



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2004 Rhif 3054 (Cy.263)

2004 No. 3054 (W.263)

**TRAFNIDIAETH A
GWEITHFEYDD, CYMRU**

**TRANSPORT AND WORKS,
WALES**

**GOSODIADAU AR Y MÔR,
CYMRU**

**OFFSHORE INSTALLATIONS,
WALES**

TRYDAN, CYMRU

ELECTRICITY, WALES

**Gorchymyn Fferm Wynt ar y Môr
Cefnenni Tywod Scarweather 2004**

**The Scarweather Sands Offshore
Wind Farm Order 2004**

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

(This note is not part of the Order)

Mae'r Gorchymyn hwn yn darparu ar gyfer adeiladu a gweithredu fferm wynt ar y môr a gweithfeydd atodol ar wely Bae Abertawe oddi ar yr arfordir rhwng Porthcawl a Phort Talbot, ac ar gyfer cysylltu'r gweithfeydd hynny â'r system dosbarthu trydan drwy is-orsaf ar y tir.

This Order provides for the construction and operation of an offshore wind farm and ancillary works on the bed of Swansea Bay off the coast between Porthcawl and Port Talbot and for the connection of those works via an onshore substation to the electricity distribution system.

Gellir archwilio copi o blaniau'r gweithfeydd, trawsluniau o blaniau'r tir, a'r cyfeirlyfr, a ragnodwyd gan reol 12(1), (2), (3) a (5) o Reolau Trafnidiaeth a Gweithfeydd (Gweithdrefn Cyflwyno Ceisiadau a Gwrthwynebiadau) (Cymru a Lloegr) 2000, ac a ardystiwyd yn unol ag erthygl 34 o'r Gorchymyn hwn, yn swyddfeydd Scarweather Sands Ltd., Blwch Post 824, Alexandra Gate, Rover Way, Caerdydd, CF24 2SD.

A copy of the works plans, land plans, sections and of the book of reference prescribed by rule 12(1), (2), (3) and (5) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000, and certified in accordance with article 34 of this Order, may be inspected at the offices of Scarweather Sands Ltd., PO Box 824, Alexandra Gate, Rover Way, Cardiff, CF24 2SD.

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Cefnenni Tywod Scarweather 2004

The Scarweather Sands Offshore
Wind Farm Order 2004

Wedi'i wneud *16 Tachwedd 2004*
Yn dod i rym *19 Tachwedd 2004*

Made *16 November 2004*
Coming into force *19 November 2004*

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GAN FOD cais wedi'i wneud i Gynulliad Cenedlaethol Cymru ("y Cynulliad Cenedlaethol"), yn unol â Rheolau Trafnidiaeth a Gweithfeydd (Gweithdrefn Cyflwyno Ceisiadau a Gwrthwynebiadau) (Cymru a Lloegr) 2000(a) a wnaed o dan adrannau 6, 6A, 7 a 10 o Ddeddf Trafnidiaeth a Gweithfeydd 1992(b) ("Deddf 1992"), am Orchymyn o dan adran 3 o Ddeddf 1992;

A chan fod y Cynulliad Cenedlaethol wedi peri bod ymchwiliad yn cael ei gynnal at ddibenion y cais yn unol ag adran 11 o Ddeddf 1992;

A chan fod y Cynulliad Cenedlaethol, ac yntau wedi ystyried adroddiad y person a gynhaliodd yr ymchwiliad, wedi penderfynu gwneud Gorchymyn i roi effaith i'r cynigion a geir yn y cais gydag addasiadau nad ydynt yn gwneud unrhyw newid sylweddol i'r cynigion yn ei farn ef;

A chan fod hysbysiad o benderfyniad y Cynulliad Cenedlaethol wedi'i gyhoeddi yn y London Gazette ar 2 Tachwedd 2004;

YN AWR FELLY, mae'r Cynulliad Cenedlaethol, drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adrannau 3 a 5 o Ddeddf 1992, a pharagraffau 1 i 5, 7, 8, 10, 11 a 15 i 17 o Atodlen 1 iddi, ac sydd bellach yn arferadwy gan y Cynulliad Cenedlaethol(c), a phob pŵer arall sy'n ei alluogi yn y cyswllt hwnnw, drwy hyn yn gwneud y Gorchymyn a ganlyn:

RHAN I RHAGARWEINIOL

Enwi a chychwyn

1. Enw'r Gorchymyn hwn yw Gorchymyn Fferm Wynt ar y Môr Cefnenni Tywod Scarweather 2004 a daw i rym ar 19 Tachwedd 2004.

Dehongli

2.-(1)Yn y Gorchymyn hwn-

mae i "awdurdod stryd", mewn perthynas â stryd, yr un ystyr ag sydd i "street authority" yn Rhan III o'r Ddeddf Gwaith Stryd;

(a) O.S. 2000/2190.

(b) 1992 p.42.

(c) *Gweler* Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) a Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 2001 (O.S. 2000/253) (Cy.5).

WHEREAS an application has been made to the National Assembly for Wales ("the National Assembly"), in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000(a) made under sections 6, 6A, 7 and 10 of the Transport and Works Act 1992(b) ("the 1992 Act"), for an Order under section 3 of the 1992 Act;

AND whereas the National Assembly has caused an inquiry to be held for the purposes of the application pursuant to section 11 of the 1992 Act;

AND whereas the National Assembly, having considered the report of the person who held the inquiry, has determined to make an Order giving effect to the proposals comprised in the application with modifications which in its opinion do not make any substantial change to the proposals;

AND whereas notice of the National Assembly's determination was published in the London Gazette on 2 November 2004;

NOW THEREFORE, the National Assembly, in exercise of the powers conferred on the Secretary of State by sections 3 and 5 of, and paragraphs 1 to 5, 7, 8, 10, 11 and 15 to 17 of Schedule 1 to, the 1992 Act, and which are now exercisable by the National Assembly(c), and of all other powers enabling it in that behalf, hereby makes the following Order:

PART I PRELIMINARY

Citation and commencement

1. This Order may be cited as the Scarweather Sands Offshore Wind Farm Order 2004 and comes into force on 19 November 2004.

Interpretation

2.-(1) In this Order -

"the 1961 Act" ("*Deddf 1961*") means the Land Compensation Act 1961(d);

(a) S.I. 2000/2190.

(b) 1992 c.42.

(c) *See* The National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and The National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253) (W.5).

(d) 1961 c.33.

ystyr "y ceblau cludo i'r môr" ("*the marine feeder cables*") yw'r ceblau a geir yng Ngwaith Rhif 2;

ystyr "y ceblau rhyngdyrbinau" ("*the inter-turbine cables*") yw'r ceblau a ddisgrifir ym mharagraff 1(b) o Atodlen 1 i'r Gorchymyn hwn;

mae i "cerbyttfordd", "llwybr troed", "priffordd" ac "awdurdod priffyrdd" yr un ystyr ag sydd i "carriageway", "footpath", "highway" a "highway authority" yn Neddf Priffyrdd 1980(a);

ystyr "cwch" ("*vessel*") yw llong, cwch, rafft, neu fad o ba ddisgrifiad bynnag, ac mae'n cynnwys unrhyw fad nad yw'n dadleoli, awyrennau môr ac unrhyw beth arall a adeiladir neu a addasir er mwyn arnofio ar ddŵr neu i'w roi dan ddŵr (boed hynny'n barhaol neu dros dro), a hofranfad neu gerbyd amffibiaidd arall;

ystyr "cyfeirbwynt" ("*reference point*") yw cyfeirbwynt Grid Cenedlaethol yr Arolwg Ordnans;

ystyr "y cyfeirlyfr" ("*the book of reference*") yw'r cyfeirlyfr a ardystiwyd gan y Cynulliad Cenedlaethol fel y cyfeirlyfr at ddibenion y Gorchymyn hwn;

mae "cynnal a chadw" ("*maintain*", "*maintenance*") yn cynnwys archwilio, cynnal a chadw, trwsio, addasu, newid, symud, ailadeiladu ac amnewid;

ystyr "Deddf 1961" ("*the 1961 Act*") yw Deddf Iawndal Tir 1961(b);

ystyr "Deddf 1965" ("*the 1965 Act*") yw Deddf Prynu Gorfodol 1965(c);

ystyr "y Ddeddf Gwaith Stryd" ("*the Street Works Act*") yw Deddf Ffyrdd Newydd a Gwaith Stryd 1991(ch);

mae "deddfiad" ("*enactment*") yn cynnwys unrhyw orchymyn, is-ddeddf, rheol, rheoliad, cynllun neu offeryn arall sydd ag effaith yn rhinwedd deddfiad;

ystyr "gwaith llanw'r môr" ("*tidal work*") yw rhywfaint o unrhyw waith awdurdodedig sydd ar, o dan neu dros ddyfroedd y llanw;

ystyr "y gweithfeydd a restrwyd" ("*the scheduled works*") yw'r gweithfeydd a bennir yn Atodlen 1 i'r Gorchymyn hwn neu unrhyw ran ohonynt;

ystyr "gweithfeydd awdurdodedig" ("*authorised works*") yw'r gweithfeydd a restrwyd, y gweithfeydd a'r cyfleusterau a ddisgrifir yn erthygl 3(4), a'r mast presennol ac eithrio yn erthyglau 8 i 17;

"the 1965 Act" ("*Deddf 1965*") means the Compulsory Purchase Act 1965(a);

"the Applications Rules" ("*y Rheolau Ceisiadau*") means the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000(b); and references in this Order to numbered rules are to the rules bearing those numbers in the Applications Rules;

"authorised works" ("*y gweithfeydd awdurdodedig*") means the scheduled works, the works and facilities described in article 3(4) and, except in articles 8 to 17, the existing mast;

"the book of reference" ("*y cyfeirlyfr*") means the book of reference certified by the National Assembly as the book of reference for the purposes of this Order;

"carriageway" ("*cerbyttfordd*"), "footpath" ("*llwybr troed*"), "highway" ("*priffordd*") and "highway authority" ("*awdurdod priffyrdd*") have the same meaning as in the Highways Act 1980(c);

"electric line" ("*llinell drydan*") has the meaning given by section 64(1) of the Electricity Act 1989(d);

"enactment" ("*deddfiad*") includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

"the existing electricity pylon" ("*y peilon trydan presennol*") means the electricity pylon at reference point 278906E, 185778N and includes any apparatus which is ancillary to that pylon;

"the existing mast" ("*y mast presennol*") means the existing anemometry mast on the bed of Swansea Bay adjoining the coast at Port Talbot in the County Borough of Neath Port Talbot, situated at reference point 271709E, 176723N;

"the inter-turbine cables" ("*y ceblau rhyngdyrbinau*") means the cables described in paragraph 1(b) of Schedule 1 to this Order;

"the land plans" ("*planiau'r tir*") means the plans certified by the National Assembly as the land plans for the purposes of this Order; and references to land shown on those plans are references to land so shown in pursuance of rule 12(5);

"the level of high water" ("*lefel y dŵr uchel*") means the level of mean high water springs;

"the limits of deviation" ("*terfynau'r gwyro*"), in relation to a work, means the limits of deviation related to that work which are shown on the works plans;

(a) 1980 p.66.

(b) 1961 p.33.

(c) 1965 p.56.

(ch) 1991 p.22.

(a) 1965 c.56.

(b) S.I. 2000/2190.

(c) 1980 c.66.

(d) 1989 c.29.

ystyr "lefel y dŵr uchel" ("*the level of high water*") yw lefel y llanwau mawr uchel cymedrig;

mae i "llinell drydan" yr un ystyr ag sydd i "*electric line*" yn adran 64(1) o Ddeddf Trydan 1989(a);

ystyr "y mast presennol" ("*the existing mast*") yw'r mast anemometreg presennol sydd ar wely Bae Abertawe ac sy'n cydffinio â'r arfordir wrth Bort Talbot ym Mwrdeistref Sirol Castell-nedd Port Talbot, ac a leolir wrth gyfeirbwynt 271709Dn, 176723G;

ystyr "y peilon trydan presennol" ("*the existing electricity pylon*") yw'r peilon trydan wrth gyfeirbwynt 278906Dn, 185778G ac mae'n cynnwys unrhyw gyfarpar sy'n atodol i'r peilon hwnnw;

ystyr "perchennog" ("*owner*"), mewn perthynas â thir, yw person, ac eithrio morgeisai nad yw'n meddu ar dir, sydd am y tro â'r hawl i waredu ffi syml y tir (boed hynny mewn meddiant neu rifersiwn) ac y mae'n cynnwys person sy'n dal y tir, neu sydd â'r hawl i gael y rhenti a'r elw o'r tir, pan fo'r tir hwnnw o dan les neu denantiaeth sydd â mwya na 3 blynedd ar ôl i redeg;

ystyr "planiau'r gweithfeydd" ("*the works plans*") yw'r planiau a ardystiwyd gan y Cynulliad Cenedlaethol fel planiau'r gweithfeydd at ddibenion y Gorchymyn hwn;

ystyr "planiau'r tir" ("*the land plans*") yw'r planiau a ardystiwyd gan y Cynulliad Cenedlaethol fel y planiau tir at ddibenion y Gorchymyn hwn; ac mae cyfeiriadau at dir a ddangosir yn y planiau hynny yn gyfeiriadau at dir a ddangosir felly yn unol â rheol 12(5);

ystyr "y Rheolau Ceisiadau" ("*the Applications Rules*") yw Rheolau Trafnidiaeth a Gweithfeydd (Gweithdrefn Cyflwyno Ceisiadau a Gwrthwynebiadau) (Cymru a Lloegr) 2000(b); ac mae cyfeiriadau yn y Gorchymyn hwn at reolau â rhif yn gyfeiriadau at y rheolau sy'n dwyn y rhifau hynny yn y Rheolau Ceisiadau;

ystyr "safle'r fferm wynt" ("*the wind farm site*") yw'r ardal a ddangosir ar blaniau'r gweithfeydd o fewn terfynau'r gwyro ar gyfer y ceblau rhyngdyrbinau;

mae "stryd" ("*street*") yn cynnwys rhan o stryd;

ystyr "terfynau'r gwyro" ("*the limits of deviation*"), mewn perthynas â gweithfeydd, yw'r terfynau gwyro ar gyfer y gweithfeydd hynny a ddangosir ar blaniau'r gweithfeydd;

"maintain" ("*cynnal a chadw*") includes inspect, maintain, repair, adjust, alter, remove, reconstruct and replace; and "maintenance" shall be construed accordingly;

"the marine feeder cables" ("*y ceblau chudo i'r môr*") means the cables comprised in Work No. 2;

"owner" ("*perchennog*"), in relation to land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of land (whether in possession or reversion) and includes a person holding, or entitled to the rents and profits of, the land under a lease or tenancy having an unexpired term exceeding 3 years;

"reference point" ("*cyfeirbwynt*") means the Ordnance Survey National Grid reference point;

"the scheduled works" ("*y gweithfeydd a restrwyd*") means the works specified in Schedule 1 to this Order or any part of them;

"the sections" ("*y trawsluniau*") means the sections certified by the National Assembly as the sections for the purposes of this Order;

"street" ("*stryd*") includes part of a street;

"street authority" ("*awdurdod stryd*"), in relation to a street, has the same meaning as in Part III of the Street Works Act;

"the Street Works Act" ("*y Ddeddf Gwaith Stryd*") means the New Roads and Street Works Act 1991(a);

"tidal work" ("*gwaith llanw'r môr*") means so much of any authorised work as is on, under or over tidal waters;

"the Tribunal" ("*y Tribiwnlys*") means the Lands Tribunal;

"Trinity House" means the Corporation of Trinity House of Deptford Strond;

"the undertaker" ("*yr ymgymwrwr*") means Scarweather Sands Limited or any person to whom the powers conferred by this Order are transferred in an agreement pursuant to article 37;

"vessel" ("*cwch*") means a ship, boat, raft or water craft of any description and includes non-displacement craft, seaplanes and any other thing constructed or adapted for floating on or being submerged in water (whether permanently or temporarily) and a hovercraft or other amphibious vehicle;

(a) 1989 p.29.

(b) O.S. 2000/2190.

(a) 1991 c.22.

ystyr "y trawsluniau" ("*the sections*") yw'r trawsluniau a ardystiwyd gan y Cynulliad Cenedlaethol fel y trawsluniau at ddibenion y Gorchymyn hwn;

ystyr "y Tribiwnlys" ("*the Tribunal*") yw'r Tribiwnlys Tiroedd;

ystyr "Trinity House" yw "the Corporation of the Trinity House of Deptford Strond";

ystyr "tyrbin gwynt" ("*wind turbine*") yw cynhyrhydd tyrbin gwynt fel a ddisgrifir ym mharagraff 1(a) o Atodlen 1 i'r Gorchymyn hwn; ac

ystyr "yr ymgymwrwr" ("*the undertaker*") yw Scarweather Sands Limited neu unrhyw berson y trosglwyddwyd y pwerau a roddir gan y Gorchymyn hwn iddo drwy gytundeb yn unol ag erthygl 37;

(2) Mae cyfeiriadau yn y Gorchymyn hwn at hawliau dros dir yn cynnwys cyfeiriadau at hawliau i wneud, neu i osod a chynnal a chadw, unrhyw beth yn y tir neu arno, neu yn y gofod awyr sydd uwchben ei arwynebedd.

(3) Dehonglir pob cyfeiriad, pellter, hyd a phwyntiau a geir yn unrhyw ddisgrifiad o weithfeydd, pwerau neu diroedd fel pe bai'r geiriau "fwy neu lai" wedi'u mewnosod ar ôl pob cyfeiriad, pellter, hyd a phwynt o'r fath.

(4) Dehonglir unrhyw gyfeiriad yn y Gorchymyn hwn at waith a nodir gan rif y gwaith fel cyfeiriad at y gwaith sy'n dwyn y rhif hwnnw ac a awdurdodwyd gan y Gorchymyn hwn.

(5) Dehonglir cyfeiriadau yn y Gorchymyn hwn at bwyntiau a nodir gan lythrennau fel cyfeiriadau at y pwyntiau sy'n dwyn y llythrennau hynny ar blaniau'r gweithfeydd.

"the wind farm site" ("*safle'r fferm wynt*") means an area shown on the works plans within the limits of deviation for the inter-turbine cables;

"wind turbine" ("*tyrbin gwynt*") means a wind turbine generator described in paragraph 1(a) of Schedule 1 to this Order; and

"the works plans" ("*planiau'r gweithfeydd*") means the plans certified by the National Assembly as the works plans for the purposes of this Order.

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

(3) All directions, distances, lengths and points stated in any description of works, powers or lands are to be construed as if the words "or thereabouts" were inserted after each such direction, distance, length and point.

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

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

RHAN II GWEITHFEYDD

Prif bwerau

Y pŵer i adeiladu a chynnal a chadw gweithfeydd

3.-(1) Caiff yr ymgymwrwr adeiladu a chynnal a chadw y gweithfeydd a restrwyd.

(2) Caiff yr ymgymwrwr gadw a chynnal y mast presennol.

(3) Yn ddarostyngedig i erthygl 4, rhaid i'r gweithfeydd a restrwyd gael eu hadeiladu a'u cynnal a'u cadw yn y llinellau neu'r safleoedd a ddangosir ar blaniau'r gweithfeydd ac yn unol â'r lefelau a ddangosir ar y trawsluniau.

PART II WORKS

Principal powers

Power to construct and maintain works

3.-(1) The undertaker may construct and maintain the scheduled works.

(2) The undertaker may retain and maintain the existing mast.

