect-up or remove, and the driver of the vehicle fails to remove it or the fallen load poses a hazard, paragraphs (2) to (7) do not apply and an authorised person or custodian (as the case may be) may, as it sees fit, immediately wash, clean or clear away or remove the fallen load or otherwise dispose of it or sell it.

(9) In this article “vehicle” means any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle.

### **Dangerous goods**

**43.**—(1) The undertaker is to be treated as having in the tunnel area the same enforcement powers as any body mentioned in regulation 32 (enforcement) of the Carriage of Dangerous Goods and the Use of Transportable Pressure Equipment Regulations 2009<sup>(92)</sup> (“the 2009 Regulations”) in relation to roads and to the extent permitted by regulation 32.

(2) The exercise of the enforcement powers mentioned in paragraph (1) is subject to any limitation which applies to the Health and Safety Executive under the 2009 Regulations.

(3) Nothing in this article prejudices or prevents a body mentioned in regulation 32 of the 2009 Regulations from exercising any power conferred on it by those Regulations.

### **Byelaws relating to the tunnel area**

**44.**—(1) The undertaker may make byelaws regulating—

- (a) the efficient management and operation of the tunnel area;
- (b) travel in the tunnel area;
- (c) the maintenance of order in the tunnel area;
- (d) the conduct of persons in the tunnel area.

(2) The byelaws contained in Schedule 8 (byelaws) have effect in relation to the tunnel area and continue to have effect until such time as they are amended or revoked by further byelaws made under paragraph (1) and in each case are to be treated as if they are byelaws that have been made by the undertaker under paragraph (1) and confirmed by the Secretary of State on the date this Order comes into force.

(3) Subject to paragraph (4), the provisions of subsection 236(3) to (8), and (11) (procedure, etc., for byelaws) of the Local Government Act 1972<sup>(93)</sup> apply in relation to byelaws other than those in Schedule 8 made by the undertaker under paragraph (1), as if the undertaker were a local authority for the purposes of subsection 236(1) of the Local Government Act 1972.

(4) The undertaker may make byelaws under paragraph (1) in accordance with the procedure in the Byelaws (Alternative Procedure) (England) Regulations 2016<sup>(94)</sup> as if those regulations applied to the making and revoking of byelaws under this article.

(5) Byelaws made under this article are enforceable by the undertaker and any authorised person.

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<sup>(92)</sup> S.I. 2009/1348, regulation 32 was substituted by S.I. 2014/469 and subsequently amended by S.I. 2015/1682.

<sup>(93)</sup> 1972 c. 70. Section 236 was amended by section 84 of, and paragraph 31(1) of Schedule 14 to, the Local Government Act 1985 (c. 51), paragraph 34 of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009 (c. 20), and section 129(2) of the Local Government and Public Involvement in Health Act 2007 (c. 28). There are other amendments to section 236 which are not relevant to this Order.

<sup>(94)</sup> S.I. 2016/165.

(6) A person who breaches a byelaw made under this article commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Fixed penalty notices**

**45.**—(1) This article applies where it appears to an authorised person that a person has committed an offence under byelaws made under article 44 (byelaws relating to the tunnel area).

(2) The authorised person may serve on that person a fixed penalty notice in respect of the offence.

(3) Where a person is given a fixed penalty notice under this article in respect of an offence—

- (a) no proceedings may be instituted for that offence before the expiration of 14 days after the date of the notice; and
- (b) that person may not be convicted of the offence if the fixed penalty is paid before the expiration of 14 days after the date of the notice.

(4) A fixed penalty notice must state—

- (a) the amount of the fixed penalty;
- (b) particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence;
- (c) the time by which and the manner (including the number to be used for payments by credit or debit card) in which the fixed penalty must be paid; and
- (d) that proceedings may be instituted if payment is not made within the time specified in the fixed penalty notice.

(5) The amount of the fixed penalty is—

- (a) one fifth of the maximum amount of the fine to which the person to whom the fixed penalty notice is issued would be liable on summary conviction provided that person pays the fixed penalty in full within 7 days of issue of the fixed penalty notice; or
- (b) one half of the maximum amount of the fine to which the person to whom the fixed penalty notice is issued would be liable on summary conviction.

(6) An authorised person may require a person to whom this article applies to pay a deposit of one tenth of the maximum amount of the fine to which a person may be liable under level 3 on the standard scale on accepting a fixed penalty notice if that person fails to provide, when requested, a residential address in the United Kingdom.

(7) Payment of the deposit must be made—

- (a) in person to the authorised person by cash, credit or debit card, if the authorised person has the necessary means to accept payment in that manner;
- (b) by telephone by credit or debit card to the number stipulated in the fixed penalty notice for making payments; or
- (c) by App.

(8) The undertaker must apply the deposit towards payment of the fixed penalty.

(9) In any proceedings a certificate which—

- (a) purports to be signed on behalf of an officer of the undertaker; and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(10) In this article—

“App” means a software application for use on an electronic device which provides for payment by credit or debit card and which is provided by the undertaker for that purpose;

“credit card” means a card or similar thing issued to any person, use of which enables the holder to defer payment of the deposit;

“debit card” means a card or similar thing issued by any person, use of which causes the deposit to be paid by the electronic transfer of funds from any current account of the holder at a bank or other institution providing banking facilities; and

“fixed penalty notice” means a notice offering the opportunity of the discharge of liability to conviction of an offence under byelaws made under article 44.

### **Classification of roads, etc.**

**46.**—(1) On the date on which the roads described in Parts 1 to 8 of Schedule 9 (classification of roads etc.) are completed and open for traffic—

- (a) the roads described in Parts 1, 2 and 6 of Schedule 9 are to become trunk roads as if they had become so by virtue of an order made under section 10(2)(95)(general provision as to trunk roads) of the 1980 Act specifying that date as the date on which they were to become trunk roads;
- (b) subject to sub-paragraph (c), the roads described Parts 3, 4, 5, 7 and 8 of Schedule 9 are to be classified as set out in that Part and are to be a classified road for the purpose of any enactment or instrument which refers to highways classed as classified roads, as if such classification had been made under section 12(3) (general provision as to principal and classified roads) of the 1980 Act; and
- (c) the roads described in paragraph 11 in Part 4, paragraph 18 in Part 7 and paragraph 22 in Part 8 of Schedule 9 are to be unclassified.

(2) Subject to paragraph (3), the undertaker may vary the classification of the roads, or any part of those roads, provided for in paragraph (1) and such variation may provide for any trunk road comprised in the authorised development and referred to in paragraph (1)(a) to be classified as a special road.

(3) The undertaker must not exercise the powers conferred by paragraph (2) unless the undertaker has—

- (a) given not less than 4 weeks’ notice in writing of the undertaker’s intention so to do to the chief officer of police and to the local highway authority in whose area the road is situated; and
- (b) published a notice, declaring the date on which that road or part of it is to be classified, not less than 7 days before that date, in at least one local newspaper circulating in the area in which the road or, as the case may be, the relevant part of it is situated and in the London Gazette.

(4) Before exercising the powers conferred by paragraph (2), the undertaker must consult such persons as the undertaker considers necessary and appropriate and must take into consideration any representations made to the undertaker by any such person.

(5) Any roads classified as a special road in accordance with paragraph (2) are to be—

- (a) classified as special roads for the purpose of any enactment or instrument which refers to highways classified as special roads; and
- (b) provided for the use of traffic of Classes I and II of the classes of traffic set out in Schedule 4 (classes of traffic for purposes of special roads) to the 1980 Act.

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(95) Section 10(2) was amended by section 22(2)(a) of the 1991 Act and by section 1(6) of, and paragraphs 1 and 10(1) and (2) of Schedule 1 to, the Infrastructure Act 2015 (c. 7).



(6) On any such days as the undertaker may determine, unless otherwise agreed in writing with the local highway authority, the roads described in Part 9 of Schedule 9 are to cease to be trunk roads as if they had ceased to be trunk roads by virtue of an order made under section 10(2) of the 1980 Act specifying that date as the date on which they were to cease to be trunk roads.

(7) The application of paragraphs (1) to (6) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters.

## Clearways

**47.**—(1) From such day as the undertaker may determine, except as provided in paragraph (2) below, no person is to cause or permit any vehicle to wait on any part of the lengths of road described in column (2) of Part 2 (clearways and prohibitions) of Schedule 10 (traffic regulation measures) where it is identified that such lengths of road are to become a clearway in the corresponding row of column (3) of that Part, except upon the direction of, or with the permission of, a uniformed constable or uniformed traffic officer.

(2) Nothing in paragraph (1) applies—

(a) to render it unlawful to cause or permit a vehicle to wait on any part of a road, for so long as may be necessary to enable that vehicle to be used in connection with—

(i) the removal of any obstruction to traffic;

(ii) the maintenance, improvement, reconstruction or operation of the road;

(iii) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the road of any sewer, main pipe, conduit, wire, cable or other apparatus for the supply of gas, water, electricity or any electronic communications apparatus as defined in Schedule 3A (the electronic communications code) to the Communications Act 2003<sup>(96)</sup>; or

(iv) any building operation or demolition;

(b) in relation to a vehicle being used—

(i) for police, ambulance, fire and rescue authority or traffic officer purposes;

(ii) in the service of a local authority, safety camera partnership or Driver and Vehicle Standards Agency in pursuance of statutory powers or duties;

(iii) in the service of a water or sewerage undertaker within the meaning of the Water Industry Act 1991<sup>(97)</sup>; or

(iv) by a universal service provider for the purposes of providing a universal postal service as defined by the Postal Service Act 2000<sup>(98)</sup>; or

(c) in relation to a vehicle waiting when the person in control of it is—

(i) required by law to stop;

(ii) obliged to stop in order to avoid an accident; or

(iii) prevented from proceeding by circumstances outside the person's control.

(3) No person is to cause or permit any vehicle to wait on any part of the roads described in paragraph (1) for the purposes of selling, or dispensing of, goods from that vehicle, unless the goods are immediately delivered at, or taken into, premises adjacent to the land on which the vehicle stood when the goods were sold or dispensed.

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<sup>(96)</sup> 2003 c. 21. Schedule 3A was inserted by section 4(2) of, and Schedule 1 to, the Digital Economy Act 2017 (c. 30).

<sup>(97)</sup> 1991 c. 56.

<sup>(98)</sup> 2000 c. 26.

(4) Paragraphs (1), (2) and (3) have effect as if made by order under the 1984 Act, and their application may be varied or revoked by an order made under that Act or any other enactment which provides for the variation or revocation of such orders.

(5) In this article, “traffic officer” means an individual designated under section 2 (designation of traffic officers) of the Traffic Management Act 2004<sup>(99)</sup>.

### **Traffic regulation measures**

**48.**—(1) Subject to the provisions of this article, and from any such days as the undertaker may determine—

- (a) no person is to drive any motor vehicle at a speed exceeding the limit in miles per hour specified in column (3) of Part 1 (speed limits) of Schedule 10 (traffic regulation measures) along the lengths of road identified in the corresponding row of column (2) of that Part;
- (b) no person is to drive a vehicle on a section of a road which is subject to a variable speed limit at a speed exceeding that indicated by a speed limit sign displayed on a variable message sign (paragraphs (3), (4) and (5) make further provision in respect of variable speed limits);
- (c) subject to paragraph (2) and article 47 (clearways), the restrictions specified in column (3) of Part 2 (clearways and prohibitions) of Schedule 10 are to apply to the lengths of road identified in the corresponding row of column (2) of that Part; and
- (d) the orders specified in column (3) of Part 3 (revocations and variations of existing traffic regulation orders) of Schedule 10 are to be varied or revoked as specified in the corresponding row of column (4) of that Part in respect of the lengths of roads specified in the corresponding row of column (2) of that Part.

(2) No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011<sup>(100)</sup> when used in accordance with regulation 3(5) of those regulations.

(3) A section of road is subject to a variable speed limit in relation to a vehicle being driven along it if—

- (a) the section of road is identified in column (2) of Part 1 (speed limits) of Schedule 10 as being subject to a variable speed limit in column (3) of that Part;
- (b) the vehicle has passed a speed limit sign displayed on a variable message sign; and
- (c) the vehicle has not subsequently passed—
  - (i) another speed limit sign indicating a different speed limit; or
  - (ii) a traffic sign which indicates that the national speed limit is in force.

(4) In relation to a vehicle, the speed limit indicated by a speed limit sign is the speed shown at the time the vehicle passes the sign, or, if higher, the speed limit shown by the sign ten seconds before the vehicle passed the sign.

(5) For the purposes of this article, a speed limit sign displayed on a variable message sign is to be taken as not indicating any speed limit if, ten seconds before the vehicle passed it, the sign had indicated no speed limit or that the national speed limit was in force.

(6) Without limiting the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the undertaker may, in so far as

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<sup>(99)</sup> 2004 c. 18.

<sup>(100)</sup> S.I. 2011/935.

necessary or expedient for the purposes of, in connection with, or in consequence of the construction, maintenance and operation of the authorised development—

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

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

(7) The power conferred by paragraph (6) may be exercised at any time prior to the expiry of 24 months from the opening of the authorised development for public use, but subject to paragraph (10), any prohibition, restriction or other provision made under paragraph (6) may have effect both before and after the expiry of that period.

(8) The undertaker must not exercise the powers conferred by paragraph (6), unless the undertaker has—

- (a) given not less than—
  - (i) 12 weeks' notice in writing of the undertaker's intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or
  - (ii) 4 weeks' notice in writing of the undertaker's intention so to do in the case of a prohibition, restriction or other provision intended to have effect temporarily,to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised the undertaker's intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(i), or within 7 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(ii).

(9) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (6)—

- (a) has effect as if duly made by, as the case may be—
  - (i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or
  - (ii) the local authority in whose area the road is situated, as an order under section 32(101) (power of local authorities to provide parking places) of the 1984 Act,and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and
- (b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(102).

(10) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraphs (1) or (6) within a period of 24 months from the opening of the authorised development.

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(101) Section 32 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(1) of, and paragraph 39 of Schedule 8 to, the 1991 Act.

(102) 2004 c. 18.

(11) Before exercising the powers conferred by paragraphs (1) or (6) the undertaker must consult such persons as the undertaker considers necessary and appropriate and must take into consideration any representations made to the undertaker by any such person.

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

(13) In this article—

“national speed limit” has the meaning given by Schedule 1 (definitions) to the Traffic Signs Regulations and General Directions 2016<sup>(103)</sup> and a traffic sign which indicates that the national speed limit is in force means a traffic sign of the type shown in diagram 671 in Part 2 (signs and road markings indicating speed limits) of Schedule 10 (signs for speed limits) to the Traffic Signs Regulations and General Directions 2016 which is—

- (a) placed on or near a road; and
- (b) directed at traffic on the carriageway on which the vehicle is being driven;

“road” includes the adjacent hard shoulder and verge;

“speed limit sign” in relation to a vehicle, means a traffic sign of the type shown in diagram 670 in Part 2 of Schedule 10 to the Traffic Signs Regulations and General Directions 2016 which is—

- (a) situated on or near any part of a road specified in column (2) as being subject to a variable speed in limit in column (3) of Part 1 (speed limits) of Schedule 10; and
- (b) directed at traffic on the carriageway on which the vehicle is being driven; and

“variable message sign” has the meaning given by Schedule 1 (definitions) to the Traffic Signs Regulations and General Directions 2016.

## PART 5

### MISCELLANEOUS AND GENERAL

#### **Benefit of the Order**

**49.**—(1) Subject to article 50 (consent to transfer benefit of Order) and paragraph (2), the provisions of this Order conferring functions on the undertaker have effect solely for the benefit of the undertaker.

(2) Paragraph (1) does not apply to the works for which the consent is granted by this Order for the express benefit or accommodation of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

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

**50.**—(1) The undertaker may, regardless of any provision in any enactment, with the consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefits of the provisions of this Order that apply to the undertaker and such statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person (“the grantee”) for a period agreed between the undertaker and the grantee any or all of the benefit of the provisions of this Order that apply to the undertaker and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1), references in the provisions of this Order and any document certified under it that apply to the undertaker are to be read as references to the transferee or the grantee, or any other person who may exercise, enjoy or be responsible for any functions of the undertaker pursuant to that agreement, as the case may be.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker, save where those benefits or rights are exercised by a statutory undertaker or by an owner or occupier of land pursuant to paragraph (2) of article 22 (compulsory acquisition of rights) of this Order, in which case liability for the payment of compensation must remain with the undertaker.

(4) The consent of the Secretary of State under this article is not required where the powers of article 22(1) (compulsory acquisition of rights) are, with the consent of the undertaker given under article 22(2), proposed to be exercised by a statutory undertaker rather than by the undertaker, or are proposed to be exercised for the express benefit or accommodation of owners and occupiers of land, as identified in column (4) of the table in Part 3 of Schedule 3 (permanent stopping up of highways and private means of access and provision of new highways and private means of access) to this Order.

(5) The consent of the Secretary of State is not required for a transfer or grant under this article where the transfer or grant is made to Southern Electric Power Distribution plc for the purposes of undertaking Work No. 1C(v) and associated ancillary works.

(6) For the purposes of this article “statutory undertaker” includes Esso.

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

**51.**—(1) This article applies to any agreement entered into by the undertaker under article 50 (consent to transfer 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.

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

**52.** Development consent granted by this Order for development on Order land 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 for the purposes of that Act) of the 1990 Act.

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

**53.**—(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(**104**) in relation to a nuisance falling within paragraph (g) of section 79(1) (noise emitted from premises so as to be prejudicial to health or a nuisance) of that Act no order is to be made, and no fine may be imposed, under section 82(2)(**105**) of that Act if—

- (a) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the construction or maintenance of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974(**106**); or
  - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974, does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

### **Protective provisions**

**54.** Schedule 11 (protective provisions) has effect.

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

**55.**—(1) As soon as practicable after the making of this Order, the undertaker must submit copies of each of the plans and documents set out in Schedule 12 (documents to be certified) to the Secretary of State for certification as true copies of those plans and documents.

(2) Where any plan or document set out in Schedule 12 requires to be amended to reflect the terms of the Secretary of State’s decision to make this Order, that plan or document in the form amended to the Secretary of State’s satisfaction is the version of the plan or document required to be certified under paragraph (1).

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

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

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**(104)** 1990 c. 43. There are amendments to section 82(1) which are not relevant to this Order.

**(105)** Section 82(2) was amended by section 5(2) of the Noise and Statutory Nuisance Act 1993 (c. 40). There are other amendments to section 82(2) that are not relevant to this Order.

**(106)** 1974 c. 40. Sections 61(9) was amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990 (c. 43). There are other amendments to section 61 which are not relevant to this Order.



## Service of notices

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

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (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(107) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

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

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

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

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

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

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 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 7 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.

### **Arbitration**

**57.** Except where otherwise expressly provided for in this Order and unless otherwise agreed in writing between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

### **Consents, agreements and approvals**

**58.—**(1) Where any application is made to a relevant authority, the consent, agreement or approval concerned must, if given, be given in writing and is not to be unreasonably withheld or delayed.

(2) If a relevant authority which has received an application fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was received, the relevant authority is deemed to have given its consent, agreement or approval, as the case may be.

(3) Any application to which this article applies must include a written statement that the provisions of paragraph (2) apply to that application.

(4) In this article—

“application” means an application or request for any consent, agreement or approval required or contemplated by articles 9 (construction and maintenance of new, altered or diverted streets and other structures), 11 (temporary stopping up and restriction of use of streets), 13 (discharge of water), 15 (authority to survey and investigate land) and 48 (traffic regulation measures); and  
“relevant authority” means a planning authority, a traffic authority, a highway authority a street authority or an owner of a public sewer or drain as defined in article 13(7)(a).

Signed by the authority of the Secretary of State for Transport

*Martin Gilmour*  
Deputy Director, Planning, Transport and  
Housing Division  
Department for Transport

14th July 2023

## SCHEDULES

### SCHEDULE 1

Article 2

#### AUTHORISED DEVELOPMENT

##### **In the administrative area of Wiltshire Council**

The authorised development is situated in the administrative area of Wiltshire Council.

A nationally significant infrastructure project as defined in sections 14 (nationally significant infrastructure projects: general) and 22 (highways) of the 2008 Act, and associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act, comprising—

**Work No. 1** – as shown on sheets 1 to 11 of the works plans and being the construction of a new all-purpose dual carriageway (‘the new A303’) and of improvements to the existing A303 to include—

- (a) **Work No. 1A** – as shown on sheets 1, 2, 3 and 4 of the works plans and being the construction of the new A303 and of improvements to sections of the existing A303, to include—
  - (i) the improvement of the existing A303 eastbound and westbound single and dual lane carriageway;
  - (ii) the construction of a new bridge (Green Bridge One) to carry a new restricted byway and private means of access over the new A303 as shown illustratively on sheet 3 of the rights of way and access plans;
  - (iii) the construction of new restricted byways on the northern and southern sides of the new alignment of the A303 as shown illustratively on sheets 1, 2 and 3 of the rights of way and access plans;
  - (iv) the construction of a new byway open to all traffic as shown illustratively on sheets 2 and 3 of the rights of way and access plans;
  - (v) the construction of a new bridge to carry the new A303 over the realigned B3083 (forming part of Work No. 2);
  - (vi) the construction and installation of a new variable message sign; and
  - (vii) the construction of new private means of access, as shown illustratively on sheets 2 and 3 of the rights of way and access plans.
- (b) **Work No. 1B** – as shown on sheet 4 of the works plans and being the construction of the new A303, to include—
  - (i) the construction of a new viaduct crossing the River Till, to carry the new A303 over the River Till;
  - (ii) the construction of new private means of access, as shown illustratively on sheet 4 of the rights of way and access plans; and
  - (iii) the construction and installation of a new variable message sign.
- (c) **Work No. 1C** – as shown on sheets 4 and 5 of the works plans and being the construction of the new A303, to include—

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- (i) the construction of a new bridge (Green Bridge Two) to carry the realigned byway open to all traffic WSTO6B over the new A303 as shown illustratively on sheet 4 of the rights of way and access plans;
  - (ii) the construction of new eastbound and westbound merge and diverge slip roads for a new grade-separated junction ('the new Longbarrow Junction') between the realigned A360 and the new A303 (forming part of Work No. 4);
  - (iii) the construction of a new bridleway between the southern roundabout of the new Longbarrow Junction and the existing A360, as shown illustratively on sheet 5 of the rights of way and access plans;
  - (iv) the construction of crossovers within the new central reservation at the new Longbarrow Junction;
  - (v) the provision of a temporary electricity substation for the benefit of Southern Electric Power Distribution plc;
  - (vi) the construction and installation of a new variable message sign; and
  - (vii) the construction of new private means of access, as shown illustratively on sheets 4 and 5 of the rights of way and access plans.
- (d) **Work No. 1D** – as shown on sheets 5 and 6 of the works plans and being the construction of the new A303, to include—
- (i) the construction of a new bridge (Green Bridge Four), to carry a new restricted byway and private means of access (part of Work No. 6) over the new A303, as shown illustratively on sheet 5 of the rights of way and access plans;
  - (ii) the construction of new western portal approach retaining walls and associated works for the new A303;
  - (iii) the construction of new tunnel service buildings;
  - (iv) the provision of a temporary electricity substation;
  - (v) the construction of a crossover within the new central reservation at the new Longbarrow Junction;
  - (vi) the construction of a new bridleway running on the south side of the new A303 westbound carriageway and westbound diverge slip road as shown illustratively on sheet 5 of the rights of way and access plans; and
  - (vii) the construction of new private means of access, as shown illustratively on sheet 5 of the rights of way and access plans.
- (e) **Work No. 1E** – as shown on sheet 6 of the works plans and being the construction of the new A303, to include—
- (i) the construction of a new cut and cover section of tunnel; and
  - (ii) the construction of a western portal for the new A303 tunnel.
- (f) **Work No. 1F** – as shown on sheets 6, 7 and 8 of the works plans and being the construction of part of the new A303, comprising a new twin bore highway tunnel, comprising two bores, one for eastbound traffic and one for westbound traffic, with a two-lane carriageway in each direction, and including cross-passages connecting the two tunnels.
- (g) **Work No. 1G** – as shown on sheet 8 of the works plans and being the construction of the new A303, to include—
- (i) the construction of a new cut and cover section of tunnel;
  - (ii) the construction of new tunnel service buildings; and
  - (iii) the construction of an eastern portal for the new A303 tunnel.

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- (h) **Work No. 1H** – as shown on sheets 8, 9, 10 and 11 of the works plans and being the construction of the new A303 and of improvements to sections of the existing A303, and the improvement of connecting highway junctions, to include—
- (i) the construction of new tunnel service buildings;
  - (ii) the construction of new eastern portal approach retaining walls and associated works for the new A303;
  - (iii) the construction of new eastbound and westbound merge and diverge slip road connections between the new A303 and the existing junction of the A303 with the A345 (Countess Roundabout), together with retaining walls and associated works, and tie-ins to existing carriageway;
  - (iv) the construction of two new bridge structures to carry the new A303 on a flyover above the Countess Roundabout;
  - (v) the construction of a crossover within the new central reservation on the flyover above the Countess Roundabout;
  - (vi) the removal of an existing subway to the east of the existing Countess Roundabout and replacement provision of new at-grade crossing facilities for non-motorised users on the A345;
  - (vii) works associated with tie-ins to existing carriageways approaching and crossing the existing River Avon Bridge carrying the new and improved A303;
  - (viii) works to effect the stopping up of the existing A303 central reserve opening at the junction of the existing A303 with the existing side road known as Allington Track;
  - (ix) the construction of a new realigned eastbound access from the A303 into the existing Amesbury Road;
  - (x) works to effect the stopping up of the existing eastbound access from Amesbury Road onto the A303;
  - (xi) the construction of a new realigned A303 eastbound access from the existing A3028 Double Hedges Road onto the A303;
  - (xii) works to effect the stopping up of the existing access between byway AMES1 and the eastbound carriageway of the A303;
  - (xiii) works to effect the stopping up of the section of byways BULF12 and AMES2 between the existing A303 and the junction between the existing Amesbury Road and the existing A3028;
  - (xiv) the construction of new private means of access, as shown illustratively on sheets 8 and 11 of the rights of way and access plans;
  - (xv) the provision of a temporary electricity substation; and
  - (xvi) the construction and installation of new variable message signs.

