



OFFERYNNAU STATUDOL CYMRU

2021 Rhif 1478 (Cy. 380)

TRAFNIDIAETH A GWEITHFEYDD, CYMRU

Gorchymyn Parth Arddangos Morlais 2021

Gwnaed

17 Rhagfyr 2021

Yn dod i rym

22 Rhagfyr 2021

WELSH STATUTORY INSTRUMENTS

2021 No. 1478 (W. 380)

TRANSPORT AND WORKS, WALES

The Morlais Demonstration Zone Order 2021

Made

17 December 2021

Coming into force

22 December 2021



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**TRANSPORT AND WORKS,
WALES**

**Gorchymyn Parth Arddangos
Morlais 2021**

**The Morlais Demonstration Zone
Order 2021**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

Mae'r Gorchymyn yn darparu ar gyfer adeiladu, gweithredu, cynnal a chadw, ailberu a datgomisiynu gorsaf cynhyrchu trydan llanwol a gweithfeydd ategol oddi ar arfordir Ynys Môn yn ardal Abraham's Bosom ac ar gyfer cysylltu'r gweithfeydd hynny drwy is-orsafoedd ar y tir â'r grid trydan.

Gellir edrych ar gopi o'r datganiad amgylcheddol, y cyfeirlyfr, planiau'r gweithfeydd alltraeth, planiau'r tir, planiau'r tir a'r trawsluniau a ragnodir gan reol 12 o Reolau Trafnidiaeth a Gweithfeydd (Gweithdrefn Ceisiadau a Gwrthwynebiadau) (Cymru a Lloegr) 2006 (OS 2006/1466) ac a ardystir yn unol ag erthygl 46 o'r Gorchymyn hwn yn swyddfeydd Cyngor Sir Ynys Môn, Llangefni, Ynys Môn, LL77 7TW.

EXPLANATORY NOTE

(This note is not part of the Order)

The Order provides for the construction, operation, maintenance, repowering and decommissioning of a tidal electricity generating station and ancillary works off the coast of Anglesey in the area of Abraham's Bosom and for the connection of those works via onshore substations to the electricity grid.

A copy of the environmental statement, book of reference, offshore works plans, onshore plans, onshore plans and sections prescribed by rule 12 of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (S.I. 2006/1466) and certified in accordance with article 46 of this Order, may be inspected at the offices of Isle of Anglesey County Council, Council offices, Llangefni, Anglesey, LL77 7TW.

2021 Rhif 1478 (Cy. 380)

**TRAFNIDIAETH A
GWEITHFEYDD, CYMRU**

**Gorchymyn Parth Arddangos
Morlais 2021**

Gwnaed 17 Rhagfyr 2021
Yn dod i rym 22 Rhagfyr 2021

2021 No. 1478 (W. 380)

**TRANSPORT AND WORKS,
WALES**

**The Morlais Demonstration Zone
Order 2021**

Made 17 December 2021
Coming into force 22 December 2021

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Mae cais wedi cael ei wneud i Weinidogion Cymru yn unol â Rheolau Trafnidiaeth a Gweithfeydd (Gweithdrefn Ceisiadau a Gwrthwynebiadau) (Cymru a Lloegr) 2006(1) am Orchymyn o dan adrannau 3 a 5 o Ddeddf Trafnidiaeth a Gweithfeydd 1992(2) ("Ddeddf 1992").

Parodd Gweinidogion Cymru i ymchwiliad gael ei gynnal at ddibenion y cais o dan adran 11 o Ddeddf 1992.

Mae Gweinidogion Cymru, ar ôl ystyried y gwrthwynebiadau a wnaed ac nas tynnwyd yn eu hôl ac adroddiad y person a gynhaliodd yr ymchwiliad, wedi penderfynu gwneud Gorchymyn sy'n gweithredu'r cynigion sy'n cael eu cynnwys yn y cais gydag addasiadau sydd, ym marn Gweinidogion Cymru, yn gwneud newid sylweddol yn y cynigion.

Mae Gweinidogion Cymru ar ôl ystyried sylwadau a wnaed yn briodol o dan adran 13 o Ddeddf 1992, wedi penderfynu gwneud y Gorchymyn y gwnaed cais amdano gydag addasiadau. Cyhoeddwyd hysbysiad o benderfyniad Gweinidogion Cymru yn y London Gazette ar 17 Rhagfyr 2021.