(3) Subject to article 4, the scheduled works must be constructed and maintained in the lines or situations shown on the works plans and in accordance with the levels shown on the sections.

(4) Caiff yr ymgwymerwr, o fewn terfynau gwyrō'r gweithfeydd a restrwyd, wneud, darparu a chynnal a chadw y cyfryw rai o'r gweithfeydd a'r adnoddau a ganlyn a all fod yn angenrheidiol neu'n hwylus at ddibenion adeiladu neu gynnal a chadw'r gweithfeydd a restrwyd, mewn cysylltiad â hwy neu o ganlyniad iddynt, sef-

- (a) glanfeydd neu angorfeydd neu unrhyw ddull arall o gadw cychod, boed yn rhai parhaol neu'n rhai dros dro, wrth adeiladu neu wrth gynnal a chadw'r gweithfeydd a restrwyd;
- (b) bwiau, goleuadau, clustogau ac unrhyw rybudd mordwyol arall neu weithfeydd i osgoi gwrthdrawiadau â llongau;
- (c) gweithfeydd i newid safleoedd cyfarpar, gan gynnwys prif bibellau, carthffosydd, draeniau a cheblau;
- (ch) gweithfeydd i newid llwybr neu ymyrryd fel arall ag afonydd, nentydd neu gyrsiau dŵr anfordwyadwy;
- (d) tirweddau a gweithfeydd eraill i leddfu unrhyw effeithiau niweidiol gwaith adeiladu, cynnal a chadw neu weithredu'r gweithfeydd awdurdodedig;
- (dd) gweithfeydd er budd neu er mwyn diogelu tir yr effeithir arno gan y gweithfeydd awdurdodedig;
- (e) un neu fwy o fastiau anemometreg ychwanegol;
- (f) y gweithfeydd, cyfarpar a'r peiriannau eraill hynny o ba natur bynnag a allant fod yn angenrheidiol neu'n hwylus.

Y pŵer i wro

4.-(1) Wrth adeiladu neu gynnal a chadw unrhyw weithfeydd a restrwyd, caiff yr ymgwymerwr wro-

- (a) yn llorweddol o'r llinellau neu'r safleoedd a ddangosir ar blaniau'r gweithfeydd o fewn terfynau'r gwyrō ac, yn benodol, caiff y ceblau rhyngdyrbinau gysylltu, o fewn terfynau'r gwyrō, ag unrhyw un o'r tyrbinau gwynt; a
- (b) yn fertigol o'r lefelau a ddangosir ar y trawsluniau mewn perthynas â-
 - (i) uchder tyrrau'r tyrbinau gwynt i unrhyw raddau heb fod yn fwy na 24 metr tuag i lawr (yn ddarostyngedig i baragraff (2));
 - (ii) dyfnder seiliau'r tyrbinau gwynt yng ngwely'r môr i unrhyw raddau tuag i fyny ac i unrhyw raddau heb fod yn fwy nag 20 metr tuag i lawr;
 - (iii) y ceblau a geir yn Ngwaith Rhif 1 a 2 i unrhyw raddau heb fod yn fwy nag 1 metr tuag i fyny nac i lawr (yn ddarostyngedig i baragraff (3));

(4) The undertaker may, within the limits of deviation for the scheduled works, carry out, provide and maintain such of the following works and facilities as may be necessary or expedient for the purposes of, in connection with, or in consequence of, the construction or maintenance of the scheduled works, namely-

- (a) temporary or permanent landing places, jetties, or moorings or other means of accommodating vessels in the construction or maintenance of the scheduled works;
- (b) buoys, beacons, fenders and other navigational warning or ship impact protection works;
- (c) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (d) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (e) landscaping and other works to mitigate any adverse affects of the construction, maintenance or operation of the authorised works;
- (f) works for the benefit or protection of land affected by the authorised works;
- (g) one or more additional anemometry masts;
- (h) such other works and apparatus, plant and machinery of whatever nature as may be necessary or expedient.

Power to deviate

4.-(1) In constructing or maintaining any scheduled work, the undertaker may deviate-

- (a) laterally from the lines or situations shown on the works plans within the limits of deviation and, in particular, the inter-turbine cables may connect within the limits of deviation with any of the wind turbines; and
- (b) vertically from the levels shown on the sections in respect of-
 - (i) the height of the towers of the wind turbines to any extent not exceeding 24 metres downwards (subject to paragraph (2));
 - (ii) the depth of the foundations of the wind turbines in the sea bed to any extent upwards and to any extent not exceeding 20 metres downwards;
 - (iii) the cables comprised in Works Nos. 1 and 2 to any extent not exceeding 1 metre upwards or downwards (subject to paragraph (3));

- (iv) Gwaith Rhif 2A, i unrhyw raddau heb fod yn fwy nag 1 metr tuag i fyny nac i lawr;
- (v) Gwaith Rhif 3 i unrhyw raddau heb fod yn fwy na 2 metr tuag i fyny nac i lawr;
- (vi) unrhyw linell drydan uwchben a geir yng Ngwaith Rhif 4 i unrhyw raddau heb fod yn fwy na 10 metr tuag i fyny neu 3 metr tuag i lawr;
- (vii) unrhyw linell drydan danddaearol a geir yng Ngwaith Rhif 4 i unrhyw raddau heb fod yn fwy na 5 metr tuag i fyny neu 12 metr tuag i lawr; ac
- (viii) Gwaith Rhif 5 i unrhyw raddau heb fod yn fwy nag 1 metr tuag i fyny na thuag i lawr.

(2) Rhaid bod pellter o 25 metr o leiaf rhwng pwynt isaf llafnau'r tyrbinau gwynt sy'n cylchdroi a lefel y dŵr uchel.

(3) Yn ddarostyngedig i amrywiad felly y mae'r Cynulliad Cenedlaethol yn cytuno nad yw'n bwysig, rhaid gosod y ceblau a geir yng Ngweithfeydd Rhif 1 a 2 i ddyfnder heb fod yn llai na 1.5 metr yn is na lefel gwely'r môr.

Strydoedd

Y pŵer i wneud gwaith stryd

5.-(1) At ddibenion y gweithfeydd awdurdodedig, caiff yr ymgymwrwr fynd ar gymaint o unrhyw stryd a bennir yng ngholofnau (1) a'r (2) o Atodlen 2 i'r Gorchymyn hwn ag sydd o fewn terfynau'r gwyro, a chaiff-

- (a) rhoi cyfarpar yn y stryd honno;
- (b) cynnal a chadw cyfarpar yn y stryd honno neu newid safle'r cyfarpar hwnnw;
- (c) gwella wyneb Heol Caer Bont rhwng pwyntiau A ac F a ddangosir ar blân y gweithfeydd at ddibenion darparu mynedfa er mwyn adeiladu a chynnal a chadw'r gweithfeydd awdurdodedig; ac
- (ch) gwneud unrhyw waith sydd ei angen ar y gweithfeydd awdurdodedig neu sy'n gysylltiedig â hwy, neu sydd ei angen ar unrhyw weithfeydd y cyfeirir atynt yn is-baragraffau (a), (b) ac (c) (yn benodol, gan gynnwys torri neu agor y stryd, neu unrhyw garthffos, draen neu dwnel oddi tani, neu durio neu dyllu o dan y stryd) neu sy'n gysylltiedig â hwy.

(2) Yn yr erthygl hon, mae i "cyfarpar" yr un ystyr ag sydd i "apparatus" yn Rhan III o'r Ddeddf Gwaith Stryd.

- (iv) Work No. 2A, to any extent not exceeding 1 metre upwards or downwards;
- (v) Work No. 3 to any extent not exceeding 2 metres upwards or downwards;
- (vi) any overhead electric line comprised in Work No. 4 to any extent not exceeding 10 metres upwards or 3 metres downwards;
- (vii) any underground electric line comprised in Work No. 4 to any extent not exceeding 5 metres upwards or 12 metres downwards; and
- (viii) Work No. 5 to any extent not exceeding 1 metre upwards or downwards.

(2) There must be a minimum distance of 25 metres between the lowest point of the rotating blades of the wind turbines and the level of high water.

(3) Subject to such variation as is agreed not to be material by the National Assembly, the cables comprised in Works Nos. 1 and 2 must be laid at a depth of not less than 1.5 metres below the level of the seabed.

Streets

Power to execute street works

5.-(1) The undertaker may, for the purposes of the authorised works, enter upon so much of any street specified in columns (1) and (2) of Schedule 2 to this Order as is within the limits of deviation and may -

- (a) place apparatus in that street;
- (b) maintain apparatus in that street or change the position of such apparatus;
- (c) improve the surface of Heol Caer Bont between points A and F shown on the works plan for the purpose of providing an access to construct and maintain the authorised works; and
- (d) execute any works required for, or incidental to, the authorised works or any works referred to in sub-paragraphs (a), (b) and (c) (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street).

(2) In this article, "apparatus" has the same meaning as in Part III of the Street Works Act.

Cau strydoedd dros dro

6.-(1) Yn ystod ac at ddibenion gweithredu'r gweithfeydd awdurdodedig, caiff yr ymgwymerwr gau dros dro y strydoedd a bennir yng ngholofnau (1) a (2) o Atodlen 2 i'r Gorchymyn hwn, i'r graddau a bennir drwy gyfeirio at y llythrennau yng ngholofn (3) o'r Atodlen honno, a chaiff am unrhyw gyfnod rhesymol-

- (a) gwyro'r traffig o'r stryd; a
- (b) yn ddarostyngedig i baragraff (2), gwahardd pob person rhag pasio ar hyd y stryd.

(2) Ar bob adeg, rhaid i'r ymgwymerwr roi mynediad rhesymol i gerddwyr sy'n mynd i neu'n dod o fangreoeedd sy'n ffinio â stryd yr effeithir arni gan arfer y pwerau a roddir gan yr erthygl hon, os nad oes mynediad i'r mangreoeedd hynny fel arall.

(3) Rhaid i'r ymgwymerwr beidio ag arfer pwerau'r erthygl hon mewn perthynas ag unrhyw stryd a bennir fel a grybwyllir ym mharagraff (1) heb ymgynghori â'r awdurdod stryd yn gyntaf.

(4) Mae darpariaethau'r Ddeddf Gwaith Stryd a grybwyllir ym mharagraff (5) ynghyd ag unrhyw reoliadau a wneir, neu god ymarfer a gyhoeddir neu a gymeradwyir, o dan y darpariaethau hynny yn gymwys (gyda'r addasiadau angenrheidiol) mewn perthynas â chau, addasu neu wyro stryd gan yr ymgwymerwr o dan y pwerau a roddir gan yr erthygl hon lle nad oes gwaith stryd yn mynd rhagddo yn y stryd honno fel y byddent yn gymwys pe bai'r cau, yr addasu neu'r gwyro oherwydd gwaith stryd a wneir yn y stryd honno gan yr ymgwymerwr.

(5) Dyma ddarpariaethau'r Ddeddf Gwaith Stryd y cyfeirir atynt ym mharagraff (4)-

- (a) adran 54 (hysbysiad ymlaen llaw o weithfeydd penodol);
- (b) adran 55 (hysbysiad o ddyddiad dechrau'r gweithfeydd);
- (c) adran 59 (dyletswydd gyffredinol awdurdod stryd i gydlynu gweithfeydd);
- (ch) adran 60 (dyletswydd gyffredinol ymgwymerwyr i gydweithredu);
- (d) adran 69 (gweithfeydd sy'n debygol o effeithio ar gyfarpar arall yn y stryd);
- (dd) adran 76 (atebolrwydd am y gost o reoli'r traffig dros dro);
- (e) adran 77 (atebolrwydd am y gost o ddefnyddio llwybr amgen); ac
- (f) yr holl ddarpariaethau eraill sy'n gymwys at ddibenion y darpariaethau a grybwyllir uchod.

(6) Bydd unrhyw berson sy'n gweld colled oherwydd atal dros dro hawl tramwy breifat o dan yr erthygl hon â'r hawl i gael iawndal a ddyfernir, os cyfyd anghydfod, o dan Ran I o Ddeddf 1961.

Temporary stopping up of streets

6.-(1) The undertaker may, during and for the purposes of the execution of the authorised works, temporarily stop up the streets specified in columns (1) and (2) of Schedule 2 to this Order to the extent specified by reference to the letters in column (3) to that Schedule and may for any reasonable time -

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

(2) The undertaker must provide reasonable access at all times for pedestrians going to or from premises abutting on a street affected by the exercise of the powers conferred by this article if there would otherwise be no such access.

(3) The undertaker must not exercise the powers of this article in relation to any street specified as mentioned in paragraph (1) without first consulting the street authority.

(4) The provisions of the Street Works Act mentioned in paragraph (5) and any regulations made, or code of practice issued or approved, under those provisions apply (with the necessary modifications) in relation to the stopping up, alteration or diversion of a street by the undertaker under the powers conferred by this article where no street works are executed in that street as they would apply if the stopping up, alteration or diversion were occasioned by street works executed in that street by the undertaker.

(5) The provisions of the Street Works Act referred to in paragraph (4) are -

- (a) section 54 (advance notice of certain works);
- (b) section 55 (notice of starting date of works);
- (c) section 59 (general duty of street authority to co-ordinate works);
- (d) section 60 (general duty of undertakers to co-operate);
- (e) section 69 (works likely to affect other apparatus in the street);
- (f) section 76 (liability for cost of temporary traffic regulation);
- (g) section 77 (liability for cost of use of alternative route); and
- (h) all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Any person who suffers loss by the suspension of a private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part I of the 1961 Act.

Y pŵer i arolygu ac archwilio tir

7.-(1) At ddibenion y Gorchymyn hwn, caiff yr ymgymerwr-

- (a) arolygu neu archwilio unrhyw dir sydd o fewn terfynau'r gwyro ac a ddangosir ar blaniau'r tir ac a ddisgrifir yn y cyfeirlyfr;
- (b) gwneud tyllau arbrofol yn y safleoedd hynny ar y tir y gwêl yr ymgymerwr yn dda er mwyn archwilio i natur yr haenen arwynebol a'r isbridd a thynnu samplau o'r pridd, a hynny heb ragfarn i natur gyffredinol is-baragraff (a);
- (c) rhoi ar dir, gadael ar dir a thynnu oddi ar dir y cyfarpar sydd i'w ddefnyddio mewn cysylltiad ag arolygu ac archwilio'r tir a gwneud tyllau arbrofol; ac
- (ch) mynd ar y tir at ddibenion arfer y pwerau a roddir gan is-baragraffau (a) i (c).

(2) Ni chaniateir mynediad i unrhyw dir, na rhoi na gadael cyfarpar ar y tir na'i dynnu oddi yno o dan baragraff (1), oni roddwyd o leiaf 7 niwrnod o hysbysiad i bob perchennog a phob meddiannydd y tir.

(3) O ran unrhyw berson sy'n mynd ar dir ar ran yr ymgymerwr o dan yr erthygl hon-

- (a) cyn neu ar ôl iddo fynd ar y tir, rhaid iddo gynhyrchu tystiolaeth ysgrifenedig o'i awdurdod i wneud hynny, os gofynnir am hynny; a
- (b) caiff ddefnyddio'r cerbydau a'r cyfarpar hynny sy'n angenrheidiol i gynnal yr arolwg neu'r archwiliad, neu i wneud y tyllau arbrofol.

(4) Nid yw'r erthygl hon yn caniatáu gwneud unrhyw dyllau arbrofol mewn cerbyttfordd neu droedffordd heb gydsyniad yr awdurdod stryd, ond ni chaniateir gwrthod rhoi cydsyniad os yw'n afresymol gwneud hynny.

(5) Rhaid i'r ymgymerwr ddigolledu perchenogion a meddianwyr tir am unrhyw ddifrod a achosir drwy arfer y pwerau a geir yn yr erthygl hon; ac, os cyfyd anghydfod, rhaid dyfarnu ar yr iawndal yn unol â Rhan I o Ddeddf 1961.

Diogelu mordwyo a thraffig awyr, a rheoli sŵn

Gweithfeydd llanw'r môr na ddylid eu gweithredu heb gymeradwyaeth yr Ysgrifennydd Gwladol

8.-(1) Ni chaniateir adeiladu nac addasu gweithfeydd llanw'r môr, ac eithrio yn unol â chynlluniau a trawsluniau a gymeradwywyd gan yr Ysgrifennydd Gwladol, a hynny cyn i'r gweithfeydd ddechrau.

Power to survey and investigate land

7.-(1) The undertaker may for the purposes of this Order -

- (a) survey or investigate any land which is both within the limits of deviation and is shown on the land plans and described in the book of reference;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions as the undertaker thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) 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
- (d) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (c).

(2) No land may be entered, or equipment placed or left on or removed from the land under paragraph (1), unless at least 7 days notice has been served on every owner and occupier of the land.

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

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

(4) No trial holes are to be made under this article in a carriageway or footway without the consent of the street authority, but such consent must not be unreasonably withheld.

(5) The undertaker must pay compensation for any damage occasioned, by the exercise of the powers conferred by this article, to the owners and occupiers of the land; such compensation to be determined, in case of dispute, under Part I of the 1961 Act.

Protection of navigation and air traffic and control of noise

Tidal works not to be executed without approval of the Secretary of State

8.-(1) A tidal work must not be constructed or altered, except in accordance with plans and sections approved by the Secretary of State before the work is begun.

(2) Os caiff gweithfeydd llanw'r môr eu hadeiladu neu eu haddasu yn groes i'r erthygl hon neu yn groes i unrhyw amod neu gyfyngiad a osodir gan yr erthygl hon-

- (a) caiff yr Ysgrifennydd Gwladol hysbysu'r ymgwymerwr yn ysgrifenedig ei fod yn ofynnol iddo dynnu gweithfeydd llanw'r môr neu unrhyw ran ohonynt oddi ar y safle, a hynny ar draul yr ymgwymerwr, gan adfer y safle i'w gyflwr gwreiddiol; a
- (b) os gwêl yr Ysgrifennydd Gwladol ei fod yn angenrheidiol iddo wneud hynny ar frys, caiff dynnu gweithfeydd llanw'r môr neu unrhyw ran ohonynt oddi ar y safle, gan adfer y safle i'w gyflwr gwreiddiol;

a chaniateir adennill unrhyw wariant a dynnir gan yr Ysgrifennydd Gwladol wrth wneud hynny oddi wrth yr ymgwymerwr.

Darparu yn erbyn peryglon i fordwyo

9. Os digwydd niwed, difrod neu ddadfeilio i weithfeydd llanw'r môr, neu unrhyw ran ohonynt, rhaid i'r ymgwymerwr hysbysu Trinity House ohono cyn gynted ag y bo'n rhesymol ymarferol, a gosod y bwiau hynny, dangos y goleuadau hynny a chymryd y camau eraill hynny er mwyn osgoi perygl i fordwyo y caiff Trinity House eu cyfarwyddo o bryd i'w gilydd.

Diddymu gweithfeydd sydd wedi'u gadael neu sydd wedi dadfeilio

10.-(1) Pan fydd gweithfeydd llanw'r môr wedi'u gadael, neu wedi'u gadael i ddadfeilio, caiff yr Ysgrifennydd Gwladol hysbysu'r ymgwymerwr yn ysgrifenedig ei fod yn ofynnol un ai iddo drwsio ac adfer y gweithfeydd neu unrhyw ran ohonynt, neu iddo dynnu'r gweithfeydd oddi yno ac adfer y safle i'w gyflwr blaenorol, a hynny ar ei draul ei hunan ac i'r graddau ac o fewn y terfynau hynny y caiff yr Ysgrifennydd Gwladol eu pennu yn yr hysbysiad.

