
STATUTORY INSTRUMENTS

2017 No. 826

The East Anglia THREE Offshore Wind Farm Order 2017

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the East Anglia THREE Offshore Wind Farm Order 2017 and comes into force on 29th August 2017.

Interpretation

2.—(1) In this Order—

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

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

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

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

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

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

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

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

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

“the 2008 Act” means the Planning Act 2008(10);

“the 2009 Act” means the Marine and Coastal Access Act 2009(11);

“access to works plan” means the plan certified as the access to works plan by the Secretary of State for the purposes of this Order under article 32 (certification of plans etc.);

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

(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.

(10) 2008 c.29.

(11) 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, which 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;

“book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order under article 32 (certification of plans etc.);

“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 LiDAR buoys, wave buoys and guard buoys;

“cable” in respect of any onshore cable includes direct lay cables and/or cables pulled through cable ducts and in respect of any cable whether onshore or offshore means any Alternating Current (AC) or Direct Current (DC) cables and includes fibre optic cables either within the cable or laid alongside;

“cable crossings” means the crossing of existing sub-sea cables or pipelines or other existing infrastructure by the inter-array, interconnecting and/or export cables authorised by this Order together with physical protection measures including concrete mattresses, rock placement or other protection methods;

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

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

“circuit” means up to three cables;

“commence” means, (a) in relation to works seaward of MHWS, the first carrying out of any licensed marine activities authorised by the deemed marine licences, save for pre-construction surveys and monitoring approved under the deemed marine licences and, (b) in respect of any other works comprised in the authorised project, the first carrying out of any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised project other than operations consisting of site clearance, demolition work, archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, and the temporary display of site notices or advertisements and the words “commencement” and “commenced” must be construed accordingly;

“connection works” means Work Nos. 5B to 69 and any related further associated development in connection with those works;

“construction consolidation site” means a construction site associated with the connection works including hard standings, lay down and storage areas for construction materials and equipment, areas for spoil, areas for vehicular parking, banded storage areas, areas for welfare facilities including offices and canteen and washroom facilities, workshop facilities and temporary fencing or other means of enclosure and areas for other facilities required for construction purposes;

“deemed marine licences” means the marine licences set out in Schedules 10, 11, 12, 13, 14 and 15;

“design and access statement” means the document certified as the design and access statement by the Secretary of State for the purposes of this Order under article 32 (certification of plans etc.);

“draught height” means the distance between the lowest point of the rotating blade of the wind turbine generator and MHWS;

“East Anglia ONE Offshore Wind Farm” means the offshore wind farm authorised under the East Anglia ONE Order;

“East Anglia ONE Order” means the East Anglia ONE Offshore Wind Farm Order 2014⁽¹²⁾ as amended by the East Anglia ONE Offshore Wind Farm (Corrections and Amendments) Order 2016⁽¹³⁾;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order under article 32 (certification of plans etc.);

“gravity base foundation” means a structure principally of steel, concrete, or steel and concrete 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 platform(s) and equipment;

“highway” and “highway authority” have the same meaning as in the 1980 Act⁽¹⁴⁾;

“in principle monitoring plan” means the document certified as the in principle monitoring plan by the Secretary of State for the purposes of this Order under article 32 (certification of plans etc.);

“jacket foundation” means a steel jacket/ lattice-type structure constructed of steel which is fixed to the seabed at two or more points with steel pin piles or steel suction caissons and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment, and “discrete jacket foundation types” includes pre-piled or post-piled jackets, three-legged or four legged jackets, or straight or battered leg jackets;

“jointing bay” means an excavation formed to enable the jointing of high voltage power cables;

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

“land plan” means the plan certified as the land plan by the Secretary of State for the purposes of this Order under article 32 (certification of plans etc.);

“LAT” means lowest astronomical tide;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (but only in relation to any of the ancillary works in Part 2 of Schedule 1 (ancillary works) and any component part of any wind turbine generator, offshore electrical station, accommodation platform or meteorological mast described in Part 1 of Schedule 1 (authorised development) not including the alteration, removal or replacement of foundations), to the extent assessed in the environmental statement; and “maintenance” must be construed accordingly;

“MCA” means the Maritime and Coastguard Agency;

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

“MMO” means the Marine Management Organisation;

⁽¹²⁾ S.I. 2014/1599.

⁽¹³⁾ S.I. 2016/447.

⁽¹⁴⁾ “Highway” is defined in section 328(1). For “highway authority”, see section 1.

