

---

STATUTORY INSTRUMENTS

---

**2016 No. 987**

**The Brechfa Forest Wind Farm Connection Order 2016**

**PART 6**

Miscellaneous and general

**Operational land for purposes of the 1990 Act**

**31.** Development consent granted by this Order is to 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**

**32.—(1)** The undertaker may fell or lop any tree or shrub near any part of the authorised development within or encroaching upon the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from—

- (a) obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must do no 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, is to be determined under Part 1 of the 1961 Act.

(4) The undertaker may, for the purposes of the authorised development—

- (a) subject to paragraph (2), remove any hedgerows within the Order limits that may be required for the purposes of carrying out the authorised development; and
- (b) remove the specified important hedgerows as are within the Order limits and specified in Schedule 11 (removal of important hedgerows).

(5) The power conferred by paragraph (4) shall remove any obligation upon the undertaker to secure any consent to remove those hedgerows under the Hedgerows Regulations 1997(1).

(6) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerows Regulations 1997.

**Certification of plans**

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

- (a) the access and rights of way plans;

---

(1) [S.I.1997/1160](#), to which there are amendments not relevant to this Order.

- (b) the archaeological written scheme of investigation;
- (c) the book of reference;
- (d) the CEMP;
- (e) the construction management strategy;
- (f) the crown land plans;
- (g) the CTMP;
- (h) the design drawings;
- (i) the dust management plan;
- (j) the environmental features plans;
- (k) the environmental statement;
- (l) the flood consequence assessment;
- (m) the frac-out contingency plan;
- (n) the habitat management plan;
- (o) the heritage designations plans;
- (p) the invasive weeds management plan;
- (q) the land plans;
- (r) the master key plan;
- (s) the overall location plan;
- (t) the pollution prevention and emergency response plan;
- (u) the public rights of way management strategy;
- (v) the transport assessment;
- (w) the trees and hedges with the potential to be affected plans;
- (x) the waste management plan;
- (y) the water management plan; and
- (z) the works plans,

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

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

### **Service of notices**

**34.**—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (8) by electronic transmission.

(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.

(3) For the purposes of section 7 of the Interpretation Act 1978(2) 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—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person 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 the name or address of that person 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) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the Requirement is to be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is to be final and is to take effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article is not to be taken to exclude the employment of any method of service not expressly provided for by it.

### **Arbitration**

**35.** 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.

### **Procedure regarding certain approvals**

**36.—(1)** Where an application is made to or request is made of the relevant planning authority, a highway authority, a street authority or the owner of a watercourse, sewer or drain for any consent,

---

(2) 1978 c. 30. There are amendments to this Act which are not relevant to this Order.

agreement or approval required or contemplated by any of the provisions of the Order such consent, agreement or approval must, if given, be given in writing and is not to be unreasonably withheld or delayed.

(2) Schedule 10 is to have effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to the Requirements unless otherwise agreed between the undertaker and the relevant planning authority.

### **Crown rights**

**37.**—(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 upon 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.

(2) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and shall be deemed to have been given in writing where it is sent electronically.