(2) Os bydd gweithfeydd sydd yn rhannol yn weithfeydd llanw'r môr ac yn rhannol yn weithfeydd ar dir neu dros dir uwchben lefel y dŵr uchel wedi'u gadael, neu wedi'u gadael i ddadfeilio, a bod rhan honno o'r gweithfeydd sydd ar y tir neu dros dir yn y fath gyflwr fel ei bod yn amharu, neu'n achosi pryder rhesymol y gallai amharu ar yr hawl i fordwyo neu ar unrhyw hawliau cyhoeddus eraill o ran y blaendraeth, caiff yr Ysgrifennydd Gwladol gynnwys y rhan honno o'r gweithfeydd, neu unrhyw ran ohoni, mewn unrhyw hysbysiad o dan yr erthygl hon.

(2) If a tidal work is constructed or altered in contravention of this article or any condition or restriction imposed under this article-

- (a) the Secretary of State may by notice in writing require the undertaker at its own expense to remove the tidal work or any part of it and restore the site to its former condition; and
- (b) if it appears to the Secretary of State urgently necessary so to do, the Secretary of State may remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing will be recoverable from the undertaker.

Provision against danger to navigation

9. In case of injury to, or destruction or decay of, a tidal work or any part thereof, the undertaker must, as soon as reasonably practicable, notify Trinity House and lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House may from time to time direct.

Abatement of works abandoned or decayed

10.-(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the undertaker at its own expense either to repair and restore the work or any part of it, or to remove the work and restore the site of the work to its former condition, to such an extent and within such limits as the Secretary of State may specify in the notice.

(2) Where a work consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion of it, in any notice under this article.

(3) Nid yw'r erthygl hon yn gymwys i unrhyw ddadgomisiynu'r gweithfeydd awdurdodedig yn unol â phlan dadgomisiynu a gytunwyd gyda Chomisiynwyr Ystad y Goron neu a gymeradwywyd gan y Cynulliad Cenedlaethol o dan unrhyw amod a osodwyd mewn trwydded a roddwyd o dan adran 5 o Ddeddf Diogelu Bwyd a'r Amgylchedd 1985(a).

Arolygu gweithfeydd llanw'r môr

11.-(1) Caiff yr Ysgrifennydd Gwladol, ar unrhyw adeg y mae'r Ysgrifennydd Gwladol yn ei weld yn hwylus i wneud hynny, orchymyn cynnal arolwg ac archwiliad o weithfeydd llanw'r môr neu o'r safle arfaethedig ar gyfer adeiladu'r gweithfeydd; a chaiff yr Ysgrifennydd Gwladol adennill unrhyw wariant a dynnir ganddo wrth gynnal yr arolwg a'r archwiliad hwnnw oddi wrth yr ymgwymerwr.

(2) Yn ddarostyngedig i baragraff (3), ni ddylid gorchymyn cynnal arolygiadau felly yn amlach nag unwaith y flwyddyn; a chyn gorchymyn cynnal arolwg o'r fath, rhaid i'r Ysgrifennydd Gwladol-

- (a) ymgynghori â'r ymgwymerwr er mwyn cadarnhau pa wybodaeth arolygu berthnasol sydd eisoes ar gael; a
- (b) rhoi'r cyfle i'r ymgwymerwr gynnal yr arolwg ei hunan.

(3) Ni fydd paragraff (2) yn gymwys mewn argyfwng.

Goleuadau parhaol, cymhorthion diogelwch wrth fordwyo a lliwiau

12.-(1) Ar ôl i weithfeydd llanw'r môr gael eu cwblhau, rhaid i'r ymgwymerwr arddangos y goleuadau hynny, os cyfarwyddir felly, bob nos, o'r machlud hyd y wawr, a rhaid iddo gymryd y camau eraill hynny i osgoi perygl i fordwyo y caiff Trinity House eu cyfarwyddo o bryd i'w gilydd.

(2) Bob nos, o'r machlud hyd y wawr, rhaid i'r ymgwymerwr arddangos goleuadau i osgoi perygl i awyrennau, a'r rheini o'r un siâp, lliw a chymeriad ac a gyfarwyddir gan yr Awdurdod Hedfan Sifil.

(3) Ac eithrio pan fydd y Cynulliad Cenedlaethol yn cyfarwyddo fel arall, rhaid i'r ymgwymerwr sicrhau bod pob nasél a llafn, a faint bynnag o unrhyw dyrbin gwynt sydd uwchlaw'r lefel y mae Trinity House yn cyfarwyddo ei baentio am resymau diogelwch wrth fordwyo, wedi'u paentio'n llwyd golau.

Goleuadau ar weithfeydd llanw'r môr yn ystod gwaith adeiladu

13. Rhaid i'r ymgwymerwr arddangos y goleuadau hynny, os cyfarwyddir felly, a chymryd y camau eraill hynny er mwyn osgoi perygl wrth fordwyo y caiff Trinity House eu cyfarwyddo o bryd i'w gilydd, a gwneud hynny yn agos at neu yng ngweithfeydd

(a) 1985 p.48.

(3) This article does not apply to any decommissioning of the authorised works in accordance with a decommissioning plan agreed with the Crown Estate Commissioners or approved by the National Assembly under any condition imposed in a licence granted under section 5 of the Food and Environment Protection Act 1985(a).

Survey of tidal works

11.-(1) The Secretary of State may at any time, if the Secretary of State deems it expedient, order a survey and examination of a tidal work or of the site upon which it is proposed to construct the work; and any expenditure incurred by the Secretary of State in any such survey and examination will be recoverable from the undertaker.

(2) Subject to paragraph (3), such surveys must not be ordered more frequently than once a year; and before ordering such a survey-

- (a) the Secretary of State must consult the undertaker in order to establish what relevant survey information is already available; and
- (b) give the undertaker an opportunity to carry out the survey itself.

(3) Paragraph (2) does not apply in an emergency.

Permanent lights, navigational safety aids and colour

12.-(1) After the completion of the tidal works, the undertaker must exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must exhibit every night from sunset to sunrise lights for the prevention of danger to aircraft, of a shape, colour and character as directed by the Civil Aviation Authority.

(3) Unless the National Assembly otherwise directs, the undertaker must ensure that so much of any wind turbine as is above the level up to which Trinity House direct colouring for navigational safety reasons, and all nacelles and blades, are painted light grey.

Lights on tidal works during construction

13. The undertaker must at or near a tidal work during the whole time of the construction, alteration, enlargement, replacement, relaying, reconstruction or extension of the work exhibit every night from sunset to sunrise such lights, if any, and take such other steps

(a) 1985 c.48.

llanw'r môr, bob nos o'r machlud hyd y wawr, yn ystod yr holl gyfnod o adeiladu, addasu, ehangu, ailosod, ailddodi, ailadeiladu neu estyn y gweithfeydd.

System rheoli diogelwch weithredol

14.-(1) Rhaid gweithredu tyrbinau gwynt yn unol â system rheoli diogelwch sy'n weithredol at y diben o leihau'r perygl o gael cychod yn taro yn erbyn y tyrrau neu lafnau'r tyrbinau gwynt sy'n cylchdroi, ac at y diben o hwyluso gweithgareddau chwilio ac achub.

(2) Rhaid i Asiantaeth yr Arfordir a Gwylwyr y Glannau gymeradwyo manylion y system rheoli diogelwch weithredol, ond rhaid i'r system gynnwys-

- (a) darpariaeth fel bod pob tyrbîn gwynt wedi'i farcio ddydd a nos gan ddefnyddio systemau adnabod gweladwy clir;
- (b) darpariaeth o ran gweithdrefnau cyfathrebu rhwng morwyr mewn trafferth, Asiantaeth yr Arfordir a Gwylwyr y Glannau a'r ystafell reoli ganolog ar gyfer gweithredu'r tyrbinau gwynt pan fydd cwch mewn trafferth;
- (c) darpariaeth o ran cau un neu fwy o'r tyrbinau gwynt ar unwaith ar gais Asiantaeth yr Arfordir a Gwylwyr y Glannau pan fyddant â'r mwyaftrif o le posibl rhwng pwynt isaf y llafnau a lefel y dŵr; ac
- (ch) darparu ar gyfer ailbrofi'r gweithdrefnau brys ar yr adegau ac mewn modd y mae'n rhesymol i Asiantaeth yr Arfordir a Gwylwyr y Glannau ofyn amdanynt.

Sŵn wrth adeiladu a gweithredu

15.-(1) Ac eithrio pan fydd y Cynulliad Cenedlaethol yn cymeradwyo fel arall yn ysgrifenedig, rhaid i'r ymgymwrwr-

- (a) cydymffurfio â Safon Brydeinig 5228 (Rheoli Sŵn a Dirgryniadau ar Safleoedd Adeiladu a Safleoedd Agored) Rhannau 1 a 2: 1997 a Rhan 4: 1992 mewn perthynas â'r holl weithgareddau perthnasol a wneir yn ystod adeiladu, cynnal a chadw neu ddadgomiynu'r gweithfeydd awdurdodedig; a
- (b) sicrhau y bydd y lefelau uchaf o sŵn a gynhyrchir gan y gweithgareddau hynny wrth arwyneb unrhyw dderbynnydd sy'n sensitif i sŵn heb fod yn uwch na-
 - (i) lefel o 50 dB $L_{Aeq, 8 \text{ awr}}$ na lefel L_{AFmax} o 60 dB rhwng 23.00 o'r gloch a 07.00 o'r gloch; a
 - (ii) lefel o 75 dB $L_{Aeq, 1 \text{ awr}}$ rhwng 07.00 o'r gloch a 23.00 o'r gloch.

(2) Ac eithrio pan fydd y Cynulliad Cenedlaethol yn cymeradwyo fel arall yn ysgrifenedig, rhaid i'r ymgymwrwr sicrhau nad yw lefel raddio'r allyriadau

for the prevention of danger to navigation as Trinity House may from time to time direct.

Active safety management system

14.-(1) The wind turbines must be operated in accordance with an active safety management system for the purpose of minimising the risk of vessels colliding with the towers or rotating blades of the wind turbines and to facilitate search and rescue activities.

(2) The details of the active safety management system must be approved by the Maritime and Coastguard Agency, but the system must include-

- (a) provision for each wind turbine to be marked by day and night with clearly visible identification systems;
- (b) provision for communication procedures between mariners in distress, the Maritime and Coastguard Agency and the central control room for the operation of the wind turbines when a vessel is in distress;
- (c) provision for the immediate shutting down of one or more of the wind turbines at the request of the Maritime and Coastguard Agency in a position which secures the maximum clearance between the lowest point of the blades and the water level; and
- (d) provision for testing the emergency procedures at times and in a manner reasonably required by the Maritime and Coastguard Agency.

Construction and operational noise

15.-(1) Unless otherwise approved in writing by the National Assembly, the undertaker must-

- (a) comply with British Standard 5228 (Noise and Vibration Control on Construction and Open Sites) Parts 1 and 2: 1997 and Part 4: 1992 in respect of all relevant activities carried out during the construction, maintenance or decommissioning of the authorised works; and
- (b) ensure that the maximum levels of noise to be generated by such activities does not exceed at the facade of any noise sensitive receptor-
 - (i) between 23.00 hours and 07.00 hours: a level of 50 dB $L_{Aeq, 8 \text{ hour}}$ nor an L_{AFmax} level of 60 dB; and
 - (ii) between 07.00 hours and 23.00 hours: a level of 75 dB $L_{Aeq, 1 \text{ hour}}$.

(2) Unless otherwise approved in writing by the National Assembly, the undertaker must ensure that the rating level of noise emissions generated by the

sŵn a gynhyrchir wrth weithredu'r tyrbinau gwynt yn uwch na 35 dB L_{A90} , pan gânt eu mesur yn unol â'r canllawiau a geir yn "The Assessment and Rating of Noise from Wind Farms" (ETSU-R-1997), o dan amodau maes rhydd ar bwynt 1.2 metr uwchben lefel y ddaear ger unrhyw dderbynnnydd sy'n sensitif i sŵn, mewn gwyntoedd o gyflymderau hyd at 10 metr yr eiliad wedi'u mesur wrth uchder o 10 metr uwchben lefel y dŵr uchel o fewn safle'r fferm wynt.

(3) Yn yr erthygl hon-

ystyr "gweithgareddau perthnasol" ("*relevant activities*") yw unrhyw weithgareddau a wneir mewn ardal y tu hwnt i awdurdodaeth awdurdod lleol o dan Ran III o Ddeddf Rheoli Llygredd 1974(a);

ystyr "derbynnnydd sy'n sensitif i sŵn" ("*noise-sensitive receptor*") yw unrhyw annedd gyfanheddol, neu unrhyw ysbyty, ysgol neu gartref gorffwys sy'n bodoli.

Yr Ysgrifennydd Gwladol yn gweithredu gweithfeydd sydd mewn diffyg

16. Ar ôl 30 o ddiwrnodau o'r dyddiad y rhoddir hysbysiad i'r ymgymwrwr o dan erthygl 8(2)(a) neu 10(1), os nad yw wedi cydymffurfio â gofynion yr hysbysiad, a hynny heb esgus rhesymol, caiff yr Ysgrifennydd Gwladol gwblhau'r gweithfeydd a bennir yn yr hysbysiad; a chaniateir adennill unrhyw wariant a dynnir gan yr Ysgrifennydd Gwladol wrth wneud hynny oddi wrth yr ymgymwrwr.

Tramgwyddau

17. Os yw'r ymgymwrwr, heb esgus rhesymol, yn methu â-

- (a) cydymffurfio â chyfarwyddyd a roddwyd o dan erthygl 9, 12(1) neu (2) neu 13;
- (b) cydymffurfio â gofynion erthygl 12(3) neu 15;
- (c) hysbysu fel sy'n ofynnol gan erthygl 9; neu
- (ch) gweithredu'r tyrbinau gwynt yn unol ag erthygl 14,

bydd yn euog o dramgwydd ac yn atebol, o'i gollfarnu'n ddiannod, i ddirwy heb fod yn fwy na lefel 3 ar y raddfa safonol.

operation of the wind turbines does not exceed 35dB L_{A90} , when measured in accordance with the guidance contained in "The Assessment and Rating of Noise from Wind Farms" (ETSU-R-1997), in free field conditions at a point 1.2 metres above ground level at any noise sensitive receptor, at wind speeds of up to 10 metres per second measured at a height of 10 metres above the level of high water within the wind farm site.

(3) In this article-

"relevant activities" ("*gweithgareddau perthnasol*") means any activities carried out in an area outside the jurisdiction of a local authority under Part III of the Control of Pollution Act 1974(a);

"noise sensitive receptor" ("*derbynnnydd sy'n sensitif i sŵn*") means any existing habitable dwelling or any hospital, school or rest home.

Execution by Secretary of State of works in default

16. If, on the expiration of 30 days from the date when a notice under article 8(2)(a) or 10(1) is served upon the undertaker it has failed, without reasonable excuse, to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; and any expenditure incurred by the Secretary of State in so doing will be recoverable from the undertaker.

Offences

17. If the undertaker, without reasonable excuse, fails to-

- (a) comply with a direction given under article 9, 12(1) or (2) or 13;
- (b) comply with the requirements of article 12(3) or 15;
- (c) give notification as required by article 9; or
- (d) operate the wind turbines in accordance with article 14,

it will be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(a) 1974 p.40.

(a) 1974 c.40.

RHAN III
CAFFAEL A MEDDU AR DIR

Pwerau caffael

Y pŵer i gaffael tir

18. Caiff yr ymgwymerwr gaffael yn orfodol gymaint o'r tir a ddangosir â'r rhif 4 ar blaniau'r tir ac a ddisgrifir yn y cyfeirlyfr ag sydd ei angen arno at ddibenion Gwaith Rhif 3, a chaiff ddefnyddio unrhyw dir a gaffaelwyd felly at y dibenion hynny neu at unrhyw ddiben arall sy'n gysylltiedig â'i ymgwymeriad o ran trydan, neu sy'n atodol iddo.

Cymhwyso Rhan I o Ddeddf Prynu Gorfodol 1965

19.-(1) Mae Rhan I o Ddeddf 1965, i'r graddau nad yw wedi'i haddasu gan ddarpariaethau'r Gorchymyn hwn nac yn anghyson â hwy, yn gymwys i gaffael tir o dan y Gorchymyn hwn-

- (a) fel y mae'n gymwys i brynu gorfodol y mae Deddf Prynu Gorfodol 1981(a) yn gymwys iddo; a
- (b) fel pe bai'r Gorchymyn hwn yn orchymyn prynu gorfodol o dan y Ddeddf honno.

(2) Mae gan Ran I o Ddeddf 1965, fel y'i cymhwyswyd, effaith fel pe bai-

- (a) adran 4 (sy'n rhoi terfyn amser ar brynu tir yn orfodol) a pharagraff 3(3) o Atodlen 3 (sy'n darparu ar gyfer rhoi bondiau) wedi'u hepgor; a
- (b) y cyfeiriad yn adran 11(1) (sy'n rhoi pwerau i fynd ar dir a chymryd meddiant ohono yn ddarostyngedig i hysbysiad i drafod heb roi llai na 14 o ddiwrnodau o hysbysiad) at y 14 o ddiwrnodau o hysbysiad wedi'i amnewid am-
 - (i) cyfeiriad at hysbysiad o un mis, pan fo'r hysbysiad i drafod yn ymwneud yn unig â chaffael isbridd neu gaffael hawddfrait neu hawl arall dros dir; neu
 - (ii) cyfeiriad at hysbysiad o 3 mis, mewn unrhyw achos arall.

Y pŵer i gaffael hawliau newydd

20.-(1) Caiff yr ymgwymerwr gaffael yn orfodol yr hawddfreintiau hynny neu hawliau eraill dros unrhyw dir y cyfeirir ato yn erthygl 18 sydd eu hangen at unrhyw ddiben y caiff y tir hwnnw ei gaffael o'r herwydd o dan y ddarpariaeth honno, a hynny drwy eu creu yn ogystal â thrwy gaffael hawddfreintiau neu hawliau eraill sydd eisoes yn bod.

(a) 1981 p.67.

PART III
ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

18. The undertaker may acquire compulsorily so much of the land shown numbered 4 on the land plans and described in the book of reference as may be required for the purposes of Work No. 3 and it may use any land so acquired for those purposes or for any other purposes connected with or ancillary to its electricity undertaking.

Application of Part I of the Compulsory Purchase Act 1965

19.-(1) Part I of the 1965 Act, insofar as not modified by, or inconsistent with, the provisions of this Order, applies to the acquisition of land under this Order as-

- (a) it applies to a compulsory purchase to which the Acquisition of Land Act 1981(a) applies; and
- (b) if this Order were a compulsory purchase order under that Act.

(2) Part I of the 1965 Act, as so applied, has effect as if-

- (a) section 4 (which provides a time limit for compulsory purchase of land) and paragraph 3(3) of Schedule 3 (which makes provisions as to the giving of bonds) were omitted; and
- (b) in section 11(1) (which confers powers to enter on and to take possession of land subject to a notice to treat on giving not less than 14 days' notice), for the reference to 14 days' notice, there were substituted in-
 - (i) a case where the notice to treat relates only to the acquisition of subsoil or the acquisition of an easement or other right over the land, a reference to notice of one month; or
 - (ii) any other case, a reference to notice of 3 months.