**Work No. 2** – as shown on sheets 3 and 12 of the works plans and comprising—

- (a) the realignment of the B3083, passing under the new A303 (Work No. 1A); and
- (b) the construction of new private means of access, as shown illustratively on sheet 3 of the rights of way and access plans.

**Work No. 3** – as shown on sheets 2, 3, 4 and 5 of the works plans and being the improvement of the existing A303, to include—

- (a) **Work No. 3A** – as shown on sheets 2, 3 and 4 of the works plans and comprising—
  - (i) the construction of a new byway open to all traffic, as shown illustratively on sheets 2 and 3 of the rights of way and access plans;

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- (ii) the construction of new private means of access, as shown illustratively on sheets 2 and 3 of the rights of way and access plans; and
  - (iii) works to support the reclassification of the existing A303 from a trunk road to a C road, including closure of an existing lay-by, and including the construction of a shared use cycle track.
- (b) **Work No. 3B** – as shown on sheet 4 of the works plans and being—
- (i) the construction of a new bridleway to the north of the existing A303, as shown illustratively on sheet 4 of the rights of way and access plans; and
  - (ii) the construction of new private means of access, as shown illustratively on sheet 4 of the rights of way and access plans.
- (c) **Work No. 3C** – as shown on sheets 4 and 5 of the works plans and being—
- (i) the construction of a new highway link from the existing A303 to the southern roundabout of the new Longbarrow Junction (Work No. 4), including the construction of a cycleway; and
  - (ii) the construction of new private means of access, as shown illustratively on sheets 4 and 5 of the rights of way and access plans.

**Work No. 4** – as shown on sheets 5, 14 and 15 of the works plans and being the realignment of the existing A360 and forming part of the new Longbarrow Junction, to include—

- (a) the construction of a new bridge (Green Bridge Three) to carry the realigned A360 over the new A303;
- (b) the construction of two new roundabouts connected by a short length of dual carriageway;
- (c) the construction of a new single carriageway two-way link road and tie-in from the new northern roundabout (forming part of the new Longbarrow Junction) to the existing A360 (north);
- (d) the construction of a new single carriageway two-way link road and tie-in from the new southern roundabout (forming part of the new Longbarrow Junction) to the existing A360 (south);
- (e) the construction of new private means of access, as shown illustratively on sheets 5, 14 and 15 of the rights of way and access plans;
- (f) the construction of a new right of way, partly shared use cycle track and partly restricted byway running southwards from the existing Airman’s Corner roundabout, and broadly parallel with the alignment of the existing A360, save where it runs to the east of the dew pond, to its junction with the existing Longbarrow roundabout, as shown illustratively on sheets 5 and 14 of the rights of way and access plans;
- (g) the construction of a new restricted byway running northwards from the junction between byway BSJA9 and the A360, to the new A303, as shown illustratively on sheets 5 and 15 of the rights of way and access plans; and
- (h) the construction of a new bridleway running southwards from the western end point of byway BSJA9 and then south-eastwards to its junction with byway WFOR16, as shown illustratively on sheet 15 of the rights of way and access plans.

**Work No. 5** – as shown on sheet 13 of the works plans and being the realignment and change to vehicle priority layout at the Rolleston Cross junction, to include—

- (a) the construction of a realigned section of the existing east-west length of the B3086, known as ‘the Packway’;
- (b) the construction of a realigned section of unclassified road from the north of the existing Rolleston Cross Junction;



- (c) the construction of a realigned section of the existing north-south B3086;
- (d) the construction of a realigned section of the existing unclassified highway 094402 (the Packway); and
- (e) the construction of new private means of access, as shown illustratively on sheet 13 of the rights of way and access plans.

**Work No. 6** – as shown on sheets 5, 6, 7 and 8 of the works plans and being the conversion of part of the existing A303 to a new restricted byway, to include—

- (a) the construction of a new restricted byway running from the existing Longbarrow roundabout eastwards, generally along the line of the existing A303 to the junction between Stonehenge Road and footpath AMES13, as shown illustratively on sheets 5, 6, 7 and 8 of the rights of way and access plans, and including the provision of a new turning head at the junction between Stonehenge Road and footpath AMES13;
- (b) the construction of a new restricted byway crossing over the new A303 on Green Bridge Four (Work No. 1D), then running westwards to meet the existing A360, as shown illustratively on sheet 5 of the rights of way and access plans; and
- (c) the construction of new private means of access, as shown illustratively on sheets 5, 6, 7 and 8 of the rights of way and access plans.

**Work No. 7** – as shown on sheet 11 of the works plans and being the realignment of part of the existing unclassified Allington Track, to include—

- (a) works to effect the stopping up of part of bridleway AMES29 between Equinox Drive and byway AMES1 as shown illustratively on sheet 11 of the rights of way and access plans;
- (b) works to effect the stopping up of byway AMES1 as shown illustratively on sheet 11 of the rights of way and access plans;
- (c) works to support the reclassification of byway AMES1 as a footpath, as shown illustratively on sheet 11 of the rights of way and access plans;
- (d) works to effect the stopping up of Allington Track over a length between its existing junction with the A303 (including works to effect the stopping up of its access to the A303) and its junction with the existing access track running in parallel with the westbound carriageway of the A303, between Allington Track and byway AMES1;
- (e) the construction of a new length of byway open to all traffic between Equinox Drive and byway AMES1, as shown illustratively on sheet 11 of the rights of way and access plans;
- (f) the construction of a length of new unclassified road between Equinox Drive and Allington Track, as shown illustratively on sheet 11 of the rights of way and access plans; and
- (g) the construction of new private means of access, as shown illustratively on sheets 5, 6, 7 and 8 of the rights of way and access plans.

**Work No. 8** – as shown on sheets 3 and 12 of the works plans and being—

- (a) works to effect the processing, deposition or use of excavated material, landscaping works and re-profiling works including the creation of chalk grassland habitat;
- (b) the construction of new private means of access as shown on sheets 3 and 12 of the rights of way and access plans.

**Work No. 9** – as shown on sheets 9 and 10 of the works plans and being the extension of two existing substations and related electricity cabling for provision of power to the authorised development.

### **Ancillary Works**

For the purposes of or in connection with the construction of any of the works and other development mentioned above, ancillary or related development which does not give rise to any materially new or

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materially different environmental effects in comparison with those reported in the environmental statement, consisting of—

- (a) works within highways, including—
  - (i) alteration of the layout of any street permanently or temporarily, including increasing or reducing the width of the carriageway of any street by increasing or reducing the width of any kerb, footway, cycleway, or verge within the street; and altering the level or increasing the width of any such kerb, footway, cycleway or verge within the street, works for the strengthening, improvement, repair, maintenance or reconstruction of any street;
  - (ii) street works, including breaking up or opening a street, or any sewer, drain or tunnel under it, and tunnelling or boring under a street;
  - (iii) relocation or provision of new road traffic signs, signals, street lighting, road restraints and carriageway lane markings;
  - (iv) works to place, alter, remove or maintain street furniture or apparatus (including statutory undertakers' apparatus) in, under or above a street, including mains, sewers, drains, pipes, cables, cofferdams, lights, fencing and other boundary treatments; and
  - (v) works to facilitate traffic management, provide vehicle recovery services and to deliver information relating to the authorised development;
- (b) other works and development—
  - (i) for the strengthening, alteration or demolition of any building;
  - (ii) to place, alter, divert, relocate, protect, remove or maintain services, plant and other apparatus and equipment belonging to statutory undertakers, utility companies and others in, under or above land, including mains, sewers, drains, pipes, cables, lights, cofferdams, fencing and other boundary treatments including bollards;
  - (iii) comprising ramps, steps, footpaths, footways, shared use cycle tracks, cycleways, bridleways, equestrian tracks, non-motorised user routes or links, byways open to all traffic, restricted byways, private means of access, laybys and crossing facilities;
  - (iv) comprising embankments, cuttings, viaducts, bridges, aprons, abutments, shafts, foundations, retaining walls, drainage works, drainage treatment areas, ponds, lagoons, outfalls, pollution control devices, pumping stations, impounding sumps, culverts, wing walls, fire fighting system water tanks and associated plant and equipment, highway lighting and fencing;
  - (v) comprising settlement monitoring and mitigation measures for the benefit or protection of, or in relation to, any land, building or structure, including monitoring and safeguarding of existing infrastructure, utilities and services affected by the authorised development;
  - (vi) comprising landscaping, re-grading, re-profiling, contouring, noise barriers, works associated with the provision of ecological and archaeological mitigation, and other works to mitigate any adverse effects of the construction, operation or maintenance of the authorised development;
  - (vii) comprising the processing, deposition or use of excavated materials;
  - (viii) comprising areas of hard or soft landscaping works, or public realm, at various locations adjacent to the new or improved highway and associated works;
  - (ix) comprising site preparation works, site clearance (including fencing and other boundary treatments, vegetation removal, works of demolition, including demolition of existing structures, and the creation of alternative highways or footpaths) and earthworks (including soil stripping and storage and site levelling);

- (x) comprising construction compounds and working sites, temporary structures, storage areas (including storage of excavated material and other materials), temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction-related buildings, temporary worker accommodation facilities, welfare facilities, office facilities, other ancillary accommodation, construction lighting, haulage roads and other buildings, machinery, apparatus, processing plant, works and conveniences;
- (xi) comprising service compounds, plant and equipment rooms, offices, staff mess rooms, welfare facilities, and other ancillary and administrative accommodation;
- (xii) comprising ground investigation works, including the installation and monitoring of associated apparatus;
- (xiii) comprising works for the benefit or protection of the authorised development; and
- (xiv) comprising works of whatever nature, as may be necessary or expedient for the purposes of, or for purposes associated with or ancillary to, the construction, operation or maintenance of the authorised development.

## SCHEDULE 2

Article 4

### REQUIREMENTS

#### PART 1

#### REQUIREMENTS

##### Interpretation

1.—(1) In this Schedule—

“British Standards” means standards, recommendations and procedures as drawn up and published by the British Standards Institution;

“contaminated land” has the same meaning as that given in section 78A(108) (preliminary) of the Environmental Protection Act 1990;

“detailed archaeological mitigation strategy” means the detailed archaeological mitigation strategy listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the detailed archaeological mitigation strategy for the purposes of this Order, which sets out the requirements for the overarching written scheme of investigation, heritage management plan, site specific written schemes of investigation and archaeological method statements and protections for the World Heritage Site and its setting with which the undertaker must comply according to the terms of the detailed archaeological mitigation strategy in carrying out, operating and maintaining the authorised development, as set out in paragraph 5;

“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(109);

“HEMP” means a handover environmental management plan;

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(108) Section 78A was inserted by section 57 of the Environment Act 1995 (c. 25) and amended by section 86(2) of the Water Act 2003 (c. 37).

(109) S.I. 2017/1012.

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“main works” means those parts of the authorised development that are not comprised in the preliminary works;

“main works CEMP” means a construction environmental management plan to be submitted and approved under requirement 4(8) in relation to the main works;

“nationally protected species” means any species protected under the Wildlife and Countryside Act 1981(110);

“National Trust” means the National Trust for Places of Historic Interest or Natural Beauty;

“OEMP” means the outline environmental management plan referred to in Schedule 12 certified by the Secretary of State as the outline environmental management plan for the purposes of this Order, which sets out (i) at section 1.2.2 the scheme objectives and (ii) protections for the World Heritage Site and its setting with which the undertaker must comply according to the terms of the OEMP in carrying out operating and maintaining the authorised development, as set out in paragraph 4;

“preliminary highways works” means—

- (a) Work No. 1H(viii) to (xiv) inclusive;
- (b) Work No. 5; and
- (c) Work No. 7;

“preliminary works CEMP” means a construction environmental management plan to be submitted and approved under requirement 4(4) in relation to the preliminary works;

“preliminary works OEMP” means Table 3.2a and any other parts of the OEMP relating to the preliminary works; and

“scheme objectives” means the four scheme objectives drawn by the Secretary of State for the design, carrying out and maintenance of the authorised development being—

- (a) the transport objective, to create a high quality reliable route between the south east and the south west that meets the future needs of traffic;
- (b) the economic growth objective, to enable growth in jobs and housing by providing a free flowing and reliable connection between the south east and the south west;
- (c) the cultural heritage objective, to help conserve and enhance the World Heritage Site and to make it easier to reach and explore; and
- (d) the environment and community objective, to improve biodiversity and provide a positive legacy for nearby communities.

(2) Where any requirement in this Schedule—

- (a) refers to a scheme, drawing, document or plan, that scheme, document or plan is to be taken to be the version certified by the Secretary of State under article 55 (certification of plans etc.) of this Order or to any subsequent version of that scheme, drawing document or plan approved by the Secretary of State under a requirement; or
- (b) provides that the authorised development is to be carried out in accordance with details, or a scheme, plan or other document approved by the Secretary of State, the approved details, scheme, plan or other document must be taken to include any amendments or revisions subsequently approved by the Secretary of State.

### **Time limits**

2. The authorised development must not commence later than the expiration of 5 years beginning with the date on which this Order comes into force.

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(110) 1981 c. 69.

### **Preparation of detailed design, etc.**

3.—(1) The authorised development must be designed in detail and carried out so that it is, subject to the limits of deviation, in accordance with the works plans, the engineering section drawings (plan and profiles) and the engineering section drawings (cross sections) unless otherwise agreed in writing by the Secretary of State, following consultation with the planning authority on matters related to its functions and any other person the Secretary of State considers appropriate having regard to the proposed amendment in question and the statutory roles and responsibilities of such person, and provided that the Secretary of State is satisfied that any amendments to the works plans, the engineering section drawings (plan and profiles) and the engineering section drawings (cross sections) would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

(2) Where amended details are approved by the Secretary of State under sub-paragraph (1), those details are deemed to be substituted for the corresponding works plans, engineering section drawings (plan and profiles) or engineering section drawings (cross sections) and the undertaker must make those amended details available in electronic form for inspection by members of the public.

### **Outline Environmental Management Plan**

4.—(1) The main works must be carried out in accordance with the OEMP.

(2) The preliminary works must be carried out in accordance with the preliminary works OEMP.

(3) The preliminary highways works must be carried out in accordance with sections 4.2 (design vision) and 4.3 (design principles) of the OEMP.

(4) Subject to sub-paragraphs (5) and (10), no part of the preliminary works is to begin until a preliminary works CEMP for that part has been submitted to and approved in writing by the Secretary of State, following the consultation specified in the preliminary works OEMP.

(5) No part of the preliminary works in respect of which a heritage management plan, site specific written scheme of investigation or archaeological method statement is required under the preliminary works OEMP is to begin until each of those documents required for that part has been submitted and approved in writing by the planning authority, following the consultation specified in the preliminary works OEMP and the detailed archaeological mitigation strategy.

(6) A preliminary works CEMP must be prepared so that it is substantially in accordance with the preliminary works OEMP.

(7) Each part of the preliminary works must be carried out in accordance with the preliminary works CEMP for that part.

(8) Subject to sub-paragraphs (9) and (10), no part of the main works is to commence until a main works CEMP for that part has been prepared and submitted to and approved in writing by the Secretary of State, following the consultation specified in the OEMP.

(9) Subject to sub-paragraph (11), no part of the main works in respect of which a heritage management plan, site specific written scheme of investigation or archaeological method statement is required under the OEMP is to commence until each of those documents required for that part has been submitted and approved in writing by the planning authority, following the consultation specified in the OEMP and the detailed archaeological mitigation strategy.

(10) The approval of the Secretary of State under sub-paragraph (4) or (8) is not required in respect of any heritage management plan, site specific written scheme of investigation or archaeological method statement forming part of any preliminary works CEMP or main works CEMP.

(11) A main works CEMP must be prepared so that it is substantially in accordance with the OEMP and must include as many of the following plans, policies, strategies or schemes as are applicable to the part of the main works to which it relates—

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- (a) site waste management plan;
- (b) heritage management plan;
- (c) site specific written schemes of investigation;
- (d) any archaeological method statement required under the OEMP;
- (e) emergency preparedness and response plan (to include a pollution incident control plan);
- (f) ground movement monitoring strategy;
- (g) landscape and ecology management plan;
- (h) arboricultural mitigation strategy;
- (i) noise and vibration management plan;
- (j) noise insulation and temporary rehousing policy;
- (k) soils management strategy;
- (l) water management plan (to include a flood risk management plan);
- (m) groundwater management plan;
- (n) invasive non-native species management plan (if required);
- (o) material management plan; and
- (p) traffic management plan (to include a construction workforce travel plan, a site access plan, construction traffic routeing details and a site travel plan).

(12) The Groundwater Management Plan referred to in sub-paragraph (11)(m) above must include details of how any potential adverse hydrological effects on the archaeological site, known as Blick Mead, shall be considered in accordance with the requirements to be addressed by that Plan as set out in the OEMP, and must make specific provision for—

- (a) monitoring of groundwater levels at Blick Mead;
- (b) monitoring of soil moisture levels at Blick Mead;
- (c) trigger levels for both groundwater levels and soil moisture content that take into account the aforementioned monitoring data and below which the archaeological resource at Blick Mead would be liable to be endangered; and
- (d) a remediation plan to provide for the re-watering of the site should groundwater levels or soil moisture levels fall below the trigger levels set.

(13) The main works CEMPs, when taken together, must be prepared so that they are substantially in accordance with all of the requirements of the OEMP and must include all of the plans, policies, strategies and schemes listed in sub-paragraph (11) and must not contain any conflicting provision.

(14) Nothing in sub-paragraphs (11) or (12) affects the requirement in paragraph 5 that the authorised development must be carried out, operated and maintained in accordance with the detailed archaeological mitigation strategy.

(15) Each part of the main works must be carried out in accordance with the main works CEMP approved for that part.

(16) Upon completion of construction of the authorised development the CEMPs must be converted into one or more HEMPs and the authorised development must be operated and maintained in accordance with the relevant HEMP.

(17) The undertaker must make each preliminary works CEMP, main works CEMP and HEMP available in an electronic form suitable for inspection by members of the public.



## **Archaeology**

5.—(1) The authorised development must be carried out, operated and maintained in accordance with the detailed archaeological mitigation strategy.

(2) Appeals in respect of those matters listed in the detailed archaeological mitigation strategy as grounds for appeal (including a decision of the planning authority on the application for approval under paragraph 4 of a heritage management plan, site specific written scheme of investigation or archaeological method statement) must be made to the Secretary of State and the Secretary of State must determine such appeals in accordance with the procedure set out in that strategy.

(3) Part 2 of this Schedule does not apply in respect of appeals in respect of the detailed archaeological mitigation strategy.

## **Protected species**

6.—(1) No part of the authorised development is to commence until final pre-construction survey work for that part has been carried out, reflecting that contained in the environmental statement, to establish whether European or nationally protected species are present on any of the land affected, or likely to be affected, by any part of the authorised development or in any of the trees and shrubs to be lopped or felled as part of the authorised development.

(2) Where a protected species is shown to be present, or where there is a reasonable likelihood of it being present, the relevant parts of the relevant works must not begin until a scheme of protection and mitigation measures (including their design and management) has been submitted to and approved in writing by the Secretary of State after consultation with Natural England. Except to the extent otherwise approved, the scheme of protection and mitigation measures including their design and management must be in accordance with the guidance in section 4 of volume 10 of the Design Manual for Roads and Bridges.

(3) The relevant works must be carried out in accordance with the approved scheme or with any amended scheme that may subsequently be approved in writing by the Secretary of State, after consultation with Natural England, and in accordance with any necessary licence.

## **Contaminated land and groundwater**

7.—(1) In the event that contaminated land is found at any time when constructing the authorised development which was not previously identified in the environmental statement, it must be reported as soon as reasonably practicable to the planning authority and the Environment Agency and the undertaker must complete a risk assessment of the contamination in consultation with the planning authority and the Environment Agency.

(2) The undertaker must provide to the planning authority and the Environment Agency a copy of any risk assessment referred to in sub-paragraph (1) as soon as reasonably practicable after its completion.

(3) Where the undertaker determines that remediation of the contaminated land is necessary, as soon as reasonably practicable after making that determination a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose, must be submitted to and approved in writing by the Secretary of State, following consultation with the planning authority and the Environment Agency.

(4) Remediation must be carried out in accordance with the approved scheme and programme.

## **Implementation and maintenance of landscaping**

8.—(1) Except for Work No. 5, no part of the authorised development is to commence within the World Heritage Site or as part of Work No. 4 until a landscaping scheme applicable to all of the

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authorised development which is situated within the World Heritage Site (except for Work No.5) and Work No.4 has been submitted to and approved in writing by the Secretary of State, following consultation with the planning authority, Historic England and (on matters related to its functions) the National Trust.

(2) No part of the authorised development which—

- (a) is situated outside of the World Heritage Site and does not form part of Work No.4; or
- (b) comprises Work No. 5,

is to commence until a landscaping scheme applicable to that part has been submitted to and approved in writing by the Secretary of State, following consultation with the planning authority and (on matters related to its functions) Historic England and, in respect of Work No. 5 only (on matters related to its functions), the National Trust.

(3) Each landscaping scheme must be based on the mitigation measures included in the environmental statement and set out details of all proposed hard and soft landscaping works, including—

- (a) location, number, species, size and planting density of any proposed aquatic or terrestrial planting;
- (b) landscaping works associated with any fences and walls (as appropriate);
- (c) cultivation, importing of materials and other operations to ensure plant establishment;
- (d) proposed finished ground levels;
- (e) hard surfacing materials;
- (f) details of existing trees to be retained, with measures for their protection during the construction period;
- (g) implementation timetable for the landscaping works;
- (h) measures for the replacement, in the first available planting season, of any tree or shrub planted as part of the landscaping scheme that, within a period of 5 years after the completion of the part of the authorised development to which the relevant landscaping scheme relates, dies, becomes seriously diseased or is seriously damaged in the construction of the authorised development; and
- (i) retained historic landscape features and proposals for restoration, where relevant.

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

### **Traffic management**

**9.**—(1) No part of the authorised development is to commence until a traffic management plan which makes provision for traffic management proposals required to facilitate the construction of that part and which is substantially in accordance with the OEMP has been submitted to and approved in writing by the Secretary of State, following consultation with the local highway authority and the Royal Mail Group Limited.

(2) The relevant part of the authorised development must be constructed in accordance with the approved plan referred to in sub-paragraph (1).

### **Drainage**

**10.**—(1) No part of the authorised development is to commence until written details of the drainage system to be constructed for that part, based on the mitigation measures included in the environmental statement and including a timetable for implementation and means of pollution

control and for the management of flood risk, have been submitted to and approved in writing by the Secretary of State, following consultation with the planning authority on matters related to its functions, and the Environment Agency.

(2) The drainage system must be constructed in accordance with the approved details referred to in sub-paragraph (1) prior to that part of the authorised development becoming open for public use.

### **Details of consultation**

**11.**—(1) With respect to any requirement which requires details to be submitted to the Secretary of State for approval under this Schedule following consultation with another party, the details submitted must be accompanied by a summary report enclosing the written responses received and setting out the consultation undertaken by the undertaker pursuant to that requirement to inform the details submitted and the undertaker's response to that consultation.

(2) Promptly after submission to the Secretary of State for approval, the undertaker must provide a copy of the summary report to the relevant consultees referred to in the requirement in relation to which approval is being sought from the Secretary of State.

(3) If any consultation responses are not reflected in the details submitted to the Secretary of State for approval under this Schedule, the summary report must state the undertaker's reasons for not including them.

### **Stone curlew breeding plots**

**12.**—(1) No part of the preliminary works shall begin until—

- (a) written details have been submitted to the Secretary of State—
  - (i) demonstrating that the undertaker has secured land to ensure the provision of the replacement stone curlew breeding plot in accordance with the stone curlew breeding plot specification;
  - (ii) including in relation to that plot, a regime of management measures substantially in accordance with those contained in the stone curlew breeding plot specification; and
- (b) the Secretary of State, following consultation with Natural England, has approved the matters listed in sub-paragraph (a).

(2) The undertaker must—

- (a) provide the replacement stone curlew breeding plot prior to the beginning of any works to remove the existing stone curlew breeding plot; and
- (b) maintain the replacement stone curlew breeding plot,

in accordance with the details approved by the Secretary of State under sub-paragraph (1)(b).

(3) No part of the authorised development may be commenced until—

- (a) written details have been submitted to the Secretary of State—
  - (i) demonstrating that the undertaker has secured land to enable the provision of the additional stone curlew breeding plots in accordance with the stone curlew breeding plot specification; and
  - (ii) including in relation to those plots, a regime of management measures substantially in accordance with those contained in the stone curlew breeding plot specification and a timetable for their implementation; and
- (b) the Secretary of State, following consultation with Natural England, has approved the matters listed in sub-paragraph (a).

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(4) The undertaker must provide and maintain the additional stone curlew breeding plots in accordance with the timetable and details approved by the Secretary of State under sub-paragraph (3) (b).

