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STATUTORY INSTRUMENTS

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**2016 No. 772**

**INFRASTRUCTURE PLANNING**

**The York Potash Harbour Facilities Order 2016**

*Made* - - - - - *20th July 2016*

*Coming into force* *10th August 2016*

**THE YORK POTASH HARBOUR FACILITIES ORDER 2016**

PART 1

PRELIMINARY

1. Citation
2. Interpretation

PART 2

PRINCIPAL POWERS

3. Development consent etc. granted by the Order
4. Parameters of authorised development
5. Maintenance of authorised development
6. Provision of works
7. Benefit of Order
8. Consent to transfer benefit of Order
9. Application and modification of legislative provisions

PART 3

STREETS

10. Street works
11. Temporary stopping up of streets
12. Access to works
13. Agreements with highway authority

PART 4

SUPPLEMENTAL POWERS

14. Discharge of water
15. Protective work to buildings

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16. Authority to survey and investigate the land
17. Tidal works not to be executed without approval of Secretary of State
18. Abatement of works abandoned or decayed
19. Lights on tidal works etc. during construction
20. Provision against danger to navigation
21. Permanent lights on tidal works
22. Power to charge

#### PART 5

#### POWERS OF ACQUISITION

23. Guarantees in respect of payment of compensation
24. Compulsory and other acquisition of rights
25. Power to override easements and other rights
26. Compulsory acquisition of land – incorporation of the mineral code
27. Time limit for exercise of authority to acquire land and rights compulsorily
28. Application of the Compulsory Purchase (Vesting Declarations) Act 1981
29. Rights under or over streets
30. Temporary use of land

#### PART 6

#### MISCELLANEOUS AND GENERAL

31. Deemed marine licence
32. Operational land for purposes of the 1990 Act
33. Defences to proceedings
34. Protection of interests
35. Saving for Trinity House
36. Crown Rights
37. Approvals pursuant to requirements etc.
38. Certification of plans etc.
39. Service of Notices
40. Arbitration  
Signature

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#### SCHEDULES

##### SCHEDULE 1 — AUTHORISED DEVELOPMENT

Nationally Significant Infrastructure Project  
Associated Development

##### SCHEDULE 2 — REQUIREMENTS

1. Time limits
2. Stages of the development and design approval
3. (1) No part of phase 2 is to commence until...
4. The authorised development must be carried out in accordance with...
5. Highway access
6. Construction Environmental Management Plan
7. Construction Traffic Management Plan
8. Flood warning and ground gas monitoring
9. Ecology
10. Archaeology

## 11. Decommissioning

### SCHEDULE 3 — ACQUISITION PROVISIONS

#### PART 1 — RIGHTS AND RESTRICTIONS REQUIRED FOR THE CONVEYOR ROUTE – COMPULSORY ACQUISITION (NORTHERN)

#### PART 2 — RIGHTS AND RESTRICTIONS REQUIRED FOR THE CONVEYOR ROUTE – CROWN LAND (NORTHERN)

#### PART 3 — MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR THE CREATION OF NEW RIGHTS AND RESTRICTIVE COVENANTS

1. Compensation enactments
2. (1) Without limitation on the scope of paragraph 1, the...
3. Application of the 1965 Act
4. For Section 7 of the 1965 Act (measure of compensation)...
5. For section 8 of the 1965 Act (provisions as to...
6. The following provisions of the 1965 Act (which state the...
7. Section 11 (powers of entry) of the 1965 Act is...
8. Section 20 (protection for interests of tenants at will etc.)...
9. Section 22 (interests omitted from purchase) of the 1965 Act...

