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STATUTORY INSTRUMENTS

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**2023 No. 1033**

**The Awel y Môr Offshore Wind Farm Order 2023**

**PART 1**

Preliminary

**Citation and commencement**

1. This Order may be cited as the Awel y Môr Offshore Wind Farm Order 2023 and comes into force on 11th October 2023.

**Interpretation**

2.—(1) In this order—

“1961 Act” means the Land Compensation Act 1961(1);

“1965 Act” means the Compulsory Purchase Act 1965(2);

“1980 Act” means the Highways Act 1980(3);

“1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(4);

“1989 Act” means the Electricity Act 1989(5);

“1990 Act” means the Town and Country Planning Act 1990(6);

“1991 Act” means the New Roads and Street Works Act 1991(7);

“2003 Act” means the Communications Act 2003(8);

“2004 Act” means the Energy Act 2004(9);

“2008 Act” means the Planning Act 2008;

“2009 Act” means the Marine and Coastal Access Act 2009(10);

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

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

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

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(1) 1961 c. 33.

(2) 1965 c. 56.

(3) 1980 c. 66.

(4) 1981 c. 66.

(5) 1989 c. 29.

(6) 1990 c. 8.

(7) 1991 c. 22.

(8) 2003 c. 21.

(9) 2004 c. 20. Section 105 was amended by section 69 of the Energy Act 2008 (c. 32).

(10) 2009 c. 23.

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

“authorised project” means the authorised development and the ancillary works authorised by this Order;

“bank holiday” means a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971<sup>(11)</sup>;

“book of reference” means the document certified as such by the Secretary of State under article 40 (certification of plans, etc.) for the purposes of this Order;

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

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

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

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

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

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

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

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

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

“commence” means carry out a material operation, as defined in section 155 of the 2008 Act comprised in or for the purposes of the authorised development other than onshore works comprising surveying or investigatory works including archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions; preparatory works to existing infrastructure and diversion and laying of utilities and services; creation of any temporary means of access; site clearance including vegetation clearance; erection of screening and fencing, site security works, creation of temporary hard standing, or the temporary display of site notices or advertisements, and “commencement”, “commenced” and cognate expressions are to be construed accordingly;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation – Safeguarding, St George’s House, DIO Head Office, DMS Whittington, Lichfield, Staffordshire, WS14 9PY and any successor body to its functions;

“design principles document” means the document certified as such by the Secretary of State under article 40 (certification of plans, etc.) for the purposes of this Order;

“electronic transmission” means a communication transmitted—

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(11) 1971 c. 80.

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

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

“environmental statement” means the document certified as such by the Secretary of State under article 40 (certification of plans, etc.) for the purposes of this Order;

“foundation” means any of: a monopile, multi-leg pin-piled jacket, mono suction caisson, multi-leg suction caisson jacket, mono gravity based system or multi-leg gravity based system jacket;

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

“hedgerow and protected tree plan” means the document certified as such by the Secretary of State under article 40 (certification of plans, etc.) for the purposes of this Order;

“highway” has the same meaning as in section 328(1) of the 1980 Act;

“highway authority” means in relation to the A55, the Welsh Ministers, and in relation to any other highway Denbighshire County Council;

“horizontal directional drilling” means a trenchless boring technique for installing cables, cable ducts and other associated apparatus involving drilling in an arc between two points;

“HVAC” means high voltage alternating current;

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

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

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

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

“landfall” means the location at which the offshore cables come ashore;

“land plans” means the documents certified as the ‘land plan (offshore)’ and ‘land plan (onshore)’ by the Secretary of State under article 40 (certification of plans, etc.) for the purposes of this Order;

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

“location plan” means the document certified as such by the Secretary of State under article 40 (certification of plans, etc.) for the purposes of this Order;

“m” means metres and “m<sup>2</sup>” means square metres;