(5) In this paragraph—

“stone curlew breeding plot specification” means the stone curlew breeding plot specification listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the stone curlew breeding plot specification for the purposes of this Order, and “replacement stone curlew breeding plot”, “existing stone curlew breeding plot” and “additional stone curlew breeding plots” have the same meaning as in the stone curlew breeding plot specification.

## PART 2

### PROCEDURE FOR DISCHARGE OF REQUIREMENTS

#### Applications made under requirements

**13.**—(1) Where an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement (including consent, agreement or approval in respect of part of a requirement) included in this Order, the Secretary of State must give notice to the undertaker of the decision on the application within a period of 8 weeks beginning with—

- (a) the day immediately following that on which the application is received by the Secretary of State;
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 15; or
- (c) such longer period as may be agreed between the parties.

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

(3) Where—

- (a) an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement included in this Order;
- (b) the Secretary of State does not determine such application within the period set out in sub-paragraph (1); and
- (c) the application is accompanied by a report that considers it likely that the subject matter of the application is to give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement,

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

#### Determination of applications by the planning authority

**14.** Where an application has been made to the planning authority under paragraph 4 for approval of a heritage management plan, a site specific written scheme of investigation or an archaeological method statement, the planning authority must determine the application in accordance with the procedure set out in the detailed archaeological mitigation strategy.

#### Further information

**15.**—(1) In relation to any part of an application made under this Schedule, the Secretary of State may, having regard to the scheme objectives and all other relevant matters, request such further

information from the undertaker as is necessary to enable the Secretary of State to consider the application.

(2) In the event that the Secretary of State considers such further information to be necessary the Secretary of State must, within 21 business days of receipt of the application, notify the undertaker in writing specifying the further information required and (if applicable) to which part of the application it relates. In the event that the Secretary of State does not give such notification within that 21 business day period the Secretary of State is deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(3) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 13 (applications made under requirements) and in this paragraph.

(4) In this paragraph, “business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971(111).

### **Register of requirements**

**16.**—(1) The undertaker must, as soon as practicable following the making of this Order, establish and maintain in an electronic form suitable for inspection by members of the public a register of those requirements contained in Part 1 of this Schedule that provide for further approvals to be given by the Secretary of State or the planning authority.

(2) The register must set out in relation to each such requirement the status of the requirement, in terms of whether any approval to be given by the Secretary of State or the planning authority has been applied for or given, providing an electronic link to any document containing any approved details.

(3) The register must be maintained by the undertaker for a period of three years following completion of the authorised development.

### **Anticipatory steps towards compliance with any requirement**

**17.** If before the coming into force of this Order the undertaker or any other person has taken any steps that were intended to be steps towards compliance with any provision of Part 1 of this Schedule, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

## SCHEDULE 3

Article 10

### PERMANENT STOPPING UP OF HIGHWAYS AND PRIVATE MEANS OF ACCESS AND PROVISION OF NEW HIGHWAYS AND PRIVATE MEANS OF ACCESS

**Note:** In relating this Schedule 3 to its corresponding rights of way and access plans, the provisions described in Schedule 3 are shown on the rights of way and access plans in the following manner—

- (a) existing highways to be stopped up, as described in column 2 of Part 1 and Part 2 of this Schedule, are shown by thick black diagonal hatching (as shown in the key on the rights of way and access plans) over the extent of the area to be stopped up, which is described in column 3 of Part 1 and Part 2 of this Schedule;

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(111) 1971 c. 80.

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- (b) new and improved highways (side roads) which are to be substituted for a highway to be stopped up (or which are otherwise to be provided) other than the new and/or the improved A303 Trunk Road, as are included in column 4 of Part 1 of this Schedule, are shown by black stipple with a zig-zag overlaid (as shown in the key on the rights of way and access plans) and are given a reference label (a capital letter in a circle);
- (c) new rights of way (other than side roads and other than the new and/or the improved A303 Trunk Road) which are to be substituted for a highway to be stopped up (or which are otherwise to be provided), as are included in column 4 of Part 1 of this Schedule, are shown by black stipple with a centreline (as shown in the key on the rights of way and access plans) and are given a reference label (a capital letter in a circle) and will be a road unless the words ‘footpath’, ‘bridleway’, ‘restricted byway’ or ‘byway open to all traffic’ appear beneath or alongside the reference letter in column 4;
- (d) private means of access to be stopped up, as described in column 2 of Parts 3 and 4 of this Schedule, are shown by a solid black band (as shown in the key on the rights of way and access plans), over the extent of stopping up described in column 3 of Parts 3 and 4, and are given a reference label (a lower-case letter in a circle); and
- (e) new private means of access to be substituted for a private means of access to be stopped up (or which are otherwise to be provided) in relation to the new and/or the improved A303 Trunk Road, as are included in column 4 of Part 3 of this Schedule, are shown by thin diagonal hatching (as shown in the key on the rights of way and access plans), or, where they are to be provided (in part) along the route of a restricted byway, are shown by black stipple with a centreline overlaid by thin diagonal hatching (as shown in the key on the rights of way and access plans), and are given a reference label (a number in a circle).

## PART 1

### HIGHWAYS TO BE STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND NEW HIGHWAYS WHICH ARE OTHERWISE TO BE PROVIDED

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
<i>Area</i>	<i>Highway to be stopped up</i>	<i>Extent of stopping up</i>	<i>New highway to be substituted / provided</i>
In the administrative area of Wiltshire Council; in the parishes of Steeple Langford and Berwick St James			Reference A  A length of new restricted byway from a point 20 metres south of the junction of the existing A303 and the existing byway SLAN3, in a generally easterly direction to a point 15 metres south of the junction between the existing A303 and the existing bridleway BSJA3, a distance of 1.32 kilometres  (as shown on sheets 1 and 2 of the rights of way and access plans)

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New highway to be substituted / provided</i>
In the administrative area of Wiltshire Council; in the parishes of Steeple Langford, Berwick St James and Winterbourne Stoke			Reference B  A length of new restricted byway from a point 20 metres north of the junction of the existing A303 and the existing byway SLAN3, in a generally easterly direction, crossing Green Bridge One, to a point 400 metres west of the junction of the existing A303 and the B3083 south, a distance of 3.3 kilometres  (as shown on sheets 1, 2 and 3 of the rights of way and access plans)
In the administrative area of Wiltshire Council; in the parish of Berwick St James	Bridleway BSJA3	A length from its intersection with the southern boundary of the existing A303 in a southerly direction for a distance of 215 metres, to the intersection of byway BSJA3A with bridleway BSJA3  (shown on sheet 2 of the rights of way and access plans)	Reference C  To be substituted by a new byway open to all traffic  (as shown on sheet 2 of the rights of way and access plans)
In the administrative area of Wiltshire Council; in the parishes of Berwick St James and Winterbourne Stoke			Reference D  A length of new byway open to all traffic from its intersection with existing bridleway BSJA3 in a generally easterly direction to a point 575 metres west of the junction between the existing A303 and the B3083 South, a distance of 1.37 kilometres  (as shown on sheets 2 and 3 of the rights of way and access plans)
	A 303(T)	A length from a point 1.48 kilometres west of the junction of the	The new and improved A303(T)



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(1) <i>Area</i>	(2) <i>Highway to be stopped up</i>	(3) <i>Extent of stopping up</i>	(4) <i>New highway to be substituted / provided</i>
		existing A303 and the existing B3083 South, on the western side of Winterbourne Stoke, in an easterly direction for a distance of 910 metres  (shown on sheets 2 and 3 of the rights of way and access plans)	
In the parish of Winterbourne Stoke	B 3083	A length from a point 160 metres north of the junction of the B3083 with the existing A303 in a generally northerly direction for a distance of 710 metres to the intersection of the B3083 with the private access track leading to Cherry Lodge  (shown on sheet 3 of the rights of way and access plans)	Reference E  The realigned B3083 from a point 160 metres north of the junction of the existing A303 and B3083 North, in a generally northerly direction to the intersection of the B3083 with the private access track leading to Cherry Lodge, a distance of 725 metres  (as shown on sheet 3 of the rights of way and access plans)
	Byway WST03	A length from a point 420 metres north of the junction of the B3083 South with the existing A303, in a northerly direction for a distance of 70 metres to a point 490 metres north of the junction of the B3083 South with the existing A303  (shown on sheet 3 of the rights of way and access plans)	Reference EA  A length of new byway open to all traffic from the west side of the realigned B3083 from a point 315 metres north of the junction of the existing A303 and the B3083 north, in a generally southerly direction to a point 310 metres north of the junction of the existing A303 and the B3083 north, a distance of 15 metres  (as shown on sheet 3 of the rights of way and access plans)
	Byway WST06B	A length from the junction of byway open to all traffic WST06B with the existing A303, to	Reference F  The realigned byway open to all traffic WST06B, from the junction of the existing byway

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		<p>the east side of Winterbourne Stoke, in a north-westerly direction for a distance of 385 metres</p> <p>(shown on sheet 4 of the rights of way and access plans)</p>	<p>WST06B and the existing A303, in a generally north westerly direction crossing the new A303 via Green Bridge Two to a point 385 metres north west of the junction between the existing byway WST06B and the existing A303, a distance of 440 metres</p> <p>(as shown on sheet 4 of the rights of way and access plans)</p>
<p>In the administrative area of Wiltshire Council; in the parish of Winterbourne Stoke</p>			<p>Reference Z</p> <p>A length of new bridleway from a point 405 metres east of the junction of the A303 and the B3083 north, in a generally easterly direction to a point 275 metres east of its junction with the byway WST06B, a distance of 840 metres</p> <p>(as shown on sheet 4 of the rights of way and access plans)</p>
<p>In the administrative area of Wiltshire Council; in the parishes of Winterbourne Stoke, Wilsford Cum Lake and Amesbury</p>	<p>A303 (T)</p>	<p>A length from a point 1.26 kilometres east of the junction of the existing A303 and the existing B3083 north, in a generally easterly direction to a point 615 metres west of the centre of Countess roundabout, a distance of 5.98 kilometres (including the existing Longbarrow) roundabout at the junction of the existing A303 with the existing A360</p> <p>(shown on sheets 4, 5, 6, 7 and 8 of the rights of way and access plans)</p>	<p>The new and improved A303</p> <p>(as shown on sheets 2, 3, 4, 5, 6, 7, 8, 9 and 11 of the rights of way and access plans)</p>

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(1) <i>Area</i>	(2) <i>Highway to be stopped up</i>	(3) <i>Extent of stopping up</i>	(4) <i>New highway to be substituted / provided</i>
In the administrative area of Wiltshire Council; in the parish of Winterbourne Stoke			<p>Reference G</p> <p>A length of new side road between Winterbourne Stoke and the new Longbarrow Junction, from a point 650 metres south west of the existing Longbarrow roundabout (its junction with the new southern roundabout at Longbarrow Junction) in a generally westerly direction to a point 280 metres east of its junction with the byway WST06B, 1.20 kilometres to the south west of the existing Longbarrow roundabout, a distance of 615 metres</p> <p>(as shown on sheets 4 and 5 of the rights of way and access plans)</p>
In the administrative area of Wiltshire Council; in the parishes of Winterbourne Stoke and Berwick St James	A360 north and south of existing Longbarrow roundabout	<p>A length from a point 905 metres north of the existing Longbarrow roundabout, in a southerly direction for a distance of 1.66 kilometres (including existing Longbarrow roundabout) to a point 755 metres south of the existing Longbarrow roundabout</p> <p>(shown on sheets 14, 5 and 15 of the rights of way and access plans)</p>	<p>Reference H</p> <p>The realigned A360 (north and south A360 link, the new northern and southern roundabouts and the link road in between) from a point 905 metres north of the existing Longbarrow roundabout, in a generally southerly direction for a distance of 2.18 kilometres to a point 755 metres south of the existing Longbarrow roundabout</p> <p>(as shown on sheets 14, 5 and 15 of the rights of way and access plans)</p>
In the administrative area of Wiltshire Council; in the parishes of Winterbourne Stoke,			<p>Reference Y</p> <p>A length of new bridleway from a point 560 metres south-west of the existing Longbarrow roundabout for a distance of 520 metres in a generally easterly direction to a point 140 metres</p>

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New highway to be substituted / provided</i>
Wilsford Cum Lake; and Amesbury			south of the existing Longbarrow roundabout  (as shown on sheet 5 of the rights of way and access plans)
			Reference IA  A length of new restricted byway from a point 245 metres east of the centre of the existing Longbarrow roundabout, in a generally southerly direction to a point 1.07 kilometres south of the existing Longbarrow roundabout, including a link to the realigned A360, a distance of 1.37 kilometres  (as shown on sheets 5 and 15 of the rights of way and access plans)
			Reference IB  A length of new restricted byway from a point 245 metres to the east of the centre of the existing Longbarrow roundabout, in a generally westerly direction and then in a northerly direction, to a point 620 metres north of the centre of the existing Longbarrow Junction, including a link to the realigned A360, a distance of 845 metres  (as shown on sheets 5 and 14 of the rights of way and access plans)
			Reference I  A length of new restricted byway from a point 245 metres to the east of the centre of the existing Longbarrow roundabout, in a generally easterly direction to its junction with byway AMES12, a distance of 1.65 kilometres

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(1) <i>Area</i>	(2) <i>Highway to be stopped up</i>	(3) <i>Extent of stopping up</i>	(4) <i>New highway to be substituted / provided</i>
			(as shown on sheets 5 and 6 of the rights of way and access plans)
In the administrative area of Wiltshire Council; in the parishes of Amesbury, Wilsford Cum Lake and Amesbury			Reference J  A length of new restricted byway from its junction with byway AMES12, in a generally easterly direction to its junction with footpath AMES13, a distance of 2.33 kilometres  (as shown on sheets 6, 7 and 8 of the rights of way and access plans)
In the administrative area of Wiltshire Council; in the parish of Amesbury			Reference K  A length of improved side road (eastbound diverge slip road) from a point 520 metres south-west of the junction of the Amesbury Road and the A3028 Double Hedges, in a generally north-easterly direction to a point 500 metres south-west of the junction of the Amesbury Road and the A3028 Double Hedges, a distance of 20 metres  (as shown on sheet 11 of the rights of way and access plans)
	A303 Double Hedges	A length from its junction with the existing A303 for a distance of 125 metres in a generally north-westerly direction  (as shown on sheet 11 of the rights of way and access plans)	Reference L  A length of new side road (eastbound merge slip road), from a point 465 metres south east of the junction of the Amesbury Road and the A3028 Double Hedges, in a generally south easterly direction to a point 590 metres south east of the junction of the Amesbury Road and the A3028 Double Hedges, a distance of 130 metres  (as shown on sheet 11 of the rights of way and access plans)

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New highway to be substituted / provided</i>
<p>In the administrative area of Wiltshire Council; in the parish of Amesbury</p>	<p>Bridleway AMES29</p>	<p>A length from its junction with Equinox Drive for a distance of 105 metres in a generally south-easterly direction</p> <p>(shown on sheet 11 of the rights of way and access plans)</p>	<p>To be substituted by—</p> <p>Reference M</p> <p>A length of new side road from a point 435 metres south east of the junction of the existing A303 and the Allington Track, in a generally westerly direction to a point 525 metres south west of the junction of the existing A303 and the byway AMES 1, a distance of 985 metres; and</p> <p>Reference N</p> <p>A length of new byway open to all traffic from a point 295 metres south of the junction of the existing bridleway AMES29 and the byway AMES 1, in a generally northerly direction to a point 195 metres south west of the junction of the existing bridleway AMES29 and the existing byway AMES1, a distance of 105 metres; and</p> <p>Reference O</p> <p>A length of new side road from a point 20 metres south of the junction of Equinox Drive and Solar Way, in a generally southerly direction to a point 290 metres south of the junction of Equinox Drive and Solar Way, a distance of 285 metres</p> <p>(all as shown on sheet 11 of the rights of way and access plans)</p>
<p>In the administrative area of Wiltshire Council; in the parish of Amesbury</p>	<p>Byway AMES1</p>	<p>From its junction with the A303 for a distance of 770 metres in a generally southerly direction</p>	<p>To be substituted by—</p> <p>Reference P</p> <p>A length of new footpath from a point 10 metres south of the junction of the existing byway</p>

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(1) <i>Area</i>	(2) <i>Highway to be stopped up</i>	(3) <i>Extent of stopping up</i>	(4) <i>New highway to be substituted / provided</i>
		(shown on sheet 11 of the rights of way and access plans)	<p>AMES1 and the A303, in a generally southerly direction to a point 330 metres south of the junction of the A303 with the existing byway AMES 1, a distance of 320 metres (as shown on sheet 11 of the rights of way and access plans); and</p> <p>Reference M (as above); and</p> <p>Reference N (as above); and</p> <p>Reference O (as above)</p> <p>(all as shown on sheet 11 of the rights of way and access plans)</p>
<p>In the administrative area of Wiltshire Council; in the parish of Shrewton</p>	<p>Unclassified 094402 (The Packway)</p>	<p>From the junction of the existing B3086 South with B3086 (The Packway) at Rollestone Cross, a distance of 200 metres in an easterly direction</p> <p>(shown on sheet 13 of the rights of way and access plans)</p>	<p>Reference Q</p> <p>To be substituted by the re-aligned B3086 from a point 85 metres east of the junction of the existing B3086 and the existing Unclassified 094402 (The Packway), in a generally easterly direction to a point 205 metres east of the junction of the existing B3086 and the existing Unclassified 094402 (The Packway), a distance of 135 metres</p> <p>(as shown on sheet 13 of the rights of way and access plans)</p>
<p>In the administrative area of Wiltshire Council; in the parish of Shrewton</p>	<p>B3086 (south)</p>	<p>From the junction of the existing B3086 south with B3086 (The Packway) at Rollestone Cross, a distance of 240 metres in a southerly direction</p> <p>(shown on sheet 13 of the rights of way and access plans)</p>	<p>To be substituted by—</p> <p>Reference R</p> <p>The re-aligned B3086 from a point 240 metres south of the junction of the existing B3086 and the existing Unclassified 094402 (The Packway), in a generally northerly direction to a point 85 metres east of the junction of the existing B3086 and the existing Unclassified</p>



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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New highway to be substituted / provided</i>
			<p>094402 (The Packway), a distance of 230 metres; and</p> <p>Reference S</p> <p>A length of re-aligned highway from a point 50 metres west of its junction with the existing Unclassified 094402 (The Packway), in a generally easterly direction to a point 85 metres east of the junction of the B3086 and the Unclassified 094402 (The Packway), a distance of 140 metres</p> <p>(both as shown on sheet 13 of the rights of way and access plans)</p>
			<p>Reference T</p> <p>A length of re-aligned highway from its junction with the existing Unclassified 094402 (The Packway), in a generally northerly direction to a point 50 metres north of the junction of the B3086 and the Unclassified 094402 (The Packway), a distance of 50 metres</p> <p>(as shown on sheet 13 of the rights of way and access plans)</p>
<p>In the administrative area of Wiltshire Council; in the parish of Winterbourne Stoke</p>			<p>Reference U</p> <p>A length of new restricted byway from a point 300 metres south of the junction of the A360 with the B3086 (Airman’s Corner), in a generally southerly direction to a point 840 metres south of the junction of the A360 with the B3086, a distance of 545 metres</p> <p>(as shown on sheet 14 of the rights of way and access plans)</p>
			<p>Reference UA</p>

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New highway to be substituted / provided</i>
			A length of new shared use cycle track from a point 45 metres east of the junction of the A360 with the B3086 (Airman's Corner), in a generally southerly direction to a point 300 metres south of the junction of the A360 with the B3086, a distance of 305 metres  (as shown on sheet 14 of the rights of way and access plans)
In the administrative area of Wiltshire Council; in the parishes of Berwick St James and Woodford			Reference V  A length of new bridleway from a point 10 metres east of the junction of the existing A360 and the byway BSJA9, in a generally southerly direction to a point 985 metres south east of the junction of the existing A360 and the byway BSJA9, a distance of 1.08 kilometres  (as shown on sheet 15 of the rights of way and access plans)

## PART 2

### HIGHWAYS TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
In the administrative area of Wiltshire Council; in the parish of Berwick St James	Bridleway BSJA3A	A length from its intersection with the southern boundary of the existing A303 in a south-easterly direction, for a distance of 40 metres  (as shown on sheet 2 of the rights of way and access plans)
In the administrative area of Wiltshire Council; in the	Stonehenge Road	A length from its junction with the existing A303 for a distance of 430 metres in a generally south-easterly direction  (as shown on sheet 8 of the rights of way and access plans)

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
parish of Amesbury	Allington Track	A length from its junction with the existing A303 for a distance of 410 metres in a generally south-easterly direction  (as shown on sheet 11 of the rights of way and access plans)
	Amesbury Road	A length of east-bound access onto the existing A303 from its junction with the existing A303 for a distance of 15 metres in a generally northerly direction  (as shown on sheet 11 of the rights of way and access plans)
In the administrative area of Wiltshire Council; in the parish of Bulford	Byway BULF12	A length from its junction with the A3028 for a distance of 105 metres in a generally southerly direction  (as shown on sheet 11 of the rights of way and access plans)
In the administrative area of Wiltshire Council; in the parish of Amesbury	Byway AMES 2	A length from its junction with the existing A303 for a distance of 270 metres in a generally northerly direction  (as shown on sheet 11 of the rights of way and access plans)

### PART 3

#### PRIVATE MEANS OF ACCESS TO BE STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND NEW PRIVATE MEANS OF ACCESS WHICH ARE OTHERWISE TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Private means of access to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New private means of access to be substituted / provided</i>
In the administrative area of Wiltshire Council; in the parish of Berwick St James	Reference a  Access to field from the north side of the existing A303, 870 metres east of the junction of the A303 with the byway SLAN3  (shown on sheet 2 of the rights of way and access plans)	The whole access	Reference 1  To be substituted by a new private means of access in the same location as stopped up access Reference a but repositioned at the side road boundary of the new restricted byway Reference B, together with a right of vehicular access over Reference B to be granted for the benefit of the land affected by the stopping up of

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(1) <i>Area</i>	(2) <i>Private means of access to be stopped up</i>	(3) <i>Extent of stopping up</i>	(4) <i>New private means of access to be substituted / provided</i>
			<p>private means of access reference a</p> <p>(as shown on sheets 1, 2 and 3 of the rights of way and access plans)</p>
	<p>Reference b</p> <p>Access to field from the north side of the existing A303, 20 metres north of the junction of the A303 with the existing bridleway BSJA3</p> <p>(shown on sheet 2 of the rights of way and access plans)</p>	<p>The whole access</p>	<p>Reference 2</p> <p>To be substituted by a new private means of access in the same location as stopped up access Reference b, but repositioned at the side road boundary of the new restricted byway Reference B, together with a right of vehicular access over new restricted byway Reference B to be granted for the benefit of the land affected by the stopping up of private means of access reference b</p> <p>(as shown on sheets 1, 2 and 3 of the rights of way and access plans)</p>
	<p>Reference c</p> <p>Access to field from the south side of the existing A303, at a point where the A303 meets existing bridleway BSJA3</p> <p>(shown on sheet 2 of the rights of way and access plans)</p>	<p>The whole access</p>	<p>Reference 3</p> <p>To be substituted by a new private means of access in the same location as stopped up access Reference c, but repositioned at the side road boundary of the new restricted byway Reference A, together with a right of vehicular access over new restricted byway Reference A to be granted for the benefit of the land affected by the stopping up of private means of access reference c</p> <p>(as shown on sheets 1 and 2 of the rights of way and access plans)</p>
<p>In the administrative</p>	<p>Reference d</p>	<p>A length from its junction with the</p>	<p>Reference 4</p>

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(1) <i>Area</i>	(2) <i>Private means of access to be stopped up</i>	(3) <i>Extent of stopping up</i>	(4) <i>New private means of access to be substituted / provided</i>
<p>area of Wiltshire Council; in the parishes of Berwick St James and Winterbourne Stoke</p>	<p>Access to field from the north side of the existing A303, at a point 660 metres east of the junction of the existing A303 with the existing bridleway BSJA3</p> <p>(shown on sheet 2 of the rights of way and access plans)</p>	<p>existing A303 for a distance of 10 metres</p>	<p>To be substituted by a new private means of access in the same location as stopped up access Reference d, but repositioned at the side road boundary of the new byway open to all traffic Reference D</p> <p>(as shown on sheets 2 and 3 of the rights of way and access plans)</p>
	<p>Reference e</p> <p>Access to field from the south side of the existing A303, at a point 795 metres east of the junction of the existing A303 with existing bridleway BSJA3</p> <p>(shown on sheet 2 of the rights of way and access plans)</p>	<p>From its junction with the existing A303 for a length of 10 metres</p>	<p>Reference 5</p> <p>To be substituted by a new private means of access in the same location as stopped up access Reference e, but repositioned at the side road boundary of the new byway open to all traffic Reference D</p> <p>(as shown on sheets 2 and 3 of the rights of way and access plans)</p>
<p>In the administrative area of Wiltshire Council; in the parish of Winterbourne Stoke</p>	<p>Reference f</p> <p>Access to field from the west side of the existing B3083, at a point 375 metres north of the junction of the existing A303 with the B3083 north</p> <p>(shown on sheet 3 of the rights of way and access plans)</p>	<p>A length from its junction with the existing B3083 for a distance of 10 metres</p>	<p>Reference 6</p> <p>To be substituted by a new private means of access to land on the west side of the realigned B3083, Reference E</p> <p>(as shown on sheet 3 of the rights of way and access plans)</p>
			<p>Reference 7</p> <p>New private means of access to land on the west side of the realigned B3083 (Reference E) (including a drainage pond)</p>