An application has been made to the Welsh Ministers in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006(1) for an Order under sections 3 and 5 of the Transport and Works Act 1992(2) ("the 1992 Act").

The Welsh Ministers caused an inquiry to be held for the purposes of the application under section 11 of the 1992 Act.

The Welsh Ministers, having considered the objections made and not withdrawn and the report of the person who held the inquiry have determined to make an Order giving effect to proposals comprised in the application with modifications which in the opinion of the Welsh Ministers make a substantial change to the proposals.

The Welsh Ministers having considered representations duly made under section 13 of the 1992 Act, has determined to make the Order applied for with modifications. Notice of the Welsh Ministers determination was published in the London Gazette on 17 December 2021.

(1) O.S. 2006/1466, a ddiwygiwyd gan O.S. 2010/439, O.S. 2011/556, O.S. 2011/2085, O.S. 2012/147, O.S. 2012/1658, O.S. 2012/2590 ac O.S. 2013/755.

(2) 1992 p. 42; diwygiwyd adran 3 gan baragraffau 51 a 53 o Atodlen 2 i Ddeddf Cynllunio 2008 (p. 29), diwygiwyd adran 5 gan O.S. 2012/1659.

(1) S.I. 2006/1466, amended by S.I. 2010/439, S.I. 2011/556, S.I. 2011/2085, S.I. 2012/147, S.I. 2012/1658, S.I. 2012/2590 and S.I. 2013/755.

(2) 1992 c. 42; section 3 was amended by paragraphs 51 and 53 of Schedule 2 to the Planning Act 2008 (c. 29), section 5 was amended by S.I. 2012/1659.

Mae Gweinidogion Cymru drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adrannau 3 a 5 o Ddeddf 1992, a pharagraffau 2, 3, 4, 5, 7, 8, 11, 15, 16 a 17 o Atodlen 1 i'r ddeddf honno, sydd bellach yn arferadwy ganddynt(1) yn gwneud y Gorchymyn canlynol.

RHAN 1

Rhagarweiniol

Enwi a Chychwyn

1. Enw'r Gorchymyn hwn yw Gorchymyn Parth Arddangos Morlais 2021 a daw i rym ar 22 Rhagfyr 2021.

Dehongli

2.—(1) Yn y Gorchymyn hwn—

ystyr “Deddf 1961” yw Deddf Digollediad Tir 1961(2);

ystyr “Deddf 1965” yw Deddf Prynu Gorfodol 1965(3);

ystyr “Deddf 1980” yw Deddf Priffyrdd 1980(4);

ystyr “Deddf 1981” yw Deddf Prynu Gorfodol (Datganiadau Breinio) 1981(5);

ystyr “Deddf 1990” yw Deddf Cynllunio Gwlad a Thref 1990(6);

ystyr “Deddf 1991” yw Deddf Ffyrdd Newydd a Gweithfeydd Stryd 1991(7);

ystyr “Deddf 2004” yw Deddf Ynni 2004(8);

ystyr “Deddf 2009” yw Deddf y Môr a Mynediad i'r Arfordir 2009(9);

ystyr “Rheoliadau 2007” yw Rheoliadau Trydan (Gorsafoedd Cynhyrchu Alltraeth) (Parthau

The Welsh Ministers in exercise of the powers conferred on the Secretary of State by sections 3 and 5 of, and paragraphs 2, 3, 4, 5, 7, 8, 11, 15, 16 and 17 of Schedule 1 to, the 1992 Act, now exercisable by them(1) make the following Order.

PART 1

Preliminary

Citation and Commencement

1. This Order may be cited as the Morlais Demonstration Zone Order 2021 and comes into force on 22 December 2021.

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(2);

“the 1965 Act” means the Compulsory Purchase Act 1965(3);

“the 1980 Act” means the Highways Act 1980(4);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(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 2004 Act” means the Energy Act 2004(8);

“the 2009 Act” means the Marine and Coastal Access Act 2009(9);

“the 2007 Regulations” means the Electricity (Offshore Generating Stations) (Safety Zones)

(1) Mae pwerau o dan adrannau 3 a 5 o Ddeddf 1992, a pharagraffau 3, 4, 5, 7, 8, 11, 15, 16 a 17 o Atodlen 1 i'r ddeddf honno bellach wedi'u breinio yng Ngweinidogion Cymru i'r graddau y maent yn arferadwy mewn perthynas â Chymru. Cawsant eu breinio'n flaenorol yng Nghynulliad Cenedlaethol Cymru yn rhinwedd erthygl 2 ac Atodlen 1 i Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672). Yn rhinwedd paragraffau 30 a 32 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p. 32), fe'u trosglwyddwyd i Weiniogion Cymru.