### SCHEDULE 4 — LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

### SCHEDULE 5 — DEEMED LICENCE UNDER THE 2009 ACT

#### PART 1 — INTRODUCTORY

1. Addresses and Undertaker

#### PART 2 — LICENSED ACTIVITIES

2. For the purpose of constructing and maintaining the authorised development...
3. Construction of the quay
4. Open quay structure
5. Solid quay structure
6. Capital dredging and disposal
7. Lagoon habitat enhancement

#### PART 3 — ENFORCEMENT

8. Any breach of this Schedule does not constitute a breach...

#### PART 4 — CONDITIONS

9. General conditions
10. The MMO must be notified by the undertaker at least...
11. The undertaker must ensure that the MMO District Marine Office...
12. The MMO must be notified by the undertaker in writing...
13. The undertaker must ensure that a copy of this Schedule...
14. The undertaker must ensure that the names of vessels to...
15. The undertaker must ensure that a copy of this Schedule...
16. The undertaker must ensure that a Notice to Mariners is...
17. Project wide conditions
18. (1) The undertaker must only work and access the licensed...
19. All construction phase activities must be carried out in accordance...
20. The undertaker must ensure that any coatings and treatments used...
21. The undertaker must ensure that all materials used in construction...
22. The undertaker must ensure that during the licensed activity all...
23. The undertaker must ensure that no waste concrete slurry or...

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24. Concrete and cement mixing and washing areas must be contained...
25. The undertaker must install bunding and storage facilities to contain...
26. The undertaker must ensure that any oil, fuel or chemical...
27. The undertaker must ensure that the maintenance of plant, including...
28. A spill kit (including booms for potential leaks directly into...
29. The undertaker must ensure that any equipment, temporary structures, waste...
30. Piling conditions
31. The undertaker must ensure the implementation of a minimum of...
32. The undertaker must ensure that acoustic barriers are positioned—
33. The undertaker must ensure that no piling is undertaken for...
34. Capital dredging, disposal conditions and debris
35. The undertaker must ensure that as a result of the...
36. (1) The undertaker must ensure that certified returns of quantities...
37. The undertaker must ensure that any man-made material is separated...
38. If disposal of material is found to be the cause...
39. If due to stress of weather or any other cause...
40. At least 10 working days before commencement of the licensed...
41. The audit sheet must be maintained throughout the construction of...
42. In the event that the MMO becomes aware that any...
43. As an alternative to the completion of an audit sheet,...
44. The undertaker must agree with the MMO, before commencement of...
45. The undertaker must, at least 4 months before the completion...
46. An update to the post construction maintenance schedule must be...
47. Maintenance must be carried out in accordance with the approved...
48. Lagoon Habitat Enhancement Works
49. Progress of licensed activities
50. Decommissioning
51. Archaeology

#### SCHEDULE 6 — QUAY LIMITS

#### SCHEDULE 7 — FOR THE PROTECTION OF NETWORK RAIL

1. The following provisions of this Schedule have effect, unless otherwise...
2. In this Schedule— “construction” includes execution, placing, alteration and reconstruction...
3. (1) Where under this Schedule Network Rail is required to...
4. (1) The undertaker must not exercise the powers conferred by...
5. (1) The undertaker must before commencing construction of any specified...
6. (1) Any specified work and any protective works to be...
7. The undertaker must— (a) at all times afford reasonable facilities...
8. Network Rail must at all times afford reasonable facilities to...
9. (1) If any permanent or temporary alterations or additions to...
10. The undertaker must repay to Network Rail all reasonable fees,...
11. (1) In this paragraph— “EMI” means, subject to sub-paragraph (2),...
12. If at any time after the completion of a specified...
13. The undertaker must not provide any illumination or illuminated sign...
14. Any additional expenses which Network Rail may reasonably incur in...
15. (1) The undertaker must pay to Network Rail all reasonable...
16. Network Rail must, on receipt of a request from the...
17. In the assessment of any sums payable to Network Rail...
18. The undertaker and Network Rail may, subject in the case...

19. Nothing in this Order, or in any enactment incorporated with...
20. The undertaker must give written notice to Network Rail if...
21. The undertaker must no later than 28 days from the...

