
STATUTORY INSTRUMENTS

2015 No. 318

**The Dogger Bank Creyke Beck
Offshore Wind Farm Order 2015**

PART 6

Miscellaneous and general

Railway and navigation undertakings

35.—(1) Subject to the provisions of this article, the undertaker may not under article 13 (street works) break up or open a street where the street, not being a highway maintainable at public expense (within the meaning of the 1980 Act),—

- (a) is under the control or management of, or is maintainable by a railway undertaker or a navigation authority; or
- (b) forms part of a level crossing belonging to such an undertaker or authority or to any other person,

except with the consent of the undertaker or authority or, as the case may be, person to whom the level crossing belongs.

(2) Paragraph (1) does not apply to the carrying out under this Order of emergency works, within the meaning of Part 3 of the 1991 Act.

(3) A consent given for the purpose of paragraph (1) may be made subject to such reasonable conditions as may be specified by the person giving it, but must not be unreasonably withheld.

(4) In this article, “navigation authority” means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary or harbour.

Trees subject to tree preservation orders

36.—(1) The undertaker may fell or lop any tree within the Order limits that is subject to a tree preservation order, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

(2) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker must not do any unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity; and
- (b) the duty contained in section 206(1) of the 1990 Act⁽¹⁾ (replacement of trees) does not apply.

(3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

⁽¹⁾ Section 206(1) was amended by paragraph 11 of Schedule 8 to the Planning Act 2008.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

(5) In this article, "tree preservation order" has the same meaning as in section 198 of the 1990 Act.

Operational land for purposes of 1990 Act

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

Felling or lopping of trees and removal of hedgerows

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

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not do any unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

(4) The undertaker may remove any hedgerows within the Order limits that may be required to be removed for the purposes of carrying out the authorised development.

Deemed licences under Marine and Coastal Access Act 2009

39. The following marine licences set out in Schedules 8 to 11 are deemed to have been issued under Part 4 of the 2009 Act (marine licensing) for the licensed activities specified in Part A of each licence and subject to the conditions specified in Part B of each licence—

- (a) Marine Licence 1 (set out in Schedule 8);
- (b) Marine Licence 2 (set out in Schedule 9);
- (c) Marine Licence 3 (set out in Schedule 10);
- (d) Marine Licence 4 (set out in Schedule 11).

Saving for Trinity House

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

Crown rights

41.—(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 or any licensee—

- (a) to take, use, enter on or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—
 - (i) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;

- (ii) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or
 - (iii) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department; or
- (b) to exercise any right under this Order compulsorily to acquire an interest in any land that is Crown land (as defined in section 227 of the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown without the consent in writing of the appropriate Crown authority (as defined in section 227 of that Act).
- (2) Consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

Certification of plans and documents, etc.

42.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the offshore Order limits and grid co-ordinates plan (comprising the offshore Order limits and grid co-ordinates plan amendment drawing no. F-OFC-MA-801, application reference 2.2, dated 3rd July 2014);
- (b) the onshore Order limits and grid co-ordinates plan (comprising the onshore Order limits and grid co-ordinates plan amendment sheets 1 and 2 drawing no. F-ONC-MA-801, dated 13th June 2014);
- (c) the book of reference (application reference 4.3, document no. F-EXC-RP-008, dated August 2014);
- (d) the land plan (comprising the following—
 - (i) onshore land plans, drawing no. PA-2500-LP-01-23 rev. 5, dated August 2013;
 - (ii) onshore land plan amendment sheet 1, drawing no. PA-2500-LP-01-23 rev. 7, dated July 2014;
 - (iii) onshore land plan amendment sheet 3, drawing no. PA-2500-LP-01-23 rev. 6, dated June 2014;
 - (iv) onshore land plan amendment sheet 4, drawing no. PA-2500-LP-01-23 rev. 6, dated June 2014;
 - (v) onshore land plan amendment sheet 18, drawing no. PA-2500-LP-01-23 rev. 8, dated July 2014;
 - (vi) onshore land plan amendment sheet 19 drawing no. PA-2500-LP-01-23 rev. 8, dated July 2014;
 - (vii) onshore land plan amendment sheet 21, drawing no. PA-2500-LP-01-23 rev. 7, dated July 2014;
 - (viii) onshore land plan amendment sheet 22, drawing no. PA-2500-LP-01-23 rev. 7, dated June 2014;
 - (ix) onshore land plan amendment sheet 23, drawing no. PA-2500-LP-01-23 rev. 7, dated June 2014;
 - (x) special category land plan amendment sheet 1, drawing no. PA-2500-SP-01-02 rev. 4, dated July 2014 and amendment sheet 2, drawing no. PA-2500-SP-01-02 rev. 3, dated July 2014);

- (e) the onshore works plans (comprising drawing no. F-ONC-MA-803, application reference 2.4.2, dated 14th August 2013 and the onshore works plans amendment sheets 22 and 23, drawing no. F-ONC-MA-803, dated 13th June 2014);
- (f) the offshore works plans (drawing no. F-OFC-MA-802, application reference 2.4.1, dated 14th August 2013);
- (g) the environmental statement (comprising all documents in the series application reference 6.1 to 6.30.5);
- (h) the draft landscaping scheme dated March 2014;
- (i) the outline code of construction practice (document no. F-EXC-RW-DVIII-App6, Deadline VIII – Appendix 6 – Revised CoCP, dated July 2014);
- (j) the draft fisheries liaison plan (document no. F-EXC-EQ-014-A3, Question 14 Appendix 3, Examining Authority’s First Written Questions, issue no. 2.0, dated March 2014);
- (k) the In Principle Monitoring Plan (document no. F-EXC-RW-DVIII-App5, Deadline VIII – Appendix 5 – updated In Principle Monitoring Plan, dated July 2014);
- (l) the outline maintenance plan (Responses to the Examining Authority’s First Written Questions – Question 130 Appendix 1 – outline offshore maintenance plan, dated March 2014);
- (m) the streets and public rights of way plan (drawing no. F-ONC-MA-807);
- (n) the access to works plan (drawing no. F-ONC-MA-805),

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

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

Protective provisions

43. Schedule 12 (protective provisions) has effect.

Arbitration

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