“maintain” includes inspect, repair, adjust or alter the authorised development, and remove, reconstruct or replace any part, provided that such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement and any derivative of “maintain” is to be construed accordingly;

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

“mean low water springs” or “MLWS” means the average height of all low waters above Chart Datum;

“meteorological mast” means an offshore mast housing equipment to measure wind speed and other wind characteristics, including a topside housing electrical, communication and associated equipment and marking and lighting;

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

“offshore electrical platform” means a platform with one or more decks, whether open or fully clad, accommodating electrical power transformers, low, medium and/or high voltage switch gear, instrumentation, protection and control systems, neutral earthing resistors, reactive compensation, standby electrical generation equipment, fuelling facilities, surface water drainage system, auxiliary and uninterruptible power supply systems and transformers, accommodation, emergency shelter, craneage, metering stations, meteorological equipment, helicopter landing facilities, messing facilities, potable water storage, black water separation equipment, control hub, drainage facilities, access equipment, J-tubes, marking and lighting and other associated equipment and facilities to enable the transmission of electronic communications and for electricity to be collected at, and exported from, the platform;

“offshore works” means Work Nos. 1, 1A, 2 and 2A and any related further associated development in connection with those Works;

“onshore works” means Work Nos. 3 to 41 inclusive and any related further associated development in connection with those Works;

“onshore WSI” means the document certified as such by the Secretary of State under article 40 (certification of plans, etc.) for the purposes of this Order;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

“Order limits” means the limits shown on the works plan within which the authorised development may be carried out whose grid coordinates seaward of MHWS are set out at Table 1 in Part 1 of Schedule 1 (authorised development) of this Order;

“outline code of construction practice” means the document certified as such by the Secretary of State under article 40 (certification of plans, etc.) for the purposes of this Order;

“outline drainage strategy” means the document certified as such by the Secretary of State under article 40 (certification of plans, etc.) for the purposes of this Order;

“outline landscape and ecology management plan” means the document certified as such by the Secretary of State under article 40 (certification of plans, etc.) for the purposes of this Order;

“outline skills and employment strategy” means the document certified as such by the Secretary of State under article 40 (certification of plans, etc.) for the purposes of this Order;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981<sup>(12)</sup>;

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

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

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(12) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1981 Act which are not relevant to this Order.

equipment, cranes, storage for waste and consumables including fuel, marking and lighting and other associated equipment and facilities;

“relevant planning authority” means Denbighshire County Council;

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

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

“special category land plan” means the plan certified as such by the Secretary of State under article 40 (certification of plans, etc.) for the purposes of this Order;

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act and a public communications provider as defined in section 151 of the 2003 Act;

“street” means a street within the meaning of section 48 of the 1991 Act<sup>(13)</sup>, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act<sup>(14)</sup>;

“street works and access plan” means the plan certified as such by the Secretary of State under article 40 (certification of plans, etc.) for the purposes of this Order;

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

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

“temporary mitigation area” means land in which temporary mitigation will be undertaken as identified on the works plan and described in the outline landscape and ecology management plan;

“temporary stopping up of public rights of way plan” means the plan certified as such by the Secretary of State under article 40 (certification of plans, etc.) for the purposes of this Order;

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

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

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

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<sup>(13)</sup> Section 48 was amended by section 124 (1) and (2) of the Local Transport Act 2008 (c. 26).

<sup>(14)</sup> “Street authority” is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act 2015 (c. 7).

“undertaker” means Awel y Môr Offshore Windfarm Limited, incorporated under company number 12270928 and having its registered office at Windmill Hill Business Park, Whitehill Way, Swindon, Wiltshire, United Kingdom, SN5 6PB;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

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

“wind turbine generator” means a structure comprising a tower, rotor with three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include J-tube(s), transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, helicopter landing facilities and other associated equipment including communications equipment, fixed to a foundation or transition piece; and

“works plan” means the plan or plans certified as such by the Secretary of State under article 40 (certification of plans, etc.) 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, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

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

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

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

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