Power to acquire new rights

20.-(1) The undertaker may compulsorily acquire such easements or other rights over any land referred to in article 18 as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

(a) 1981 c.67.

(2) Caiff yr ymgwymerwr gaffael yn orfodol yr hawddfreintiau hynny neu unrhyw hawliau eraill dros y tir a ddangosir â rhifau 1 i 3, 5 i 9 ac 11 ar blaniau'r tir ac a ddisgrifir yn y cyfeirlyfr ("y tir perthnasol") y mae'n eu hystyried yn angenrheidiol ar gyfer ac mewn cysylltiad ag adeiladu, defnyddio, gweithredu a chynnal a chadw Gwaith Rhif 2, 2A, 4 a 5.

(3) Caiff yr ymgwymerwr gaffael yn orfodol yr hawddfreintiau hynny, neu'r hawliau i ddefnyddio'r strydoedd a ddangosir â rhifau 12 i 16 ar blaniau'r tir ac a ddisgrifir yn y cyfeirlyfr, y mae'n eu hystyried yn angenrheidiol er mwyn cael mynediad at y tir at ddibenion adeiladu, defnyddio, gweithredu a chynnal a chadw y gweithfeydd awdurdodedig.

(4) Mae'r hawddfreintiau neu'r hawliau y cyfeirir atynt ym mharagraff (3) yn hawliau i ddefnyddio'r strydoedd y cyfeirir atynt yn y paragraff hwnnw sydd ar y cyd ag unrhyw bersonau eraill sydd â'r hawl i ddefnyddio'r strydoedd; ac ni ddylid dehongli dim yn yr erthygl hon fel pe bai'n rhoi'r hawl i ymyrryd â defnydd personau eraill o'r strydoedd.

(5) Yn ddarostyngedig i adran 8 o Ddeddf 1965 (fel y'i hamnewidir gan baragraff 5 o Atodlen 3 i'r Gorchymyn hwn), pan fo'r ymgwymerwr yn caffael hawl dros dir o dan yr erthygl hon, nid yw'n ofynnol i'r ymgwymerwr gaffael buddiant mwy ynddo.

(6) Mae Atodlen 3 i'r Gorchymyn hwn yn effeithiol at ddibenion addasu'r deddfiadau sy'n ymwneud ag iawndal a darpariaethau Deddf 1965, o ran eu cymhwyso mewn perthynas â chaffael hawl dros dir yn orfodol o dan yr erthygl hon drwy greu hawl newydd.

Meddu ar dir dros dro

Defnyddio tir dros dro i adeiladu gweithfeydd

21.-(1) Mewn cysylltiad â chyflawni'r gweithfeydd awdurdodedig, caiff yr ymgwymerwr-

- (a) mynd ar y tir a ddangosir â rhif 4 ar blaniau'r tir ac a ddisgrifir yn y cyfeirlyfr a chael meddiant ohono dros dro yn ôl yr angen mewn cysylltiad ag adeiladu'r gweithfeydd awdurdodedig;
- (b) cael gwared ar unrhyw adeiladau a phlanhigion o'r tir hwnnw; ac
- (c) adeiladu gweithfeydd (gan gynnwys darparu mynedfa) ac adeiladau dros dro ar y tir.

(2) Rhaid i'r ymgwymerwr roi hysbysiad o'i fwriad i gael mynediad i'r tir i berchenogion a meddianwyr y tir, a hynny heb fod yn llai na 28 o ddiwrnodau cyn iddo fynd ar y tir a chymryd meddiant ohono dros dro o dan yr erthygl hon.

(2) The undertaker may compulsorily acquire such easements or other rights over the land shown numbered 1 to 3, 5 to 9 and 11 on the land plans and described in the book of reference ("the relevant land") as it may consider necessary for and in connection with the construction, use, operation and maintenance of Works No. 2, 2A, 4 and 5.

(3) The undertaker may compulsorily acquire such easements or rights to use the streets shown numbered 12 to 16 on the land plans and described in the book of reference as it may consider necessary in order to obtain access for the purpose of constructing, using, operating and maintaining the authorised works.

(4) The easements or rights referred to in paragraph (3) are rights to use the streets referred to in that paragraph in common with any other persons entitled to use the streets; and nothing in this article is to be taken as conferring a right to interfere with the use of the streets by other persons.

(5) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 3 to this Order), where the undertaker acquires a right over land under this article, the undertaker is not required to acquire a greater interest in it.

(6) Schedule 3 to this Order has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right.

Temporary possession of land

Temporary use of land for construction of works

21.-(1) The undertaker may, in connection with the carrying out of the authorised works-

- (a) enter upon, and take temporary possession of, the land shown numbered 4 on the land plans and described in the book of reference as may be required in connection with the construction of the authorised works;
- (b) remove any buildings and vegetation from that land; and
- (c) construct temporary works (including the provision of means of access) and buildings on the land.

(2) 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.

(3) Ni chaiff yr ymgwymerwr, heb gytundeb perchenogion y tir, barhau i feddu ar unrhyw dir o dan yr erthygl hon ar ddiwedd cyfnod o un flwyddyn o'r dyddiad y cwblhawyd y gweithfeydd awdurdodedig.

(4) Cyn rhoi'r gorau i feddu ar dir a feddianwyd ganddo dros dro o dan yr erthygl hon, rhaid i'r ymgwymerwr symud pob gwaith dros dro oddi yno ac adfer y tir i safon y mae perchenogion y tir yn rhesymol fodlon â hi; ond nid oes gofyn i'r ymgwymerwr ailadeiladu adeilad a symudwyd oddi yno o dan yr erthygl hon.

(5) Rhaid i'r ymgwymerwr dalu iawndal i berchenogion a meddianwyr y tir a feddianwyd ganddo dros dro o dan yr erthygl hon am unrhyw golled neu ddifrod a achoswyd yn sgil arfer y pwerau a roddir gan yr erthygl hon mewn perthynas â'r tir.

(6) Penderfynir ar unrhyw anghydfod o ran hawl person i gael iawndal o dan baragraff (5), neu o ran cyfanswm yr iawndal, o dan Ran I o Ddeddf 1961.

(7) Heb ragfarn i erthygl 36, ni fydd dim yn yr erthygl hon yn effeithio ar unrhyw atebolrwydd i dalu iawndal o dan adran 10(2) o Ddeddf 1965 neu o dan unrhyw ddeddfiad arall sy'n ymwneud â cholled neu ddifrod a achosir gan weithredu unrhyw weithfeydd, ac eithrio colled neu ddifrod y mae iawndal yn daladwy ar eu cyfer o dan baragraff (5).

(8) Nid yw'r pwerau i gaffael tir yn orfodol a roddir gan y Gorchymyn hwn yn gymwys mewn perthynas ag unrhyw dir sydd wedi'i feddu dros dro o dan baragraff (1), ond nid yw'r ymgwymerwr wedi'i eithrio rhag caffael hawliau newydd dros unrhyw ran o'r tir hwnnw o dan erthygl 21.

(9) Pan fo ymgwymerwr yn meddu ar dir o dan yr erthygl hon, nid yw'n ofynnol iddo gaffael y tir nac unrhyw fuddiant yn y tir.

(10) Yn yr erthygl hon, mae "adeilad" ("*building*") yn cynnwys strwythur neu unrhyw adeilad arall.

Iawndal

Diystyru buddiannau a gwelliannau penodol

22.-(1) Wrth asesu'r iawndal sy'n daladwy (os oes iawndal yn daladwy o gwbl) i unrhyw berson wrth gaffael unrhyw dir oddi arno o dan y Gorchymyn hwn, nid yw'r Tribiwnlys i ystyried-

- (a) unrhyw fuddiant mewn tir; neu
- (b) unrhyw gynnydd yng ngwerth unrhyw fuddiant mewn tir oherwydd unrhyw adeilad a godwyd, unrhyw weithfeydd a weithredwyd neu unrhyw welliant neu addasiad a wnaed ar dir perthnasol,

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of completion of the authorised works.

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

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

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

(7) Without prejudice to article 36, nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 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 powers of compulsory acquisition of land conferred by this Order do not apply in relation to any land of which temporary possession is taken under paragraph (1), except that the undertaker is not precluded from acquiring new rights over any part of that land under article 21.

(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) In this article, "building" ("*adeilad*") includes structure or any other erection.

Compensation

Disregard of certain interests and improvements

22.-(1) In assessing the compensation (if any) payable to any person on the acquisition from him of any land under this Order, the Tribunal is not to take into account any-

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

os yw'r Tribiwnlys wedi'i fodloni nad oedd creu'r buddiant, codi'r adeilad, na gwella nac addasu'r gweithfeydd yn rhesymol angenrheidiol, ac y gwnaethpwyd hynny gyda'r bwriad o gael iawndal neu o gynyddu swm yr iawndal.

(2) Ym mharagraff (1), ystyr "tir perthnasol" ("*relevant land*") yw'r tir a gaffaelwyd oddi wrth y person o dan sylw neu unrhyw dir arall y mae'r person hwnnw yn gysylltiedig ag ef, neu yr oedd y person hwnnw'n gysylltiedig ag ef adeg codi'r adeilad, adeg gweithredu'r gweithfeydd neu adeg gwneud y gwelliant neu'r addasiad, boed hynny'n gysylltiad uniongyrchol neu'n un anuniongyrchol.

Diddymu neu atal hawliau tramwy preifat dros dro

23.-(1) Yn ddarostyngedig i baragraff (2), diddymir pob hawl tramwy breifat dros dir sy'n ddarostyngedig i gaffaeliad gorfodol o dan erthygl 18-

- (a) o'r adeg y caffaelwyd y tir gan yr ymgymerwr, boed hynny'n orfodol neu drwy gytundeb; neu
- (b) o'r adeg yr aeth yr ymgymerwr ar y tir o dan adran 11(1) o Ddeddf 1965, pa un bynnag sydd gyntaf.

(2) Nid yw paragraff (1) yn gymwys i unrhyw hawliau tramwy preifat dros Heol Caer Bont.

(3) Atelir pob hawl tramwy breifat dros dir y mae'r ymgymerwr yn ei feddu dros dro o dan y Gorchymyn hwn, ac ni fydd modd eu gorfodi am yr amser y bydd yr ymgymerwr yn parhau i feddu ar y tir yn gyfreithlon.

(4) Bydd unrhyw berson sy'n gweld colled oherwydd diddymu neu atal dros dro unrhyw hawl tramwy breifat o dan yr erthygl hon â'r hawl i gael iawndal sydd i'w benderfynu, os cyfyd anghydfod, o dan Ran I o Ddeddf 1961.

(5) Ni fydd yr erthygl hon yn gymwys mewn perthynas ag unrhyw hawl tramwy y mae adran 271 neu 272 o Ddeddf Cynllunio Gwlad a Thref 1990(a) (diddymu hawliau ymgymerwyr statudol etc.) yn gymwys iddi.

Terfyn amser ar gyfer arfer pwerau caffael

24.-(1) Bydd y pwerau a roddir gan y Gorchymyn hwn i gaffael tir neu hawliau dros dir yn orfodol, a'r pŵer a roddir gan erthygl 21 i fynd ar dir a'i feddu dros dro, yn dod i ben ar ddiwedd y cyfnod o 5 mlynedd gan ddechrau ar y diwrnod y daw'r Gorchymyn hwn i rym.

if the Tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1), "relevant land" ("*tir perthnasol*") 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 executed or the improvement or alteration made, directly or indirectly concerned.

Extinction or suspension of private rights of way

23.-(1) Subject to paragraph (2), all private rights of way over land subject to compulsory acquisition under article 18 are extinguished-

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

(2) Paragraph (1) does not apply to any private rights of way over Heol Caer Bont.

(3) All private rights of way over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

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

(5) This article does not apply in relation to any right of way to which section 271 or 272 of the Town and Country Planning Act 1990(a) (extinguishment of rights of statutory undertakers etc.)

Time limit for exercise of powers of acquisition

24.-(1) The powers conferred by this Order to acquire land or rights over land compulsorily, and the power conferred by article 21 to enter upon and take temporary possession of land, cease at the end of the period of 5 years beginning on the day on which this Order comes into force.

(a) 1990 p.8.

(a) 1990 c.8.

(2) Ni fydd paragraff (1) yn gwahardd yr ymgwymerwr rhag parhau i feddu ar y tir ar ddiwedd y cyfnod hwnnw, yn unol ag erthygl 21, os aethpwyd ar y tir ac os meddiannwyd y tir cyn diwedd y cyfnod hwnnw.

RHAN IV AMRYWIOL A CHYFFREDINOL

Y pŵer i weithredu a defnyddio gweithfeydd

25. Caiff yr ymgwymerwr weithredu a defnyddio'r gweithfeydd awdurdodedig fel system ar gyfer cynhyrchu a throsglwyddo trydan.

Datgymhwyso adrannau 36 a 37 o Ddeddf Trydan 1989

26. Nid yw darpariaethau adrannau 36 a 37 o Ddeddf Trydan 1989(a) yn gymwys mewn perthynas â'r gweithfeydd awdurdodedig.

Rhwystro a chamddefnyddio'r gweithfeydd awdurdodedig

27. Bydd unrhyw berson sydd, heb esgus rhesymol-
- (a) yn rhwystro person arall rhag adeiladu neu gynnal a chadw unrhyw rai o'r gweithfeydd awdurdodedig o dan y pwerau a roddir gan y Gorchymyn hwn;
 - (b) yn clymu rhywbeth yn sownd i unrhyw ran o unrhyw weithfeydd llanw'r môr; neu
 - (c) yn ymyrryd mewn unrhyw ffordd arall ag unrhyw weithfeydd awdurdodedig neu â'u gweithredu,

yn euog o dramgwydd ac yn atebol, o'i gollfarnu'n ddiannod, i ddirwy heb fod yn fwy na lefel 3 ar y raddfa safonol.

Parthau diogelwch ar gyfer mordwyo, treillio ac angori

28.-(1) Yn ddarostyngedig i baragraffau (2) a (4), bydd unrhyw berson sydd, heb esgus rhesymol,-

- (a) yn ystod y gwaith o adeiladu, ailddodi, ailosod, tynnu oddi yno neu ddadgomisiynu unrhyw weithfeydd llanw'r môr, yn llywio cwch o fewn ardal sy'n ymestyn 500 metr o unrhyw ran o'r gweithfeydd hynny (neu ardal lai fel y mae modd ei chyhoeddi o dan baragraff (2));
- (b) yn sgil gosod unrhyw rai o'r ceblau rhyngdyrbinau, yn treillio neu yn angori cwch o fewn safle'r fferm wynt ac ardal sy'n ymestyn

(a) 1989 p.29.

(2) Paragraph (1) does not prevent the undertaker remaining in possession of land in accordance with article 21 after the end of that period, if the land was entered and possession of it was taken before the end of that period.

PART IV MISCELLANEOUS AND GENERAL

Power to operate and use works

25. The undertaker may operate and use the authorised works as a system for generating and transmitting electricity.

Dis-application of sections 36 and 37 of the Electricity Act 1989

26. The provisions of sections 36 and 37 of the Electricity Act 1989(a) do not apply in relation to the authorised works.

Obstruction and misuse of authorised works

27. Any person who without reasonable excuse-
- (a) obstructs another person from constructing or maintaining any of the authorised works under the powers conferred by this Order;
 - (b) makes fast to any part of any tidal work; or
 - (c) in any other way interferes with any of the authorised works or their operation,

will be guilty of an offence and will be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Safety zones for navigation, trawling and anchoring

28.-(1) Subject to paragraphs (2) and (4), any person who, without reasonable excuse,-

- (a) during the construction, relaying, replacement, removal or decommissioning of any tidal works navigates a vessel within an area extending 500 metres from any part of that work (or such lesser area as may be published under paragraph (2));
- (b) following the laying of any of the inter-turbine cables trawls or anchors a vessel within the wind farm site and an area extending 200

(a) 1989 c.29.

200 metr y tu hwnt i'r safle hwnnw;

- (c) yn sgil gosod unrhyw rai o'r ceblau bwydo i'r môr, yn angori cwch o fewn ardal sy'n ymestyn 200 metr o unrhyw ran o'r cebl hwnnw; neu

- (ch) yn sgil cwblhau'r gwaith o adeiladu unrhyw rai o'r strwythurau perthnasol, yn llywio cwch o fewn y parth diogelwch wrth weithredu,

yn euog o dramgwydd ac yn atebol, o'i gollfarnu'n ddiannod, i ddirwy heb fod yn fwy na lefel 3 ar y raddfa safonol.

(2) Ni ddaw parth diogelwch yn effeithiol hyd nes-

- (a) i 7 niwrnod fynd heibio ar ôl cyhoeddi hysbysiad i forwyr yn pennu lleoliad a maint y parth diogelwch, dyddiad ei gychwyn ac, yn achos parth diogelwch wrth adeiladu, ei gyfnod arfaethedig; a

- (b) i'r ymgymerwr gymryd y camau eraill hynny y caiff yr Ysgrifennydd Gwladol ofyn amdanynt er mwyn hysbysu llongau o'r parth diogelwch arfaethedig.

(3) Cyn gynted ag y bo'n rhesymol ymarferol yn dilyn rhoi diwedd ar barth diogelwch (ac eithrio oherwydd paragraff (5)), rhaid i'r ymgymerwr-

- (a) cyhoeddi hysbysiad o ddiwedd ar barth drwy gyfrwng hysbysiad i forwyr; a
- (b) cymryd y camau eraill hynny y caiff yr Ysgrifennydd Gwladol ofyn amdanynt er mwyn hysbysu llongau o ddiwedd ar barth diogelwch.

(4) Ni fydd paragraff (1) yn gymwys i berson sy'n llywio neu'n angori cwch at ddibenion adeiladu, cynnal a chadw neu weithredu gweithfeydd llanw'r môr, neu mewn cysylltiad â'r dibenion hynny.

(5) Bydd paragraff (1)(b), (c) ac (ch) yn peidio â chael effaith os bydd, ac i'r graddau y bydd, y gweithgareddau a bennir yn unrhyw un o'r darpariaethau hynny, o fewn yr ardaloedd hynny a bennir felly, wedi'u gwahardd o dan ddeddfiad perthnasol.

(6) Yn yr erthygl hon-

ystyr "y parth diogelwch wrth adeiladu" ("*the construction safety zone*") yw ardal y mae mordwyo wedi'i wahardd ynddi o dan baragraff (1)(a);

ystyr "parth diogelwch wrth weithredu" ("*operational safety zone*") yw ardal sy'n ymestyn 5 metr o unrhyw ran o strwythur berthnasol (gan gynnwys diogelu rhag sgwrfa'r llanw o amgylch y strwythur honno) neu unrhyw bellter mwy sydd heb fod yn fwy na 50 metr fel y caiff yr ymgymerwr ei benderfynu ar ôl cynnal asesiad risg ac ar ôl ymgynghori ag Asiantaeth yr Arfordir a

metres outwards from that site;

- (c) following the laying of any of the marine feeder cables anchors a vessel within an area extending 200 metres from any part of that cable; or

- (d) following completion of construction of any of the relevant structures navigates a vessel within an operational safety zone,

will be guilty of an offence and will be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) A safety zone will not come into effect until -

- (a) 7 days have elapsed after the publication of a notice to mariners specifying the location and extent of the safety zone, the date of its commencement and, in the case of a construction safety zone, its intended duration; and

- (b) the undertaker has taken such other steps as the Secretary of State may require to notify shipping of the proposed safety zone.