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			(as shown on sheet 3 of the rights of way and access plans)
In the administrative area of Wiltshire Council; in the parish of Winterbourne Stoke			Reference 8  New private means of access to land on the east side of the realigned B3083 (Reference E) (including a drainage pond)  (as shown on sheet 3 of the rights of way and access plans)
			Reference 9  New private means of access on the north side of the existing A303 to land on the south side of the new A303 (including a drainage pond)  (as shown on sheet 4 of the rights of way and access plans)
			Reference 10  New private means of access from the new byway open to all traffic reference F over Green Bridge Two, to be granted for the benefit of the land to the west of byway WST06B (including a drainage pond)  (as shown on sheet 4 of the rights of way and access plans)
			Reference 11  New private means of access from the north side of the new link to Winterbourne Stoke to land on the south side of the new A303 (including a drainage pond and land between the new A303 and the new link to Winterbourne Stoke)

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			(as shown on sheet 5 of the rights of way and access plans)
			Reference 35  New private means of access to land on the north side of the new link to Winterbourne Stoke (between the new A303 and the new link to Winterbourne Stoke)  (as shown on sheet 5 of the rights of way and access plans)
			Reference 36  New private means of access to land on the north side of the new link to Winterbourne Stoke (between the new A303 and the new link to Winterbourne Stoke)  (as shown on sheet 5 of the rights of way and access plans)
			Reference 37  New private means of access to land on the north side of the new link to Winterbourne Stoke (between the new A303 and the new link to Winterbourne Stoke)  (as shown on sheet 5 of the rights of way and access plans)
	Reference k  Access to field from the north side of the existing A303, 80 metres east of the existing Longbarrow roundabout  (shown on sheet 5 of the rights of way and access plans)	The whole access	Reference 12  To be substituted by a new private means of access in the same location as stopped up access Reference k, but repositioned at the side road boundary of the new restricted byway Reference IB, together with a right of vehicular access over new restricted byways References IB, I and IA to be granted for the benefit of the land affected by the stopping up of



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			private means of access reference k  (as shown on sheets 5 and 14 of the rights of way and access plans)
In the administrative area of Wiltshire Council; in the parish of Winterbourne Stoke	Reference z  Access to field from the south side of the existing A303, 190 metres east of the existing Longbarrow roundabout  (shown on sheet 5 of the rights of way and access plans)	The whole access	Reference 13  To be substituted by a new private means of access in the same location as stopped up access Reference z, but repositioned at the side road boundary of the new restricted byway Reference IB together with a right of vehicular access over new restricted byways References I, IB and IA to be granted for the benefit of the land affected by the stopping up of private means of access reference z  (as shown on sheets 5, 6 and 14 of the rights of way and access plans)
In the administrative area of Wiltshire Council; in the parish of Wilsford Cum Lake	Reference m  Access to field from the north side of the existing A303, 400 metres east of the existing Longbarrow roundabout  (shown on sheet 5 of the rights of way and access plans)	The whole access	Reference 14  To be substituted by a new private means of access in the same location as stopped up access Reference m, but repositioned at the side road boundary of the new restricted byway Reference I, together with a right of vehicular access over new restricted byways References I, IA and IB to be granted for the benefit of the land affected by the stopping up of private means of access reference m  (as shown on sheets 5, 6 and 14 of the rights of way and access plans)

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<p>In the administrative area of Wiltshire Council; in the parish of Winterbourne Stoke</p>	<p>Reference n Access to field from the east side of the existing A360, 400 metres north of the existing Longbarrow roundabout  (shown on sheet 5 of the rights of way and access plans)</p>	<p>The whole access</p>	<p>Reference 15  To be substituted by a new private means of access in the same location as stopped up access Reference n, but repositioned at the side road boundary of the new restricted byway Reference IB, together with a right of vehicular access over new restricted byways References I, IA and IB to be granted for the benefit of the land affected by the stopping up of private means of access reference n  (as shown on sheets 5, 6 and 14 of the rights of way and access plans)</p>
<p>In the administrative area of Wiltshire Council; in the parish of Wilsford Cum Lake</p>	<p>Reference l Access to field from the south side of the existing A303, 70 metres east of the existing Longbarrow roundabout  (shown on sheet 5 of the rights of way and access plans)</p>	<p>The whole access</p>	<p>Reference 16  To be substituted by a new private means of access on the south side of the new restricted byway Reference IA, and crossing the new Green Bridge Four located at a point 280 metres south-east of the centre of the existing Longbarrow roundabout, together with a right of vehicular access over new restricted byways References I, IA and IB to be granted for the benefit of the land affected by the stopping up of private means of access reference l  (as shown on sheets 5, 6 and 14 of the rights of way and access plans)</p>
<p>In the administrative area of Wiltshire Council; in</p>	<p>Reference i Access to field from the west side of the existing A360, 115</p>	<p>The whole access</p>	<p>Reference 17  To be substituted by new a private means of access on the west side of the new restricted</p>

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the parish of Winterbourne Stoke	metres south of the existing Longbarrow roundabout  (shown on sheet 5 of the rights of way and access plans)		byway Reference IA, and located at a point 325 metres south of the centre of the existing Longbarrow roundabout together with a right of vehicular access over new restricted byways References I, IA and IB to be granted for the benefit of the land affected by the stopping up of private means of access reference i  (as shown on sheets 5, 6 and 14 of the rights of way and access plans)
	Reference j  Access to field from the east side of the existing A360, 115 metres south of the existing Longbarrow roundabout  (shown on sheet 5 of the rights of way and access plans)	The whole access	Reference 18  To be substituted by a new private means of access on the east side of the new restricted byway Reference IA, and located at a point 595 metres south of the centre of the existing Longbarrow roundabout, together with a right of vehicular access over new restricted byways References I, IA and IB to be granted for the benefit of the land affected by the stopping up of private means of access reference j  (as shown on sheets 5, 6 and 14 of the rights of way and access plans)
In the administrative area of Wiltshire Council; in the parish of Amesbury	Reference o  Access to field from the south side of the existing A303, 665 metres west of its junction with the existing byway open to all traffic AMES12	The whole access	Reference 19  To be substituted by a new private means of access in the same location as stopped up access Reference o, but repositioned at the side road boundary of the new restricted byway Reference I, together with a right of vehicular access over new restricted byways References I, IA, IB and J to be

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	(shown on sheet 6 of the rights of way and access plans)		granted for the benefit of the land affected by the stopping up of private means of access reference o  (as shown on sheets 5, 6, 7, 8 and 14 of the rights of way and access plans)
	Reference p  Access to field from the south side of the existing A303, at the junction of the existing A303 with the existing byway open to all traffic AMES11  (shown on sheet 7 of the rights of way and access plans)	The whole access	Reference 20  To be substituted by a new private means of access in the same location as stopped up access Reference p, but repositioned at the side road boundary of the new restricted byway Reference J, together with a right of vehicular access over new restricted byways References J, I, IA and IB to be granted for the benefit of the land affected by the stopping up of private means of access reference p  (as shown on sheets 5, 6, 7, 8 and 14 of the rights of way and access plans)
	Reference q  Access to field from the south side of the existing A303, 470 metres to the east of its junction with the existing byway open to all traffic AMES11  (shown on sheet 7 of the rights of way and access plans)	The whole access	Reference 21  To be substituted by a new private means of access in the same location as stopped up access Reference q, but repositioned at the side road boundary of the new restricted byway Reference J, together with a right of vehicular access over new restricted byways References J, I, IA and IB to be granted for the benefit of the land affected by the stopping up of private means of access reference q

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			(as shown on sheets 5, 6, 7, 8 and 14 of the rights of way and access plans)
	<p>Reference r</p> <p>Access to field from the south side of the existing A303, 925 metres to the east of its junction with the existing byway open to all traffic AMES11</p> <p>(shown on sheet 7 of the rights of way and access plans)</p>	The whole access	<p>Reference 22</p> <p>To be substituted by a new private means of access in the same location as stopped up access Reference r, but repositioned at the side road boundary of the new restricted byway Reference J, together with a right of vehicular access over new restricted byways References J, I, IA and IB to be granted for the benefit of the land affected by the stopping up of private means of access reference r</p> <p>(as shown on sheets 5, 6, 7, 8 and 14 of the rights of way and access plans)</p>
	<p>Reference s</p> <p>Access to field from the north side of the existing A303, 665 metres to the north-west of the junction of Stonehenge Road with footpath AMES13</p> <p>(shown on sheet 8 of the rights of way and access plans)</p>	The whole access	<p>Reference 23</p> <p>To be substituted by a new private means of access in the same location as stopped up access Reference s, but repositioned at the side road boundary of the new restricted byway Reference J, together with a right of vehicular access over new restricted byways References J, I, IA and IB to be granted for the benefit of the land affected by the stopping up of private means of access reference s</p> <p>(as shown on sheets 5, 6, 7, 8 and 14 of the rights of way and access plans)</p>
	Reference t	The whole access	Reference 24

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	<p>Access to field from the north side of the existing A303, 615 metres to the north-west of the junction of Stonehenge Road with footpath AMES13</p> <p>(shown on sheet 8 of the rights of way and access plans)</p>		<p>To be substituted by a new private means of access in the same location as stopped up access Reference t, but repositioned at the side road boundary of the new restricted byway Reference J, together with a right of vehicular access over new restricted byways References J, I, IA and IB to be granted for the benefit of the land affected by the stopping up of private means of access reference t</p> <p>(as shown on sheets 5, 6, 7, 8 and 14 of the rights of way and access plans)</p>
	<p>Reference u</p> <p>Access to field from the north side of the existing A303, 550 metres to the north-west of the junction of Stonehenge Road with footpath AMES 13</p> <p>(shown on sheet 8 of the rights of way and access plans)</p>	<p>The whole access</p>	<p>Reference 25</p> <p>To be substituted by a new private means of access in the same location as stopped up access Reference u, but repositioned at the side road boundary of the new restricted byway Reference J, together with a right of vehicular access over new restricted byways References J, I, IA and IB to be granted for the benefit of the land affected by the stopping up of private means of access reference u</p> <p>(as shown on sheets 5, 6, 7, 8 and 14 of the rights of way and access plans)</p>
	<p>Reference v</p> <p>Access to field from the south side of the existing A303, 610 metres to the north-west of the junction of Stonehenge Road</p>	<p>The whole access</p>	<p>Reference 26</p> <p>To be substituted by a new private means of access in the same location as stopped up access Reference v, but repositioned at the side road boundary of the new restricted byway Reference J, together</p>

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	<p>with footpath AMES 13</p> <p>(shown on sheet 8 of the rights of way and access plans)</p>		<p>with a right of vehicular access over new restricted byways References J, I, IA and IB to be granted for the benefit of the land affected by the stopping up of private means of access reference v</p> <p>(as shown on sheets 5, 6, 7, 8 and 14 of the rights of way and access plans)</p>
	<p>Reference w</p> <p>Access to field from the north side of the existing A303, 355 metres to the north-east of its existing junction with footpath AMES13</p> <p>(shown on sheet 8 of the rights of way and access plans)</p>	<p>The whole access</p>	<p>Reference 27</p> <p>To be substituted by a new private means of access from a point 320 metres north-west of the junction of Stonehenge Road with the footpath AMES13 to a point 610 metres north-east of the junction of Stonehenge Road with footpath AMES13, together with a right of vehicular access over new restricted byways References J, I, IA and IB to be granted for the benefit of the land affected by the stopping up of private means of access reference w</p> <p>(as shown on sheets 5, 6, 7, 8 and 14 of the rights of way and access plans)</p>
<p>In the administrative area of Wiltshire Council; in the parish of Bulford</p>			<p>Reference 28</p> <p>New private means of access along the route of the existing byway BULF12 (which is to be stopped up), from its junction with the A3028 Double Hedges for a distance of 100 metres in a generally southerly direction</p> <p>(as shown on sheet 11 of the rights of way and access plans)</p>
	<p>Reference x</p>	<p>The whole access</p>	<p>Reference 29</p>



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(1) Area	(2) Private means of access to be stopped up	(3) Extent of stopping up	(4) New private means of access to be substituted / provided
	<p>Access to field from the north side of the existing A3028 Double Hedges, 530 metres to the south east of the junction of Amesbury Road with the A3028</p> <p>(shown on sheet 11 of the rights of way and access plans)</p>		<p>To be substituted by a new private means of access to land on the north side of the realigned A3028, Double Hedges, 40 metres north-west of the point of the nosing of the entry filter lane on the A303 merge slip road</p> <p>(as shown on sheet 11 of the rights of way and access plans)</p>
	<p>Reference y</p> <p>Access to field from the east side of the existing Allington Track, 260 metres to the south east of the junction of the existing A303 with the Allington Track</p> <p>(shown on sheet 11 of the rights of way and access plans)</p>	<p>The whole access</p>	<p>Reference 38</p> <p>To be substituted by a new private means of access to land on the east side of the realigned Allington track link, 410 metres south east of the junction of the existing A303 with the Allington Track</p> <p>(as shown on sheet 11 of the rights of way and access plans)</p>
	<p>Reference za</p> <p>Access link to field between byway AMES1 and Allington Track</p> <p>(shown on sheet 11 of the rights of way and access plans)</p>	<p>The whole access link</p>	<p>Reference 39</p> <p>New private means of access to field from the north side of the new Allington track link, 415 metres south west of the junction of the existing A303 with the Allington Track</p> <p>(as shown on sheet 11 of the rights of way and access plans)</p>
	<p>Reference zb</p> <p>Access to land and premises located to the south-west of Equinox Drive and bridleway AMES 29</p>	<p>A length from a point 20 metres to the south-east of the junction of Equinox Drive with Solar Way, in a generally southerly direction for a distance of 280 metres</p>	<p>Reference 40</p> <p>To be substituted by a new private means of access from the west side of the new side road reference O</p> <p>(as shown on sheet 11 of the rights of way and access plans)</p>

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	(shown on sheet 11 of the rights of way and access plans)		
			<p>Reference 41</p> <p>New private means of access to field from the south side of the new Allington track link, 362 metres south west of the junction of the existing A303 with the Allington Track</p> <p>(as shown on sheet 11 of the rights of way and access plans)</p>
			<p>Reference 30</p> <p>New private means of access to field from the west side of the B3086, 240 metres south of existing Rollestone Cross Junction</p> <p>(as shown on sheet 13 of the rights of way and access plans)</p>
			<p>Reference 31</p> <p>New private means of access to field from the east side of the B3086, 240 metres south of the existing Rollestone Cross Junction</p> <p>(as shown on sheet 13 of the rights of way and access plans)</p>
<p>In the administrative area of Wiltshire Council; in the parish of Winterbourne Stoke</p>			<p>Reference 32</p> <p>New private means of access to field from the east side of the A360, 445 metres south of Airman’s Corner</p> <p>(as shown on sheet 14 of the rights of way and access plans)</p>
	Reference zc	A length from its junction with	Reference 33

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	<p>Access to field from the west side of the existing A360, 845 metres south of Airman’s Corner</p> <p>(shown on sheet 14 of the rights of way and access plans)</p>	<p>the existing A360 westwards for a distance of 40 metres</p>	<p>To be substituted by a new private means of access from the west side of the realigned A360, 40 metres west of the existing private means of access reference zc</p> <p>(as shown on sheet 14 of the rights of way and access plans)</p>
	<p>Reference g</p> <p>Access to field from the north side of the existing A303, 580 metres west of the existing Longbarrow roundabout</p> <p>(shown on sheet 5 of the rights of way and access plans)</p>	<p>The whole access</p>	<p>To be substituted by—</p> <p>Reference 33 (as above)</p> <p>Providing access to land on the west side of the realigned A360 north; and</p> <p>Reference 34</p> <p>Providing access to land lying between the realigned A360 north and the new restricted byway Reference IB, a new private means of access from the northernmost part of the new restricted byway Reference IB, comprising the link between the realigned A360 north and the new restricted byway Reference IB (referred to hereinafter as “the link”) located 885 metres south of Airman’s Corner, together with a right of vehicular access over the link, to be granted for the benefit of the land lying between the realigned A360 north and the new restricted byway Reference IB</p> <p>(both as shown on sheet 14 of the rights of way and access plans)</p>

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## PART 4

### PRIVATE MEANS OF ACCESS TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Private means of access</i>	<i>(3)</i> <i>Extent of stopping up</i>
In the administrative area of Wiltshire Council; in the parish of Winterbourne Stoke	Reference h  Access to field from the south side of the existing A303, 220 metres west of the existing Longbarrow roundabout  (shown on sheet 5 of the rights of way and access plans)	The whole access

## SCHEDULE 4

Article 22

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

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Plot reference number(s) shown on land plans</i>	<i>(3)</i> <i>Purpose(s) for which rights over land may be acquired or restrictive covenants may be imposed</i>
<b>The land plans – sheet 3</b>		
In the administrative area of Wiltshire Council, in the parish of Steeple Langford	03-13, 03-14	New rights required for—  the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking; and for the benefit of the undertaker and the authorised development);  the installation, use, protection and maintenance of, and access to, Esso's apparatus (for the benefit of Esso and its undertaking; and for the benefit of the undertaker and the authorised development);  the provision, maintenance and retention of ecological or landscape mitigation, including re-profiling; and  the construction of a new private means of access to and egress from land (lying generally to the south and west of plots 03-03, 03-13 and 03-14) and being generally as shown on sheet 3 of the rights

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(1) Area	(2) Plot reference number(s) shown on land plans	(3) Purpose(s) for which rights over land may be acquired or restrictive covenants may be imposed
		of way and access plans; and a right to use and maintain such private means of access (including a right of access with or without vehicles, plant and machinery) for the benefit of that land
	03-21, 03-28	New rights required for—  the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking; and for the benefit of the undertaker and the authorised development); and  the provision, maintenance and retention of ecological or landscape mitigation, including re-profiling
In the administrative area of Wiltshire Council, in the parish of Shrewton	03-12	New rights required for—  the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking; and for the benefit of the undertaker and the authorised development); and  the provision, maintenance and retention of ecological or landscape mitigation, including re-profiling and deposition of excavated material
	03-18	New rights required for the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking; and the Applicant)
<b>The land plans – sheet 4</b>		
In the administrative area of Wiltshire Council, in the parish of Winterbourne Stoke	04-01	New rights required for the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking; and for the benefit of the undertaker and the authorised development)
	04-03, 04-05,  04-27, 04-32, 04-36, 04-38	New rights required for—  the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking; and for the benefit of the undertaker and the authorised development); and

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(1) Area	(2) Plot reference number(s) shown on land plans	(3) Purpose(s) for which rights over land may be acquired or restrictive covenants may be imposed
		the provision, maintenance and retention of ecological or landscape mitigation, including re-profiling
	04-22	<p>New rights required for—</p> <p>the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking; and for the benefit of the undertaker and the authorised development);</p> <p>the provision, maintenance and retention of ecological or landscape mitigation, including re-profiling; and</p> <p>the construction of a new private means of access to and egress from land (lying within plot 04-17) and being generally as shown on sheet 4 of the rights of way and access plans; and a right for the undertaker to use and maintain such private means of access (including a right of access with or without vehicles, plant and machinery) for the benefit of that land</p>
<b>The land plans – sheet 5</b>		
In the administrative area of Wiltshire Council, in the parish of Winterbourne Stoke	05-07	<p>New rights required for—</p> <p>the installation, use, protection and maintenance of and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking; and for the benefit of the undertaker and the authorised development); and</p> <p>the provision, maintenance and retention of ecological or landscape mitigation, including re-profiling</p>
	05-02, 05-10, 05-14, 05-15, 05-18	<p>New rights required for—</p> <p>the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking; and for the benefit of the undertaker and the authorised development); and</p> <p>the provision, maintenance and retention of ecological or landscape mitigation</p>
<b>The land plans – sheet 9</b>		

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(1) <i>Area</i>	(2) <i>Plot reference number(s) shown on land plans</i>	(3) <i>Purpose(s) for which rights over land may be acquired or restrictive covenants may be imposed</i>
In the administrative area of Wiltshire Council, in the parish of Amesbury	09-06, 09-12, 09-13, 09-14, 09-24, 09-25, 09-26, 09-27, 09-36, 09-37, 09-38, 09-40, 09-41, 09-45, 09-47, 09-48	New rights required for the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking; and for the benefit of the undertaker and the authorised development)
<b>The land plans – sheet 10</b>		
In the administrative area of Wiltshire Council, in the parish of Amesbury	10-02	New rights required for the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking; and for the benefit of the undertaker and the authorised development)
In the administrative area of Wiltshire Council, in the parish of Amesbury	10-18, 10-19	New rights required for the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking)
<b>The land plans – sheet 11</b>		
In the administrative area of Wiltshire Council, in the parish of Amesbury	11-04, 11-05, 11-10, 11-12, 11-19, 11-25, 11-27	New rights required for the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking)
In the administrative area of Wiltshire Council, in the parish of Bulford	11-17	New rights required for the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking)
In the administrative area of Wiltshire Council, in the parish of Bulford	11-18	New rights required for—  the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking); and  the construction of new private means of access to and egress from land (lying to the east and west of plots 11-18 and 11-19) and being generally as shown on sheet 11 of the rights of way and access plans; and rights to use and maintain such private means of access (including rights of access with or without vehicles, plant and machinery) for the benefit of that land
<b>The land plans – sheet 12</b>		

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(1) <i>Area</i>	(2) <i>Plot reference number(s) shown on land plans</i>	(3) <i>Purpose(s) for which rights over land may be acquired or restrictive covenants may be imposed</i>
In the administrative area of Wiltshire Council, in the parish of Shrewton	12-02	<p>New rights required for—</p> <p>the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking);</p> <p>the installation, use, protection and maintenance of, and access to, Esso's apparatus (for the benefit of Esso and its undertaking and for the benefit of the undertaker and the authorised development); and</p> <p>the provision, maintenance and retention of ecological or landscape mitigation, including re-profiling and deposition of excavated material</p>
<b>The land plans – sheet 13</b>		
In the administrative area of Wiltshire Council, in the parish of Shrewton	13-01, 13-04	New rights required for the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking)
<b>The land plans – sheet 14</b>		
In the administrative area of Wiltshire Council, in the parish of Winterbourne Stoke	14-01	<p>New rights required for—</p> <p>the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking);</p> <p>the provision, maintenance and retention of ecological or landscape mitigation, including re-profiling; and</p> <p>the construction of new private means of access to and egress from land (lying to the west and to the south of plots 14-01, 14-02 and 14-03) and being generally as shown on sheets 5 and 14 of the rights of way and access plans; and rights to use and maintain such private means of access (including rights of access with or without vehicles, plant and machinery) for the benefit of that land</p>
	14-09	New rights required for the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker)
<b>The land plans – sheet 15</b>		



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(1) <i>Area</i>	(2) <i>Plot reference number(s) shown on land plans</i>	(3) <i>Purpose(s) for which rights over land may be acquired or restrictive covenants may be imposed</i>
In the administrative area of Wiltshire Council, in the parish of Winterbourne Stoke	15-02	New rights required for—  the installation, use, protection and maintenance of, and access to, statutory undertakers’ apparatus (for the benefit of the relevant statutory undertaker); and  the provision, maintenance and retention of ecological or landscape mitigation

SCHEDULE 5

Article 22(6) and (7)

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

*Compensation enactments*

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

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

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

“5A. If—

- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 5 to the A303 (Amesbury to Berwick Down) Development Consent Order 2023 (“the 2023 Order”));
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 5(8) of Schedule 5 to the 2023 Order) to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land,

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

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(112) has effect subject to the modifications set out in sub-paragraph (2).

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(112) 1973 c. 26.

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(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 5(3)—

- (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 the 1965 Act*

4. Part 1 (compulsory purchase under Acquisition of Land Act 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 19 (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 22(1) (compulsory acquisition of rights)—

- (a) with the modifications specified in paragraph 5; and
- (b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in the appropriate context, 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 restrictive 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);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

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

(5) Section 11(113) (powers of entry) of the 1965 Act is modified to secure that, where the acquiring authority has served notice to treat in respect of any right or restricted covenant, as well as

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(113) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1)

the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 19), 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(**114**) (powers of entry: further notices of entry), 11B(**115**) (counter-notice requiring possession to be taken on specified date), 12(**116**) (unauthorised entry) and 13(**117**) (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20(**118**) (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 or enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

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

“SCHEDULE 2A COUNTER-  
NOTICE REQUIRING  
PURCHASE OF LAND NOT  
IN NOTICE TO TREAT

*Introduction*

1.—(1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 of the 1981 Act as applied by article 26 (application of the 1981 Act) of the A303 (Amesbury to Berwick Down) Development Consent Order 2023 in respect of the land to which the notice to treat relates.

(2) But see article 27(4) (acquisition of subsoil, etc., only) of the A303 (Amesbury to Berwick Down) Development Consent Order 2023 which excludes the acquisition of subsoil or airspace only from this Schedule.

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

*Counter-notice requiring purchase of land*

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

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of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

(114) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016.

(115) Section 11B was inserted by section 187(3) of the Housing and Planning Act 2016.

(116) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23) and paragraphs (2) and (4) of Schedule 16 to the Housing and Planning Act 2016.

