

SCHEDULE 12

Protective provisions

PART 12

Protection for Hornsea One companies

1. The provisions of this Part apply for the protection of the Hornsea One companies unless otherwise agreed in writing between the undertaker and the Hornsea One companies.

Commencement Information

II Sch. 12 Pt. 12 para. 1 in force at 7.9.2016, see [art. 1\(2\)](#)

2. In this Part—

“apparatus” means the cables, structures or other infrastructure owned, occupied or maintained by any Hornsea One company or its successor in title, including any offshore transmission owner, within the Hornsea One Order land;

“construction” includes execution, placing, altering, replacing, reconstruction, relaying, maintenance, extensions, enlargement and removal; and “construct” and “constructed” must be construed accordingly;

“Hornsea One” means the wind farms to be constructed pursuant to the Hornsea One Order including, whether pursuant to the Hornsea One Order or otherwise, all elements of the connection of the wind farms to the National Grid at North Killingholme substation;

“Hornsea One company” means an undertaker with the benefit of all or part of the Hornsea One Order for the time being, being the holder of a licence under section 6 of the 1989 Act; and “Hornsea One companies” means all such undertakers;

“Hornsea One disposal areas” means disposal site reference HU209 and HU210 whose co-ordinates are specified in the deemed marine licence in Schedule 11 to the Hornsea One Order;

“Hornsea One Order” means the Hornsea One Offshore Wind Farm Order 2014;

“Hornsea One Order land” means the land within the Order limits defined in the Hornsea One Order together with the land edged red on plan HOW01095_4 submitted to support planning application reference PA/2015/0398 submitted to North Lincolnshire Council;

“plans” includes sections, drawings, specifications, designs, design data, software, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of the Hornsea One Order land;

“proposed Hornsea One circuit route” means the proposed route for any electrical circuit to serve Hornsea One as shown on plans produced to the undertaker by the relevant Hornsea One company pursuant to paragraph 16;

“relevant Hornsea One company” means the Hornsea One company whose undertaking includes the part of Hornsea One or the part of the Hornsea One Order land affected by the particular proposals of the undertaker;

“specified works” means so much of any works or operations authorised by this Order (or authorised by any planning permission or marine licence intended to operate in conjunction with this Order) as is—

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- (a) in, on, under, over or within 500 metres of a proposed Hornsea One circuit route or existing installed electrical circuit (seaward of MHWS);
- (b) in, on, under, over or within 25 metres of a proposed Hornsea One circuit route or existing installed electrical circuit (landward of MHWS); or
- (c) in, on, under, over or within 1,000 metres of other apparatus installed or to be installed as part of Hornsea One.

Commencement Information

I2 Sch. 12 Pt. 12 para. 2 in force at 7.9.2016, see [art. 1\(2\)](#)

3. The consent of a Hornsea One company under this Part is not required where the Hornsea One Order has expired without the authorised development having been commenced pursuant to requirement 1 of Part 3 of Schedule 1 to the Hornsea One Order or the project has been abandoned.

Commencement Information

I3 Sch. 12 Pt. 12 para. 3 in force at 7.9.2016, see [art. 1\(2\)](#)

4. Where conditions are included in any consent granted by a Hornsea One company pursuant to this Part, the undertaker must comply with the conditions if it chooses to implement or rely on the consent, unless the conditions are waived or varied in writing by the relevant Hornsea One company.

Commencement Information

I4 Sch. 12 Pt. 12 para. 4 in force at 7.9.2016, see [art. 1\(2\)](#)

5. It is reasonable for the relevant Hornsea One company to require as a condition of granting consent under this Part that the undertaker enter into a cable proximity agreement on reasonable terms reflecting industry good practice if the undertaker proposes to install an electrical circuit at any point closer than 500 metres to the centre line of any electrical circuit installed to serve Hornsea One or is to cross a proposed Hornsea One circuit route.

Commencement Information

I5 Sch. 12 Pt. 12 para. 5 in force at 7.9.2016, see [art. 1\(2\)](#)

6. The undertaker must not under the powers of this Order—
- (a) acquire any of the Hornsea One Order land or acquire new or existing rights or interfere with existing rights or impose restrictive covenants or acquire any rights of temporary use over or in relation to the Hornsea One Order land without the consent of the relevant Hornsea One company, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions;
 - (b) carry out any specified works without the consent of the relevant Hornsea One company, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions.

Commencement Information

16 Sch. 12 Pt. 12 para. 6 in force at 7.9.2016, see [art. 1\(2\)](#)

7.—(1) Subject to obtaining consent pursuant to paragraph 6(b) and before beginning to construct any specified works, the undertaker must submit plans of the specified works to the relevant Hornsea One company and must submit such further particulars available to it that the relevant Hornsea One company may reasonably require.

(2) Any specified works must be constructed without unreasonable delay in accordance with the plans approved in writing by the relevant Hornsea One company.

(3) Any approval of the relevant Hornsea One company required under this paragraph may be made subject to such reasonable conditions as it may make for the protection of the Hornsea One Order Land, the apparatus and apparatus for Hornsea One not yet installed.