(3) As soon as reasonably practicable following the termination of a safety zone (other than by reason of paragraph (5)), the undertaker must-

- (a) publish notice of the termination by means of a notice to mariners; and
- (b) take such other steps as the Secretary of State may require to notify shipping of the termination of a safety zone.

(4) Paragraph (1) does not apply to a person navigating or anchoring a vessel for the purpose of, or in connection with, the construction, maintenance or operation of the tidal works.

(5) Paragraph (1)(b), (c) and (d) ceases to have effect if and to the extent that the activities specified in any of those provisions, within the areas so specified, are prohibited under a relevant enactment.

(6) In this article-

"the construction safety zone" ("*y parth diogelwch wrth adeiladu*") means an area in which navigation is excluded under paragraph (1)(a);

"operational safety zone" ("*parth diogelwch wrth weithredu*") means an area extending 5 metres from any part of a relevant structure (including scour protection around that structure) or such larger distance not exceeding 50 metres as may be determined by the undertaker following a risk assessment and consultation with the Maritime and Coast Guard Agency and the Royal Yachting Association;

Gwylwyr y Glannau a'r Gymdeithas Iotio Frenhinol;

ystyr "deddfiad perthnasol" ("*relevant enactment*") yw unrhyw ddarpariaeth mewn Deddf gyffredinol gyhoeddus, neu mewn unrhyw is-ddeddfwriaeth a wneir o dan Ddeddf gyffredinol gyhoeddus, ac a ddaw i rym ar ôl gwneud y Gorchymyn hwn;

ystyr "strwythur berthnasol" ("*relevant structure*") yw tyrbîn gwynt neu unrhyw un o'r mastiau anemometreg;

ystyr "parth diogelwch" ("*safety zone*") yw unrhyw un o'r ardaloedd y gwaherddir gweithgareddau ynddi o dan baragraff (1);

ystyr "treillio" ("*trawl*") yw unrhyw weithgaredd pysgota sy'n cynnwys llusgo rhwyd neu linyr neu gyfarpar arall ar hyd gwely'r môr.

"relevant enactment" ("*deddfiad perthnasol*") means any provision of a public general Act, or of any subordinate legislation made under a public general Act, which is brought into force after the making of this Order;

"relevant structure" ("*strwythur berthnasol*") means a wind turbine or any of the anemometry masts;

"safety zone" ("*parth diogelwch*") means any of the areas in which activities are excluded under paragraph (1);

"trawl" ("*treillio*") means any fishing activity which involves dragging a net or line or other apparatus along the seabed.

Tir penodol sydd i'w drin fel tir gweithredol

29. Caiff caniatâd cynllunio, y bernir iddo gael ei ddyfarnu gan gyfarwyddyd o dan adran 90(2A) o Ddeddf Cynllunio Gwlad a Thref 1990(a) mewn perthynas â gweithfeydd a awdurdodwyd gan y Gorchymyn hwn, ei drin fel caniatâd cynllunio penodol at ddibenion adran 264(3)(a) o'r Ddeddf honno (achosion y dylid trin tir fel pe bai'n dir gweithredol at ddibenion y Ddeddf honno).

Ymgwymerwyr statudol, etc.

30. Mae darpariaethau Atodlen 4 i'r Gorchymyn hwn yn effeithiol.

Er mwyn diogelu Asiantaeth yr Amgylchedd

31. Mae darpariaethau Atodlen 5 i'r Gorchymyn hwn yn effeithiol.

Er mwyn diogelu Network Rail

32. Mae darpariaethau Atodlen 6 i'r Gorchymyn hwn yn effeithiol.

Iawndal i bysgotwyr

33.-(1) Os gall person perthnasol ddangos, fel bod yr ymgwymerwr wedi'i fodloni yn rhesymol, ei fod wedi gweld colled, neu y bydd yn gweld colled, o ganlyniad i fethu â physgota o fewn yr ardal berthnasol ar ôl cychwyn adeiladu Gwaith Rhif 1 oherwydd arfer pwerau'r Gorchymyn hwn, rhaid i'r ymgwymerwr dalu iawndal rhesymol i'r person perthnasol i'w ddiogolledu am y golled honno.

(2) Rhaid gwneud unrhyw gais felly ar ôl i'r gwaith adeiladu ar Waith Rhif 1 ddechrau ond heb fod yn hwyrach na 2 flynedd ar ôl ei gwblhau; a dylid cyfeirio unrhyw anghydfod o ran atebolrwydd am dalu iawndal, neu gyfanswm yr iawndal, i'w gymrododdu

(a) 1990 p.8.

Certain land to be treated as operational land

29. Planning permission which is deemed by a direction under section 90(2A) of the Town and Country Planning Act 1990(a) to be granted in relation to works authorised by this Order will be treated as specific planning permission for the purposes of section 264(3)(a) of that Act (cases in which land is to be treated as operational land for the purposes of that Act).

Statutory undertakers, etc.

30. The provisions of Schedule 4 to this Order have effect.

For protection of Environment Agency

31. The provisions of Schedule 5 to this Order have effect.

For protection of Network Rail

32. The provisions of Schedule 6 to this Order have effect.

Compensation for fishermen

33.-(1) If a relevant person can demonstrate to the reasonable satisfaction of the undertaker that the relevant person has suffered, or will suffer, loss as a result of being unable to fish within the relevant area following commencement of construction of Work No. 1 in consequence of the exercise of the powers of this Order, the undertaker must pay the relevant person reasonable compensation for that loss.

(2) Any such claim must be made no earlier than the commencement of construction of Work No. 1 and no later than 2 years after its completion; and any dispute as to the liability for, or amount of compensation, is to be referred to arbitration in accordance with article 39

(a) 1990 c.8.

yn unol ag erthygl 39 o'r Gorchymyn hwn.

(3) Nid oes gan neb yr hawl i gael iawndal o dan y ddarpariaeth hon os collfarnir hwy yn euog o dramgwydd o dan erthygl 28(1) oherwydd treillio yn yr ardal berthnasol; ac, os caiff unrhyw berson ei gollfarnu o dramgwydd felly ar ôl i iawndal gael ei dalu iddo yn unol â'r erthygl hon, caiff yr ymgwymerwr adennill yr iawndal oddi wrth y person hwnnw.

(4) At ddibenion penderfynu pa un a yw person yn berson perthnasol ai peidio, a hyd a lled colled unrhyw berson at ddibenion paragraff (1), ni ddylid cyfrif unrhyw weithgaredd oni bai iddo gydymffurfio ag unrhyw ddeddfiad neu reol gyfreithiol sy'n gymwys; ac, yn benodol, ni ddylid cyfrif unrhyw bysgodyn a ddaliwyd oni bai iddo gael ei gynnwys yn y derbyniadau a gyflwynwyd i Bwyllgor Pysgodfeydd Môr De Cymru o dan is-ddeddfau a wnaed o dan adran 5 o Ddeddf Rheoli Pysgodfeydd Môr 1966(a) a, pan fo'n berthnasol, mewn datganiadau a gyflwynwyd o dan erthygl 8 o Reoliad y Cyngor (EEC) Rhif 2847/93(b).

(5) Yn yr erthygl hon-

ystyr "person perthnasol" ("*relevant person*") yw perchennog cwch sydd wedi bod yn pysgota o fewn yr ardal berthnasol yn y cwch hwnnw yn rheolaidd wrth gyflawni ei fusnes ym mhob un o'r pum mlynedd yn union cyn cychwyn adeiladu Gwaith Rhif 1; ac

ystyr "yr ardal berthnasol" ("*the relevant area*") yw safle'r fferm wynt a'r ardal ychwanegol y cyfeirir ati yn erthygl 28(1)(b).

Ardystio planiau, etc.

34. Rhaid i'r ymgwymerwr, cyn gynted ag y bo'n ymarferol ar ôl gwneud y Gorchymyn hwn, gyflwyno copiâu o'r cyfeirlyfr, y trawsluniau a phlaniau'r gweithfeydd a'r tir i'r Cynulliad Cenedlaethol i'w hardystio yn wir gopiâu, yn eu trefn, o'r cyfeirlyfr, y trawsluniau a phlaniau'r gweithfeydd a'r tir y cyfeirir atynt yn y Gorchymyn hwn; a bydd dogfen a ardystiwyd felly yn dderbyniol mewn unrhyw achos fel tystiolaeth o gynnwys y ddogfen y mae'n gopi ohoni.

Cyflwyno hysbysiadau

35.(1) Caniateir cyflwyno hysbysiad neu ddogfen arall y mae angen neu a awdurdodwyd ei chyflwyno at ddibenion y Gorchymyn hwn drwy'r post.

(2) Os corff corfforaethol yw'r person y cyflwynir hysbysiad neu ddogfen arall iddo at ddibenion y Gorchymyn hwn, cyflwynir yr hysbysiad neu'r ddogfen yn briodol os cyflwynir hwy i ysgrifennydd neu glerc y corff hwnnw.

(a) 1966 p.38.

(b) O.J. Rhif L261, 20.10.93 t.l.

of the Order.

(3) No person is entitled to compensation under this provision if convicted of an offence under article 28(1) by virtue of trawling in the relevant area; and, if any person is convicted of such an offence following payment of compensation under this article, such compensation may be recovered by the undertaker from that person.

(4) For the purpose of determining whether or not a person is a relevant person, and the extent of any person's loss for the purpose of paragraph (1), no account is to be taken of any activity unless it was undertaken in compliance with any applicable enactment or rule of law; and, in particular, no account is to be taken of any fish taken unless it has been included in returns submitted to the South Wales Sea Fisheries Committee under byelaws made under section 5 of the Sea Fisheries Regulation Act 1966(a) and, where relevant, in declarations submitted under article 8 of Council Regulation (EEC) No. 2847/93(b).

(5) In this article-

"relevant person" ("*person perthnasol*") means the owner of a vessel who has been fishing with that vessel on a regular basis, in the course of his business, within the relevant area, in each of the five years immediately preceding commencement of construction of Work No. 1; and

"the relevant area" ("*yr ardal berthnasol*") means the wind farm site and additional area referred to in article 28(1)(b).

Certification of plans, etc.

34. The undertaker must, as soon as practicable after the making of this Order, submit copies of the book of reference, the sections and the works and land plans to the National Assembly for certification that they are true copies, respectively, of the book of reference, sections and the works and land plans referred to in this Order; and a document so certified will be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

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

(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.

(a) 1966 c.38.

(b) O.J. No. L261, 20.10.93 p.l.

(3) At ddibenion adran 7 o Ddeddf Dehongli 1978(a) fel y mae'n gymwys at ddibenion yr erthygl hon, cyfeiriad priodol unrhyw berson mewn perthynas â chyflwyno hysbysiad neu ddogfen i'r person hwnnw o dan baragraff (1) yw, os yw'r person hwnnw wedi rhoi cyfeiriad ar gyfer cyflwyno, y cyfeiriad hwnnw ac, fel arall,-

- (a) yn achos ysgrifennydd neu glerc corff corfforaethol, swyddfa gofrestredig neu brif swyddfa'r corff hwnnw; a
- (b) yn unrhyw achos arall, y cyfeiriad hysbys diwethaf ar gyfer y person adeg y cyflwyno.

(4) Pan fo angen cyflwyno hysbysiad neu ddogfen arall at ddibenion y Gorchymyn hwn, neu yr awdurdodwyd gwneud hynny, i berson sydd ag unrhyw fuddiant yn y tir, neu sy'n meddu ar y tir, ac ni ellir dod o hyd i'w enw na'i gyfeiriad ar ôl gwneud ymholiadau rhesymol, caniateir cyflwyno'r hysbysiad drwy-

- (a) ei gyfeirio at y person hwnnw gan ddefnyddio ei enw, neu gan ei ddisgrifio fel "y perchennog" neu, yn ôl y digwydd, "meddiannydd" y tir (gan ddisgrifio'r tir); a
- (b) un ai ei adael yn nwylo'r person yr ymddengys ei fod yn preswyllo ar y tir neu wedi'i gyflogi ar y tir, neu ludo'r hysbysiad yn amlwg i ryw adeilad neu wrthrych ar y tir neu yn agos ato.

(5) Nid yw'r erthygl hon yn gwahardd defnyddio unrhyw ddull arall o gyflwyno nas darparwyd amdano yn benodol ynddi.

Dim adennill dwbl

36. Ni fydd iawndal yn daladwy mewn perthynas â'r un mater o dan y Gorchymyn hwn ac yn ogystal o dan unrhyw ddeddfiad, unrhyw gontract neu unrhyw rheol gyfreithiol arall.

Trosglwyddo pwerau

37.-(1) Caiff yr ymgwymerwr, gyda chydsyniad y Cynulliad Cenedlaethol, ymrwmo i gytundebau, a'u rhoi ar waith, er mwyn trosglwyddo i berson arall unrhyw un o'r pwerau, neu'r holl bwerau, a roddir i'r ymgwymerwr gan y Gorchymyn hwn.

(2) Bydd arfer unrhyw bŵer a roddir gan y Gorchymyn hwn gan unrhyw berson arall yn unol â chytundeb o dan is-adran (1) yn ddarostyngedig i'r un rhwymedigaethau a'r un atebolrwydd o dan y Gorchymyn hwn ac a fyddai'n gymwys ped arferid y pŵer hwnnw gan yr ymgwymerwr.

(3) Rhaid i'r ymgwymerwr hysbysu'r Ysgrifennydd Gwladol a Trinity House yn ysgrifenedig o unrhyw gytundeb i drosglwyddo pwerau sy'n ymwneud â gweithfeydd llanw'r môr i berson arall, gan roi enw a chyfeiriad y person y trosglwyddir y pwerau iddo a'r dyddiad y daw'r trosglwyddo yn effeithiol, a hynny heb fod yn llai na 21 o ddiwrnodau cyn i unrhyw gytundeb

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

- (a) the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) any other case, the person's last known address 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 his name or address 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) This article does not exclude the employment of any method of service not expressly provided for by it.

No double recovery

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

Transfer of powers

37.-(1) The undertaker may, with the consent of the National Assembly, enter into, and carry into effect, agreements for the transfer to another person of all or any of the powers conferred on the undertaker by this Order.

(2) The exercise of any power conferred by this Order by any other person in accordance with an agreement under subsection (1) will be subject to the same obligations and liabilities under this Order as would apply if that power were exercised by the undertaker.

(3) Not later than 21 days before any such agreement comes into effect which provides for the transfer to another person of powers relating to any tidal works, the undertaker must give written notice to the Secretary of State and to Trinity House, stating the name and address of the person to whom the powers are being transferred and the date when the transfer is to take

(a) 1978 p.30.

(a) 1978 c.30.

o'r fath ddod i rym.

Hawliau'r Goron

38.-(1) Ni fydd dim yn y Gorchymyn hwn yn effeithio'n niweidiol ar unrhyw ystad, hawl, pŵer, braint, awdurdod neu esemptiad o eiddo'r Goron ac, yn enwedig, ni fydd dim yn y Gorchymyn hwn yn awdurdodi'r ymgwymerwr i gymryd, defnyddio, mynd ar dir nac ymyrryd mewn unrhyw ffordd â thir, hereditamentau, neu hawliau o ba ddisgrifiad bynnag (gan gynnwys unrhyw ran o'r lan neu o wely'r môr neu unrhyw afon, sianel, cilfach, bae neu aber) sy'n perthyn i-

- (a) Ei Mawrhydi drwy hawl Ei Choron ac o dan reolaeth Comisiynwyr Ystad y Goron, heb gydsyniad ysgrifenedig y Comisiynwyr hynny; neu
- (b) adran o'r llywodraeth, neu a ddelir dan ymddiriedolaeth i'w Mawrhydi at ddibenion adran o'r llywodraeth, heb gydsyniad ysgrifenedig yr adran honno o'r llywodraeth.

(2) Caniateir rhoi cydsyniad o dan baragraff (1) yn ddi-amod neu yn ddarostyngedig i'r amodau hynny neu'r telerau hynny yr ystyrir eu bod yn angenrheidiol neu'n briodol.

Cymrodeddu

39. Rhaid cyfeirio unrhyw anghytundeb o dan unrhyw ddarpariaeth yn y Gorchymyn hwn (ac eithrio anghytundeb sydd i'w ddyfarnu gan y Tribiwnlys) i'w gymrodeddu a'i benderfynu gan un cymrodeddwr, y caiff y partïon gytuno ar ei benodi ond, os na allant gytuno, caiff ei benodi gan Lywydd Sefydliad y Peirianwyr Sifil ar gais y naill barti neu'r llall (ar ôl rhoi hysbysiad ysgrifenedig i'r llall).

Llofnodwyd gan y Gweinidog dros Gyllid, Llywodraeth Leol a Gwasanaethau Cyhoeddus ar ran Cynulliad Cenedlaethol Cymru

effect.

Crown rights

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

- (a) Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those Commissioners; or
- (b) a government department or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

(2) A consent under paragraph (1) may be given unconditionally or subject to such conditions or upon such terms as may be considered necessary or appropriate.

Arbitration

39. 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 notice in writing to the other) by the President of the Institution of Civil Engineers.

Signed by the Minister for Finance, Local Government and Public Services on behalf of the National Assembly for Wales

Sue Essex

16 Tachwedd 2004

16 November 2004

YR ATODLENNI

ATODLEN 1

Erthygl 2(1)

Y GWEITHFEYDD A RESTRWYD

1. Dyma'r gweithfeydd y mae'r ymgymwr wedi'i awdurdodi i'w hadeiladu a'u cynnal a'u cadw gan erthygl 3(1), sef y gweithfeydd canlynol ar wely Bae Abertawe sy'n cydffinio â'r arfordir rhwng Porthcawl ym Mwrdeistref Sirol Pen-y-bont ar Ogwr a Phort Talbot ym Mwrdeistref Sirol Castell-nedd Port Talbot, ac ar dir o fewn Bwrdeistref Sirol Castell-nedd Port Talbot-

Gwaith Rhif 1 - Gorsaf cynhyrchu trydan o ynni'r gwynt, sy'n cynnwys-

- (a) hyd at 30 o gynhyrchwyr tyrbinau gwynt sydd wedi'u gosod yn sownd wrth wely'r môr gan un neu fwy o byst neu seiliau disgyrchiant, ac sy'n ymestyn i uchder o hyd at 130.5 metr uwchben lefel y dwr uchel, sydd wedi'u gosod â llafnau sy'n cylchdroi ac a leolir yn y safleoedd a ganlyn-

Rhif y tyrbîn gwynt	Cyfeirbwynt - Dwyreiniad	Cyfeirbwynt - Gogleddiad
1	269103	177986
2	269219	177481
3	269361	176982
4	269828	178465
5	269928	177953
6	270057	177448
7	270214	176951
8	270569	178920
9	270651	178407
10	270763	177901
11	270907	177402
12	271081	176912
13	271368	178982
14	271440	178540
15	271537	178103
16	271660	177672

SCHEDULES

SCHEDULE 1

Article 2(1)

THE SCHEDULED WORKS

1. The works which the undertaker is authorised to construct and maintain by article 3(1) are the following works on the bed of Swansea Bay adjoining the coast between Porthcawl in the County Borough of Bridgend and Port Talbot in the County Borough of Neath Port Talbot and on land within the County Borough of Neath Port Talbot-

Work No. 1 - A wind energy electrical generating station consisting of-

- (a) up to 30 wind turbines generators fixed to the seabed by one or more piles or gravity foundations and extending to a height of up to 130.5 metres above the level of high water, fitted with rotating blades and situated at the following locations-

Wind turbine number	Reference point Easting	Reference point Northing
1	269103	177986
2	269219	177481
3	269361	176982
4	269828	178465
5	269928	177953
6	270057	177448
7	270214	176951
8	270569	178920
9	270651	178407
10	270763	177901
11	270907	177402
12	271081	176912
13	271368	178982
14	271440	178540
15	271537	178103
16	271660	177672

Rhif y tyrbîn gwynt	Cyfeirbwynt - Dwyreiniad	Cyfeirbwynt - Gogleddiad
17	271808	177250
18	271980	176836
19	272167	179040
20	272251	178566
21	272367	178099
22	272516	177641
23	272696	177195
24	272907	176762
25	272657	178920
26	273059	178614
27	273184	178160
28	273344	177716
29	273537	177286
30	273763	176872

Wind turbine number	Reference point Easting	Reference point Northing
17	271808	177250
18	271980	176836
19	272167	179040
20	272251	178566
21	272367	178099
22	272516	177641
23	272696	177195
24	272907	176762
25	272657	178920
26	273059	178614
27	273184	178160
28	273344	177716
29	273537	177286
30	273763	176872

(b) rhwydwaith o geblau sy'n cysylltu'r tyrbinau gwynt â'i gilydd.