(117) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(118) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

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

*Response to counter-notice*

5. On receiving a counter-notice, the acquiring authority must decide whether to—
- (a) withdraw the notice to treat,
  - (b) accept the counter-notice, or
  - (c) refer the counter-notice to the Upper Tribunal.
6. The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).
7. If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
8. If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.
9. If the authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

*Determination by Upper Tribunal*

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—
- (a) in the case of a house, building or factory, cause material detriment to the house building or factory, or
  - (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.
11. In making its determination, the Upper Tribunal must take into account—
- (a) the effect of the acquisition of the right or the imposition of the restrictive covenant,
  - (b) the use to be made of the right or restrictive covenant proposed to be acquired or imposed, and
  - (c) if the right or restrictive covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.
12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the restrictive covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.
13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in that land.
- 14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

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

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

## SCHEDULE 6

Article 27

LAND IN WHICH ONLY SUBSOIL OR NEW RIGHTS IN  
AND ABOVE SUBSOIL AND SURFACE MAY BE ACQUIRED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Plot reference number(s) shown on land plans</i>	<i>(3)</i> <i>Depth of subsoil beneath the level of the surface of the land</i>	<i>(4)</i> <i>Purposes for which the subsoil and new rights (including restrictive covenants) are required</i>
<b>The land plans – sheet 6</b>			
In the administrative area of Wiltshire Council, in the parish of Wilford Cum Lake	06-06	1.2 metres	Acquisition of subsoil for the construction and operation of the tunnel and for the installation of ground anchors adjacent to its western end, and new rights (including restrictive covenants) above, adjoining such subsoil, for the protection and maintenance of the tunnel and ground anchors
In the administrative area of Wiltshire Council, in the parish of Amesbury	06-08	1.2 metres	Acquisition of subsoil for the construction and operation of the tunnel, and new rights (including restrictive covenants) above and adjoining such subsoil, for the protection and maintenance of the tunnel
	06-11	3 metres	
	06-13		
<b>The land plans – sheet 7</b>			
In the administrative area of Wiltshire Council, in the parish of Amesbury	07-02	3 metres	Acquisition of subsoil for the construction and operation of the tunnel, and new rights (including restrictive
	07-05		
	07-07	1.2 metres	

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(1) <i>Area</i>	(2) <i>Plot reference number(s) shown on land plans</i>	(3) <i>Depth of subsoil beneath the level of the surface of the land</i>	(4) <i>Purposes for which the subsoil and new rights (including restrictive covenants) are required</i>
	07-13	3 metres	covenants) above and adjoining such subsoil, for the protection and maintenance of the tunnel
<b>The land plans – sheet 8</b>			
In the administrative area of Wiltshire Council, in the parish of Amesbury	08-02	15 metres	Acquisition of subsoil for the construction and operation of the tunnel, and new rights (including restrictive covenants) above and adjoining such subsoil, for the protection and maintenance of the tunnel
	08-07		
	08-09		
	08-10		
	08-11		
	08-12		
In the administrative area of Wiltshire Council, in the parish of Amesbury	08-14	1.2 metres	<p>Acquisition of subsoil for the construction and operation of the tunnel and for the installation of ground anchors adjacent to its eastern end;</p> <p>new rights (including the right to impose restrictive covenants) above, up to and including the surface, for the protection and maintenance of the tunnel and ground anchors;</p> <p>new rights for the construction of a new private means of access to land on the north side of the new and improved A303 (as shown illustratively on sheet 8 of the rights of way and access plans, as</p>

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(1) <i>Area</i>	(2) <i>Plot reference number(s) shown on land plans</i>	(3) <i>Depth of subsoil beneath the level of the surface of the land</i>	(4) <i>Purposes for which the subsoil and new rights (including restrictive covenants) are required</i>
			<p>new private means of access Reference 27); and</p> <p>new rights to use and maintain such private means of access (including a right of access with or without vehicles, plant and machinery) to be granted for the benefit of the land served by that private means of access, being land to the north of the new and improved A303</p>

## SCHEDULE 7

Article 29

## LAND OF WHICH ONLY TEMPORARY POSSESSION MAY BE TAKEN

(1) <i>Area</i>	(2) <i>Plot reference number(s) shown on land plans</i>	(3) <i>Purpose for which temporary possession may be taken</i>	(4) <i>Relevant part of the authorised development</i>
<b>The land plans – sheet 1</b>			
In the administrative area of Wiltshire Council, in the parish of Steeple Lanford	01-07, 01-09	Required to facilitate the construction of the new and improved A303; for archaeological and ecological mitigation; and to provide temporary storage, laydown areas and working space	Work No. 1A
<b>The land plans – sheet 3</b>			
In the administrative area of Wiltshire Council, in the parish of Winterbourne Stoke	03-05	Required to facilitate the construction of the new and improved A303 and the de-trunking of the existing A303; for archaeological and	Work Nos. 1A and 3A

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(1) Area	(2) Plot reference number(s) shown on land plans	(3) Purpose for which temporary possession may be taken	(4) Relevant part of the authorised development
		ecological mitigation; and to provide temporary storage, laydown areas and working space	
<b>The land plans – sheet 4</b>			
In the administrative area of Wiltshire Council, in the parish of Winterbourne Stoke	04-04	Required to facilitate the construction of the new and improved A303 and the realigned B3083; for landscape re-profiling; for archaeological and ecological mitigation; and to provide temporary storage, laydown areas and working space	Work Nos. 1A, 1B and 2
	04-21	Required to facilitate the construction of the new and improved A303; and the de-trunking of the existing A303; for landscape re-profiling; for archaeological and ecological mitigation; and to provide temporary storage, laydown areas and working space	Work Nos. 1B, 1C, 3A and 3B
	04-23, 04-25	Required to facilitate the construction of the new and improved A303 and of the new link road between the de-trunked A303 at Winterbourne Stoke and the new Longbarrow Junction; for use in connection with the de-trunking of the existing A303; for landscape re-profiling; for archaeological and ecological mitigation; and to provide temporary storage, laydown areas and working space	Work Nos. 1B, 1C, 3B and 3C
	04-31, 04-34	Required to facilitate the construction of the new and improved A303 and of the new link road between the de-trunked A303 at Winterbourne Stoke and the new Longbarrow Junction; for	Work Nos. 1C, 3B and 3C



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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Plot reference number(s) shown on land plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the authorised development</i>
		use in connection with the de-trunking of the existing A303; for landscape re-profiling; for archaeological and ecological mitigation; and to provide temporary storage, laydown areas and working space	
<b>The land plans – sheet 5</b>			
In the administrative area of Wiltshire Council, in the parish of Winterbourne Stoke	05-01	Required to facilitate the construction of the new link road between the de-trunked A303 at Winterbourne Stoke and the new Longbarrow Junction; for archaeological and ecological mitigation; and to provide temporary storage, laydown areas and working space	Work Nos. 3B and 3C
	05-11	Required to facilitate the construction of the new and improved A303 and of the new link road between the de-trunked A303 at Winterbourne Stoke and the new Longbarrow Junction; for construction of the new alignment of the A360; for use in connection with the de-trunking of the existing A303; for archaeological and ecological mitigation; for landscape re-profiling; and to provide temporary storage, laydown areas and working space	Work Nos. 1C, 3B, 3C and 4
	05-13	Required to facilitate the construction of the new and improved A303 and of the new link road between the de-trunked A303 at Winterbourne Stoke and the new Longbarrow Junction; for landscape re-profiling; for construction of the new alignment of the A360; for	Work Nos. 1C, 3B, 3C and 4

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(1) <i>Area</i>	(2) <i>Plot reference number(s) shown on land plans</i>	(3) <i>Purpose for which temporary possession may be taken</i>	(4) <i>Relevant part of the authorised development</i>
		archaeological and ecological mitigation; and to provide temporary storage, laydown areas and working space	
	05-37	Required for construction of the new restricted byway and private means of access on the line of the existing A303; for archaeological and ecological mitigation; and to provide temporary storage, laydown areas and working space	Work No. 6
<b>The land plans – sheet 8</b>			
In the administrative area of Wiltshire Council, in the parish of Amesbury	08-21	Required to facilitate the construction of the new and improved A303; for archaeological and ecological mitigation; and to provide temporary storage, laydown areas and working space	Work Nos. 1G and 1H
<b>The land plans – sheet 9</b>			
In the administrative area of Wiltshire Council, in the parish of Amesbury	09-01	Required to facilitate the construction of the new and improved A303; for archaeological and ecological mitigation; and to provide temporary storage, laydown areas and working space	Work Nos. 1G, 1H
In the administrative area of Wiltshire Council, in the parish of Amesbury	09-07, 09-15, 09-16, 09-17	Required to facilitate the construction of the new and improved A303; and to provide temporary storage, laydown areas and working space	Work No. 1H
<b>The land plans – sheet 10</b>			
In the administrative area of Wiltshire Council, in the parish of Amesbury	10-20, 10-23	Required to facilitate the construction of a new highway connecting Equinox Drive and Allington Track; to facilitate the provision of replacement land given in exchange for open space; for archaeological and ecological mitigation; and to provide temporary storage,	Work No. 7

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Plot reference number(s) shown on land plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the authorised development</i>
		laydown areas and working space	
<b>The land plans – sheet 11</b>			
In the administrative area of Wiltshire Council, in the parish of Amesbury	11-11	Required to facilitate the construction of the new and improved A303; for archaeological and ecological mitigation; and for works in connection with the stopping up of byway AMES1 and its substitution with a footpath; and to provide temporary storage, laydown areas and working space	Work Nos. 1H and 7
	11-14, 11-15	Required to facilitate the construction of the new and improved A303; for archaeological and ecological mitigation; for improvements to Amesbury Road; and to provide temporary storage, laydown areas and working space	Work No. 1H
	11-23, 11-26	Required to facilitate the construction of the new and improved A303; for use in connection with the stopping up of Allington Track; for archaeological and ecological mitigation; to facilitate the construction of a new highway connecting Equinox Drive with Allington Track; and to provide temporary storage, laydown areas and working space	Work Nos. 1H and 7
	11-32	Required to facilitate the construction of a new highway connecting Equinox Drive with Allington Track; to facilitate the provision of replacement land given in exchange for open space; for archaeological and ecological	Work No. 7

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Plot reference number(s) shown on land plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the authorised development</i>
		mitigation; and to provide temporary storage, laydown areas and working space	
<b>The land plans – sheet 12</b>			
In the administrative area of Wiltshire Council, in the parish of Shrewton	12-05	Required in connection with the construction of the new and improved A303; for archaeological and ecological mitigation; to facilitate traffic management associated with the realignment of the B3083; and to provide temporary storage, laydown areas and working space	Work No. 2
<b>The land plans – sheet 13</b>			
In the administrative area of Wiltshire Council, in the parish of Shrewton	13-06	Required to facilitate the realignment of the Rolleston Cross junction; for archaeological and ecological mitigation; and to provide temporary storage, laydown areas and working space	Work No. 5
	13-09, 13-10	Required to facilitate the provision of private means of access to land south of the Rolleston Cross junction; and for archaeological and ecological mitigation; and to provide temporary storage, laydown areas and working space	Work No. 5
<b>The land plans – sheet 14</b>			
In the administrative area of Wiltshire Council, in the parish of Shrewton	14-03	Required to facilitate the realignment of the A360 and construction of a new restricted byway; for archaeological and ecological mitigation; and to provide temporary storage, laydown areas and working space	Work No. 4
<b>The land plans – sheet 15</b>			
In the administrative area of Wiltshire	15-01	Required to facilitate the construction of the new	Work Nos. 1C, 3B, 3C and 4

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Plot reference number(s) shown on land plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the authorised development</i>
Council, in the parish of Winterbourne Stoke		and improved A303 and of the new link road between the de-trunked A303 at Winterbourne Stoke and the new Longbarrow Junction; to facilitate the construction of the new alignment of the A360; for archaeological and ecological mitigation; and to provide temporary storage, laydown areas and working space	

## SCHEDULE 8

Article 44

### BYELAWS

### PART 1

#### PRELIMINARY

1. These byelaws may be cited as the A303 (Amesbury to Berwick Down) Byelaws 2023 and are deemed to have been made by the undertaker under article 44(1) (byelaws relating to the tunnel area) of the A303 (Amesbury to Berwick Down) Development Consent Order 2023 and confirmed by the Secretary of State as provided for by article 44(2) of that Order.

#### Interpretation

- 2.—(1) In these byelaws unless the context otherwise requires—
- “authorised person” means—
- (a) a person acting in the course of that person’s duties who—
    - (i) is an employee, agent, contractor or sub-contractor of the undertaker; or
    - (ii) is authorised by the undertaker to exercise one or more of its functions under this Order; or
  - (b) a constable, Police Community Support Officer, an officer of the Driver and Vehicle Standards Agency, an officer of the Health and Safety Executive, a person authorised for the purposes of section 44 (powers of fire-fighters etc in an emergency etc) of the Fire and Rescue Services Act 2004(119), a person accredited by or under section 41 (accreditation

(119)2004 c. 21. Section 44 was amended by section 6 of the Emergency Workers (Obstruction) Act 2006 (c. 39).

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under community safety accreditation schemes) of the Police Reform Act 2002(120), or a traffic officer, acting in the execution of that person’s duties within the tunnel;

“byelaws” means these byelaws;

“dangerous goods” means a substance or article of which the international carriage by road is prohibited, or authorised on certain conditions, by Annex A of the European Agreement Concerning the International Carriage of Dangerous Goods by Road as from time to time amended;

“motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads;

“notice” includes a sign, signal and a digital or other display, and in appropriate circumstances, an audible announcement;

“traffic officer” means an individual designated under section 2 (designation of traffic officers) of the Traffic Management Act 2004(121);

“trailer” means a vehicle (including a horse box) designed or adapted to be towed by a motor vehicle;

“tunnel” means the road tunnel to be constructed as part of Work No. 1 and as shown by a solid blue line on the tunnel area plan;

“tunnel approaches” means the western and eastern approaches to the tunnel, the linear extents of which are shown by dashed blue lines on the tunnel area plan;

“tunnel area” means the extent of the public highway to be comprised in and along the tunnel and the tunnel approaches;

“tunnel area plan” means the plans of that description certified by the Secretary of State under article 55 (certification of plans, etc) of the A303 (Amesbury to Berwick Down) Development Consent Order 2023;

“tunnel equipment” includes plant and machinery, and any emergency, safety or communications equipment;

“tunnel infrastructure” means the structure (including the carriageway) of the tunnel area;

“vaporiser” means an electronic device that can be used to deliver nicotine or other substances to a person inhaling from the device;

“undertaker” means Highways England Company Limited (Company No. 09346363) of Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ; and

“Work No. 1” means the work of that description in Schedule 1 (authorised development) to the A303 (Amesbury to Berwick Down) Development Consent Order 2023.

(2) The Interpretation Act 1978(122) applies to the interpretation of these byelaws as it applies to the interpretation of an Act of Parliament.

## PART 2

### CONDUCT AND BEHAVIOUR

#### Smoking etc.

#### 3. A person in the tunnel area must not—

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(120)2002 c. 30. Section 41 was amended by section 52 of, and paragraph 42 of Schedule 14 to, the Police and Justice Act 2006 (c. 48).

(121)2004 c. 18.

(122)1978 c. 30.

- (a) smoke or carry an item that is alight including a lit cigar, cigarette, cigarillo, match, pipe or lighter; or
- (b) use a vaporiser.

#### **Unacceptable behaviour**

4. A person must not—
- (a) climb upon, remove or damage (whether deliberately or negligently) any tunnel infrastructure or tunnel equipment;
  - (b) remove, move or otherwise interfere with the tunnel or any machinery, apparatus, tools or other things in use or intended for use in connection with the tunnel or the tunnel approaches;
  - (c) post a bill, placard or notice on any tunnel infrastructure or tunnel equipment;
  - (d) write, print, draw or paint on or cut, mark or stamp any tunnel infrastructure or tunnel equipment;
  - (e) fix anything to any tunnel equipment or tunnel infrastructure;
  - (f) spit, urinate or defecate in the tunnel area;
  - (g) leave litter or waste in the tunnel area;
  - (h) move, alter, deface or otherwise interfere with any notice belonging to the undertaker which is exhibited or placed in the tunnel area; or
  - (i) without prejudice to any other requirement of these byelaws, act in any way as to cause a nuisance in the tunnel area.

## **PART 3**

### **EQUIPMENT AND SAFETY**

#### **General safety**

- 5.—(1) A person must not operate, obstruct, interfere with or stop any tunnel equipment except—
- (a) by means of any of the controls intended for use by that person; or
  - (b) in an emergency and by means of equipment on or near which is a notice indicating that it is to be used in an emergency.
- (2) A person must not place, throw, drop or trail anything which is capable of injuring or endangering any person or damaging any property in the tunnel area.
- (3) A person must not obstruct or in any way interfere with the tunnel area.
- (4) A person must not, without reasonable cause, activate, use or interfere with any emergency, safety or communications equipment within the tunnel area.

## PART 4

### ACCESS AND TRAFFIC

#### **Unauthorised access and loitering**

6.—(1) A person must not enter, attempt to enter or remain in any part of the tunnel area where there is a notice prohibiting or restricting access.

(2) A person must not loiter in the tunnel area if asked to leave by an authorised person.

(3) A driver of a motor vehicle must not sleep within the tunnel area.

#### **Traffic regulation**

7.—(1) A person must not enter the tunnel area on foot.

(2) A person (other than an authorised person) must not use or cause to be used within the tunnel area a pedal cycle (whether electric or not), tricycle, barrow, cart, buggy, pedicab, rickshaw, vehicle used as a personal transporter, or human or animal drawn means of conveyance except if it is conveyed as the load or part of the load of a motor vehicle.

(3) A person must not take into the tunnel area an animal unless the animal is enclosed in a motor vehicle or trailer.

(4) A person must not release an animal from a motor vehicle in the tunnel area.

(5) A person must not enter the tunnel area in a vehicle which has insufficient fuel or power for the journey to be completed in the tunnel area without the need for additional fuel or power.

(6) A person must not abandon a motor vehicle in the tunnel area except in an emergency as directed by an authorised person.

(7) A person must not operate a motor vehicle music or sound system at such volume as to cause nuisance to users of the tunnel area.

(8) A person must not unnecessarily, inappropriately or excessively use a car horn, klaxon or lights (including car lamps) in the tunnel area.

(9) A person must not take or cause to be taken into the tunnel area a motor vehicle which by reason of its condition is likely to break down or is in such condition as is likely to injure persons or damage property.

(10) A person must not use or cause to be used a motor vehicle in the tunnel area unless the load carried by the motor vehicle is at all times contained or secured (if necessary by physical restraint other than its own weight) and is in such a position that neither danger nor nuisance is caused or is likely to be caused to a person or property by reason of the load or any part of the load falling or being thrown from the motor vehicle.

(11) No driver of or passenger in a motor vehicle which has broken down may carry out repairs to or refuel a motor vehicle in the tunnel area without the permission of an authorised person.

(12) A driver of a motor vehicle which has broken down in the tunnel area must—

- (a) immediately notify an authorised person of the breakdown; and
- (b) switch on the motor vehicle's hazard lights.

(13) A driver of a motor vehicle which has shed its load in full or in part in the tunnel area such that it has caused, or may cause, an obstruction or other hazard to users of the tunnel area must—

- (a) not attempt to reclaim the load;
- (b) immediately inform an authorised person of the loss of the load and of its approximate location; and



(c) immediately inform an authorised person of the identity of, and contact details for, the owner of the load.

(14) A driver of a motor vehicle must not (unless directed by an authorised person) drive in the tunnel area at a speed of less than ten miles per hour except where the driver is prevented from driving at or above ten miles per hour on account of the traffic flow.

(15) A driver of a motor vehicle must comply with any direction given by an authorised person or traffic notice, sign or signal at any time in terms of the traffic lanes to be used by motor vehicles or not to be used by motor vehicles.

### **Dangerous goods**

8.—(1) A person must not, except with the consent of the undertaker, take or cause or permit to be taken into the tunnel area a motor vehicle carrying dangerous goods and must at all times when in the tunnel area comply with the conditions imposed by paragraph (2) below.

(2) The consent of the undertaker, if granted, is subject to the condition that no person may drive into the tunnel area any motor vehicle to which paragraph (1) applies except with such escort as may be directed or required by an authorised person and the driver of every such motor vehicle must take and comply with such directions or precautionary measures as an authorised person considers expedient in the circumstances.

(3) The consent of the undertaker under this byelaw may be granted generally or specifically, including in respect of any category or description of dangerous goods.

(4) The undertaker must provide and maintain on its website a mechanism for potential tunnel users to obtain the consent required under paragraph (1) above or granted under paragraph (3).

(5) A driver of a motor vehicle in the tunnel area must not prevent an authorised person from inspecting the motor vehicle for the purpose of ascertaining compliance with the requirements which apply at any time in respect of the carriage of dangerous goods.

## **PART 5**

### **ENFORCEMENT, ETC.**

#### **Name and address**

9.—(1) A person reasonably suspected by an authorised person of breaching or attempting to breach a byelaw must immediately give that person's name and address when requested to do so by an authorised person.

(2) The authorised person requesting details under paragraph (1) must state the nature of the suspected breach of the byelaw in general terms at the time of the request.

#### **Compliance with instructions and notices, etc.**

10.—(1) A person in the tunnel area must carry out the reasonable instructions of an authorised person or the requirements of a notice displayed by the undertaker.

(2) A person must not obstruct an authorised person acting in the course of the person's duties.

(3) A person acting in compliance with the instructions of an authorised person does not commit a breach of the byelaw which otherwise prohibits the act.

(4) A person is not subject to a penalty for breach of a byelaw by disobeying a notice unless it is proved to the satisfaction of the Court before which the complaint is laid that the notice referred to in the particular byelaw was displayed.

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### **Identification of authorised persons**

**11.**—(1) An authorised person who is exercising any power conferred on an authorised person by any of the byelaws must produce a form of identification when requested to do so.

(2) The form of identification mentioned in paragraph (1) must include the name of the authorised person's employer and a means of identifying the authorised person.

### **Breaches by authorised persons**

**12.** An authorised person acting in the course of the authorised person's duties is not liable for a breach of a byelaw.

### **Attempted breach**

**13.** A person who attempts to breach a byelaw is liable to the same penalty as a person who breaches a byelaw.

## SCHEDULE 9

Article 46

### CLASSIFICATION OF ROADS ETC.

## PART 1

### THE NEW AND IMPROVED A303 TRUNK ROAD

In the administrative area of Wiltshire Council—

#### **An 11.6 kilometre length of new road**

**1.** An 11.6 km length of new road to be constructed and classified (as identified in sub-paragraphs (a) to (i) below) as part of the A303 trunk road (such length also including existing highway to be improved, as identified in sub-paragraphs (a) and (i) below)—

- (a) commencing from a point 1.26 km to the east of the centre point of iron age hillfort Yarnbury Castle and following the existing A303 alignment for a distance of 1000 metres in a generally easterly direction to a point 1.85 km west of the junction of the existing A303 with Berwick Road B3083;
- (b) then departing from the existing alignment in a north easterly direction, to the north of Winterbourne Stoke, for a distance of 1.74 km, to cross the route of the existing B3083 at a point 475 metres north of its junction with the existing A303;
- (c) continuing to the north of Winterbourne Stoke for a distance of 517 metres and crossing the River Till on a new viaduct at a point 395 metres north of the existing A303 river crossing;
- (d) departing from the River Till and continuing in a generally easterly direction for a distance of 1.48 km to a crossing point with the existing A303 at a point 693 metres to the west of the centre of the existing Longbarrow roundabout;
- (e) passing beneath the new bridge at Longbarrow Junction which it is proposed will carry the realigned A360 and then continuing in an easterly direction for a distance of 694 metres to pass the existing A360 in cutting at a point 95 metres south of the centre of the existing Longbarrow roundabout;

- (f) from the A360 continuing in a generally easterly direction, running parallel with and to the south of the existing A303 for a distance of 971 metres to the new western tunnel portal, at a point 940 metres to the west of the crossing point of existing byway AMES12 and 60 metres to the south of the existing A303 at that point;
- (g) continuing within the new tunnel for a distance of 2.25 km, to the crossing point of the existing A303 located 920 metres east of the junction of byway AMES 11;
- (h) continuing within the new tunnel in an easterly direction, for a distance of 1.01 km to the new eastern tunnel portal, located at a point 710 metres to the east of the junction of the existing A303 and Bridleway AMES10 and 65 metres to the north of the centre of the existing A303; and
- (i) from the new eastern portal eastwards for a distance of 1.93 km, following the route of the existing A303 and continuing through the improved Countess junction on a new flyover, then terminating at a point located 630 metres to the east of the centre point of the existing Countess roundabout,

identified by a red line on the classification of roads plan.

## PART 2

### THE NEW LONGBARROW JUNCTION AND THE SLIP ROADS

In the administrative area of Wiltshire Council—

#### **A303 eastbound diverge slip road**

2. A 525 metre length of new slip road to be classified as part of the A303 trunk road, commencing from its diverge point on the centre of the new A303 eastbound carriageway in an easterly direction to its junction with the new northern roundabout at Longbarrow Junction,

identified by a red line on the classification of roads plan.

#### **A303 eastbound merge slip road**

3. A 485 metre length of new slip road to be classified as part of the A303 trunk road, commencing from its junction with the new northern roundabout at Longbarrow Junction and continuing in an easterly direction to its merge point on the centre of the eastbound carriageway of the new A303 trunk road,

identified by a red line on the classification of roads plan.

#### **A303 westbound diverge slip road**

4. A 495 metre length of new slip road to be classified as part of the A303 trunk road, commencing from its diverge point on the centre on the new A303 westbound carriageway in a westerly direction to its junction with the new southern roundabout at Longbarrow Junction,

identified by a red line on the classification of roads plan.