(4) If any part of the specified works is constructed otherwise than in accordance with the requirements of this Part, the relevant Hornsea One company may by notice in writing require the undertaker at the undertaker's own expense to comply with the requirements of this Part.

Commencement Information

17 Sch. 12 Pt. 12 para. 7 in force at 7.9.2016, see [art. 1\(2\)](#)

8. The undertaker must give to the relevant Hornsea One company not less than 28 days' written notice of its intention to commence the construction of the specified works and, not more than 28 days after completion of their construction, must give the relevant Hornsea One company written notice of the completion.

Commencement Information

18 Sch. 12 Pt. 12 para. 8 in force at 7.9.2016, see [art. 1\(2\)](#)

9. The undertaker must at all reasonable times during construction of the specified works and thereafter allow the relevant Hornsea One company and its servants and agents access to the works and all reasonable facilities for inspection of the works.

Commencement Information

19 Sch. 12 Pt. 12 para. 9 in force at 7.9.2016, see [art. 1\(2\)](#)

10. After the purpose of any temporary works has been accomplished, the undertaker must with all reasonable dispatch, or after a reasonable period of notice in writing from the relevant Hornsea One company requiring the undertaker so to do, remove the temporary works or any materials relating to them that may have been placed by or on behalf of the undertaker—

- (a) in, on, under, over, or within 500 metres of a proposed Hornsea One circuit route or existing installed electrical circuit (seaward of MHWS); or
- (b) in, on, under, over, or within 25 metres of a proposed Hornsea One circuit route or existing installed electrical circuit (landward of MHWS).

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Commencement Information

I10 Sch. 12 Pt. 12 para. 10 in force at 7.9.2016, see [art. 1\(2\)](#)

11. With the exception of any duty owed by the relevant Hornsea One company to the undertaker expressly provided for in the foregoing provisions of this Part, nothing in this Order must be construed as imposing on the relevant Hornsea One company, either directly or indirectly, any form of duty or liability to which the relevant Hornsea One company would not otherwise be subject which is enforceable by proceedings before any court.

Commencement Information

I11 Sch. 12 Pt. 12 para. 11 in force at 7.9.2016, see [art. 1\(2\)](#)

12. The undertaker must consult the relevant Hornsea One company in relation to any draft disposal plan which proposes to deposit material within the Hornsea One disposal areas and must make such amendments as are reasonably requested by the relevant Hornsea One company before submission to the MMO for approval.

Commencement Information

I12 Sch. 12 Pt. 12 para. 12 in force at 7.9.2016, see [art. 1\(2\)](#)

13. Subject to complying with all relevant health and safety considerations, the undertaker must permit representatives of the relevant Hornsea One company on any vessel carrying out dredging or disposal activities related to the Hornsea One disposal areas to monitor and verify the dredging and disposal carried out in terms of location, method, timing, quantity, nature of materials and other relevant matters.

Commencement Information

I13 Sch. 12 Pt. 12 para. 13 in force at 7.9.2016, see [art. 1\(2\)](#)

14. The undertaker must give reasonable notice in writing to the relevant Hornsea One company of the intended departure of all vessels referred to in paragraph 13 together with written information concerning the proposed dredging and disposal activities and must comply with all reasonable requests from the relevant Hornsea One company to enable the verification referred to in that paragraph to be carried out effectively and efficiently.

Commencement Information

I14 Sch. 12 Pt. 12 para. 14 in force at 7.9.2016, see [art. 1\(2\)](#)

15. The undertaker must provide to the relevant Hornsea One company a copy of each disposal return required to be submitted to the MMO pursuant to the approved disposal plan under this Order relevant to the Hornsea One disposal areas, such returns to include, without limitation, the actual volumes of materials disposed of, the disposal locations, the approved monitoring plan and the results of monitoring conducted.

Commencement Information

I15 Sch. 12 Pt. 12 para. 15 in force at 7.9.2016, see [art. 1\(2\)](#)

16. To ensure its compliance with this Part, the undertaker must before carrying out any works or operations pursuant to this Order request up-to-date written confirmation from the relevant Hornsea One company of the precise route of any existing installed apparatus and any proposed Hornsea One circuit route or other apparatus to be installed by the relevant Hornsea One company.

Commencement Information

I16 Sch. 12 Pt. 12 para. 16 in force at 7.9.2016, see [art. 1\(2\)](#)

17. The undertaker and the Hornsea One companies must each act in good faith and use reasonable endeavours to co-operate with, and provide assistance to, each other as may be required to give effect to the provisions of this Part.

Commencement Information

I17 Sch. 12 Pt. 12 para. 17 in force at 7.9.2016, see [art. 1\(2\)](#)

18. Any dispute arising between the undertaker and the relevant Hornsea One company under this Part must be determined by arbitration under article 41 (arbitration).

Commencement Information

I18 Sch. 12 Pt. 12 para. 18 in force at 7.9.2016, see [art. 1\(2\)](#)

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 Pt.03 para. 6(l) words substituted by [S.I. 2016/1104 Sch.](#)
- Sch. 12 Pt. 6 para. 5(a) words substituted by [S.I. 2016/1154 Sch. 29 Pt. 2 para. 118\(4\)](#)