Gwaith Rhif 2 - Cysylltiad rhwng Gwaith Rhif 1 a Gwaith Rhif 2A, sy'n cynnwys hyd at bedwar cebl bwydo i'r môr ar hyd llwybrau sy'n dechrau drwy gysylltu ag un neu fwy o'r tyrbinau, ac sy'n parhau tua'r gogledd-ddwyrain am 7.22 cilometr hyd nes iddynt gyrraedd y lan, ac sy'n gorffen drwy gysylltu â Gwaith Rhif 2A.

Gwaith Rhif 2A - Estyniad o'r ceblau a geir yng Ngwaith Rhif 2 sydd wedi'u claddu dan ddaear, gan ddechrau mewn blwch cyswllt wrth gyfeirbwynt 277406Dn, 184576G, ac sy'n ymestyn am 121 metr tua'r dwyrain ac sy'n gorffen yng Ngwaith Rhif 3.

Gwaith Rhif 3 - Is-orsaf drydan a leolir wrth 277527Dn, 184608G.

Gwaith Rhif 4 - Cysylltiad rhwng ceblau ar y tir a'r grid trydanol, sef dwy linell drydan, sy'n dechrau wrth Waith Rhif 3 ac a gludir uwchben tua'r gogledd-ddwyrain i gyfeirbwyntiau 278758E, 185469N ac 278784E, 185392N, wedyn yn mynd o dan ddaear ar draws cilffyrdd y rheilffyrdd a rheilffordd Abertawe i Lundain, gan derfynu wrth gysylltu â'r peilon trydan bresennol.

Gwaith Rhif 5 - Heol newydd sy'n rhoi mynediad i'r gwaith adeiladu a chynnal a chadw rhwng Gwaith Rhif 3 a'r heol a elwir ffordd yr harbwr.

2. Yn yr Atodlen hon, mae cyfeiriadau at leoliadau tyrbîn gwynt neu at is-orsaf drydanol yn gyfeiriadau at

(b) a network of cables connecting the wind turbines to each other.

Work No. 2 - A connection between Work No. 1 and Work No. 2A consisting of up to four marine feeder cables along routes commencing by connections with one or more of the wind turbines, then proceeding in a north-easterly direction for 7.22 kilometres until they reach the shore and terminating by a connection with Work No. 2A.

Work No. 2A - An extension of the cables comprised in Work No. 2 buried underground, commencing in a junction box at reference point 277406E, 184576N, extending for 121 metres in an easterly direction and terminating in Work No. 3.

Work No. 3 - An electrical substation situated at 277527E, 184608N.

Work No. 4 - An onshore cable connection with the electrical grid consisting of two electric lines, commencing at Work No. 3 and carried overhead in a north-easterly direction to reference points 278758E, 185469N and 278784E, 185392N, then proceeding underground across the railway sidings and Swansea to London railway and terminating by a connection with the existing electricity pylon.

Work No. 5 - A new road providing a construction and maintenance access between Work No. 3 and the road known as the harbour road.

2. In this Schedule, references to the locations of a wind turbine or an electrical substation are references

ganolbwynt y tyrbîn gwynt hwnnw neu'r is-orsaf honno fel a ddangosir ar blaniau'r gweithfeydd.

to the centre point of that wind turbine or substation as shown on the works plans.

ATODLEN 2

SCHEDULE 2

Erthygl 6(1)

Article 6(1)

STRYDOEDD SYDD I'W CAU DROS DRO

STREETS TO BE TEMPORARILY STOPPED UP

(1) <i>Ardal</i>	(2) <i>Stryd sydd i'w chau</i>	(3) <i>Rhychwant y cau dros dro</i>
Bwrdeistref Sirol Castell-nedd Port Talbot	Heol Caer Bont a Llwybr Troed Rhif 92	Rhwng pwyntiau B ac F
Bwrdeistref Sirol Castell-nedd Port Talbot	Heol Caer Bont	Rhwng pwyntiau A a B
Bwrdeistref Sirol Castell-nedd Port Talbot	Llwybr Troed Rhif 93	Rhwng pwyntiau C a D
Bwrdeistref Sirol Castell-nedd Port Talbot	Ffordd breifat yng Ngweithfeydd Dur Port Talbot	Rhwng pwyntiau G ac H

(1) <i>Area</i>	(2) <i>Street to be stopped up</i>	(3) <i>Extent of temporary stopping up</i>
County Borough of Neath Port Talbot	Heol Caer Bont and Footpath No. 92	Between points B and F
County Borough of Neath Port Talbot	Heol Caer Bont	Between points A and B
County Borough of Neath Port Talbot	Footpath No. 93	Between points C and D
County Borough of Neath Port Talbot	Private road in Port Talbot Steel Works	Between points G and H

Erthygl 20(6)

Article 20(6)

ADDASU DEDDFIADAU PRYNU
GORFODOL A IAWNDAL I GREU
HAWLIAU NEWYDD

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

Deddfiadau iawndal

Compensation enactments

1. Mae'r deddfiadau sydd mewn grym ar hyn o bryd o ran talu iawndal am brynu tir yn orfodol yn gymwys, gyda'r addasiadau angenrheidiol o ran yr iawndal yn achos caffael hawl yn orfodol o dan y Gorchymyn hwn drwy greu hawl newydd, fel y maent yn gymwys o ran talu iawndal am brynu tir a buddiannau mewn tir yn orfodol.

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 as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.-(1) Heb ragfarn i baragraff 1 yn gyffredinol, mae Deddf Iawndal Tir 1973(a) mewn grym yn ddarostyngedig i'r addasiadau a geir yn is-baragraffau (2) a (3).

2.-(1) Without prejudice to the generality of paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in subparagraphs (2) and (3).

(2) Yn adran 44(1) (iawndal am effaith niweidiol), fel y mae'n gymwys i iawndal am effaith niweidiol o dan adran 7 o Ddeddf 1965 fel y'i hamnewidiwyd gan baragraff 4, yn lle'r geiriau-

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4, for the words-

- (a) "land is acquired or taken" rhodder y geiriau "a right over land is purchased"; a
- (b) "acquired or taken from him" rhodder y geiriau "over which the right is exercisable".

- (a) "land is acquired or taken" there is substituted the words "a right over land is purchased"; and
- (b) "acquired or taken from him" there is substituted the words "over which the right is exercisable".

(3) Yn adran 58(1) (penderfynu ar niwed sylweddol pan fo rhan o dŷ etc. wedi'i fwriadu ar gyfer ei gaffael yn orfodol), fel y mae'n gymwys i benderfyniadau o dan adran 8 o Ddeddf 1965 fel y'i hamnewidiwyd gan baragraff 5-

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5, for the-

- (a) yn lle'r gair "part" ym mharagraffau (a) a (b), rhodder y geiriau "a right over land consisting";
- (b) yn lle'r gair "severance" rhodder y geiriau "right over the whole of the house, building or manufactory or of the house and the park or garden";
- (c) yn lle'r geiriau "part proposed" rhodder y geiriau "right proposed"; ac
- (ch) yn lle'r geiriau "part is", rhodder y geiriau "right is".

- (a) word "part" in paragraphs (a) and (b) there is substituted the words "a right over land consisting";
- (b) word "severance" there is substituted the words "right over the whole of the house, building or manufactory or of the house and the park or garden";
- (c) words "part proposed" there is substituted the words "right proposed"; and
- (d) words "part is" there is substituted the words "right is".

(a) 1973 p.26.

(a) 1973 c.26.

Addasu Deddf 1965

3.-(1) Mae Deddf 1965 yn effeithiol gyda'r addasiadau sy'n angenrheidiol er mwyn ei gwneud yn gymwys i gaffael hawl yn orfodol o dan y Gorchymyn hwn drwy greu hawl newydd fel y mae'n gymwys i gaffael tir yn orfodol o dan y Gorchymyn hwn, fel bod cyfeiriadau yn y Ddeddf honno at dir, mewn cyd-destunau priodol, i'w darllen (yn unol â gofynion y cyd-destun penodol) fel pe baent yn cyfeirio at, neu'n cynnwys cyfeiriadau at-

- (a) yr hawl a gaffaelwyd neu sydd i'w chaffael; neu
- (b) y tir y mae'r hawl yn arferadwy drosto, neu y bydd yn arferadwy drosto.

(2) Heb ragfarn i is-baragraff (1) yn gyffredinol, mae Rhan I o Ddeddf 1965 yn gymwys mewn perthynas â chaffael hawl yn orfodol o dan y Gorchymyn hwn drwy greu hawl newydd gyda'r addasiadau a bennir yn y darpariaethau a ganlyn yn yr Atodlen hon.

4. Yn lle adran 7 o Ddeddf 1965 (mesur yr iawndal), rhodder yr adran a ganlyn-

"7. In assessing the compensation to be paid by the acquiring authority under this Order regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right 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 his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act."

5. Yn lle adran 8 o Ddeddf 1965 (sy'n ymwneud ag achosion pan nad oes modd gorfodi gwerthwr i werthu rhan yn unig o adeilad neu o ardd), rhodder yr hyn a ganlyn-

"8.-(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house ("the relevant land")-

- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal ("the Tribunal"); and
- (b) before the Tribunal has determined that question the person satisfies the Tribunal that [he] has an interest which [he] is able and willing to sell in the whole of the relevant land and, where that land consists of-
 - (i) a house, building or manufactory, that the right cannot be purchased without material detriment to that land; or

Adaptation of the 1965 Act

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

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

(2) Without prejudice to the generality of subparagraph (1), Part I of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

4. For section 7 of the 1965 Act (measure of compensation), there is substituted the following section-

"7. In assessing the compensation to be paid by the acquiring authority under this Order regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right 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 his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act."

5. For section 8 of the 1965 Act (which relates to cases in which a vendor cannot be required to sell part only of a building or garden), there is substituted the following-

"8.-(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house ("the relevant land")-

- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal ("the Tribunal"); and
- (b) before the Tribunal has determined that question the person satisfies the Tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and, where that land consists of-
 - (i) a house, building or manufactory, that the right cannot be purchased without material detriment to that land; or

- (ii) such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

the Scarweather Sands Offshore Wind Farm Order 2004 ("the Order") [shall], in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person's interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the Tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section shall be determined by the tribunal.

(3) Where, in consequence of a determination of the Tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice."

6. Addasir darpariaethau canlynol Deddf 1965 (sy'n datgan effaith gweithred unrhan a weithredwyd mewn amgylchiadau amrywiol pan nad oes trawsgludiad gan bersonau sydd â buddiannau yn y tir), sef-

- (a) adran 9(4) (perchenogion yn methu â thrawsgludo);
- (b) paragraff 10(3) o Atodlen 1 (perchenogion ag analluogrwydd);
- (c) paragraff 2(3) o Atodlen 2 (perchenogion absennol a pherchenogion nad oes modd cysylltu â hwy); ac
- (ch) paragraffau 2(3) a 7(2) o Atodlen 4 (tir comin),

er mwyn sicrhau bod yr hawl sydd i'w chaffael yn orfodol wedi'i breinio yn llwyr yn yr awdurdod caffael, a hynny yn erbyn personau sydd â buddiannau yn y tir y mae'r weithred yn datgan y dylid eu gor-redeg.

7. Addasir adran 11 o Ddeddf 1965 (pwerau mynediad) er mwyn sicrhau, o'r dyddiad y cyhoeddodd awdurdod caffael hysbysiad i drafod mewn perthynas ag unrhyw hawl, bod ganddo'r pŵer, sy'n arferadwy o dan amgylchiadau tebyg ac yn ddarostyngedig i amodau tebyg, i fynd ar dir at ddibenion arfer yr hawl honno (ac, at y diben hwn, bernir i'r pŵer gael ei greu ar ddyddiad cyflwyno'r hysbysiad); ac addasir

- (ii) such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

the Scarweather Sands Offshore Wind Farm Order 2004 ("the Order") shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person's interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the Tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section shall be determined by the tribunal.

(3) Where, in consequence of a determination of the Tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice."

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

- (a) section 9(4) (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 so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

7. Section 11 of the 1965 Act (powers of entry) is modified so as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which will be deemed for this purpose to have been created on the date of service of the notice); and

adrannau 12 (cosb am fynd ar dir heb awdurdod) ac 13 (mynediad ar dir â gwarant os digwydd rhwystr) o Ddeddf 1965 yn unol â hynny.

8. Mae adran 20 o Ddeddf 1965 (diogelu buddiannau tenantiaid wrth ewyllys etc.) yn gymwys gyda'r addasiadau sydd eu hangen i sicrhau bod personau gyda'r buddiannau hynny mewn tir fel a grybwyllir yn yr adran honno yn cael eu digolledu mewn modd sy'n cyfateb i'r modd y cânt eu digolledu am gaffaeliad gorfodol o'r tir hwnnw o dan y Gorchymyn hwn, ond gan ystyried dim ond hyd a lled yr ymyrraeth honno (os oes o gwbl) â'r buddiant hwnnw a achosir, neu sy'n debygol o gael ei hachosi, drwy arfer yr hawl o dan sylw.

9. Addasir adran 22 o Ddeddf 1965 (buddiannau a hepgorwyd o'r prynu) er mwyn galluogi'r awdurdod caffael, o dan amgylchiadau sy'n cyfateb i'r rheini y cyfeirir atynt yn yr adran honno, i barhau i gael yr hawl i arfer yr hawl a gaffaelwyd, yn ddarostyngedig i gydymffurfio â'r adran honno o ran digolledu.

sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act will be modified correspondingly.

8. Section 20 of the 1965 Act (protection for interests of tenants at will etc.) 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 in question.

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

ATODLEN 4

SCHEDULE 4

Erthygl 30

Article 30

DARPARIAETHAU O RAN YMGYMERWYR STATUDOL, ETC.

PROVISIONS RELATING TO STATUTORY UNDERTAKERS, ETC.

Cyfarpar ymgwymerwyr statudol, etc. ar dir a gaffaelwyd

Apparatus of statutory undertakers, etc. on land acquired

1.-(1) Mae adrannau 271 i 274 o Ddeddf 1990 (y pŵer i ddileu hawliau ymgwymerwyr statudol, etc. a phŵer ymgwymerwyr statudol etc. i symud neu ailosod cyfarpar) yn gymwys mewn perthynas ag unrhyw dir a gaffaelwyd neu a berchnogwyd gan yr ymgwymerwr o dan y Gorchymyn hwn neu y caffaelodd yr ymgwymerwr hawliau drosto o dan erthygl 20 o'r Gorchymyn hwn, yn ddarostyngedig i'r darpariaethau a ganlyn o'r paragraff hwn; ac mae holl ddarpariaethau eraill y Ddeddf honno sy'n gymwys at ddibenion y darpariaethau hynny (gan gynnwys adrannau 275 i 278, sy'n cynnwys darpariaethau sy'n ganlyniadol i ddileu unrhyw hawliau o dan adrannau 271 a 272, ac adrannau 279(2) i (4), 280 a 282, sy'n darparu ar gyfer talu iawndal) yn effeithiol yn unol â hynny.

1.-(1) Sections 271 to 274 of the 1990 Act (power to extinguish rights of statutory undertakers, etc. and power of statutory undertakers, etc. to remove or re-site apparatus) applies in relation to any land acquired or appropriated by the undertaker under this Order or over which the undertaker has acquired rights under article 20 of this Order subject to the following provisions of this paragraph; and all such other provisions of that Act as apply for the purposes of those provisions (including sections 275 to 278, which contain provisions consequential on the extinguishment of any rights under sections 271 and 272, and sections 279(2) to (4), 280 and 282, which provide for the payment of compensation) have effect accordingly.

(2) Yn narpariaethau Deddf 1990, fel y'u cymhwyswyd gan is-baragraff (1), mae cyfeiriadau at y Gweinidog priodol yn gyfeiriadau at yr Ysgrifennydd Gwladol, neu, mewn perthynas ag ymgwymerwyr dŵr neu garthffosiaeth, at y Cynulliad Cenedlaethol.

(2) In the provisions of the 1990 Act, as applied by sub-paragraph (1), references to the appropriate Minister are references to the Secretary of State or, in relation to water or sewerage undertakers, to the National Assembly.

(3) Pan symudir unrhyw gyfarpar sydd at ddefnydd y cyfleustodau cyhoeddus neu ddarparwyr cyfathrebu cyhoeddus yn unol â hysbysiad neu orchymyn a roddwyd neu a wnaed o dan adran 271, 272 neu 273 o

(3) Where any apparatus of public utility undertakers or of a public communications provider is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the 1990 Act, as applied by

Ddeddf 1990, fel y'u cymhwyswyd gan is-baragraff (1), bydd gan unrhyw berson sy'n berchen ar, neu'n meddu ar, fangre a oedd yn cael cyflenwad o'r cyfarpar hwnnw yr hawl i gael iawndal gan yr ymgwymerwr o ran gwariant a dynnwyd yn rhesymol gan y person hwnnw, at ddibenion creu cysylltiad rhwng y mangreoedd ac unrhyw gyfarpar arall sy'n rhoi cyflenwad.

(4) Ni fydd is-baragraff (3) yn gymwys yn achos symud carthffos gyhoeddus ond, pan symudir y garthffos honno yn unol â hysbysiad neu orchymyn fel a grybwyllir yn y paragraff hwnnw, bydd unrhyw berson-

- (a) sy'n berchen neu sy'n meddu ar y fangre sydd â'i draeniau'n gysylltiedig â'r garthffos honno; neu
- (b) sy'n berchen ar garthffos breifat sy'n gysylltiedig â'r garthffos honno;

â'r hawl i gael iawndal gan yr ymgwymerwr mewn perthynas â gwariant a dynnwyd yn rhesymol gan y person hwnnw, yn sgil y symud, at ddibenion cysylltu draen neu garthffos y person hwnnw ag unrhyw garthffos gyhoeddus arall neu â gweithfeydd preifat i waredu carthion.

(5) Ni fydd darpariaethau Deddf 1990 a grybwyllir yn is-baragraff (1), fel y cânt eu cymhwyso gan yr is-baragraff hwnnw, â grym mewn perthynas â'r cyfarpar y mae Rhan III o'r Ddeddf Gwaith Stryd yn gymwys mewn perthynas ag ef.