#### **A303 westbound merge slip road**

5. A 540 metre length of new slip road to be classified as part of the A303 trunk road, commencing from its junction with the new southern roundabout at Longbarrow Junction and continuing in a westerly direction to its merge point on the centre of the westbound carriageway of the new A303 trunk road,

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identified by a red line on the classification of roads plan.

## PART 3

### THE NEW LONGBARROW JUNCTION AND LINK ROADS

In the administrative area of Wiltshire Council—

#### **A360 northern link to new Longbarrow junction**

6. A 1083 metre length of new road to be classified as part of the re-aligned A360 commencing from its junction with the new northern roundabout at Longbarrow Junction and extending in a north-easterly direction, to the point where it merges with the existing A360, at a point 760 metres north of the centre of the existing Longbarrow roundabout,

identified by a blue line on the classification of roads plan.

#### **Northbound and Southbound Link between the new northern and southern roundabouts at Longbarrow Junction**

7. A 180 metre length of new road to be classified as part of the A360, commencing from its junction with the new northern roundabout at Longbarrow Junction in a southerly direction to its junction with the new southern roundabout at Longbarrow Junction, and including the whole of the circulatory carriageway of the new northern and southern roundabouts at Longbarrow Junction,

identified by a blue line on the classification of roads plan.

#### **A360 south-eastern link to new Longbarrow junction**

8. A 785 metre length of new road to be classified as part of the re-aligned A360 commencing from its junction with the new southern roundabout at Longbarrow Junction and extending in a south-easterly direction, to the point where it merges with the existing A360, at a point 760 metres south of the centre of the existing Longbarrow roundabout,

identified by a blue line on the classification of roads plan.

#### **South-western link to new Longbarrow junction**

9. A 610 metre length of new road to be classified as a C class road and recorded by the local highway authority as the C507 commencing from its junction with the new southern roundabout at Longbarrow Junction and extending in a westerly direction, to where it merges with the existing A303, at a point 625 metres west of the new southern roundabout at Longbarrow Junction and 280 metres to the east of the junction of existing Byway WST06B with the existing A303,

identified by an orange dashed line on the classification of roads plan.

## PART 4

### THE NEW ROLLESTONE CROSS

In the administrative area of Wiltshire Council—

**A 230 metre length of new road (B3086 northbound approach)**

10. A 230 metre length of new road to be constructed and classified as part of the B3086 commencing from a point 2.97 km north of the existing Longbarrow roundabout and extending northwards, to a point 85 metres to the east of the existing Rollestone Cross, identified by a green line on the classification of roads plan.

**A 135 metre length of new road (Unclassified westbound approach)**

11. A 135 metre length of new road to be constructed and classified as part of the Unclassified 094402 (The Packway) from a point 85 metres east of the existing Rollestone Cross to a point 165 metres east of the existing Rollestone Cross, identified by a green line overlaid with a black dashed line on the classification of roads plan.

**A 140 metre length of new road (B3086 eastbound approach)**

12. A 140 metre length of new road to be constructed and classified as part of the B3086 between a point 55 metres west of the existing Rollestone Cross and a point 85 metres east of the existing Rollestone Cross, identified by a green line on the classification of roads plan.

## PART 5

### THE NEW B3083

In the administrative area of Wiltshire Council—

**A 725 metre length of new road (realigned B3083)**

13. A 725 metre length of new road to be constructed and classified as part of the realigned B3083 Road located 50 metres to the west of the existing B3083, north of Winterbourne Stoke, and extending generally northwards from a point 160 metres north of the existing junction of the B3083 and the A303, identified by a cyan line on the classification of roads plan.

## PART 6

### THE NEW COUNTESS JUNCTION SLIP ROADS

In the administrative area of Wiltshire Council—

**A303 eastbound diverge slip road**

14. A 570 metre length of new slip road to be classified as part of the A303 trunk road, commencing from its diverge point on the centre of the improved A303 eastbound carriageway in an easterly direction to a point 14 metres west of its junction with the existing Countess roundabout, identified by a red line on the classification of roads plan.

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#### **A303 eastbound merge slip road**

15. A 470 metre length of new slip road to be classified as part of the A303 trunk road, commencing from a point 17 metres east of its junction with the existing Countess roundabout and continuing in an easterly direction to its merge point on the centre of the eastbound carriageway of the improved A303 trunk road,

identified by a red line on the classification of roads plan.

#### **A303 westbound diverge slip road**

16. A 425 metre length of new slip road to be classified as part of the A303 trunk road, commencing from its diverge point on the centre on the improved A303 westbound carriageway in a westerly direction to a point 25 metres east of its junction with the existing Countess roundabout,

identified by a red line on the classification of roads plan.

#### **A303 westbound merge slip road**

17. A 475 metre length of new slip road to be classified as part of the A303 trunk road, commencing from a point 26 metres west of its junction with the existing Countess roundabout and continuing in a westerly direction to its merge point on the centre of the westbound carriageway of the improved A303 trunk road,

identified by a red line on the classification of roads plan.

## **PART 7**

### **THE EXISTING A303**

In the administrative area of Wiltshire Council—

#### **A 570 metre length of existing A303 trunk road**

18. A 570 metre length of the existing A303 trunk road to the west of Winterbourne Stoke to be declassified (changing from its trunk road status to an unclassified road) from a point immediately west of its junction with the existing southern B3083 in a westerly direction,

identified by a purple line overlaid with a black dashed line on the classification of roads plan.

#### **A 350 metre length of existing A303 trunk road**

19. A 350 metre length of existing A303 trunk road to be reclassified as part of the B3083 from a point immediately to the west of its junction with the existing B3083 south, to the west of Winterbourne Stoke, to a point immediately east of the existing junction of the B3083 north with the existing A303,

identified by a cyan line on the classification of roads plan.

#### **A 1.24 kilometre length of existing A303 trunk road**

20. A 1.24 km length of existing A303 trunk road to be classified as a C class road and recorded by the local highway authority as the C507, commencing from a point immediately to the east of its junction with the existing B3083 north at Winterbourne Stoke to a point 280 metres to the east of the junction of existing byway WST06B with the existing A303,

identified by a dashed orange line on the classification of roads plan.

### **A 345 metre length of existing A303 trunk road**

21. A length of 345 metres of highway, comprising the existing A303 circulatory carriageway (and related highway verge) at Countess junction roundabout to be re-classified as the A345, together with the following connecting lengths of slip road—

- (a) a 14 metre length of the existing A303 eastbound diverge slip road to be re-classified as part of the A345, commencing from the edge of the circulatory carriageway and extending in a westerly direction;
- (b) a 17 metre length of the existing A303 eastbound merge slip road to be re-classified as part of the A345, commencing from the edge of the circulatory carriageway and extending in an easterly direction;
- (c) a 25 metre length of the existing A303 westbound diverge slip road to be re-classified as part of the A345, commencing from the edge of the circulatory carriageway and extending in an easterly direction; and
- (d) a 26 metre length of the existing A303 westbound merge slip road to be re-classified as part of the A345, commencing from the edge of the circulatory carriageway and extending in a westerly direction,

as shown by a pink line on the classification of roads plan.

## **PART 8**

### **THE NEW ALLINGTON TRACK LINK ROAD**

In the administrative area of Wiltshire Council—

### **A 985 metre length of new road**

22. A 985 metre length of new road to be unclassified, located from its junction with Equinox Drive for a distance of 955 metres in a generally easterly direction, identified by a dashed black line on the classification of roads plan.

## **PART 9**

### **ROADS TO BE DE-TRUNKED**

In the administrative area of Wiltshire Council—

### **A 2.28 kilometre length of the existing A303 trunk road**

23. A length of 2.28 kilometres of the existing A303 trunk road from point A on sheet 1 of the de-trunking plans, being a point on the A303 trunk road 900 metres west of its junction with the B3083 north, in an easterly direction (including the lay-by on the north side of the existing A303, west of Winterbourne Stoke) to point B on sheet 2 of the de-trunking plans, being a point on the existing A303 trunk road, 400 metres east of its intersection with byway WST06B.

### **A 345 metre length of the existing A303 trunk road**

24. A length of 345 metres of highway, comprising the existing A303 circulatory carriageway (and related highway verge and footway links on the east and west sides of the A345 route) at Countess junction roundabout, together with the following connecting lengths of slip road—

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- (a) a 14 metre length of the existing A303 eastbound diverge slip road commencing from the edge of the circulatory carriageway and extending in a westerly direction;
- (b) a 17 metre length of the existing A303 eastbound merge slip road commencing from the edge of the circulatory carriageway and extending in an easterly direction;
- (c) a 25 metre length of the existing A303 westbound diverge slip road commencing from the edge of the circulatory carriageway and extending in an easterly direction; and
- (d) a 26 metre length of the existing A303 westbound merge slip road commencing from the edge of the circulatory carriageway and extending in a westerly direction,

as shown at point C on sheet 3 of the de-trunking plans.

## SCHEDULE 10

Articles 47 and 48

### TRAFFIC REGULATION MEASURES

**Note 1:** The naming conventions used in this Schedule to describe roads, junctions and structures relate to the naming conventions used in the labels on the traffic regulation measures plans.

**Note 2:** References to the national speed limit in column (3) of the table in Part 1 of this Schedule are references to the maximum speed limits specified under the 1984 Act and to provision made, or deemed to have been made, under the 1984 Act.

## PART 1

### SPEED LIMITS

(1) <i>Parish(es)</i>	(2) <i>Road name, number and length</i>	(3) <i>Speed limit</i>
<b>The traffic regulation measures plans (speed limits) – sheets 1, 2 and 3</b>		
Steeple Langford, Berwick St James	New eastbound A303 trunk road (dual carriageway)  From a point 350 metres to the south east of the centre of Yarnbury Castle to a point 2.7 kilometres west of the existing Longbarrow roundabout.	National speed limit (70 miles per hour)
<b>The traffic regulation measures plans (speed limits) – sheets 1, 2, 3, 4 and 5</b>		
Steeple Langford and Berwick St James and Winterbourne Stoke	New westbound A303 trunk road (dual carriageway)  From a point 370 metres to the south east of the centre of Yarnbury Castle to a point 740 metres west of the existing Longbarrow roundabout.	National speed limit (70 miles per hour)
<b>The traffic regulation measures plans (speed limits) – sheet 3</b>		
Winterbourne Stoke	New (realigned) B3083  Between a point 840 metres north of the junction of the existing B3083 North and the existing A303 at Winterbourne Stoke and a point 25 metres north	50 miles per hour



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(1) Parish(es)	(2) Road name, number and length	(3) Speed limit
	of the existing junction of the B3083 North and the existing A303.	
<b>The traffic regulation measures plans (speed limits) – sheets 3 and 4</b>		
Winterbourne Stoke	Existing A303 Trunk Road  Between a point 890 metres west of the junction of the existing A303 with the B3083 North and a point 285 metres east of the junction of the existing A303 with the B3083 North at Winterbourne Stoke, for a distance of 1.2 kilometres.	30 miles per hour
<b>The traffic regulation measures plans (speed limits) – sheets 3, 4, 5, 6, 7, 8, 9 and 10</b>		
Winterbourne Stoke, Wilsford Cum Lake and Amesbury	New eastbound A303 Trunk Road (including Tunnel Section)  Between a point 2.7 kilometres west of the existing Longbarrow roundabout and a point 870 metres east of the centre of the existing Countess Roundabout, a distance of 9.1 km.	Variable speed limit
	New westbound A303 Trunk Road (including Tunnel Section)  Between a point 2 kilometres east of the centre of the existing Countess roundabout and a point 740 metres west of the existing Longbarrow roundabout, a distance of 8.3 kilometres.	Variable speed limit
<b>The traffic regulation measures plans (speed limits) – sheets 4 and 5</b>		
Winterbourne Stoke	Existing A303 Trunk Road  Between a point 285 metres east of the junction of the existing A303 with the B3083 North at Winterbourne Stoke and the centre point of the southern roundabout at the new Longbarrow Junction.	40 miles per hour
	New A303 Trunk Road Longbarrow Junction Eastbound Diverge Slip Road  From a point 670 metres west of the centre point of the existing Longbarrow roundabout for a distance of 450 metres in a westerly direction.	Variable speed limit
<b>The traffic regulation measures plans (speed limits) – sheet 5</b>		
Winterbourne Stoke	New A303 Trunk Road Longbarrow Junction Eastbound Diverge Slip Road  From a point 670 metres west of the centre point of the existing Longbarrow roundabout for a	40 miles per hour

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(1) <i>Parish(es)</i>	(2) <i>Road name, number and length</i>	(3) <i>Speed limit</i>
	distance of 75 metres in a generally easterly direction.	
	New A303 Trunk Road Longbarrow Junction Eastbound Merge Slip Road  From a point 505 metres west of the centre point of the existing Longbarrow roundabout for a distance of 50 metres in a generally westerly direction.	40 miles per hour
	New A303 Trunk Road Longbarrow Junction Eastbound Merge Slip Road  From a point 505 metres west of the centre point of the existing Longbarrow roundabout for a distance of 435 metres in a generally easterly direction.	Variable speed limit
	New A303 Trunk Road Longbarrow Junction Westbound Diverge Slip Road  From a point 585 metres south-west of the centre point of the existing Longbarrow roundabout for a distance of 95 metres in a generally easterly direction.	40 miles per hour
	New A303 Trunk Road Longbarrow Junction Westbound Diverge Slip Road  From a point 495 metres south-west of the centre point of the existing Longbarrow roundabout for a distance of 400 metres in a generally easterly direction.	Variable speed limit
	New A303 Trunk Road Longbarrow Junction Westbound Merge Slip Road  From a point 640 metres south-west of the centre point of the existing Longbarrow roundabout for a distance of 50 metres in a generally westerly direction.	40 miles per hour
	New A303 Trunk Road Longbarrow Junction Westbound Merge Slip Road  From a point 665 metres south-west of the centre point of the existing Longbarrow roundabout for a distance of 495 metres in a generally westerly direction.	National speed limit (70 miles per hour)
	Re-aligned A360 between northern and southern roundabouts at the new Longbarrow Junction	40 miles per hour

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(1) Parish(es)	(2) Road name, number and length	(3) Speed limit
	From a point 570 metres west of the existing Longbarrow roundabout to a point 610 metres south-west of the existing Longbarrow roundabout, a distance of 180 metres along both carriageways between the northern and the southern roundabouts at the new Longbarrow junction, including the circulatory carriageway of both new roundabouts.	
	<p>Realigned A360 South at the New Longbarrow Junction</p> <p>From a point 605 metres southwest of the centre point of the existing Longbarrow roundabout for a distance of 70 metres along the realigned A360 South in a generally southerly direction.</p>	40 miles per hour
	<p>Realigned A360 North at the New Longbarrow Junction</p> <p>From a point 550 metres west of the centrepoint of the existing Longbarrow roundabout for a distance of 70 metres along the realigned A360 North in a generally north-westerly direction</p>	40 miles per hour
<b>The traffic regulation measures plans (speed limits) – sheets 5 and 15</b>		
Winterbourne Stoke	<p>Realigned A360 South at the New Longbarrow Junction</p> <p>From a point 570 metres southwest of the centre point of the existing Longbarrow roundabout for a distance of 715 metres along the realigned A360 South in a generally southerly direction.</p>	National speed limit (60 miles per hour)
<b>The traffic regulation measures plans (speed limits) – sheets 5 and 14</b>		
Winterbourne Stoke	<p>Realigned A360 North at the New Longbarrow Junction</p> <p>From a point 500 metres west of the existing Longbarrow roundabout for a distance of 1.01 km in a generally northerly direction along the realigned A360 North.</p>	National speed limit (60 miles per hour)
<b>The traffic regulation measures plans (speed limits) – sheet 8</b>		
Amesbury	<p>Stonehenge Road</p> <p>From a point 50 metres west of its junction with Woodford Valley Road for a distance of 440 metres in a generally north-westerly direction.</p>	40 miles per hour
<b>The traffic regulation measures plans (speed limits) – sheets 8 and 9</b>		

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(1) <i>Parish(es)</i>	(2) <i>Road name, number and length</i>	(3) <i>Speed limit</i>
Amesbury	<p>A303 Trunk Road Eastbound Diverge Slip Road to the Countess Roundabout</p> <p>From a point 640 metres west of the centre point of the existing Countess roundabout for a distance of 485 metres in a generally easterly direction.</p>	Variable speed limit
<b>The traffic regulation measures plans (speed limits) – sheet 9</b>		
Amesbury	<p>A303 Trunk Road Eastbound Diverge Slip Road to the Countess Roundabout</p> <p>From a point 160 metres west of the centre of the existing Countess roundabout to its junction with the western edge of that roundabout, a distance of 100 metres.</p>	40 miles per hour
	<p>A303 Trunk Road Eastbound Merge Slip Road from the Countess Roundabout</p> <p>From the eastern edge of its junction with the existing Countess roundabout in a generally easterly direction to a point 170 metres east of the centre of that roundabout, a distance of 120 metres.</p>	40 miles per hour
	<p>A303 Trunk Road Eastbound Merge Slip Road from the Countess Roundabout</p> <p>From a point 115 metres east of its junction with the existing Countess roundabout in a generally easterly direction to a point 535 metres east of the centre of the existing Countess roundabout.</p>	Variable speed limit
	<p>A303 Trunk Road Westbound diverge slip road to the Countess roundabout</p> <p>From a point 495 metres east of the centre point of the existing Countess roundabout for a distance of 350 metres in a generally westerly direction to a point 150 metres east of the centre point of the existing Countess roundabout.</p>	Variable speed limit
	<p>A303 Trunk Road Westbound diverge slip road to the Countess Roundabout</p> <p>From a point 150 metres east of the centre of Countess roundabout to the junction with the eastern edge of that roundabout, a distance of 100 metres.</p>	40 miles per hour
	<p>A303 Trunk Road Westbound Merge Slip Road from the Countess Roundabout</p>	40 miles per hour

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(1) <i>Parish(es)</i>	(2) <i>Road name, number and length</i>	(3) <i>Speed limit</i>
	<p>From the junction with the western edge of the Countess roundabout in a generally westerly direction to a point 90 metres west of the centre of that roundabout, a distance of 40 metres.</p> <p>New A303 Trunk Road Westbound Merge Slip Road from the Countess Roundabout</p> <p>From a point 90 metres west of the western edge of the Countess roundabout in a generally westerly direction to a point 530 metres west of the centre point of the existing Countess roundabout, a distance of 460 metres.</p>	Variable speed limit
<b>The traffic regulation measures plans (speed limits) – sheet 11</b>		
Amesbury	<p>Link Road between Allington Track and Equinox Drive</p> <p>From a point 510 metres southeast of the junction of the A303 with Allington Track, for a distance of 1070 metres in a generally westerly direction to a point 525 metres southwest of the junction of the A303 with the Amesbury Road.</p>	30 miles per hour
Amesbury	<p>Eastbound diverge slip road from A303 to Amesbury Road</p> <p>From the point of the nosing of the left filter lane on the A303 diverge slip road for a distance of 120 metres in a generally westerly direction.</p>	National speed limit (70 miles per hour)
	<p>Amesbury Road</p> <p>From its junction with the existing A303 for a distance of 50 metres in a generally northerly direction.</p>	National speed limit (60 miles per hour)
Bulford	<p>Eastbound merge slip road from A3028 Double Hedges to the existing A303 Trunk Road</p> <p>From the point of the nosing of the entry filter lane on the A303 merge slip road for a distance of 105 metres in a generally westerly direction.</p>	National speed limit (70 miles per hour)
	<p>A3028 Double Hedges</p> <p>From a point 465 metres southeast of the junction of the existing A3028 and the existing Amesbury Road for a distance of 140 metres in a generally south-easterly direction.</p>	National speed limit (60 miles per hour)
<b>The traffic regulation measures plans (speed limits) – sheet 13</b>		

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(1) <i>Parish(es)</i>	(2) <i>Road name, number and length</i>	(3) <i>Speed limit</i>
Shrewton and Winterbourne	New Rollestone Cross junction (realigned section of the B3086 south)  From a point 335 metres south of the centre point of the existing Rollestone Cross junction to a point 370 metres east of the centre point of the existing Rollestone cross junction.	40 miles per hour
Shrewton	New Rollestone Cross junction (realigned section of the B3086 west)  From a point 225 metres west of the centre point of the existing Rollestone Cross junction to a point 85 metres southeast of the centre point of the existing Rollestone Cross junction, a distance of 310 metres.	40 miles per hour
	New Rollestone Cross junction (realigned section of the unclassified road north of the existing Rollestone cross junction north)  From the centre point of the existing Rollestone cross junction to a point 250 metres north of the centre point of the existing Rollestone Cross junction.	40 miles per hour

## PART 2

### CLEARWAYS AND PROHIBITIONS

(1) <i>Parish(es)</i>	(2) <i>Road name, number and length</i>	(3) <i>Measures</i>
<b>The traffic regulation measures plans (clearways and prohibitions) – sheets 1, 2, 3, 4, 5, 6, 7, 8 and 9</b>		
Berwick St James, Winterbourne Stoke, Wilsford Cum Lake, Amesbury, Bulford, Steeple Lanford	New and improved A303 trunk road  For a length of 12.7 kilometres, from a point 355 metres to the south of the centre of Yarnbury Castle (shown on sheet 1) along the existing and new A303 Trunk Road, on both the eastbound and westbound carriageways, to a point 630 metres east of	Clearway  (to include verges, hard shoulders and slip roads; and to exclude laybys)

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(1) <i>Parish(es)</i>	(2) <i>Road name, number and length</i>	(3) <i>Measures</i>
	the centre point of the existing Countess Roundabout (shown on sheet 9).	
<b>The traffic regulation measures plans (clearways and prohibitions) – sheets 4 and 5</b>		
Winterbourne Stoke	New A303 Eastbound diverge slip road  From its junction with the northern roundabout at the new Longbarrow Junction for a distance of 525 metres in a generally westerly direction.	Clearway  (to include verges, hard shoulders and slip roads; and to exclude laybys)
	New A303 Westbound merge slip road  From its junction with the southern roundabout at the new Longbarrow Junction for a distance of 540 metres in a generally westerly direction.	Clearway  (to include verges, hard shoulders and slip roads; and to exclude laybys)
<b>The traffic regulation measures plans (clearways and prohibitions) – sheet 5</b>		
Winterbourne Stoke	New A303 Eastbound merge slip road  From its junction with the northern roundabout at the new Longbarrow Junction for a distance of 485 metres in a generally easterly direction	Clearway  (to include verges, hard shoulders and slip roads; and to exclude laybys)
	New A303 Westbound diverge slip road  From its junction with the southern roundabout at the new Longbarrow Junction for a distance of 495 metres in a generally easterly direction	Clearway  (to include verges, hard shoulders and slip roads; and to exclude laybys)
<b>The traffic regulation measures plans (clearways and prohibitions) – sheets 8 and 9</b>		
Amesbury	A303 Eastbound diverge slip road  From its junction with the new Countess roundabout junction for a distance of 588 metres in a generally westerly direction.	Clearway  (to include verges, hard shoulders and slip roads; and to exclude laybys)

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<b>The traffic regulation measures plans (clearways and prohibitions) – sheet 9</b>		
Amesbury	New A303 Eastbound merge slip road  From its junction with the new Countess roundabout junction for a distance of 485 metres in a generally easterly direction.	Clearway  (to include verges, hard shoulders and slip roads; and to exclude laybys)
	New A303 Westbound diverge slip road  From its junction with the new Countess roundabout junction for a distance of 450 metres in a generally easterly direction.	Clearway  (to include verges, hard shoulders and slip roads; and to exclude laybys)
	New A303 Westbound merge slip road  From its junction with the new Countess roundabout junction for a distance of 500 metres in a westerly direction.	Clearway  (to include verges, hard shoulders and slip roads; and to exclude laybys)
<b>The traffic regulation measures plans (clearways and prohibitions) – sheet 11</b>		
Bulford	A3028 Double Hedges and Amesbury Road junction  A3028 Double Hedges northbound to the junction of the A3028 Double Hedges and the Amesbury Road.	Prohibition of entry (no left turn)
	A3028 Double Hedges and Amesbury Road junction  A3028 Double Hedges southbound to the junction of the A3028 Double Hedges and the Amesbury Road.	Prohibition of entry (no right turn)
	A3028 Double Hedges and Amesbury Road junction  Amesbury Road southbound to the junction of the A3028 Double Hedges and the Amesbury Road.	Prohibition of entry  (no traffic ahead)



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<i>(1)</i> <i>Parish(es)</i>	<i>(2)</i> <i>Road name, number and length</i>	<i>(3)</i> <i>Measures</i>
Bulford and Amesbury	Amesbury Road  The southbound carriageway of Amesbury Road in a south westerly direction from its junction with the A3028 Double Hedges to the junction of the existing A303 and Amesbury Road.	Prohibition of southbound traffic
<b>The traffic regulation measures plans (clearways and prohibitions) – sheets 4, 5, 6, 7, 8 and 9</b>		
Winterbourne Stoke, Wilsford Cum Lake and Amesbury	A303 Trunk Road Eastbound  From a point 1.06 kilometres west of the centre of the existing Longbarrow roundabout (shown on sheet 5 by a green arrow marked ‘S’) along the new and improved A303 Trunk Road on the eastbound carriageway to a point 525 metres to the east of the centre of the existing Countess roundabout (shown on sheet 9 by a green arrow marked ‘E’), a distance of 7.13 kilometres.	Prohibition of pedestrians, bicycles, ridden or accompanied horses, vehicles drawn by animals and motorcycles where the cylinder capacity of the engine is less than 50 cubic centimetres
	A303 Trunk Road Eastbound  From a point 1.06 kilometres west of the centre of the existing Longbarrow roundabout (shown on sheet 5 by a green arrow marked ‘S’) along the new and improved A303 Trunk Road on the eastbound carriageway to a point 80 metres to the west of the centre of the existing Countess roundabout (shown on sheet 9 by a green arrow marked ‘E’), a distance of 6.5 kilometres.	Prohibition of pedestrians, bicycles, ridden or accompanied horses, vehicles drawn by animals and motorcycles where the cylinder capacity of the engine is less than 50 cubic centimetres
	The new A303 Trunk Road Eastbound Merge Slip Road from Longbarrow Junction	Prohibition of pedestrians, bicycles, ridden or accompanied horses, vehicles drawn by animals and motorcycles where the cylinder

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(1) <i>Parish(es)</i>	(2) <i>Road name, number and length</i>	(3) <i>Measures</i>
	<p>From a point 535 metres west of the centre of the existing Longbarrow roundabout (shown on sheet 5 by a green arrow marked 'S') to the point where it joins the main carriageway 120 metres south west of the existing Longbarrow roundabout (shown on sheet 5 by a green arrow marked 'E').</p>	<p>capacity of the engine is less than 50 cubic centimetres</p>
	<p>A303 Trunk Road westbound From a point 510 metres east of the centre of the existing Countess roundabout (shown on sheet 9 by a green arrow marked 'S') to a point 1.00 kilometres to the west of the centre of the existing Longbarrow roundabout (shown on sheet 5 by a green arrow marked 'E'), a distance of 7.06 kilometres.</p>	<p>Prohibition of pedestrians, bicycles, ridden or accompanied horses, vehicles drawn by animals and motorcycles where the cylinder capacity of the engine is less than 50 cubic centimetres</p>
	<p>A303 Trunk Road westbound From a point 510 metres east of the centre of the existing Countess roundabout (shown on sheet 9 by a green arrow marked 'S') to a point 585 metres to the south west of the centre of the existing Longbarrow roundabout (shown on sheet 5 by a green arrow marked 'E'), a distance of 6.61 kilometres.</p>	<p>Prohibition of pedestrians, bicycles, ridden or accompanied horses, vehicles drawn by animals and motorcycles where the cylinder capacity of the engine is less than 50 cubic centimetres</p>
	<p>The new A303 Trunk Road Westbound Merge Slip from Countess Roundabout From a point 80 metres west of the centre point of the existing Countess roundabout (shown on sheet 9 by a green arrow marked 'S') to a point 530 metres west of the centre</p>	<p>Prohibition of pedestrians, bicycles, ridden or accompanied horses, vehicles drawn by animals and motorcycles where the cylinder capacity of the engine is less than 50 cubic centimetres</p>

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<i>(1)</i> <i>Parish(es)</i>	<i>(2)</i> <i>Road name, number and length</i>	<i>(3)</i> <i>Measures</i>
	point of the existing Countess roundabout (shown on sheet 9 by a green arrow marked 'E').	