“monopile foundation” means a steel pile, typically cylindrical, driven and/or drilled into the seabed and associated equipment including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“offshore electrical station” means a platform attached to the seabed by means of a foundation, with one or more decks, whether open or fully clad, accommodating electrical power transformers, instrumentation, protection and control systems, neutral earthing resistors, reactive compensation, standby electrical generation equipment, fuelling facilities, auxiliary and uninterruptible power supply systems and transformers, accommodation and/or 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 and, depending on the type of electrical station, low, medium and/or high voltage switch gear, and/or AC filters and/or AC/DC converter with switching devices and/or DC equipment including DC capacitors and DC filters;

“offshore platform” means any offshore electrical station and any offshore accommodation platform;

“offshore works” means Work Nos. 1 to 5A and any ancillary works in connection with those works;

“onshore cable corridor” means the onshore area in which the cables will be located within the Order limits;

“onshore substation” means a compound containing electrical equipment including power transformers, switchgear, electrical protection equipment devices (disconnectors, circuit breakers), reactive compensation equipment, harmonic filters, cables, lightning protection masts, control buildings, communications masts, back-up generators, access, fencing and other associated equipment, structures or buildings and, depending on the type of substation, specific equipment such as one or more converter halls, and/or medium or high voltage switchgears;

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

“Order limits” means the limits shown on the works plan within which the authorised project may be carried out, whose grid coordinates seaward of MHWS are set out in paragraph 2 of Part 1 of Schedule 1 (authorised development) of this Order;

“outline access management plan” means the document certified as the outline access management plan by the Secretary of State for the purposes of this Order under article 32 (certification of plans etc.);

“outline code of construction practice” means the document certified as the outline code of construction practice by the Secretary of State for the purposes of this Order under article 32 (certification of plans etc.);

“outline landscape and ecological management strategy” means the document certified as the outline landscape and ecological management strategy by the Secretary of State for the purposes of this Order under article 32 (certification of plans etc.);

“outline navigation monitoring strategy” means the document certified as the outline navigation monitoring strategy by the Secretary of State for the purposes of this Order under article 32 (certification of plans etc.);

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order under article 32 (certification of plans etc.);

“outline traffic management plan” means the document certified as the outline traffic management plan by the Secretary of State for the purposes of this Order under article 32 (certification of plans etc.);

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State for the purposes of this Order under article 32 (certification of plans etc.);

“outline travel plan” means the document certified as the outline travel plan by the Secretary of State for the purposes of this Order under article 32 (certification of plans etc.);

“outline written scheme of investigation (onshore)” means the document certified as the outline written scheme of investigation (onshore) by the Secretary of State for the purposes of this Order under article 32 (certification of plans etc.);

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981⁽¹⁵⁾;

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

“platform exclusion zone” means the area shown as such on the offshore works plan

“primary construction consolidation site” means a construction consolidation site whose footprint does not exceed the dimensions specified in requirement 12 (detailed design parameters onshore);

“radar line of sight coverage plan” means the plan certified as the radar line of sight coverage plan by the Secretary of State for the purposes of this Order under article 32 (certification of plans etc.);

“relevant planning authority” means the district planning authority for the area in which the land to which the relevant provision of this Order applies is situated;

“requirements” means those matters set out in Part 3 of Schedule 1 (requirements) to this Order;

“secondary construction consolidation site” means a construction consolidation site whose footprint does not exceed the dimensions specified in requirement 12 (detailed design parameters onshore);

“single onshore phase” means carrying out Work No. 67 as a single construction operation;

“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⁽¹⁶⁾, 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⁽¹⁷⁾;

“suction caisson” means large diameter steel cylindrical shells which penetrate the seabed assisted by a hydrostatic pressure differential for fixity of steel jacket foundations;

“suction caisson foundation” means a tubular steel structure which penetrates the seabed assisted by a hydrostatic pressure differential and associated equipment, including scour protection, J-tubes, corrosion protection systems and access platform(s) and equipment;

“temporary stopping up of public rights of way plan” means the plan certified as the temporary stopping up of public rights of way plan by the Secretary of State for the purposes of this Order under article 32 (certification of plans etc.);

⁽¹⁵⁾ 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 Act which are not relevant to this Order.

⁽¹⁶⁾ Section 48 was amended by section 124(2) of the Local Transport Act 2008 (c.26).

⁽¹⁷⁾ “street authority” is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act 2015 (c.7).

“transition bay” means an underground pit where the offshore export cables comprised in Work No. 5A are jointed to the connection works;

“tribunal” means the Lands Chamber of the Upper Tribunal;

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

“two offshore phases” means carrying out the offshore works as two separate construction operations pursuant to the deemed marine licences set out in Schedules 10, 12, and 14 (Licence 1 – Phase 1) and Schedules 11, 13 and 15 (Licence 2 – Phase 2) respectively;

“two onshore phases” means carrying out Work No. 67 as two separate construction operations linked to two offshore phases;

“undertaker” means East Anglia THREE Limited;

“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, fixed to a foundation; and

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order under article 32 (certification of plans etc.).

(2) References in this Order to rights over land include references to rights to do or restrain or to place and maintain, anything in, on or under land or in the air-space above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over the land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or which is an interest otherwise comprised in the Order land.

(3) All distances, directions and lengths referred to in this Order are approximate, save in respect of the parameters referred to in Requirements 2 to 9 and 12 in Part 3, Schedule 1 (requirements) and Conditions 1 to 6 in Part 2 of the deemed marine licences.

(4) Any reference in this Order to a work identified by the number of the work is to be construed as a reference to the work of that number authorised by this Order.

(5) Unless otherwise stated, references in this Order to points identified by letters are to be construed as references to the points so lettered on the works plan.

(6) The expression “includes” is to be construed without limitation unless the contrary intention appears.