(6) Yn y paragraff hwn-

mae i "darparwr cyfathrebu cyhoeddus" yr un ystyr ag sydd i "*public communications provider*" yn adran 151(1) o Ddeddf Cyfathrebu 2003(a);

ystyr "Deddf 1990" ("*the 1990 Act*") yw Deddf Cynllunio Gwlad a Thref 1990; ac

mae i "ymgwymerwyr cyfleustodau cyhoeddus" yr un ystyr ag sydd i "*public utility undertakers*" yn Neddf Priffyrdd 1980(b).

2. Nid yw'r pwerau a roddir gan y Gorchymyn hwn yn ymestyn i awdurdodi caffael neu gysylltu â'r peilon trydan presennol, heb gydsyniad yr ymgwymerwr trydan trwyddedig y mae'r peilon wedi'i freinio ynddo o bryd i'w gilydd.

sub-paragraph (1), any person who is the owner or occupier of premises to which a supply was given from that apparatus will be 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.

(4) Sub-paragraph (3) does not apply in the case of the removal of a public sewer but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that paragraph, any person who is the-

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

will be 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 that person's drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

(5) The provisions of the 1990 Act mentioned in sub-paragraph (1), as applied by that sub-paragraph, do not have effect in relation to apparatus as respects which Part III of the Street Works Act applies.

(6) In this paragraph-

"the 1990 Act" ("*Deddf 1990*") means the Town and Country Planning Act 1990;

"public communications provider" ("*darparwr cyfathrebu cyhoeddus*") has the same meaning as in section 151(1) of the Communications Act 2003(a); and

"public utility undertakers" ("*ymgwymerwyr cyfleusterau cyhoeddus*") has the same meaning as in the Highways Act 1980(b).

2. The powers conferred by this Order do not extend to authorising any acquisition of, or the making of a connection to, the existing electricity pylon without the consent of the licensed electricity undertaker in whom the pylon is vested from time to time.

(a) 2003 p.21.
(b) 1980 p.66.

(a) 2003 c.21.
(b) 1980 c.66.

ER MWYN DIOGELU ASIANTAETH YR
AMGYLCHEDDFOR PROTECTION OF ENVIRONMENT
AGENCY

1.-(1) Er mwyn diogelu Asiantaeth yr Amgylchedd (y cyfeirir ati yn yr Atodlen hon fel "yr Asiantaeth"), bydd y darpariaethau a ganlyn mewn effaith oni chytunir fel arall yn ysgrifenedig rhwng yr ymgwymerwr a'r Asiantaeth.

(2) Cyn cyflawni unrhyw waith o dan bwerau'r Gorchymyn hwn sy'n ymwneud ag adeiladu neu godi unrhyw rhwystr i lif unrhyw gwrs dŵr nad yw'n rhan o brif afon o fewn ystyr adran 113 o Ddeddf Adnoddau Dŵr 1991(a) neu adeiladu, addasu neu ailosod unrhyw gylfat neu unrhyw strwythur a ddyluniwyd i gadw neu i ddargyfeirio llif unrhyw gwrs dŵr felly mewn, o dan neu drwy unrhyw dir a ddelir at ddibenion neu mewn cysylltiad â'r gweithfeydd awdurdodedig, rhaid i'r ymgwymerwr roi planiau priodol a digonol ohono i'r Asiantaeth er mwyn iddi eu cymeradwyo, ac ni ddylid mynd ati i wneud y gwaith arfaethedig hyd nes i'r planiau hynny gael eu cymeradwyo yn ysgrifenedig gan yr Asiantaeth.

(3) Ni ddylid gwrthod, yn afresymol, gymeradwyo'r planiau a roddwyd ac, os nad yw'r Asiantaeth wedi cyfleu yn ysgrifenedig nad yw'n bwriadu eu cymeradwyo gan roi ei rhesymau dros hynny o fewn deufis o gyflwyno'r planiau i'r Asiantaeth, bernir i'r Asiantaeth gymeradwyo'r planiau fel y'u cyflwynwyd hwy.

(4) At ddibenion y paragraff hwn, mae "planiau" ("*plans*") yn cynnwys trawsluniau, darluniau, manylebau, cyfrifiadau a disgrifiadau.

(5) Rhaid i unrhyw gylfat neu unrhyw strwythur sydd wedi'i dylunio i gadw neu i ddargyfeirio llif unrhyw gwrs dŵr, sef cylfat neu strwythur a leolir o fewn unrhyw dir a ddelir gan yr ymgwymerwr at ddibenion neu mewn cysylltiad â'r gweithfeydd awdurdodedig, boed wedi'i hadeiladu o dan bwerau'r Gorchymyn hwn neu wedi'i hadeiladu cyn i'r Gorchymyn hwn gael ei wneud, gael ei chynnal a'i chadw gan yr ymgwymerwr mewn cyflwr da ac yn rhydd o unrhyw rhwystr.

(6) Ni fydd effaith unrhyw beth ym mharagraff (5) yn ei gwneud yn ofynnol i'r ymgwymerwr gyflawni gwaith cynnal a chadw mewn perthynas ag unrhyw gylfat neu strwythur y mae'r Asiantaeth neu unrhyw berson arall yn atebol i'w chynnal.

(7) Os adeiladir neu godir unrhyw rwystr, neu os adeiladir, addasir neu ailosodir unrhyw gylfat yn groes i'r erthygl hon, rhaid i'r ymgwymerwr, pan dderbynia hysbysiad yr Asiantaeth, gymryd y camau hynny sy'n

1.-(1) For the protection of the Environment Agency (in this Schedule referred to as "the Agency"), the following provisions have effect unless otherwise agreed in writing between the undertaker and the Agency.

(2) Before carrying out any works under the powers of this Order involving the erection or raising of any obstruction to the flow of any watercourse which is not part of a main river within the meaning of section 113 of the Water Resources Act 1991(a) or the construction, alteration or replacement of any culvert or any structure designed to contain or divert the flow of any such watercourse in, under or through any land held for the purposes of or in connection with the authorised works, the undertaker must furnish to the Agency proper and sufficient plans thereof for the approval of the Agency and must not carry out the said works until the said plans have been approved in writing by the Agency.

(3) The approval of plans furnished under paragraph (2) is not to be unreasonably withheld and if, within two months of such plans being supplied to the Agency, the Agency does not indicate in writing its disapproval and the grounds of its disapproval, it will be deemed to have approved the plans as supplied.

(4) For the purposes of this paragraph, "plans" ("*planiau*") includes sections, drawings, specifications, calculations and descriptions.

(5) Any culvert or any structure designed to contain or divert the flow of any watercourse being a culvert or structure situated within any land held by the undertaker for purposes of or in connection with the authorised works, whether constructed under the powers of this Order or in existence prior to the making hereof, must be maintained by the undertaker in good repair and condition and free from obstruction.

(6) Nothing in paragraph (5) has the effect of requiring the undertaker to carry out works of maintenance in respect of any culvert or structure which the Agency or any other person are liable to maintain.

(7) If any obstruction is erected or raised or any culvert is constructed, altered or replaced in contravention of this article, the undertaker must, upon receiving notice from the Agency, take such action as

(a) 1991 p.57.

(a) 1991 c.57.

angenrheidiol i wella effaith mynd yn groes i'r erthygl hon hyd nes bod yr Asiantaeth wedi'i bodloni'n rhesymol, ac, fel arall, caiff yr Asiantaeth ei hunan gymryd y camau hynny sy'n angenrheidiol gan adennill y costau a dynnwyd yn rhesymol wrth wneud hynny oddi wrth yr ymgymerwr fel dyled rhyngddo ef a'r Asiantaeth.

(8) Rhaid i unrhyw wahaniaethau rhwng yr ymgymerwr a'r Asiantaeth o dan yr Atodlen hon (ac eithrio gwahaniaeth ynglyn â'i hystyr neu ei dehongliad) gael eu penderfynu drwy gymrodeddu.

may be necessary to remedy the effect of the contravention to the Agency's reasonable satisfaction and in default the Agency may itself take such action as may be necessary and recover the expenses reasonably incurred by it in doing so from the undertaker as a debt from them to the Agency.

(8) Any difference arising between the undertaker and the Agency under this Schedule (other than a difference as to its meaning or construction) is to be determined by arbitration.

ATODLEN 6

SCHEDULE 6

Erthygl 32

Article 32

ER MWYN DIOGELU NETWORK RAIL

FOR PROTECTION OF NETWORK RAIL

Rhagarweiniad

Introductory

1.-(1) Bydd darpariaethau canlynol yr Atodlen hon yn effeithiol oni chytunir fel arall yn ysgrifenedig rhwng yr ymgymerwr a Network Rail.

1.-(1) The following provisions of this Schedule have effect unless otherwise agreed in writing between the undertaker and Network Rail.

(2) Yn yr Atodlen hon-

(2) In this Schedule-

mae "adeiladu" ("*construction*", "*construct*") yn cynnwys gweithredu, gosod, addasu ac ailadeiladu ac mae i "wedi adeiladu" ("*constructed*") ystyr gyfatebol;

"construction" ("*adeiladu*") includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

ystyr "cwmni cysylltiedig perthnasol" ("*relevant associated company*") yw unrhyw gwmni sydd (o fewn ystyr adran 736 o Ddeddf Cwmnïau 1985(a)) yn gwmni daliannol i Network Rail Infrastructure Limited, yn is-gwmni i Network Rail Infrastructure Limited, neu i is-gwmni arall cwmni daliannol Network Rail Infrastructure Limited, ac, yn unrhyw achos o'r fath, yn dal neu'n defnyddio eiddo at ddibenion rheilffyrdd;

"the engineer" ("*y peiriannydd*") means an engineer to be appointed by Network Rail for the purpose in question;

ystyr "eiddo'r rheilffyrdd" ("*railway property*") yw unrhyw rheilffordd sy'n perthyn i Network Rail ac unrhyw weithfeydd, cyfarpar ac offer sy'n perthyn i Network Rail neu gwmni cysylltiedig perthnasol sy'n gysylltiedig ag unrhyw reilffordd o'r fath, ac sy'n cynnwys unrhyw dir a ddelir neu a ddefnyddir gan Network Rail neu gwmni cysylltiedig perthnasol at ddibenion y rheilffordd, y gweithfeydd, y cyfarpar neu'r offer hynny.

"plans" ("*planiau*") includes sections, designs, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction) and programmes;

"protective works" ("*gweithfeydd diogelu*") means works specified by the engineer under paragraph 5(1);

ystyr "gwaith perthnasol" ("*relevant work*") yw-

"Network Rail" means Network Rail Infrastructure Limited except that any reference to costs or losses incurred or suffered by Network Rail includes reference to costs or losses incurred or suffered by any relevant associated company;

(a) pa faint bynnag o unrhyw weithfeydd awdurdodedig sydd wedi'i leoli ar, ar draws, o dan, dros, o fewn 15 metr o, neu a all gael unrhyw effaith niweidiol ar, eiddo'r rheilffyrdd; a

"relevant associated company" ("*cwmni cysylltiedig perthnasol*") means any company which is (within the meaning of section 736 of the Companies Act 1985(a)) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and, in any of these cases, holds or uses property for railway purposes;

(b) i'r graddau nad yw'n waith

(a) 1985 p.6.

(a) 1985 c.6.

awdurdodedig, unrhyw waith diogelu a adeiladwyd gan yr ymgwymerwr;

ystyr "gweithfeydd diogelu" ("*protective works*") yw gweithfeydd a bennir gan y peiriannydd o dan baragraff 5(1);

ystyr "*Network Rail*" yw Network Rail Infrastructure Limited, ac eithrio'r ffaith bod unrhyw gyfeiriad at gostau neu at golledion a welwyd gan Network Rail yn cynnwys cyfeiriad at y costau neu'r colledion a welwyd gan unrhyw gwmmi cysylltiedig perthnasol;

ystyr "y peiriannydd" ("*the engineer*") yw peiriannydd sydd i'w benodi gan Network Rail at y diben o dan sylw; ac

mae ystyr "planiau" ("*plans*") yn cynnwys trawsluniau, dyluniadau, darluniau, manylebau, adroddiadau ar bridd, cyfrifiadau, disgrifiadau (gan gynnwys disgrifiadau o ddulliau adeiladu) a rhaglenni.

Y pwerau sydd angen cydsyniad Network Rail

2.-(1) Rhaid i'r ymgwymerwr, wrth arfer y pwerau gorfodol a roddir gan neu o dan y Gorchymyn hwn, beidio â chaffael neu ddefnyddio, na chaffael hawliau newydd dros unrhyw eiddo'r rheilffyrdd, oni bai i Network Rail gydsynio i arfer y pwerau hynny.

(2) Rhaid i'r ymgwymerwr beidio ag arfer y pwerau a roddir gan erthygl 7 na'r pwerau a roddir gan adran 11(3) o Ddeddf 1965 mewn perthynas ag unrhyw eiddo'r rheilffyrdd, oni bai i Network Rail gydsynio i arfer y pwerau hynny.

(3) Rhaid i'r ymgwymerwr, wrth arfer y pwerau a roddir gan neu o dan y Gorchymyn hwn, beidio â gwrthod mynediad i unrhyw eiddo'r rheilffyrdd i gerddwyr nac i gerbydau, oni bai i Network Rail gydsynio i hynny.

(4) Rhaid i'r ymgwymerwr beidio ag arfer y pwerau a roddir gan adran 271 neu 272 o Ddeddf Cynllunio Gwlad a Thref 1990, fel y'u cymhwyswyd gan Atodlen 4 i'r Gorchymyn hwn, mewn perthynas ag unrhyw hawl mynediad sydd gan Network Rail i eiddo'r rheilffyrdd, ond caniateir dargyfeirio'r hawl honno yda chydsyniad Network Rail.

(5) Pan ofynnir i Network Rail gydsynio o dan y paragraff hwn, ni chaniateir gwrthod nac oedi rhag cydsynio, a hynny yn afresymol, ond gellir cydsynio yn ddarostyngedig i amodau rhesymol.

Cymeradwyo planiau

3.-(1) Cyn dechrau adeiladu unrhyw weithfeydd perthnasol, rhaid i'r ymgwymerwr roi planiau priodol a digonol o'r gweithfeydd hynny i Network Rail i'r peiriannydd gael eu cymeradwyo yn rhesymol, ac ni

"railway property" ("*eiddo'r rheilffyrdd*") means any railway belonging to Network Rail and any works, apparatus and equipment belonging to Network Rail or a relevant associated company connected with any such railway and includes any land held or used by Network Rail or a relevant associated company for the purposes of such railway or works, apparatus or equipment;

"relevant work" ("*gwaith perthnasol*") means-

- (a) so much of any of the authorised works as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property; and
- (b) to the extent that it is not an authorised work, any protective work constructed by the undertaker.

Powers requiring Network Rail's consent

2.-(1) The undertaker must not, in the exercise of the compulsory powers conferred by or under this Order, acquire or use, or acquire new rights over, any railway property, unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not exercise the powers conferred by article 7 or the powers conferred by section 11(3) of the 1965 Act in respect of any railway property, unless the exercise of such powers is with the consent of Network Rail.

(3) The undertaker must not in the exercise of the powers conferred by or under this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(4) The undertaker must not exercise the powers conferred by section 271 or 272 of the Town and Country Planning Act 1990, as applied by Schedule 4 to this Order, in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(5) Where Network Rail is asked to give its consent under this paragraph, such consent is not to be unreasonably withheld or delayed, but may be given subject to reasonable conditions.

Approval of plans

3.-(1) The undertaker must, before commencing construction of any relevant work, supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and must not

chaiff yr ymgwymerwr ddechrau adeiladu unrhyw weithfeydd perthnasol hyd nes i blaniau'r gweithfeydd gael eu cymeradwyo yn ysgrifenedig gan y peiriannydd, neu eu cytuno drwy gymrodeddu.

(2) Ni chaniateir gwrthod nac oedi cymeradwyaeth y peiriannydd o dan is-baragraff (1) yn afresymol, ac, os nad yw'r peiriannydd wedi dangos nad yw'n cymeradwyo'r planiau hynny a'r rhesymau sy'n sail i'w anghymeradwyaeth erbyn diwedd cyfnod o 56 o ddiwrnodau, gan ddechrau gyda'r dyddiad y cyflwynwyd y planiau hynny i Network Rail, bernir i'r peiriannydd gymeradwyo'r planiau fel y'u darparwyd hwy.

Network Rail yn dewis adeiladu'r gweithfeydd perthnasol ei hunan

4.-(1) Os bydd Network Rail yn ystyried, yn rhesymol, bod unrhyw weithfeydd perthnasol neu unrhyw ran o weithfeydd perthnasol yn effeithio ar sefydlogrwydd eiddo'r rheilffyrdd neu ar weithredu traffig yn ddiogel ar ei reilffyrdd neu y gall wneud hynny, caiff ddewis adeiladu'r gweithfeydd perthnasol neu ran ohonynt ei hunan drwy hysbysu'r ymgwymerwr, gan bennu'r gweithfeydd neu'r rhan ohonynt sydd o dan sylw ("y gweithfeydd a bennwyd") ("*the specified work*") a datgan ei fod yn dymuno adeiladu'r gwaith hwnnw neu ran ohono.

(2) Ni chaniateir rhoi hysbysiad o ddewis felly o dan is-baragraff (1) ar ôl i'r cyfnod o 56 o ddiwrnodau, gan ddechrau gyda'r dyddiad y cyflwynwyd y planiau o'r gweithfeydd a bennwyd i Network Rail o dan baragraff 3, ddod i ben.

(3) Ar ôl i Network Rail ddewis felly, o dan is-baragraff (1), ni chaniateir i neb ac eithrio Network Rail adeiladu'r gweithfeydd a bennwyd, a hynny yn unol ag is-baragraff (4).

(4) Os yw'r ymgwymerwr yn cadarnhau ei fod yn dymuno i'r gweithfeydd a bennwyd gael eu hadeiladu, rhaid i Network Rail eu hadeiladu ar ran yr ymgwymerwr (ynghyd ag unrhyw ran gydffiniol o unrhyw waith perthnasol y gall yr ymgwymerwr ofyn yn rhesymol am eu hadeiladu ar yr un pryd â'r gweithfeydd a bennwyd)-

- (a) â phob brys rhesymol;
- (b) fel bod yr ymgwymerwr yn rhesymol fodlon;
- (c) yn unol â'r planiau a gymeradwywyd neu a gytunwyd o dan baragraff 3; ac
- (ch) dan oruchwyliaeth yr ymgwymerwr (pan fo'n briodol ac os y'i rhoddir).

Gwaith diogelu

5.-(1) Pan fo'n dangos ei fod yn cymeradwyo planiau unrhyw weithfeydd perthnasol, caiff y peiriannydd bennu unrhyw waith diogelu (boed hynny'n barhaol

commence construction of any relevant work until plans of that work have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) is not to be unreasonably withheld or delayed, and if by the end of the period of 56 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not indicated disapproval of those plans and the grounds of his disapproval, the engineer will be deemed to have approved the plans as submitted.

Election by Network Rail to construct relevant work itself

4.-(1) If Network Rail reasonably considers that any relevant work or any part of a relevant work will or may affect the stability of railway property or the safe operation of traffic on its railways, it may elect to construct that relevant work or that part itself by giving notice to the undertaker specifying the work or part in question ("the specified work") ("*y gweithfeydd a bennwyd*") and stating that it desires to construct that work or part.

(2) Notice of an election under sub-paragraph (1) cannot be given after the end of the period of 56 days beginning with the date on which plans of the specified work have been supplied to Network Rail under paragraph 3.

(3) Following an election by Network Rail under sub-paragraph (1), the specified work must not be constructed except by Network Rail in accordance with sub-paragraph (4).