### PART 3

#### REVOCATIONS AND VARIATIONS OF EXISTING TRAFFIC REGULATION ORDERS

<i>(1)</i> <i>Parish(es)</i>	<i>(2)</i> <i>Road name, number and length</i>	<i>(3)</i> <i>Title of Order</i>	<i>(4)</i> <i>Revocations or variations</i>
<b>The traffic regulation measures plans (clearways and prohibitions) – sheets 1 and 2</b>			
Berwick St James	The existing A303 Trunk Road  From a point 350 metres to the south of the centre of Yarnbury Castle to a point 1.48 kilometres west of its junction with the B3083 south at Winterbourne Stoke.	The A303 Trunk Road (Wiltshire and Dorset) (24 hours clearway) Order 2001 (S.I. 2001/2919)	Order to be partially revoked between the points stated in column (2) as shown on sheets 1 and 2 by a red dashed line
<b>The traffic regulation measures plans (clearways and prohibitions) – sheets 3 and 4</b>			
Winterbourne Stoke	The existing A303 trunk road  The existing A303 eastbound and westbound carriageways from a point 205 metres west of the centre point of its junction with the B3083 south to a point 275 metres east of the centre point of its junction with the B3083 north, a distance of 830 metres.	The A303 Trunk Road (Winterbourne Stoke, Wiltshire) (40 mph speed limit) Order 1994 (S.I. 1994/3326)	Order to be revoked  Identified on sheets 3 and 4 and being the length of highway lying between the two blue squared symbols numbered 1
<b>The traffic regulation measures plans (clearways and prohibitions) – sheet 4</b>			

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(1) <i>Parish(es)</i>	(2) <i>Road name, number and length</i>	(3) <i>Title of Order</i>	(4) <i>Revocations or variations</i>
Winterbourne Stoke	<p>The existing A303 trunk road</p> <p>From a point 420 metres east of its junction with the B3083 north to a point 1.33 kilometres east of its junction with the B3083 north, a distance of 930 metres.</p>	<p>The A303 Trunk Road (Wiltshire and Dorset) (24 hours clearway) Order 2001 (S.I. 2001/2919)</p>	<p>Order to be partially revoked between the points stated in column (2) as shown on sheet 4 by a red dashed line</p>
<b>The traffic regulation measures plans (clearways and prohibitions) – sheet 6</b>			
Amesbury	<p>Byway AMES12, Amesbury, where it meets the existing A303 trunk road</p> <p>At the intersection of byway AMES12 (south) and the existing A303 trunk road.</p>	<p>The County of Wiltshire (Byway 12, Amesbury) (Prohibition of Right Hand Turn) Order 2015</p>	<p>Order to be revoked</p> <p>Location of the revocation is as stated in column (2) and as shown on sheet 6 between the two blue squared symbols numbered 8</p>
<b>The traffic regulation measures plans (clearways and prohibitions) – sheets 8 and 9</b>			
Amesbury	<p>The existing A303 trunk road</p> <p>From a point on the eastbound carriageway 620 metres east of its junction with the Stonehenge Road to the junction with the western edge of the Countess roundabout eastbound, a distance of 1.06 kilometres.</p>	<p>The A303 Trunk Road (Wiltshire and Dorset) (24 hours clearway) Order 2001 (S.I. 2001/2919)</p>	<p>Order to be partially revoked between the points stated in column (2) as shown on sheets 8 and 9 by a red dashed line</p>
	<p>The existing A303 trunk road</p> <p>From its junction with the western edge of Countess roundabout westbound to a point 770 metres east of its junction with the Stonehenge Road,</p>	<p>The A303 Trunk Road (Wiltshire and Dorset) (24 hours clearway) Order 2001 (S.I. 2001/2919)</p>	<p>Order to be partially revoked between the points stated in column (2) as shown on sheets 8 and 9 by a red dashed line</p>

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	a distance of 925 metres.		
<b>The traffic regulation measures plans (clearways and prohibitions) – sheet 9</b>			
Amesbury	The existing A303 trunk road  From its junction with the eastern edge of Countess roundabout eastbound to a point 625 metres east of the centre of that roundabout, a distance of 580 metres.	The A303 Trunk Road (Wiltshire and Dorset) (24 hours clearway) Order 2001 (S.I. 2001/2919)	Order to be partially revoked between the points stated in column (2) as shown on sheet 9 by a red dashed line
	The existing A303 trunk road  From a point 625 metres east of the centre of the existing Countess roundabout to its junction with the eastern edge of Countess roundabout westbound, a distance of 585 metres.	The A303 Trunk Road (Wiltshire and Dorset) (24 hours clearway) Order 2001 (S.I. 2001/2919)	Order to be partially revoked between the points stated in column (2) as shown on sheet 9 by a red dashed line
	The existing A303 trunk Road  From a point on the eastbound carriageway 450 metres west of the centre of Countess roundabout to the junction with the western edge of that roundabout, a distance of 395 metres.	The A303 Trunk Road (Countess Roundabout, Amesbury, Wiltshire) (40 mph speed limit) Order 2011 (S.I. 2011/851)	Order to be partially revoked between the points stated in column (2)  Identified on sheet 9 and being a length of highway between the two blue squared symbols numbered 2
	The existing A303 trunk road  From a point on the westbound carriageway 460 metres east of the centre of Countess	The A303 trunk Road (Countess Roundabout, Amesbury, Wiltshire) (40 mph speed limit) Order 2011 (S.I. 2011/851)	Order to be partially revoked between the points stated in column (2)  Identified on sheet 9 and being a length of highway between

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(1) <i>Parish(es)</i>	(2) <i>Road name, number and length</i>	(3) <i>Title of Order</i>	(4) <i>Revocations or variations</i>
	roundabout to the junction with the eastern edge of that roundabout, a distance of 410 metres.		the two blue squared symbols numbered 3
	The existing A303 trunk Road (Countess Roundabout)  From its junction with the western edge of Countess roundabout westbound to a point 165 metres west of the centre of that roundabout, a distance of 120 metres.	The A303 trunk Road (Countess Roundabout, Amesbury, Wiltshire) (40 mph speed limit) order 2011 (S.I. 2011/851)	Order to be partially revoked between the points stated in column (2)  Identified on sheet 9 and being a length of highway between the two blue squared symbols numbered 4
	The existing A303 trunk Road (Countess Roundabout)  From its junction with the eastern edge of Countess roundabout eastbound to a point 220 metres to the east of the centre of that roundabout, a distance of 170 metres.	The A303 trunk Road (Countess Roundabout, Amesbury, Wiltshire) (40 mph speed limit) order 2011 (S.I. 2011/851)	Order to be partially revoked between the points stated in column (2)  Identified on sheet 9 and being a length of highway between the two blue squared symbols numbered 9
<b>The traffic regulation measures plans (clearways and prohibitions) – sheet 11</b>			
Amesbury	The existing left turn access from Allington Track onto the A303 westbound  From a point 35 metres south of its junction with Allington Track to a point 305 metres east of Amesbury Road, a length of 35 metres.	The A303 Trunk Road (Wiltshire and Dorset) (24 hours clearway) order 2001 (S.I. 2001/2919)	Order to be partially revoked between the points stated in column (2) as shown on sheet 11 by a dashed red line
	The existing left turn access from Amesbury Road onto the A303 eastbound	The A303 Trunk Road (Wiltshire and Dorset) (24 hours	Order to be partially revoked between the points stated in column

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	From a point 60 metres north of its junction with Amesbury Road to a point 280 metres west of Allington Track, a length of 65 metres.	clearway) order 2001 (S.I. 2001/2919)	(2) as shown on sheet 11 by a dashed red line
<b>The traffic regulation measures plans (clearways and prohibitions) – sheet 13</b>			
Shrewton	UC 094402, The Packway  From its junction with the B3086 south to a point 85 metres east of that junction.	The County of Wiltshire (various roads, Stapleford, Berwick St James and Winterbourne Stoke) (50 mph speed limit) Order 2012	Order to be partially revoked between the points stated in column (2)  Identified on sheet 13 and being a length of highway between the two blue squared symbols numbered 5
	B3086, The Packway  From a point 30 metres to the south of its junction with the B3086 south and with the UC 094401, a distance of 255 metres in a generally westerly direction.	The County of Wiltshire (various roads, Stapleford, Berwick St James and Winterbourne Stoke) (50 mph speed limit) Order 2012	Order to be partially revoked between the points stated in column (2)  Identified on sheet 13 and being a length of highway between the two blue squared symbols numbered 6
	UC 094401, Shrewton  From its junction with the B3086 south and with the B3086 west (The Packway), a distance of 65 metres in a generally northerly direction.	The County of Wiltshire (various roads, Stapleford, Berwick St James and Winterbourne Stoke) (50 mph speed limit) Order 2012	Order to be partially revoked between the points stated in column (2)  Identified on sheet 13 and being a length of highway between the two blue squared symbols numbered 7

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## SCHEDULE 11

Articles 31 and 54

## PROTECTIVE PROVISIONS

## PART 1

FOR THE PROTECTION OF ELECTRICITY,  
GAS, WATER AND SEWERAGE UNDERTAKERS

1. The provisions of this Part of this Schedule have effect for the protection of utility undertakers unless otherwise agreed in writing between the undertaker and the utility undertaker in question.

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means—

- (a) in the case of a utility undertaker within paragraph (a) of the definition of that term, electric lines or electrical plant (as defined in the Electricity Act 1989(123)), belonging to or maintained by the utility undertaker for the purposes of electricity supply;
- (b) in the case of a utility undertaker within paragraph (b) of the definition of that term, any mains, pipes or other apparatus belonging to or maintained by the utility undertaker for the purposes of gas supply;
- (c) in the case of a utility undertaker within paragraph (c) of the definition of that term—
  - (i) mains, pipes or other water apparatus belonging to or maintained by the utility undertaker for the purposes of water supply; and
  - (ii) mains, pipes or other water apparatus that is the subject of an agreement to adopt made under section 51A (agreements to adopt water main or service pipe at future date) of the Water Industry Act 1991(124); and
- (d) in the case of a sewerage undertaker—
  - (i) any drain or works vested in the sewerage undertaker under the Water Industry Act 1991; and
  - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4)(125) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104(126) (agreements to adopt sewer, drain or sewage disposal works, at future date) of that Act,

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

“functions” includes powers and duties;

(123) 1989 c. 29. The definition of “electrical plant” (in section 64) was amended by paragraphs 24 and 38(1) and (3) of Schedule 6 to the Utilities Act 2000 (c. 27).

(124) 1991 c. 56. Section 51A was inserted by section 92(1) of the Water Act 2003 (c. 37) and amended by section 10(1) and (2) of the Water Act 2014 (c. 21).

(125) Section 102(4) was amended by section 96(1)(c) of the Water Act 2003 and paragraph 90 of Schedule 7 to the Water Act 2014.

(126) Section 104 was amended by sections 96(4) and 101(2) of, and Part 3 of Schedule 9 to, the Water Act 2003, by section 42(3) of the Flood and Water Management Act 2010 (c. 29) and by section 11(1) and (2) of, and paragraphs 2 and 91 of Schedule 7 to, the Water Act 2014.



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

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary to describe the works to be executed; and

“utility undertaker” means—

- (a) any licence holder within the meaning of Part 1 (electricity supply) of the Electricity Act 1989;
- (b) a gas transporter within the meaning of Part 1 (gas supply) of the Gas Act 1986<sup>(127)</sup>;
- (c) a water undertaker within the meaning of the Water Industry Act 1991; and
- (d) a sewerage undertaker within the meaning of the Water Industry Act 1991,

for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

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

**4.—(1)** Regardless of the temporary stopping up, alteration or diversion of streets under the powers conferred by article 11 (temporary stopping up and restriction of use of streets), a utility undertaker is at liberty at all times to take all necessary access across any such street and to carry out and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the temporary stopping up, alteration or diversion was in that street.

(2) Where any street is stopped up under article 10 (permanent stopping up of streets and private means of access), any utility undertaker whose apparatus is in the street has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to the utility undertaker legal easements reasonably satisfactory to the utility undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of the utility undertaker to require the removal of that apparatus under paragraph 6 or to carry out works under paragraph 8.

**5.** Despite any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than in accordance with this Part of this Schedule or by agreement.

**6.—(1)** If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that the utility undertaker’s apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (6).

(2) If, for the purpose of carrying out any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 days’ written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of

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<sup>(127)</sup> 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45) and was further amended by section 76 of the Utilities Act 2000 (c. 27).

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the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably practicable use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 57 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 57 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that it desires itself to carry out any work, or part of any work, in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being carried out by the utility undertaker, may be carried out by the undertaker, without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

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

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 57 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

8.—(1) Not less than 21 days before starting the carrying out of any works authorised by this Order that will or may affect any apparatus the removal of which has not been required by the undertaker under paragraph 6(2), the undertaker must submit to the utility undertaker in question a plan, section and description of the works to be carried out.

(2) Those works must be carried out only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be

made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the carrying out of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 14 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If a utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 4 applies as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

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

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency, but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

(7) Nothing in sub-paragraph (6) entitles the undertaker to carry out works to any apparatus, but upon receipt of notice from the undertaker, the utility undertaker must proceed to carry out such works as may be required without unnecessary delay.

9.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to the utility undertaker in question the proper and reasonable expenses incurred by that utility undertaker in, or in connection with the inspection, removal, alteration or protection of any apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 6(2).

(2) The value of any apparatus removed under this Part of this Schedule is to be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with this Part of this Schedule—

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

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 57 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

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(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker in question any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

**10.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction, maintenance or failure of any of the works referred to in paragraph 6(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

(a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and

(b) make reasonable compensation to that utility undertaker for any other expenses, loss, damage, penalty or costs incurred by the undertaker,

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(3) The utility undertaker must at all time take reasonable steps to prevent and mitigate any such expenses, loss, damage, penalty or costs.

(4) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

## PART 2

### FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

**11.**—(1) For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

(2) In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003(**128**);

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“electronic communications code” means the code set out in Schedule 3A (the electronic communications code) to the 2003 Act(**129**);

“electronic communications code network” means—

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(128) 2003 c. 21.

(129) See section 106 was amended by section 4(3) to (9) of the Digital Economy Act 2017 (c. 30).

- (a) so much of an electronic communications network or infrastructure system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 (application of the electronic communications code) of the 2003 Act; and
- (b) an electronic communications network which the undertaker is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

“infrastructure system” has the same meaning as in the electronic communications code<sup>(130)</sup> and references to providing an infrastructure system are to be construed in accordance with paragraph 7 of that code; and

“operator” means the operator of an electronic communications code network.

**12.** The exercise of the powers of article 31 (statutory undertakers) is subject to Part 10 (undertakers’ works affecting electronic communications apparatus) of the electronic communications code.

**13.—**(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or
- (b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other reasonable expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 57 (arbitration).

**14.** This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or
- (b) any damage, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.

**15.** Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

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<sup>(130)</sup>The electronic communications code was inserted by Schedule 1 to the Digital Economy Act 2017.

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## PART 3

### FOR THE PROTECTION OF DRAINAGE AUTHORITIES

**16.** The provisions of this Part have effect for the protection of the drainage authority unless otherwise agreed in writing between the undertaker and the drainage authority.

**17.** In this Part of this Schedule—

“construction” includes execution, placing, altering, replacing, relaying and removal and excavation and “construct” and “constructed” is to be construed accordingly;

“drainage authority” means in relation to an ordinary watercourse, the drainage board concerned within the meaning of section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991<sup>(131)</sup>;

“drainage work” means any ordinary watercourse and includes any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence in connection with an ordinary watercourse which is the responsibility of the drainage authority;

“independent review” means a review carried out by a third party confirming the findings of the undertaker in the assessment of the impact of the proposed specified work on flood risk;

“ordinary watercourse” has the meaning given by section 72 (interpretation) of the Land Drainage Act 1991;

“plans” includes any information reasonably required by the drainage authority including location details, grid references, sections, drawings, specifications, assessments and method statements; and

“specified work” means so much of any work or operation authorised by this Order as is in, on, under over or within 8 metres of a drainage work and which comprises any of the following works carried out in relation to or which may affect any ordinary watercourse—

- (a) the erection of any mill, dam, weir, or other similar obstruction to the flow of an ordinary watercourse, or raising or otherwise altering any such obstruction;
- (b) the construction or installation of a bridge or other structure;
- (c) the erection of a culvert in an ordinary watercourse;
- (d) the alteration of an ordinary watercourse or a culvert or other form of drainage infrastructure in a manner that would be likely to affect the flow of an ordinary watercourse;
- (e) the introduction by means of any channel, siphon, pipeline or sluice or by any other means whatsoever any water into any ordinary watercourse within the Order limits so as to directly or indirectly increase the flow or volume of water in any ordinary watercourse within the Order limits without the previous consent of the drainage authority;
- (f) any work likely to obstruct flow or adversely affect the integrity of any embankment, wall or enclosing structure containing an ordinary watercourse.

**18.—(1)** Before commencing construction of a specified work, the undertaker must submit to the drainage authority plans of the specified work, including an independent review and such further particulars available to it as the drainage authority may within 14 days of the submission of the plans reasonably request.

(2) The undertaker must not commence construction of the specified work until approval, unconditionally or conditionally, has been given as provided in this paragraph.

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<sup>(131)</sup> 1991 c. 59. Section 23 was amended by paragraph 192 of Schedule 22 to the Environment Act 1995 (c. 25), paragraphs 25 and 32 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and S.I. 2013/755.



(3) A specified work must not be constructed except in accordance with such plans as may be approved in writing by the drainage authority or determined under paragraph 27.

(4) Any approval of the drainage authority required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been given if it is neither given nor refused within 28 days of the submission of the plans for approval, or submission of further particulars (where required by the drainage authority under sub-paragraph (1)) whichever is the later; and
- (c) may be given subject to such reasonable requirements as the drainage authority may make for the protection of any drainage work, for the protection of any ordinary watercourse or for the prevention of flooding.

(5) Any refusal under this paragraph must be accompanied by a statement of the reasons for refusal.

**19.** Without limiting paragraph 18, the requirements which the drainage authority may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage by reason of any specified work; or
- (b) to secure that the efficiency of any drainage work for flood defence and land drainage purposes is not impaired, and that the risk of flooding is not otherwise increased, by reason of any specified work.

**20.—(1)** Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 19, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part of this Schedule; and
- (b) to the reasonable satisfaction of the drainage authority,

and an officer of the drainage authority is entitled to watch and inspect the construction of such works.

(2) The undertaker must give to the drainage authority—

- (a) not less than 14 days' notice in writing of its intention to commence construction of any specified work; and
- (b) notice in writing of its completion not later than 7 days after the date of completion.

(3) If the drainage authority reasonably requires, the undertaker must construct all or part of the protective works so that they are in place before the construction of the specified work to which the protective works relate.

(4) If any part of a specified work or any protective work required by the drainage authority is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the drainage authority may by notice in writing require the undertaker at the undertaker's expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is agreed, to restore the site to its former condition to such extent and within such limits as the drainage authority reasonably requires.

(5) Subject to sub-paragraph (6) and paragraphs 24 and 25, if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (4) is served on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and

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subsequently to make reasonably expeditious progress towards their implementation, the drainage authority may execute the works specified in the notice and any reasonable expenditure incurred by it in so doing is recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the drainage authority must not except in an emergency exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined in accordance with paragraph 27.

**21.—(1)** Subject to sub-paragraph (5), the undertaker must from the commencement of the construction of the specified work maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation on land held by the undertaker for the purpose of or in connection with the specified work, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the drainage authority, the drainage authority may by notice in writing require the undertaker to repair and restore the work, or any part of the work, or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed), to remove the specified work and restore the site to its former condition, to such extent and within such limits as the drainage authority reasonably requires.

(3) Subject to sub-paragraph (4) and paragraphs 24 and 25), if, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the drainage authority may do what is reasonably necessary for such compliance and may recover any reasonable expenditure reasonably incurred by it in so doing from the undertaker.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the drainage authority must not except in a case of emergency exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 27.

(5) This paragraph does not apply to—

- (a) drainage works which are vested in the drainage authority, or which the drainage authority or another person is liable to maintain and is not prevented by this Order from so doing; and
- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part of this Schedule provided that any obstruction is removed as soon as reasonably practicable.

**22.** Subject to paragraphs 24 and 25 and sub-paragraph 21(5)(b), if by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes or land drainage is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the drainage authority and, if the undertaker fails to do so, the drainage authority may make good the impairment or damage and recover from the undertaker any expenditure incurred by the drainage authority in so doing from the undertaker.

**23.** If by reason of the construction of the specified work the drainage authority's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must provide such alternative means of access that will allow the drainage authority to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction within 24 hours of the undertaker becoming aware of such obstruction.



**24.** The undertaker must make reasonable compensation for costs, charges and expenses which the drainage authority may reasonably incur—

- (a) in the examination or approval of plans under this Part of this Schedule;
- (b) in the inspection of the construction of the specified works or any protective works required by the drainage authority under this Part of this Schedule; and
- (c) in the carrying out of any surveys or tests by the drainage authority which are reasonably required in connection with the construction of the specified works.

**25.—(1)** The undertaker must make reasonable compensation for costs and losses which may be reasonably incurred or suffered by the drainage authority by reason of—

- (a) the construction of any specified work comprised within the authorised works; or
- (b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction of the specified works.

(2) In sub-paragraph (1)—

“costs” includes—

- (a) expenses and charges;
- (b) staff costs and overheads; and
- (c) legal costs; and

“losses” includes physical damage.

(3) The undertaker must make reasonable compensation for liabilities, claims and demands against the drainage authority arising out of or in connection with the specified works or otherwise out of the matters referred to in sub-paragraphs (1)(a) and (1)(b).

(4) In sub-paragraph (3)—

“claims” and “demands” include as applicable—

- (a) costs (within the meaning of sub-paragraph (2)) incurred in connection with any claim or demand; and
- (b) any interest element of sums claimed or demanded; and

“liabilities” includes—

- (a) contractual liabilities;
- (b) tortious liabilities (including liabilities for negligence or nuisance);
- (c) liabilities to pay statutory compensation or for breach of statutory duty; and
- (d) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).

(5) The drainage authority must give to the undertaker notice of any such claim or demand.

(6) The undertaker may at its own expense conduct all negotiations for the settlement of the same and any litigation that may arise therefrom.

(7) The drainage authority must not compromise or settle any such claim or make any admission which might be prejudicial to the claim without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

(8) The drainage authority must, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(9) The drainage authority must, at the request of the undertaker, afford all reasonable assistance for the purpose of contesting any such claim or action and is entitled to be repaid its reasonable expenses reasonably incurred in so doing.