#### SCHEDULE 8 — FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY

1. Application
2. Interpretation
3. Except for paragraphs 7 (retained apparatus: protection) and 8 (expenses)...
4. Acquisition of land
5. Removal of apparatus
6. Facilities and rights for alternative apparatus
7. Retained apparatus: protection
8. Expenses
9. Indemnity
10. Ground subsidence monitoring scheme in respect of National Grid's apparatus
11. Enactments and agreements
12. Co-operation
13. Access
14. Arbitration
15. Approval of Requirements

#### SCHEDULE 9 — FOR THE PROTECTION OF THE PIPELINE CORRIDOR AND PROTECTED CROSSINGS

1. Benefit of protective provisions
2. Interpretation
3. Pipeline survey
4. Authorisation of works details affecting pipelines or protected crossings
5. No part of a relevant work is to be commenced...
6. (1) Any authorisation by the owner or operator of an...
7. (1) In the event that— (a) no response has been...
8. Notice of works
9. Further provisions about works
10. (1) Where temporary crossings for construction traffic are to be...
11. During construction, an area equivalent to the easement widths of...
12. No explosives are to be used within the protected land...
13. (1) There must be no lifting over any exposed sections...
14. (1) Where piling is required within 50 metres of the...
15. (1) Where excavation of trenches (including excavation by dredging) adjacent...
16. (1) Where a trench is excavated across or parallel to...
17. (1) A minimum clearance of 1500 millimetres must be maintained...
18. Monitoring for damage to pipelines
19. (1) If any damage occurs to a pipeline causing a...
20. Compliance with requirements, etc. applying to the protected land
21. Access for construction and maintenance
22. (1) In preparing a construction access plan under paragraph 21...
23. (1) No works affecting access rights over the access roads...
24. Restriction on exercising powers
25. (1) The undertaker must not exercise the powers conferred by...
26. Insurance
27. (1) If an owner of the protected land or operator...
28. Costs

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29. Further protection in relation to the exercise of powers under the Order
30. The undertaker must give written notice to the owners of...
31. The undertaker must, when requested to do so by an...
32. The authorised development must be carried out in accordance with...
33. Prior to the commencement of the authorised development the undertaker...
34. Expert determination

SCHEDULE 10 — FOR THE PROTECTION OF ASSET OWNERS AND OTHERS  
PART 1 — FOR THE PROTECTION OF ASSETS BRIDGED OR  
OVERSAILED

1. The following provisions of this Part of this Schedule have...
2. In this Part of this Schedule— “construction” includes execution, placing,...
3. Where under this Part of this Schedule a protected asset...
4. (1) The undertaker must not in the exercise of the...
5. (1) Before carrying out any works on any part of...
6. If a protected asset owner notifies the undertaker that it...
7. (1) The undertaker must before commencing construction of any specified...
8. (1) Any specified work, when commenced, must so far as...
9. The undertaker must— (a) at all times afford reasonable facilities...
10. (1) If any permanent or temporary alterations or additions to...
11. The undertaker must repay to the protected asset owner all...
12. If at any time after the completion of a specified...
13. The undertaker must not provide any illumination or illuminated sign...
14. Any additional expenses which a protected asset owner may reasonably...
15. The protected asset owner must, on receipt of a request...
16. In the assessment of any sums payable to the protected...
17. The undertaker and the protected asset owner may (at their...
18. The undertaker must give written notice to the protected asset...
19. The undertaker, no later than 28 days from the date...
20. (1) The plans and construction methodology submitted for approval under...
21. (1) Any dispute under this Schedule is to be determined...

ANNEX

PART 2 — FOR THE PROTECTION OF REDCAR BULK TERMINAL

22. The following provisions of this Part of this Schedule have...
23. (1) The undertaker must not commence the construction of any...

SCHEDULE 11 — FOR THE PROTECTION OF THE TEES PORT AUTHORITY

1. Interpretation
2. General
3. Location of tidal works
4. Tidal works: consultation and approval
5. If the Secretary of State, the MMO or the local...
6. On receipt of any approval or agreement by the Secretary...
7. Construction of tidal works
8. The undertaker must at all reasonable times during construction of...
9. The construction, and any operations for the construction, of any...
10. Discharges, etc.
11. The undertaker must not, in exercise of the powers conferred...
12. Obstruction in river
13. Removal etc. of the Tees Port Authority moorings and buoys

14. Navigational lights, buoys, etc.
15. Removal of temporary works
16. Protective action
17. Abandoned or decayed works
18. Facilities for navigation
19. Survey of riverbed
20. Sedimentation, etc.: remedial action
21. Entry for survey, etc.
22. Operating procedures
23. Indemnity
24. Statutory functions
25. Savings
26. Transfer of benefit of Order
27. Notices
28. Disputes

Explanatory Note