(4) If the undertaker confirms that it desires the specified work to be constructed, Network Rail must construct it (together with any adjoining part of any relevant work which the undertaker reasonably requires to be constructed in one operation with the specified work) on the undertaker's behalf-

- (a) with all reasonable dispatch;
- (b) to the reasonable satisfaction of the undertaker;
- (c) in accordance with the plans approved or settled under paragraph 3; and
- (d) under the supervision (where appropriate and if given) of the undertaker.

Protective works

5.-(1) When signifying approval of the plans of any relevant work, the engineer may specify any protective works (whether temporary or permanent) which the

neu dros dro) y mae'n ei ystyried yn rhesymol y dylid ei wneud cyn cychwyn ar y gweithfeydd perthnasol er mwyn sicrhau diogelwch neu sefydlogrwydd eiddo'r rheilffyrdd ac er mwyn parhau i weithredu rheilffyrdd Network Rail, neu wasanaethau'r gweithredwyr sy'n defnyddio'r rheilffyrdd hynny, yn ddiogel ac yn effeithlon; a chaiff y cyfryw waith diogelu gynnwys adleoli unrhyw waith, cyfarpar ac offer sydd eu hangen yn sgil y gweithfeydd perthnasol.

(2) Rhaid i unrhyw waith diogelu gael ei adeiladu gan Network Rail neu gan yr ymgwymerwr, os yw Network Rail yn dymuno hynny, â phob brys rhesymol; a rhaid i'r ymgwymerwr beidio â dechrau adeiladu'r gweithfeydd perthnasol hyd nes i'r peiriannydd hysbysu'r ymgwymerwr fod y gwaith diogelu wedi'i gwblhau hyd at safon y mae'r peiriannydd yn rhesymol fodlon â hi.

Adeiladu'r gweithfeydd perthnasol

6.-(1) Ar ôl ei gychwyn, rhaid adeiladu unrhyw waith perthnasol-

- (a) â phob brys rhesymol yn unol â'r planiau a gymeradwywyd neu a gytunwyd o dan baragraff 3;
- (b) o dan oruchwyliaeth y peiriannydd (pan fo'n briodol ac os y'i rhoddir) a hyd nes ei fod yn rhesymol fodlon;
- (c) yn y fath fodd fel yr achosir cyn lleied o ddifrod â phosibl i eiddo'r rheilffyrdd; ac
- (ch) i'r graddau y mae'n rhesymol ymarferol, fel na fydd yn ymyrryd â defnydd rhydd, di-dor a diogel unrhyw un o reilffyrdd Network Rail neu'r traffig ar y rheilffyrdd hynny a defnydd teithwyr o eiddo'r rheilffyrdd, nac yn rhwystro defnydd felly.

(2) Os digwydd i'r ymgwymerwr achosi unrhyw ddifrod i eiddo'r rheilffyrdd wrth, neu o ganlyniad i, adeiladu unrhyw weithfeydd perthnasol, rhaid iddo wneud yn iawn am y difrod hwnnw cyn gynted ag y bo'n rhesymol ymarferol.

Mynediad

7. Rhaid i'r ymgwymerwr-

- (a) darparu cyfleusterau rhesymol i'r peiriannydd i gael mynediad at unrhyw weithfeydd perthnasol yn ystod cyfnod yr adeiladu, a hynny ar bob adeg; a
- (b) rhoi'r holl wybodaeth y gall fod ei hangen yn rhesymol ar y peiriannydd iddo, o ran unrhyw waith perthnasol neu'r dull o'i adeiladu.

8. Rhaid i Network Rail-

- (a) ddarparu cyfleusterau rhesymol i'r ymgwymerwr a'i asiantwyr i gael mynediad at unrhyw weithfeydd a wneir gan Network Rail o dan yr Atodlen hon yn ystod cyfnod yr adeiladu, a

engineer reasonably considers should be carried out before the commencement of the relevant work to ensure the safety or stability of railway property and the continued safe and efficient operation of the railways of Network Rail or the services of operators using those railways; and such protective works may include any relocation of works, apparatus and equipment necessitated by the relevant work.

(2) Any such protective works must be constructed by Network Rail or by the undertaker, if Network Rail so desires, with all reasonable dispatch; and the undertaker must not commence the construction of the relevant work until the engineer has notified the undertaker that the protective works have been completed to the engineer's reasonable satisfaction.

Construction of relevant work

6.-(1) Any relevant work must, when commenced, be constructed-

- (a) with all reasonable dispatch in accordance with the plans approved or settled under paragraph 3;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic on that railway and the use by passengers of railway property.

(2) If the undertaker does cause any damage to railway property in, or in consequence of, constructing any relevant work, it must make good such damage as soon as reasonably practicable.

Access

7. The undertaker must-

- (a) at all times afford reasonable facilities to the engineer for access to any relevant work during its construction; and
- (b) supply the engineer with all such information as the engineer may reasonably require with regard to any relevant work or the method of constructing it.

8. Network Rail must-

- (a) at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this

hynny ar bob adeg; a

- (b) rhoi'r holl wybodaeth y gall fod ei hangen yn rhesymol ar yr ymgymerwr iddo, o ran unrhyw weithfeydd felly neu'r dull o'u hadeiladu.

Ffensys

9. Pan fo'r peiriannydd yn gofyn amdano, rhaid i'r ymgymerwr adeiladu ffensys o amgylch y gweithfeydd perthnasol, fel bod y peiriannydd yn rhesymol fodlon â hwy, neu rhaid iddo gymryd y camau eraill hynny y gall y peiriannydd fynnu eu bod yn cael eu cymryd at ddibenion gwahanu'r gweithfeydd perthnasol o eiddo'r rheilffyrdd, boed hynny dros dro neu'n barhaol, neu'r ddau).

Cynnal a chadw'r gweithfeydd perthnasol

10. Rhaid i'r ymgymerwr sicrhau bod unrhyw weithfeydd perthnasol, ac eithrio gwaith sy'n perthyn i Network Rail (neu gwmni cysylltiedig perthnasol), yn cael ei gynnal a'i gadw yn y fath gyflwr fel nad yw'n peri unrhyw effaith niweidiol ar weithredu eiddo'r rheilffyrdd.

Addasiadau, etc. i eiddo'r rheilffyrdd: ad-dalu treuliau ychwanegol

11. Os-

- (a) oes angen rhesymol i gael unrhyw addasiadau neu ychwanegiadau ar eiddo'r rheilffyrdd, boed yn rhai parhaol neu'n rhai dros dro, yn ystod y cyfnod o adeiladu unrhyw weithfeydd perthnasol neu yn ystod cyfnod o 12 mis gan ddechrau o ddyddiad cwblhau'r gwaith hwnnw, o ganlyniad i adeiladu'r gweithfeydd perthnasol; a
- (b) bydd Network Rail yn rhoi hysbysiad rhesymol i'r ymgymerwr o'i fwriad i wneud yr addasiadau neu'r ychwanegiadau hynny, gan bennu'r addasiadau neu'r ychwanegiadau o dan sylw,

rhaid i'r ymgymerwr dalu costau rhesymol gwneud yr addasiadau neu'r ychwanegiadau hynny i Network Rail.

Ad-dalu costau Network Rail o ran yr adeiladu

12. Rhaid i'r ymgymerwr dalu swm i Network Rail sy'n cyfateb i unrhyw gostau a dynnwyd yn rhesymol gan Network Rail-

- (a) wrth adeiladu unrhyw waith ar ran yr ymgymerwr, fel y mae paragraff 4 yn darparu, neu wrth adeiladu unrhyw weithfeydd diogelu, fel y mae paragraff 5 yn darparu; a
- (b) o ran bod y peiriannydd yn cymeradwyo'r

Schedule during their construction; and

- (b) supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

Fencing

9. Where so required by the engineer the undertaker must, to the reasonable satisfaction of the engineer, fence off the relevant works, or take such other steps as the engineer may require to be taken for the purpose of separating the relevant works from railway property, whether on a temporary or permanent basis or both.

Maintenance of relevant work

10. The undertaker must secure that any relevant work, other than a work which belongs to Network Rail (or a relevant associated company), is maintained in such a state or condition as not to cause any adverse effect on the operation of railway property.

Alterations, etc. to railway property: repayment of additional expenses

11. If-

- (a) any alterations or additions, either permanent or temporary, to railway property are reasonably required during the construction of any relevant work, or during a period of 12 months commencing with the date of completion of that work, in consequence of the construction of that relevant work; and
- (b) Network Rail gives to the undertaker reasonable notice of its intention to carry out those alterations or additions, specifying the alterations or additions in question,

the undertaker must pay to Network Rail the reasonable cost of carrying out those alterations or additions.

Repayment of Network Rail's costs in connection with construction

12. The undertaker must pay to Network Rail a sum equivalent to any costs reasonably incurred by Network Rail in-

- (a) constructing any work on behalf of the undertaker as provided by paragraph 4 or in constructing any protective works as provided by paragraph 5; and
- (b) respect of the approval by the engineer of plans

planiau a gyflwynodd yr ymgwymerwr, ac o ran goruchwyliaeth y peiriannydd o'r gwaith o adeiladu unrhyw weithfeydd perthnasol.

Costau ychwanegol Network Rail wrth gynnal a chadw gweithfeydd newydd

13.-(1) Cyn gynted ag y bo'n rhesymol ymarferol ar ôl cwblhau'r gweithfeydd perthnasol, rhaid i'r ymgwymerwr dalu swm cyfalafog i Network Rail i gynrychioli'r cynnydd yn y gost y caiff ddisgwyl yn rhesymol fynd iddi wrth gynnal a chadw unrhyw-

- (a) gweithfeydd diogelu a adeiladwyd o dan baragraff 5;
- (b) addasiadau ac ychwanegiadau a wnaed yn unol â pharagraff 11.

(2) Os gostyngir y gost o gynnal a chadw, gweithredu neu adnewyddu eiddo'r rheilffyrdd o ganlyniad i unrhyw addasiadau neu ychwanegiadau, bydd swm cyfalafog, sy'n cynrychioli'r arbedion hynny, yn cael ei dynnu oddi ar unrhyw swm sy'n daladwy gan yr ymgwymerwr i Network Rail o dan is-baragraff (1)(b).

(3) Rhaid i'r peiriannydd, mewn perthynas â'r symiau cyfalafog y cyfeirir atynt yn y paragraff hwn, ddarparu'r manylion hynny o'r fformiwla a ddefnyddiwyd i gyfrifo'r symiau hynny y caiff yr ymgwymerwr ofyn amdanynt yn rhesymol.

Costau ychwanegol i Network Rail wrth gynnal a chadw eiddo presennol y rheilffyrdd

14.-(1) Yn ddarostyngedig i is-baragraff (2), rhaid i'r ymgwymerwr dalu Network Rail swm sy'n cyfateb i unrhyw gynnydd yn y costau y bydd yn mynd iddynt yn rhesymol o bryd i'w gilydd wrth gynnal a chadw eiddo presennol y rheilffyrdd oherwydd bod y gweithfeydd perthnasol yn agos at eiddo'r rheilffyrdd o dan sylw.

(2) Nid yw is-baragraff (1) yn gymwys i unrhyw waith cynnal a chadw, ac eithrio-

- (a) bod Network Rail wedi rhoi 56 o ddiwrnodau o hysbysiad i'r ymgwymerwr o'i fwriad i gyflawni'r gwaith hwnnw, gan bennu natur y gwaith o dan sylw; a
- (b) bod y gwaith cynnal a chadw yn cael ei wneud o dan bwerau sydd eisoes yn bod.

Indemniad cyffredinol

15.-(1) Rhaid i'r ymgwymerwr dalu Network Rail swm sy'n cyfateb i unrhyw golledion neu gostau nad oes darpariaethau eraill ar eu cyfer yn yr Atodlen hon, ac a dynnwyd yn rhesymol gan Network Rail neu a welwyd ganddo oherwydd-

submitted by the undertaker and the supervision by the engineer of the construction of any relevant work.

Additional costs of Network Rail in maintaining new works

13.-(1) As soon as reasonably practicable following completion of the relevant works, the undertaker must pay to Network Rail a capitalised sum representing the increase in cost which it may reasonably be expected to incur in maintaining any-

- (a) protective works constructed under paragraph 5;
- (b) alterations and additions carried out in accordance with paragraph 11.

(2) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions, a capitalised sum representing such saving will be set off against any sum payable by the undertaker to Network Rail under sub-paragraph (1)(b).

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph, provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

Additional costs of Network Rail in maintaining existing railway property

14.-(1) Subject to sub-paragraph (2), the undertaker must pay to Network Rail a sum equivalent to any increase in costs which it reasonably incurs from time to time in maintaining existing railway property by reason of the proximity of the relevant works to the railway property in question.

(2) Sub-paragraph (1) does not apply to any work of maintenance unless-

- (a) Network Rail has given 56 days' notice to the undertaker of its intention to carry out that work, specifying the nature of work in question; and
- (b) the work of maintenance is carried out under existing powers.

General indemnity

15.-(1) The undertaker must pay to Network Rail a sum equivalent to any losses or costs not otherwise provided for in this Schedule which may be suffered or reasonably incurred by Network Rail by reason of-

- (a) adeiladu, cynnal a chadw neu fethiant y gweithfeydd perthnasol; neu
- (b) unrhyw weithred neu anwaith ar ran yr ymgymerwr, neu ar ran unrhyw berson a gyflogwyd ganddo neu gan ei contractwyr neu ei asiantau tra'n gweithio ar y gweithfeydd perthnasol.

(2) Ni fydd y ffaith y gwnaed unrhyw weithred neu beth gan Network Rail ar ran yr ymgymerwr, neu yn unol â'r planiau a gymeradwywyd gan y peiriannydd, neu yn unol ag unrhyw ofyniad gan y peiriannydd neu o dan ei oruchwyliaeth (os y'i gwnaed heb esgeuluster ar ran Network Rail neu ar ran unrhyw berson a gyflogwyd ganddo neu gan ei contractwyr neu ei asiantau) yn esgusodi'r ymgymerwr o'i atebolrwydd o dan ddarpariaethau'r paragraff hwn.

Iawndal ar gyfer gweithredwyr trenau

16.-(1) Bydd y symiau sy'n daladwy gan yr ymgymerwr o dan baragraff 15 yn cynnwys swm sy'n cyfateb i'r costau perthnasol.

(2) Yn ddarostyngedig i amodau unrhyw gytundeb rhwng Network Rail a'r gweithredwyr trenau perthnasol ynghylch amseru neu dull talu'r costau perthnasol o ran y gweithredwr trenau hwnnw, rhaid i Network Rail dalu pob gweithredwr trenau yn brydlon faint y symiau a gafodd Network Rail o dan is-baragraff (1) sy'n ymwneud â chostau perthnasol y gweithredwr trenau hwnnw.

(3) Os digwydd diffyg, mae'r rhwymedigaeth o dan is-baragraff (1) i dalu Network Rail y costau perthnasol yn orfodadwy gan y gweithredwr trenau o dan sylw yn uniongyrchol, i'r graddau y byddai'r symiau hynny yn daladwy i'r gweithredwr hwnnw yn unol ag is-baragraff (2).

(4) Yn y paragraff hwn-

ystyr "costau perthnasol" ("*relevant costs*") yw'r costau, y colledion uniongyrchol a'r treuliau (gan gynnwys colli refeniw) a dynnwyd yn rhesymol gan bob gweithredwr trenau oherwydd unrhyw gyfyngiad ar ddefnyddio rhwydwaith reilffyrdd Network Rail o ganlyniad i'r gwaith adeiladu, neu'r gwaith cynnal a chadw neu fethiant y gweithfeydd perthnasol neu unrhyw weithred neu anwaith o'r fath a grybwyllir ym mharagraff 15(1); ac

ystyr "gweithredwr trenau" ("*train operator*") yw unrhyw berson sy'n gweithredu trenau yn unol â thrwydded o dan adran 8 o Ddeddf Rheilffyrdd 1993(a) neu ag esemptiad o dan adran 7 o'r Ddeddf honno.

- (a) the construction, maintenance or failure of the relevant works; or
- (b) any act or omission of the undertaker or of any person employed by it or of its contractors or agents whilst engaged upon the relevant works.

(2) The fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision will not (if it was done without negligence on the part of Network Rail or of any person employed by it or of its contractors or agents) excuse the undertaker from any liability under the provisions of this paragraph.

Compensation for train operators

16.-(1) The sums payable by the undertaker under paragraph 15 will include a sum equivalent to the relevant costs.

(2) Subject to the terms of any agreement between Network Rail and the relevant train operators regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (1) which relates to the relevant costs of that train operator.

(3) The obligation under sub-paragraph (1) to pay Network Rail the relevant costs is, in the event of default, enforceable directly by the train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (2).

(4) In this paragraph-

"relevant costs" ("*costau perthnasol*") means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of the use of Network Rail's railway network as a result of the construction, or maintenance or failure of the relevant works or any such act or omission as mentioned in paragraph 15(1); and

"train operator" means any person who operates trains in accordance with a licence under section 8 of the Railways Act 1993(a) or an exemption under section 7 of that Act.

(a) 1993 p.43.

(a) 1993 c.43.

17. Wrth gyfrifo unrhyw symiau sy'n daladwy o dan yr Atodlen hon, ni ddylid ystyried unrhyw gynnydd yn y symiau a hawlir y gellir ei briodoli i unrhyw weithred a wnaed neu unrhyw gytundeb yr ymrwymwyd iddo gan Network Rail os nad oedd angen rhesymol am y weithred neu'r cytundeb ac os y'i gwnaed neu yr ymrwymwyd iddo gyda'r bwriad o dderbyn tâl am y symiau hynny gan yr ymgymerwr o dan yr Atodlen hon, neu gyda'r bwriad o gynyddu'r symiau sy'n daladwy felly.

Arbedion ar gyfer cytundebau mynediad

18.-(1) Pan fo gofyn, o dan yr Atodlen hon, i Network Rail gydsynio i unrhyw fater neu ei gymeradwyo, gellir rhoi'r cydsyniad hwnnw neu'r gymeradwyaeth honno yn ddarostyngedig i'r amod bod Network Rail yn cydymffurfio â'r rheini o'i rwymedigaethau yn unol ag unrhyw gytundeb mynediad neu unrhyw brydles ar orsaf neu ar orsaf cynnal-a-chadw ysgafn sy'n berthnasol i'r mater hwnnw.

(2) Yn y paragraff hwn, mae i "cytundeb mynediad", "gorsaf" a "gorsaf cynnal a chadw ysgafn" yr un ystyr ag sydd i "access agreement", "station" a "light maintenance depot" yn adran 83 o Deddf Rheilffyrdd 1993.

17. In the assessment of any sums payable under this Schedule, there is not to be taken into account any increase in the sums claimed that is attributable to any action taken, or any agreement entered into, by Network Rail if that action or agreement was not reasonably required and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Schedule or increasing the sums so payable.

Saving for access agreements

18.-(1) Where, under this Schedule, Network Rail is required to give its consent or approval in respect of any matter, that consent or approval may be given subject to the condition that Network Rail complies with such of its obligations pursuant to any access agreement or any lease of a station or light maintenance depot as are relevant to that matter.

(2) In this paragraph, "access agreement" ("*cytundeb mynediad*"), "station" ("*gorsaf*") and "light maintenance depot" ("*gorsaf cynnal a chadw ysgafn*") have the meaning given by section 83 of the Railways Act 1993.

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