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26. The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by the drainage authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under this Part of this Schedule.

27. Any dispute arising between the undertaker and the drainage authority under this Part of this Schedule, if the parties agree, is to be determined by arbitration under article 57 (arbitration), but otherwise is to be determined by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Transport acting jointly on a reference to them by the undertaker or the drainage authority, after notice in writing by one to the other.

## PART 4

### FOR THE PROTECTION OF ESSO PETROLEUM COMPANY LIMITED

#### Application

28. The provisions of this Part of this Schedule have effect for the protection of Esso unless otherwise agreed in writing between the undertaker and Esso.

#### Interpretation

29. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable Esso to fulfil its functions as a pipe-line operator in a manner no less efficient than previously and having regard to Esso’s standards for the construction and operation of a pipeline;

“alternative rights” means new rights for the construction and for access to and for the use, protection, inspection, maintenance, repair and renewal of apparatus or alternative apparatus including any restrictions on the landowner and occupiers for the protection of the apparatus or alternative apparatus and to allow Esso to perform its functions in a manner not less efficient than under the existing rights and having regard to Esso’s standards for the construction and operation of a pipeline;

“apparatus” means the pipeline and storage system owned by Esso within or adjacent to the Order limits and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus and includes any ancillary works and apparatus all protective wrappings, valves, sleeves and slabs, cathodic protection units, together with ancillary cables and markers and such legal interest and benefit of property rights and covenants as are vested in Esso in respect of those items and, where the context allows, includes alternative apparatus;

“Esso” means Esso Petroleum Company, Limited and any successor in title;

“existing rights” means the rights and benefits of covenants enjoyed by Esso in land within the Order limits;

“functions” includes powers and duties;

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

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary to describe the works to be executed;

“specified work” means any works that are near to, or will or are likely to affect any apparatus or power supply to any apparatus including—

- (a) all intrusive or non-intrusive works within 15 metres of any apparatus;
- (b) the crossing of apparatus by other utilities;
- (c) the use of explosives within 400 metres of any apparatus; and
- (d) piling, undertaking of a 3D seismic survey or the sinking boreholes within 30 metres of any apparatus,

whether carried out by the undertaker or any third party in connection with the authorised development; and

“works agreement” means an agreement containing sufficient detail as to responsibilities for the design, programming, supervision and carrying out of works under this Part of this Schedule or in connection with the authorised development which affect the apparatus.

### **Acquisition of apparatus**

**30.**—(1) Despite any provision in this Order or anything shown on the land plans or if the Order covers any interest in any land in which any apparatus is placed or over which existing rights are enjoyed by Esso, the undertaker must not acquire any apparatus or acquire, suspend, extinguish or affect any of the existing rights, otherwise than in accordance with this Part of this Schedule or by agreement with Esso.

(2) Where the undertaker acquires land which is subject to any existing rights and the provisions of paragraph 31 do not apply, the undertaker must retain any notice of the existing rights on the title to the relevant land when registering the undertaker’s title to such acquired land.

### **Removal of apparatus and rights for alternative apparatus**

**31.**—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that any apparatus is relocated or diverted, that apparatus must not be removed by the undertaker and any right of Esso to maintain and use that apparatus in that land and to gain access to it must not be extinguished until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of Esso.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give Esso 56 days’ written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Esso reasonably needs to remove any apparatus) the undertaker must, subject to sub-paragraph (3), afford to Esso the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently grant alternative rights for the maintenance of that apparatus in accordance with paragraph (6).

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, the undertaker must afford to and, if necessary, acquire for the benefit of Esso the necessary facilities and rights for the construction, maintenance and use of the alternative apparatus and access to it.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Esso and the undertaker or in default of agreement settled by arbitration in accordance with article 57 (arbitration).

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(5) Esso must, after the alternative apparatus to be provided or constructed has been agreed or settled in accordance with article 57 (arbitration), and after the grant to Esso of any such facilities and rights as are referred to in sub-paragraph (2), proceed as soon as reasonably practicable using reasonable endeavours to construct and bring into operation the alternative apparatus and subsequently to remove (or if agreed between the parties allow the undertaker to remove) any redundant apparatus required by the undertaker to be removed under the provisions of this Schedule.

(6) Irrespective of sub-paragraph (5), if the undertaker gives notice in writing to Esso that it desires itself to execute any work, or part of any work in connection with the construction, removal or decommissioning of apparatus in the land of the undertaker or the construction of alternative apparatus, that work, instead of being executed by Esso, must be executed by the undertaker without unnecessary delay under the superintendence, if required, and to the reasonable satisfaction of Esso.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 3000 millimetres of the apparatus without Esso's consent unless that apparatus is redundant and disconnected from Esso's remaining system and is more than 3000 millimetres from any live apparatus.

### **Facilities and rights for alternative apparatus**

**32.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Esso facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and Esso in accordance with this paragraph or in default of agreement settled by arbitration in accordance with article 57 (arbitration).

(2) Alternative rights must be granted before any alternative apparatus is brought into use or any existing rights extinguished.

(3) The undertaker must grant Esso alternative rights by way of a deed of grant of easement, substantially in the form of Esso's precedent from time to time. If any third party is required to be involved for the grant of alternative rights, the undertaker must secure their agreement at its own cost.

(4) Nothing in this Part of this Schedule or contained in the alternative rights requires Esso to divert or remove any alternative apparatus installed in accordance with the provisions of this Part of this Schedule and any other agreement between Esso and the undertaker.

(5) In settling those terms and conditions for the alternative rights in respect of alternative apparatus the arbitrator must give effect to all reasonable requirements of the undertaker and Esso for ensuring the safety and efficient operation of the authorised development and the apparatus respectively.

(6) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Esso than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Esso as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus: protection**

**33.**—(1) Unless a shorter period is otherwise agreed in writing between the undertaker and Esso, not less than 35 days before commencing any specified work in relation to apparatus the removal of which has not been required by the undertaker under sub-paragraph 31(2) the undertaker must submit to Esso a plan of the works to be executed.

(2) The plan to be submitted to Esso under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any intended maintenance regime; and
- (g) and any other information reasonably required by Esso to assess the works.

(3) The specified work must be executed only in accordance with the plan submitted under sub-paragraph (1) and approved by Esso, and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (4) by Esso for the alteration or otherwise for the protection of the apparatus, or for securing access to it; and Esso is entitled to watch and inspect the execution of the specified work and the undertaker must follow any reasonable instructions from Esso for the safety of the apparatus and those working nearby.

(4) Any reasonable requirements made by Esso under sub-paragraph (2) must be made within a period of 21 days (unless a shorter period is otherwise agreed in writing between the undertaker and Esso) beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(5) If Esso in accordance with sub-paragraph (2) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, this paragraph applies as if the removal of the apparatus had been required by the undertaker under paragraph 31(2) but the undertaker is not required to serve Esso with a new notice under paragraph 31.

(6) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time but (unless otherwise agreed in writing between the undertaker and Esso) in no case less than 28 days before commencing any specified work, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(7) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to Esso notice of the works it intends to carry out to remedy the emergency together with a plan as soon as is reasonably practicable and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

(8) In relation to any works which will or may be situated on, over, under or within 15 metres measured in any direction of apparatus, or (wherever situated) impose any load directly upon the apparatus or involve embankment works within 15 metres of the apparatus, the plan to be submitted to Esso under sub-paragraph (1) must include a material statement describing—

- (a) the exact position of the work;
- (b) the level at which the work is to be constructed or renewed;
- (c) the manner of its construction or renewal;
- (d) the position of the apparatus; and
- (e) by way of detailed drawings, every alteration proposed to be made to the apparatus.

### **Cathodic protection testing**

**34.** Where in the reasonable opinion of the undertaker—

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- (a) the authorised development might interfere with the existing cathodic protection forming part of any apparatus; or
- (b) any apparatus might interfere with the proposed or existing cathodic protection forming part of the authorised development,

Esso and the undertaker must co-operate in undertaking the tests which the undertaker considers reasonably necessary for ascertaining the nature and extent of such interference and measures for providing or preserving cathodic protection.

### Expenses

**35.**—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Esso the reasonable costs and expenses incurred by Esso in, or in connection with—

- (a) the inspection, removal, alteration or protection of any apparatus;
- (b) the execution of any works required by this Part of this Schedule including the purchase, installation and commission of alternative apparatus;
- (c) the review and assessment of plans;
- (d) the watching and inspecting the execution of any specified work, any associated works and any works undertaken by third parties as a result of any specified work (including the assessment of plans); or
- (e) imposing reasonable requirements for the protection or alteration of apparatus affected by the authorised development or works as a consequence of the authorised development,

which may reasonably be required in consequence of the execution of any such works as are required under this Part of this Schedule or are authorised by the Order.

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

(3) Upon the submission of proper and reasonable estimates of costs and expenses to be incurred by Esso, the undertaker must pay Esso sufficiently in advance to enable Esso to undertake its obligations under this Part of this Schedule in a manner that is neutral to its cashflow provided that in the event that the costs incurred by Esso are less than the amount paid by the undertaker pursuant to this sub-paragraph (3) then Esso must promptly repay any overpayment to the undertaker.

(4) Where reasonably required by either party, in view of the complexity of any proposed works, timescales, phasing or costs, the parties must with due diligence and good faith negotiate a works agreement.

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

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

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or in default of agreement settled by arbitration in accordance with article 57 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Esso by virtue of sub-paragraph (1) must be reduced by the amount of that excess save where it



is not possible in the circumstances to obtain the existing type of operations, capacity, dimensions or place at the existing depth in which case full costs must be borne by the undertaker.

- (6) For the purposes of sub-paragraph (5)—
- (a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus;
  - (b) the placing of apparatus that is to Esso's current specification and standards for diversions and protective works must not be treated as a placing of apparatus of better type, greater capacity, greater dimensions or greater depth than those of the existing apparatus; and
  - (c) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

### **Damage to property and other losses**

**36.**—(1) Subject to the following provisions of this paragraph, the undertaker must make reasonable compensation to Esso—

- (a) for all loss, damage, liability, costs and expenses reasonably suffered or incurred by Esso for which Esso is legally liable as a result of legally sustainable claims brought against Esso by any third party solely arising out of the carrying out of any relevant works;
- (b) for the cost reasonably incurred by Esso in making good any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) arising from or caused by the carrying out of any relevant works and the authorised development; and
- (c) for the cost reasonably incurred by Esso in stopping, suspending and restoring the supply through its pipe-line and make reasonable compensation to Esso for any other expenses, losses, damages, penalty or costs incurred by Esso by reason or in consequence of any such damage or interruption provided that the same arises in consequence of the carrying out of any relevant works and the authorised development.

(2) The fact that any act or thing may have been done by Esso on behalf of the undertaker or in accordance with a plan approved by Esso or in accordance with any requirement of Esso or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(3) Irrespective of anything to the contrary elsewhere in this Part of this Schedule—

- (a) the undertaker and Esso must at all times take reasonable steps to prevent and mitigate any loss, damage, liability, claim, cost or expense recoverable from the other under this Part of this Schedule; and
- (b) neither the undertaker nor Esso are liable for any loss, damage, liability, claim, cost or expense suffered or incurred by the other to the extent that the same are incurred as a result of or in connection with the sole, partial or complete breach of this Part of this Schedule or negligence arising out of an act, omission, default or works of the other, its officers, servants, contractors or agents.

(4) Esso must give to the undertaker reasonable notice of any claim or demand to which this paragraph 36 applies. If Esso agrees (such agreement not to be unreasonably withheld or delayed), the undertaker may at its own expense conduct all negotiations for the settlement of the same and any litigation that may arise therefrom. Esso must not compromise or settle any claim or demand or make any admission which might be prejudicial to the claim or demand without the undertaker's consent (such consent not to be unreasonably withheld). Esso must, at the request of the undertaker,

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afford all reasonable assistance for the purpose of contesting any such claim or action, and is entitled to be repaid all reasonable expenses incurred in so doing.

(5) Nothing in this Part of this Schedule excludes or limits the liability of the undertaker for death or personal injury resulting from the negligence of the undertaker or any of its officers, employees or agents.

(6) In this paragraph “relevant works” means such of the authorised development as—

- (a) does, will or is likely to affect any apparatus; or
- (b) involves a physical connection or attachment to any apparatus.

### **Co-operation and reasonableness**

**37.**—(1) Where in consequence of the proposed construction of any of the authorised development, the undertaker requires the removal of apparatus under this Part of this Schedule or Esso makes requirements for the protection or alteration of apparatus under this Part of this Schedule, the undertaker must use reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Esso’s undertaking and Esso must use its reasonable endeavours to co-operate with the undertaker for that purpose.

(2) The undertaker and Esso must act reasonably in respect of any given term of this Part of this Schedule and, in particular, (without prejudice to generality) where any consent or expression of satisfaction is required by this Part of this Schedule it must not be unreasonably withheld or delayed.

### **Miscellaneous**

**38.** Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Esso in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made provided that the terms of the relevant enactment or agreement are not inconsistent with the provisions of this Order, including this Part of this Schedule. In the case of any inconsistency, the provisions of this Order, including this Part of this Schedule, prevail.

## **PART 5**

### **FOR THE PROTECTION OF THE ENVIRONMENT AGENCY**

**39.**—(1) The following provisions apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

(2) In this Part of this Schedule—

“the Agency” means the Environment Agency;

“construction” includes execution, placing, altering, replacing, relaying and removal and excavation and “construct and “constructed” must be construed accordingly;

“drainage work” means any main river and includes any land which provides or is expected to provide flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence;

“fishery” means any waters containing fish and fish in, or migrating to or from, such waters and the spawn, spawning ground, habitat or food of such fish;



“main river” means all watercourses shown as such on the statutory main river maps held by the Agency and the Department for Environment Food and Rural Affairs including any structure or appliance for controlling or regulating the flow of water in or out of such watercourses;

“plans” includes sections, drawings, specifications, calculations and method statements;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 8 metres of a drainage work or is otherwise likely to—

- (a) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
- (b) affect the flow, purity or quality of water in any watercourse or other surface waters or ground water;
- (c) cause obstruction to the free passage of fish or damage to any fishery;
- (d) affect the conservation, distribution or use of water resources; or
- (e) affect the conservation value of the main river and habitats in its immediate vicinity.

**40.**—(1) Before commencing construction of any specified work, the undertaker must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 14 days of the receipt of the plans reasonably request.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 49.

(3) Any approval of the Agency required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) in the case of a refusal must be accompanied by a statement of grounds of refusal;
- (c) is deemed to have been refused if it is neither given nor refused within 2 months of the submission of the plans or receipt of further particulars if such particulars have been requested by the Agency for approval; and
- (d) may be given subject to such reasonable requirements as the Agency may have for the protection of any drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution or in the discharge of its environmental duties.

(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(c).

**41.** Without limiting paragraph 40, the requirements which the Agency may have under that paragraph include conditions requiring the undertaker, at its own expense, to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage; or
- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

**42.**—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 41, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved under this Part of this Schedule; and
- (b) to the reasonable satisfaction of the Agency,

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and the Agency is entitled by its officer to watch and inspect the construction of such works.

(2) The undertaker must give to the Agency—

- (a) not less than 14 days' notice in writing of its intention to commence construction of any specified work; and
- (b) notice in writing of its completion not later than 7 days after the date on which it is completed.

(3) If the Agency reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of the specified work to which the protective works relate.

(4) If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the Agency may by notice in writing require the undertaker at the undertaker's own expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Agency reasonably requires.

(5) Subject to sub-paragraph (6) and paragraph 47, if, within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (4) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined in accordance with paragraph 49.

**43.—**(1) Subject to sub-paragraph (5) the undertaker must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation and on land held by the undertaker for the purposes of or in connection with the specified works, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require the undertaker to repair and restore the drainage work, or any part of such drainage work, or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the specified work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(3) Subject to sub-paragraph (4) and paragraph 47, if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is reasonably necessary for such compliance and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the Agency must not, except in the case of an emergency, exercise the

powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 49.

- (5) This paragraph does not apply to—
- (a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of the Order from doing so; or
  - (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part of this Schedule provided that any obstruction is removed as soon as reasonably practicable.

**44.** Subject to paragraphs 47 and 43(5)(b), if by reason of the construction of any specified work or of the failure of any such work, the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Agency and if the undertaker fails to do so, the Agency may make good the impairment or damage and recover any expenditure incurred by the Agency in so doing from the undertaker.

**45.** If by reason of construction of the specified work the Agency's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must provide such alternative means of access that will allow the Agency to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction within 24 hours of the undertaker becoming aware of such obstruction.

**46.—(1)** The undertaker must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in the fishery during the construction of any specified work.

- (2) If by reason of—
- (a) the construction of any specified work; or
  - (b) the failure of any such work,

damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the undertaker requiring it to take such steps as may be reasonably practicable to make good the damage, or, as the case may be, to protect the fishery against such damage.

(3) Subject to paragraph 47, if within such time as may be reasonably practicable for that purpose after the receipt of written notice from the Agency of any damage or expected damage to a fishery, the undertaker fails to take such steps as are described in sub-paragraph (2), the Agency may take those steps and any reasonable expenditure reasonably incurred by the Agency in so doing is recoverable from the undertaker.

(4) Subject to paragraph 47, in any case where immediate action by the Agency is reasonably required in order to secure that the risk of damage to the fishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from the undertaker any reasonable expenditure incurred in so doing provided that notice specifying those steps is served on the undertaker as soon as reasonably practicable after the Agency has taken, or commenced to take, the steps specified in the notice.

**47.** The undertaker must make reasonable compensation for costs, charges and expenses which the Agency may reasonably incur—

- (a) in the examination or approval of plans under this Part of this Schedule;
- (b) in the inspection of the construction of the specified works or any protective works required by the Agency under this Part of this Schedule; and

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- (c) in the carrying out of any surveys or tests by the Agency which are reasonably required in connection with the construction of the specified works.

**48.—**(1) The undertaker must make reasonable compensation for costs and losses which may be reasonably incurred or suffered by the Agency by reason of—

- (a) the construction of any specified work comprised within the authorised works; or
- (b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction of the authorised works.

(2) In sub-paragraph (1)—

“costs” includes—

- (a) expenses and charges;
- (b) staff costs and overheads; and
- (c) legal costs; and

“losses” includes physical damage.

(3) The undertaker must make reasonable compensation for liabilities, claims and demands against the Agency arising out of or in connection with the authorised works or otherwise out of the matters referred to in sub-paragraphs (1)(a) and (1)(b).

(4) In sub-paragraph (3)—

“claims” and “demands” include as applicable—

- (a) costs (within the meaning of sub-paragraph (2)) incurred in connection with any claim or demand; and
- (b) any interest element of sums claimed or demanded; and

“liabilities” includes—

- (a) contractual liabilities;
- (b) tortious liabilities (including liabilities for negligence or nuisance);
- (c) liabilities to pay statutory compensation or for breach of statutory duty; and
- (d) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).

(5) The Agency must give to the undertaker notice of any such claim or demand.

(6) The undertaker may at its own expense conduct all negotiations for the settlement of the same and any litigation that may arise therefrom.

(7) The Agency must not compromise or settle any such claim or make any admission which might be prejudicial to the claim without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

(8) The Agency must, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(9) The Agency must, at the request of the undertaker, afford all reasonable assistance for the purpose of contesting any such claim or action, and is entitled to be repaid its reasonable expenses reasonably incurred in so doing.

(10) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under the provisions of this Part of this Schedule.

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49. Any dispute arising between the undertaker and the Agency under this Part of this Schedule, if the parties agree, may be determined by arbitration under article 57 (arbitration), but must otherwise be determined by the Secretary of State for Environment, Food and Rural Affairs or its successor and the Secretary of State for Transport or its successor acting jointly on a reference to them by the undertaker or the Agency, after notice in writing by one to the other.

## SCHEDULE 12

Articles 2 and 55

## DOCUMENTS TO BE CERTIFIED

<i>(1)</i> <i>Document</i>	<i>(2)</i> <i>Description</i>
book of reference	The book of reference contained in document reference 4.3 (3) Book of Reference
classification of roads plan	The classification of roads plan contained in document reference 2.13 (1) Classification of Roads Plan
Crown land plans	The Crown land plans contained in document reference 2.4 Crown land plans
detailed archaeological mitigation strategy	The detailed archaeological mitigation strategy contained in document reference 8.11 (7) Detailed Archaeological Mitigation Strategy (DAMS) – Revised response to Department for Transport request further information dated 4th May 2020
de-trunking plans	The de-trunking plans contained in document reference 2.12 (1) De-trunking Plans
engineering section drawings (cross sections)	The engineering section drawings (cross sections) contained in document reference 2.8 Engineering Section Drawings (Cross Sections)
engineering section drawings (plan and profiles)	The engineering section drawings (plan and profiles) contained in document reference 2.7 Engineering Section Drawings (Plan and Profiles)
environmental statement	<p>The environmental statement, figures and appendices contained in document references 6.1 Environmental Statement, 6.2 Environmental Statement Figures, 6.3 Environmental Statement Appendices and 6.4 Environmental Statement Non-Technical Summary, subject to the following substitutions and corrections—</p> <p>6.1 Environmental Statement, each of the following chapters are to be read as incorporating the corresponding corrections contained in the document reference 8.45 Errata Report, in relation to that chapter—</p> <p>(a) Chapter 5: Air Quality;</p> <p>(b) Chapter 7: Landscape and visual;</p> <p>(c) Chapter 10: Geology and Soils; and</p> <p>(d) Chapter 13: People and communities.</p> <p>6.2 Environmental Statement Figures—</p>

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(1) <i>Document</i>	(2) <i>Description</i>
	<p>(a) Environmental Masterplan Figures 2.5A to 2.5S are to be substituted with Environmental Masterplan Figures 2.5A to 2.5S Revision 2;</p> <p>(b) Figure 13.2 Existing NMU Routes is to be substituted with the Figure 13.2 Existing Public Rights of Way contained in Appendix A of document reference 8.45 Errata Report; and</p> <p>(c) Figures 13.3A and 13.3B Proposed NMU Routes is to be substituted with Figures 13.3A and 13.3B Proposed NMU Routes (Revision 3).</p> <p>6.3 Environmental Statement Appendices—</p> <p>(a) Each of the following appendices are to be read as incorporating the corresponding corrections and substitutions contained in document reference 8.45 Errata Report in relation to that appendix—</p> <ul style="list-style-type: none"> <li>(i) Appendix 6.1 Heritage Impact Assessment;</li> <li>(ii) Appendix 6.3 Archaeological Gazetteer;</li> <li>(iii) Appendix 6.9 Cultural Heritage Setting Assessment;</li> <li>(iv) Appendix 7.10 Arboricultural Impact Assessment;</li> <li>(v) Appendix 8.25 Habitats Regulation Assessment (HRA): Statement to Inform Appropriate Assessment;</li> <li>(vi) Appendix 11.2 Water Framework Directive Compliance Assessment; and</li> <li>(vii) Appendix 11.4 Groundwater Risk Assessment;</li> </ul> <p>(b) Appendix 8.7B Aquatic macrophyte survey River Till is to be substituted with the Appendix 8.7B Aquatic macrophyte survey River Till – Corrected Version – August 2019, contained in Appendix B of the document reference 8.45 Errata Report;</p> <p>(c) Appendix 8.9A Aquatic macro-invertebrate survey River Avon is to be substituted with the Appendix 8.9A Aquatic macro-invertebrate survey River Avon Corrected Version – August 2019, contained in Appendix B of the document reference 8.45 Errata Report;</p> <p>(d) Appendix 11.3 Road Drainage Strategy is to be substituted with Appendix 11.3(1) 6.3 Environmental Statement Appendices Appendix 11.3: Road Drainage Strategy; and</p> <p>(e) Appendix 11.5 Level 3 Flood Risk Assessment is to be substituted with Appendix 11.5 (1) Level 3 Flood Risk Assessment which is to be read as incorporating the corrections contained in document reference 8.45 Errata Report in relation to that appendix.</p>
land plans	The land plans contained in document reference 2.2 Land Plans
outline environmental management plan	The outline environmental management plan contained in document reference 6.3(8) Final Outline Environmental Management Plan - Revised response to Department for Transport request for further information, May 2020

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<i>(1)</i> <i>Document</i>	<i>(2)</i> <i>Description</i>
rights of way and access plans	The rights of way and access plans contained in document reference 2.6 (1) Rights of Way and Access Plans
special category land plans	The special category land plans contained in document reference 2.3 Special Category Land Plans
stone curlew breeding plot specification	The stone curlew breeding plot specification contained in document reference 8.58 – Stone curlew breeding plot specification
traffic regulation measures plans (clearways and prohibitions)	The traffic regulation measures plans (clearways and prohibitions) contained in document reference 2.11 Traffic Regulation Measures Plans (Clearways and Prohibitions)
traffic regulation measures plans (speed limits)	The traffic regulation measures plans (speed limits) contained in document reference 2.10 Traffic Regulation Measures Plans (Speed Limits)
tunnel area plan	The tunnel area plan contained in document reference 2.15 Tunnel Area Plan
tunnel limits of deviation plan	The tunnel limits of deviation plan contained in document reference 2.16 Bored Tunnel Limits of Deviation Plan
works plans	The works plans contained in document reference 2.5 Works Plans

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order authorises Highways England Company Limited to construct, operate and maintain the A303 (Amesbury to Berwick Down). This is a new road tunnel linking Amesbury to Berwick Down in Wiltshire and associated works.

The Order would permit Highways England to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

A copy of all documents mentioned in this Order and certified in accordance with article 55 (certification of plans, etc.) of this Order may be inspected free of charge during working hours at Highways England, Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ.