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STATUTORY INSTRUMENTS

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**2020 No. 706**

**The Norfolk Vanguard Offshore Wind Farm Order 2020**

**PART 7**

**Miscellaneous and General**

**Application of landlord and tenant law**

**33.**—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised project or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised project, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease).

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**Commencement Information**

**I1** Art. 33 in force at 22.7.2020, see [art. 1](#)

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

**34.** Development consent granted by this Order is 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).

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**Commencement Information**

**I2** Art. 34 in force at 22.7.2020, see [art. 1](#)

### Felling or lopping of trees and removal of hedgerows

**35.**—(1) Subject to article 36 (trees subject to tree preservation orders), the undertaker may fell or lop or cut back any roots of any tree or shrub near any part of the authorised project, 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 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, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

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

- (a) remove any hedgerows within the Order limits and specified in Schedule 13, Part 3 (removal of hedgerows) and those hedgerows that, after assessment, are not classed as important hedgerows specified in Schedule 13, Part 1 (removal of potentially important hedgerows) ; and
- (b) remove the important hedgerows as are within the Order limits and specified in Schedule 13, Part 1 (removal of potentially important hedgerows) and Part 2 (removal of important hedgerows).

(5) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerows Regulations 1997(1).

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#### Commencement Information

**I3** Art. 35 in force at 22.7.2020, see [art. 1](#)

### Trees subject to tree preservation orders

**36.**—(1) Subject to paragraph (2), the undertaker must not fell or lop or cut back the roots of any tree within or overhanging land which is the subject of a tree preservation order.

(2) The undertaker may fell or lop any tree within or overhanging land within the Order limits subject to a tree preservation order which was made after 28 February 2017 or cut back its roots, if it reasonably believes it to be necessary to do so in order 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.

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

- (a) the undertaker must do no unnecessary damage to any tree 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) (replacement of trees) of the 1990 Act does not apply.

(4) The authority given by paragraph (2) constitutes a deemed consent under the relevant tree preservation order.

(5) Any dispute as to a person’s entitlement to compensation under paragraph (3), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

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(1) [S.I. 1997/1160](#).

### Commencement Information

**14** Art. 36 in force at 22.7.2020, see [art. 1](#)

### Certification of plans etc

**37.**—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the following for certification that they are true copies of the documents referred to in this Order—

- (a) the environmental statement (document reference 6.1);
  - (b) the land plan (document reference 2.2);
  - (c) the works plan (document reference 2.4);
  - (d) the access to works plan (document reference 2.5);
  - (e) the temporary stopping up of public rights of way plan (document reference 2.6);
  - (f) the streets to temporarily stopped up plan (document reference 2.7);
  - (g) the important hedgerows plan (document reference 2.11);
  - (h) the book of reference (4.3);
  - (i) the outline code of construction practice (8.1);
  - (j) the design and access statement (8.3);
  - (k) the outline written scheme of investigation (onshore) (8.5);
  - (l) the outline written scheme of investigation (offshore) (8.6);
  - (m) the outline landscape and ecological management strategy (8.7);
  - (n) the outline traffic management plan (8.8);
  - (o) the outline travel plan (8.9);
  - (p) the outline access management plan (8.10);
  - (q) the outline offshore operations and maintenance plan (8.11);
  - (r) the offshore in principle monitoring plan (8.12);
  - (s) the draft marine mammal mitigation protocol (8.13);
  - (t) the outline project environmental management plan (document reference 8.14);
  - (u) the outline scour protection and cable protection plan (document reference 8.16);
  - (v) the in principle Norfolk Vanguard Southern North Sea Special Area of Conservation site integrity plan (8.17);
  - (w) the outline marine traffic monitoring strategy (8.18);
  - (x) the outline fisheries liaison and co-existence plan (8.19);
  - (y) the outline Norfolk Vanguard Haisborough, Hammond, and Winterton Special Area of Conservation site integrity plan(8.20);
  - (z) the outline operational drainage plan (8.21);
  - (aa) the outline skills and employment strategy (8.22);and
- (2) the Development Principles (8.23).A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.
- (3) Where a plan or document certified under paragraph (1)—

- (a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and
- (b) identifies that provision by a number, or combination of numbers and letters, which is different from the number, or combination of numbers and letters by which the corresponding provision of this Order is identified in the Order as made

the reference in the plan or document concerned must be construed for the purposes of this Order as referring to the provision (if any) corresponding to that provision in the Order as made.

#### Commencement Information

**I5** Art. 37 in force at 22.7.2020, see [art. 1](#)

#### Arbitration

**38.**—(1) Subject to article 41 (saving provisions for Trinity House), any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled in arbitration in accordance with the rules at Schedule 14 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) Any matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order shall not be subject to arbitration.

#### Commencement Information

**I6** Art. 38 in force at 22.7.2020, see [art. 1](#)

#### Procedure in relation to certain approvals etc

**39.**—(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 agreement or approval required or contemplated by any of the provisions of the Order, such agreement or approval must, if given, be given in writing and may not be unreasonably withheld.

(2) Schedule 15 (procedure for discharge of requirements) has effect in relation to all agreements or approvals granted, refused or withheld in relation to requirements 13, 14, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33 and 34 in Part 3 of Schedule 1 (requirements).

#### Commencement Information

**I7** Art. 39 in force at 22.7.2020, see [art. 1](#)

#### Abatement of works abandoned or decayed

**40.** Where Work No. 1(a) to (e) or Work No. 2 or any part of those works is abandoned or allowed to fall into decay the Secretary of State may, following consultation with the undertaker, issue a written notice requiring the undertaker at its own expense to repair and restore or remove Work No. 1(a) to (e) or Work No. 2 or any relevant part of those works, without prejudice to any notice

served under section 105(2) of the 2004 Act<sup>(2)</sup>. The notice may also require the restoration of the site of the relevant part(s) of Work No. 1(a) to (e) or Work No. 2 to a safe and proper condition within an area and to such an extent as may be specified in the notice.

**Commencement Information**

**I8** Art. 40 in force at 22.7.2020, see [art. 1](#)

**Saving provisions for Trinity House**

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

**Commencement Information**

**I9** Art. 41 in force at 22.7.2020, see [art. 1](#)

**Crown rights**

**42.**—(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 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)—

- (a) 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;
- (b) 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
- (c) 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) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A 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.

**Commencement Information**

**I10** Art. 42 in force at 22.7.2020, see [art. 1](#)

**Protective provisions**

**43.** Schedule 16 (protective provisions) has effect.

(2) Section 105(2) was substituted by section 69(3) of the Energy Act 2008 (c. 32).

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**Changes to legislation:** There are currently no known outstanding effects for the The Norfolk  
Vanguard Offshore Wind Farm Order 2020, PART 7. (See end of Document for details)

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**Commencement Information**

**III** Art. 43 in force at 22.7.2020, see [art. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Norfolk Vanguard Offshore Wind Farm Order 2020, PART 7.