(2) 1961 p. 33.
(3) 1965 p. 56
(4) 1980 p. 66.
(5) 1981 p. 66.
(6) 1990 p. 8.
(7) 1991 p. 22.
(8) 2004 p. 20.
(9) 2009 p. 23.

(1) Powers under sections 3 and 5 of, and paragraphs 3, 4, 5, 7, 8, 11, 15, 16, and 17 of Schedule 1 to the 1992 Act are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously vested in the National Assembly for Wales by virtue of article 2 and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers.

(2) 1961 c. 33.
(3) 1965 c. 56
(4) 1980 c. 66.
(5) 1981 c. 66.
(6) 1990 c. 8.
(7) 1991 c. 22.
(8) 2004 c. 20.
(9) 2009 c. 23.

Diogelwch) (Gweithdrefnau Gwneud Cais a Rheoli Mynediad) 2007(1);

mae “cyfeiriad” yn cynnwys unrhyw nifer o gyfeiriadau a ddefnyddir at ddibenion darlledu electronig;

ystyr “ardal araeau” yw'r rhan honno o derfynau Gorchymyn ar y môr a sefydlwyd fel ardal yr araeau yn Rhan 3 o Atodlen 1 y caniateir adeiladu, gweithredu, cynnal a chadw, ailbweru a datgomisiynu Gwaith Rhif 1 oddi mewn iddi;

ystyr “gweithfeydd awdurdodedig” yw'r gweithfeydd rhestredig a nodwyd yn Rhan 1 o Atodlen 1 ac unrhyw weithfeydd a awdurdodir gan y Gorchymyn hwn, gan gynnwys y gweithfeydd pellach a nodwyd yn Rhan 2 o Atodlen 1;

mae “adeilad” yn cynnwys unrhyw strwythur neu unrhyw ran o adeilad neu strwythur;

ystyr “cyfeirlyfr” yw'r cyfeirlyfr a ardystiwyd gan Weinidogion Cymru fel y cyfeirlyfr at ddibenion y Gorchymyn hwn;

ystyr “diogelu ceblau” yw diogelu unrhyw geblau sy'n ffurfio rhan o'r gweithfeydd awdurdodedig a chaiff gynnwys bagiau o greigiau, matrisau concriid, cyfnewid cerrig dros ffosydd agored wedi'u torri a chwndid neu bibell a all gynnwys tiwb J neu fesur diogelu pibellau hollt cyffelyb;

mae i “cerbyttfordd” yr un ystyr â “carriageway” yn Neddf 1980;

ystyr “cychwyn” yw dechrau cyflawni unrhyw weithrediad perthnasol (fel y'i diffiniwyd yn adran 56(4) o Ddeddf 1990) sy'n ffurfio rhan o'r gweithfeydd awdurdodedig naill ai ar y tir neu ar y môr heblaw am weithrediadau sy'n cynnwys gwaith dymchwel, ymchwiliadau at ddiben asesu amodau'r ddaear neu wely'r môr, ymchwiliadau archaeolegol, codi unrhyw ddull dros dro o amgáu ac arddangos hysbysiadau neu hysbysebion dros dro; a rhaid dehongli “cychwyn” yn unol â hynny;

ystyr “ceblau cyfathrebu” yw ceblau ffôn a/neu geblau ffeibr optig ar gyfer cyfathrebu'n electronig;

ystyr “datgomisiynu” yw datgomisiynu'r gweithfeydd awdurdodedig (neu unrhyw ran ohonynt) ar ddiwedd eu hoes weithredol ond ni fydd yn cynnwys ailbweru;

ystyr “strategaeth gwella bioamrywiaeth forol fanwl” yw strategaeth gwella bioamrywiaeth forol sy'n unol â'r strategaeth gwella bioamrywiaeth forol ac sy'n disgrifio unrhyw fesurau gwella amrywiaeth arfaethedig i'w cyflwyno fel rhan o

(Application Procedures and Control of Access) Regulations 2007(1);

“address” includes any number or address used for the purposes of electronic transmission;

“array area” means that part of the offshore Order limits established as the array area in Part 3 of Schedule 1 within which Work No. 1 may be constructed, operated, maintained, repowered and decommissioned;

“authorised works” means the scheduled works identified at Part 1 of Schedule 1 and any other works authorised by this Order including the further works identified at Part 2 of Schedule 1;

“building” includes any structure or erection or any part of a building, structure or erection;

“the book of reference” means the book of reference certified by the Welsh Ministers as the book of reference for the purposes of this Order;

“cable protection” means protection of any cables forming part of the authorised works and may include rock bags, concrete mattresses, boulder replacement over open cut trenches and a conduit or duct which may comprise a J tube or similar split pipe protection;

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

“commence” means begin to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised works either onshore or offshore other than operations consisting of demolition work, investigations for the purpose of assessing ground or seabed conditions, archaeological investigations, the erection of any temporary means of enclosure and the temporary display of site notices or advertisements; and “commencement” must be construed accordingly;

“communication cables” means telephone cables and/or fibre optic cables for the transmission of electronic communications;

“decommissioning” means the decommissioning of the authorised works (or any part of them) at the end of their operational life but shall not include repowering;

“detailed marine biodiversity enhancement strategy” means a marine biodiversity enhancement strategy which accords with the outline marine biodiversity enhancement strategy and which describes any proposed biodiversity enhancement measures to be delivered as part of

(1) O.S. 2007/1948, a ddiwygiwyd (mewn perthynas â Chymru) gan OS 2019/293.

(1) S.I. 2007/1948, amended (in relation to Wales) by S.I. 2019/293.

adeiladu neu ailberu dyfeisiau llanwol, hybiau gweithredol neu osod ceblau y mae'n ymwneud â hwy;

ystyr "protocol ar ddefnyddio dyfeisiau" yw datganiad sy'n nodi—

- (a) mewn cysylltiad â dyfeisiau llanwol a hybiau gweithredol sy'n codi o'r wyneb yn yr ardaloedd cyfyngedig a gweddill ardal yr araeau fanylion sy'n cynnwys dimensiynau'r dyfeisiau llanwol neu'r hybiau gweithredol y mae'r ymgwymerwr yn bwriadu eu hadeiladu neu eu hailberu ac asesiad morwedd, tirwedd a gweledol a gynhelir yn unol â'r fethodoleg asesu ar gyfer y datganiad amgylcheddol neu unrhyw ganllawiau arferion gorau a gyhoeddir wedi hynny ar y dyfeisiau llanwol neu'r hybiau gweithredol arfaethedig a fydd yn cynnwys asesiad o effaith gronol y dyfeisiau llanwol a'r hybiau gweithredol arfaethedig a/neu y rhoddyd cydsyniad iddynt (yn unol â phrotocol ar ddefnyddio dyfeisiau cymeradwy) ar adeg ei baratoi, a/neu
- (b) mewn perthynas â dyfeisiau llanwol neu hybiau gweithredol o dan yr wyneb yn yr ardal gyfyngedig – UKC 8m gyda lle clirio arfaethedig o dan y cêl o lai nag 8m fanylion am y ddyfais lanwol neu'r hwb gweithredol i'w (d)defnyddio, a/neu
- (c) mewn perthynas â dyfeisiau llanwol neu hybiau gweithredol o dan y wyneb yn yr ardal gyfyngedig UKC 20m gyda lle clirio arfaethedig o dan y cêl o lai nag 20m fanylion am y ddyfais lanwol neu'r hwb gweithredol i'w (d)defnyddio ac ym mhob achos bydd yn gyson â'r asesiad risg mordwyol wedi'i ddiweddararu ar gyfer y gwaith llanwol perthnasol;

ystyr "Cyfarwyddeb AEA" yw Cyfarwyddeb 2011/92/EU Senedd Ewrop a'r Cyngor dyddiedig 13 Rhagfyr 2011 fel y'i diwygiwyd gan Gyfarwyddeb 2014/52/EU Senedd Ewrop a'r Cyngor dyddiedig 16 Ebrill 2014 ar asesu effeithiau prosiectau cyhoeddus a phreifat penodol ar yr amgylchedd(1);

ystyr "darlledu electronig" yw cyfathrebiad a ddarlledir—

- (a) drwy rwydwaith cyfathrebu electronig, neu
- (b) drwy fodd arall ond ar ffurf electronig;

the construction or repowering of tidal devices, operational hubs, or installation of cables to which it relates;

"device deployment protocol" means a statement identifying—

- (a) in respect of surface emergent tidal devices and operational hubs in the restricted areas and the remainder of the array area details including dimensions of the tidal device or operational hubs that the undertaker proposes to construct or repower and an updated seascape, landscape and visual assessment undertaken in accordance with the assessment methodology for the environmental statement or any subsequently published best practice guidance of those proposed tidal devices or operational hubs which shall include an assessment of the cumulative impact of the proposed tidal devices and hubs operational and/or consented (pursuant to an approved device deployment protocol) at the time of its preparation, and/or
- (b) in respect of subsurface tidal devices or operational hubs in the restricted area – UKC 8m with a proposed under keel clearance of less than 8m details of the tidal device or operational hub to be deployed, and/or
- (c) in respect of subsurface tidal devices or operational hubs in the restricted area UKC 20m with a proposed under keel clearance of less than 20m details of the tidal device or operational hub to be deployed, and in each case shall be consistent with the updated navigational risk assessment for the relevant tidal work;

"EIA Directive" means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 as amended by the Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 on the assessment of the effects of certain public and private projects on the environment(1);

"electronic transmission" means a communication transmitted—

- (a) by means of an electronic communications network, or
- (b) by other means but while in electronic form;

(1) Cyfnodolyn Swyddogol yr Undeb Ewropeaidd Rhif L 026, 28.1.2012, t.1.

(1) OJ L 026, 28.1.2012, p.1

ystyr “datganiad amgylcheddol” yw'r datganiad amgylcheddol a gyflwynir ar y cyd â'r cais am y Gorchymyn hwn fel yr ychwanegir ato neu fel y'i diwygir gan y wybodaeth amgylcheddol bellach a gyflwynir i gefnogi'r cais ac fel y'i hardystir ynghyd â'r datganiad amgylcheddol gan Weinidogion Cymru at ddibenion y Gorchymyn hwn;

ystyr “dogfen gyfatebol” yw dogfen a restrir yng nghlofn 1 o Ran 4 o Atodlen 1 y mae ei chynnwys hefyd yn ddarostyngedig i amod ar unrhyw drwydded forol a roddir ar gyfer gweithfeydd llanwol;

ystyr “safle Ewropeaidd” yw safle Ewropeaidd fel y'i diffiniwyd yn Rheoliad 8 o Reoliadau Cadwraeth Cynefinoedd a Rhywogaethau 2017(1);

ystyr “coridor ceblau allforio” yw'r rhan o derfynau'r Gorchymyn ar y môr a sefydlwyd fel y coridor ceblau allforio yn Rhan 3 o Atodlen 1;

mae i “troetffordd” yr un ystyr â “footway” yn Neddf 1980;

mae i “priffordd” ac “awdurdod priffyrdd” yr un ystyr â “highway” a “highway authority” yn Neddf 1980;

ystyr “terfynau'r gwyro” yw terfynau'r gwyro ar gyfer y gweithfeydd ar y tir a ddangosir ar blaniau'r tir;

ystyr “terfynau tir sydd i'w gaffael neu i'w ddefnyddio” yw'r tir a ddangosir ar blaniau'r tir;

mae “cynnal a chadw” yn cynnwys archwilio, atgyweirio, adnewyddu, cyfnewid, addasu, newid ac mae hefyd yn cynnwys, mewn perthynas â rhan gyfansoddol o waith ond nid y gwaith cyfan, waredu, clirio, adnewyddu, ailadeiladu, dymchwel, cyfnewid a gwella unrhyw ran o'r gweithfeydd awdurdodedig, ond nid yw'n cynnwys unrhyw weithgarwch (heblaw gweithgarwch a awdurdodir gan neu o dan y Gorchymyn hwn) sydd o fewn dosbarth a restrir yn Atodiad I i'r Gyfarwyddeb AEA neu mewn dosbarth a restrir yn Atodiad II i'r Gyfarwyddeb AEA ac, oherwydd ei faint neu ei leoliad, sy'n debygol o gael effeithiau sylweddol ar yr amgylchedd ac nad yw wedi cael ei ystyried na'i asesu yn y datganiad amgylcheddol a rhaid dehongli “cynnal a chadw” yn unol â hynny;

ystyr “MW” yw megawattiau;

ystyr “Cyfoeth Naturiol Cymru” yw Corff Adnoddau Naturiol Cymru;

“environmental statement” means the environmental statement submitted with the application for this Order as supplemented and amended by the further environmental information submitted in support of the application and certified together as the environmental statement by the Welsh Ministers for the purposes of this Order;

“equivalent document” means a document listed in column 1 of Part 4 of Schedule 1 the content of which is also the subject of a condition on any marine licence granted for tidal works;

“european site” means a European site as defined in Regulation 8 of the Conservation of Habitats and Species Regulations 2017(1);

“export cable corridor” means that part of the offshore Order limits established as the export cable corridor in Part 3 of Schedule 1;

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

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

“the limits of deviation” means the limits of deviation for the onshore works shown on the onshore plans;

“limits of land to be acquired or used” means the land shown on the onshore plans;

“maintain” includes inspect, repair, refurbish, replace, adjust, alter and also includes, in respect of a constituent part of a work but not the whole of a work, remove, clear, refurbish, reconstruct, demolish, replace and improve any part of the authorised works, but does not include any activity (other than an activity authorised by or under this Order) that is within a class listed in Annex I to the EIA Directive or in a class listed in Annex II to the EIA Directive and, by nature of its size or location, likely to have significant effects on the environment and which has not been considered and assessed in the environmental statement and “maintenance” must be construed accordingly;

“MW” means megawatts;

“Natural Resources Wales” means the Natural Resources Body for Wales;

(1) O.S. 2017/1012.

(1) S.I. 2017/1012.

ystyr “terfynau'r Gorchymyn ar y môr” yw'r terfynau y caiff y gweithfeydd llanwol eu hadeiladu, eu gweithredu, eu cynnal a'u cadw, eu hailbweru a'u datgomisiynu oddi mewn iddynt a ddangosir ar blaniau'r gweithfeydd alltraeth;

ystyr “planiau'r gweithfeydd alltraeth” mewn perthynas â'r gweithfeydd llanwol yw'r planiau a baratoir yn unol â rheol 12(1)(a) o Reolau Trafnidiaeth a Gweithfeydd (Gweithdrefn Ceisiadau a Gwrthwynebiadau) (Cymru a Lloegr) 2006 ac a ardystir gan Weinidogion Cymru fel planiau'r gweithfeydd alltraeth at ddibenion y Gorchymyn hwn;

ystyr “terfynau'r Gorchymyn ar y tir” yw terfynau'r gwyro a therfynau tir sydd i'w gaffael neu i'w ddefnyddio at gyfer y gweithfeydd ar y môr fel y'u dangosir ar blaniau'r tir;

ystyr “planiau'r tir” yw'r planiau a baratoir yn unol â rheol 12(1)(a) a rheol 12(5) o Reolau Trafnidiaeth a Gweithfeydd (Gweithdrefn Ceisiadau a Gwrthwynebiadau) (Cymru a Lloegr) 2006 ac a ardystir gan Weinidogion Cymru fel planiau'r tir at ddibenion y Gorchymyn hwn;

ystyr “gweithfeydd ar y tir” yw cymaint o'r gweithfeydd awdurdodedig ag sy'n gorwedd tua'r tir o ddistyll cymedrig y gorllanw;

ystyr “hwb gweithredol” yw hwb ar gyfer casglu a chyfuno trydan a gynhyrchir gan nifer o ddyfeisiau llanwol sy'n cynnwys rhan o Waith Rhif 1;

ystyr “strategaeth gwella bioamrywiaeth forol amlinellol” yw'r ddogfen a ardystiwyd fel y strategaeth gwella bioamrywiaeth forol amlinellol gan Weinidogion Cymru at ddibenion y Gorchymyn hwn neu unrhyw strategaeth gwella bioamrywiaeth forol amlinellol sydd wedi'i diweddarau neu wedi'i diwygio ag a gymeradwyir gan Weinidogion Cymru neu Cyfoeth Naturiol Cymru yn unol â thelerau unrhyw drwydded forol y gellir ei rhoi ar gyfer y gweithfeydd llanwol;

mae i “perchennog”, mewn perthynas â thir, yr un ystyr ag “owner” yn Neddf Caffael Tir 1981(1);

ystyr “paramedrau'r prosiect” yw'r paramedrau ar gyfer y gweithfeydd awdurdodedig fel y'u nodwyd yn nhablau 4-21 i 4-30 o'r bennod 4 ddiwygiedig o'r wybodaeth amgylcheddol wedi'i diweddarau sy'n rhan o'r datganiad amgylcheddol ac sy'n dwyn cyfeirnod dogfen MOR-RHDHV-DOC-0004 fersiwn F4.0 dyddiedig Hydref 2019;

“offshore Order limits” means the limits within which the tidal works may be constructed, operated, maintained, repowered and decommissioned shown on the offshore works plans;

“offshore works plans” means in relation to the tidal works the plans prepared in pursuance of rule 12(1)(a) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 and certified by the Welsh Ministers as the offshore works plans for the purposes of this Order;

“onshore Order limits” means the limits of deviation and the limits of land to be acquired or used for the onshore works as shown on the onshore plans;

“onshore plans” means the plans prepared in pursuance of both rule 12(1)(a) and rule 12(5) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 and certified by the Welsh Ministers as the onshore plans for the purposes of this Order;

“onshore works” means so much of the authorised works as lies landward of mean low water springs;

“operational hub” means a hub for the collection and aggregation of electricity generated from a number of tidal devices comprising part of Work No. 1;

“outline marine biodiversity enhancement strategy” means the document certified as the outline marine biodiversity enhancement strategy by the Welsh Ministers for the purposes of this order or any updated or amended outline marine biodiversity enhancement strategy as may either be approved by the Welsh Ministers or by Natural Resources Wales in accordance with the terms of any marine licence that may be granted for the tidal works;

“owner” in relation to land, has the same meaning as in the Acquisition of Land Act 1981(1);

“project parameters” means the parameters for the authorised works as set out in tables 4-21 to 4-30 of the updated chapter 4 of updated environmental information forming part of the environmental statement and carrying document reference MOR-RHDHV-DOC-0004 version F4.0 dated October 2019;

(1) 1981 p. 67. Y diffiniad o “perchennog” fel y'i diwygiwyd gan baragraff 9 o Atodlen 15 i Ddeddf Cynllunio a Digolledu 1991 (p. 34). Mae diwygiadau eraill i adran 7 nad ydynt yn berthnasol i'r Gorchymyn hwn.

(1) 1981 c. 67. The definition of “owner” as amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

ystyr “ailbweru” yw cyfnewid dyfais lanwol bresennol â dyfais lanwol wahanol yn yr un lleoliad neu mewn lleoliad gwahanol a all gynnwys—

- (a) tynnu ymaith ddyfeisiau llanwol, hybiau cysylltiedig, ceblau rhwng araeau a chyfarpar monitro sy'n cynnwys y rhan honno o Waith Rhif 1 ag sy'n cael ei hailbweru; ac
- (b) adeiladu dyfeisiau llanwol, hybiau cysylltiedig, ceblau rhwng araeau a chyfarpar monitro newydd a gweithfeydd awdurdodedig eraill gyda Gwaith Rhif 1 ynghyd ag unrhyw weithfeydd cysylltiedig a nodir yn Rhan 2 o Atodlen 1;

ond nid yw'n cynnwys unrhyw weithgarwch (heblaw gweithgarwch a awdurdodir gan neu o dan y Gorchymyn hwn) sydd o fewn dosbarth a restrir yn Atodiad I i'r Gyfarwyddeb AEA neu mewn dosbarth a restrir yn Atodiad II i'r Gyfarwyddeb AEA ac, oherwydd ei faint neu ei leoliad, sy'n debygol o gael effeithiau sylweddol ar yr amgylchedd ac nad yw wedi cael ei ystyried na'i asesu yn y datganiad amgylcheddol a rhaid dehongli “ailbweru” yn unol â hynny;

ystyr “plan ardal gyfyngedig” yw'r plan a nodir â ‘Plan yr Ardal Gyfyngedig’ ac sy'n dwyn y cyfeirnod PB5034-ES-004-005 Rev 05 ac a ardystir gan Weinidogion Cymru fel plan yr ardal gyfyngedig at ddibenion y Gorchymyn hwn;

ystyr “ardal gyfyngedig – gogleddol” yw'r rhan honno o ardal yr araeau a sefydlwyd fel yr ardal gyfyngedig – gogleddol, yn Rhan 3 o Atodlen 1 ac a ddangosir mewn lliw aur ar Blan yr Ardal Gyfyngedig;

ystyr “ardal gyfyngedig - UKC 8m” yw'r rhan o ardal yr araeau a sefydlwyd fel yr ardal gyfyngedig UKC 8m yn Rhan 3 o Atodlen 1 ac a ddangosir mewn lliw glas ar Blan yr Ardal Gyfyngedig;

ystyr “ardal gyfyngedig – UKC 20m” yw'r rhan o'r ardal a sefydlwyd fel yr ardal gyfyngedig – UKC 20m yn Rhan 3 o Atodlen 1 ac a ddangosir mewn lliw porffor ar Blan yr Ardal Gyfyngedig;

ystyr “ardaloedd cyfyngedig” yw'r ardal gyfyngedig – gogleddol yr ardal gyfyngedig – UKC 8m a'r ardal gyfyngedig – UKC 20m;

ystyr “yr Ysgrifennydd Gwladol” yw'r Ysgrifennydd Gwladol dros Fusnes, Ynni a Strategaeth Ddiwydiannol neu ei olynydd o ran swyddogaeth sydd â phwerau i sicrhau datgomisiynu gosodiadau ynni adnewyddadwy alltraeth yn unol â Deddf 2004;

“repower” means the replacement of an existing tidal device with a different tidal device in the same or different location which may include the—

- (a) removal of tidal devices, associated hubs, inter-array cables and monitoring equipment comprising that part of Work No. 1 being repowered; and
- (b) the construction of new tidal devices, associated hubs, inter-array cables and monitoring equipment and other authorised works with Work No. 1 together with any related works identified in Part 2 of Schedule 1;

but does not include any activity (other than an activity authorised by or under this Order) that is within a class listed in Annex 1 to the EIA Directive or in a class listed in Annex II to the EIA Directive and, by nature if its size or location, likely to have significant effects of the environment and which has not been considered and assessed in the environmental statement and “repowered” must be construed accordingly;

“restricted area plan” means the plan marked ‘Restricted Area Plan’ and carrying reference PB5034-ES-004-005 Rev 05 and certified by the Welsh Ministers as the restricted area plan for the purposes of this Order;

“restricted area – northern” means that part of the array area established as the restricted area – northern, in Part 3 of Schedule 1 and shown shaded gold on the Restricted Area Plan;

“restricted area – UKC 8m” means that part of the array area established as the restricted area UKC 8m in Part 3 of Schedule 1 and shown shaded blue on the Restricted Area Plan;

“restricted area – UKC 20m” means that part of the area established as the restricted area - UKC 20m in Part 3 of Schedule 1 and shown shaded purple on the Restricted Area Plan;

“restricted areas” means the restricted area – northern the restricted area – UKC 8m and the restricted area – UKC 20m;

“the Secretary of State” means the Secretary of State for Business Energy and Industrial Strategy or its successor in function with powers to secure the decommissioning of offshore renewable energy installations pursuant to the 2004 Act;

ystyr “y trawsluniau” yw'r trawsluniau a baratoir yn unol â rheol 12(3) o Reolau Trafnidiaeth a Gweithfeydd (Gweithdrefn Ceisiadau a Gwrthwynebiadau) (Cymru a Lloegr) 2006 ac a ardystiwyd gan Weinidogion Cymru fel y trawsluniau at ddibenion y Gorchymyn hwn;

mae “stryd” yn cynnwys rhan o stryd;

mae i “awdurdod strydoedd”, mewn perthynas â stryd, yr yn ystyr â “street authority” yn Rhan 3 o Ddeddf 1991;

ystyr “dyfais lanwol” yw generadur ynni'r llanw ar wahân sy'n cynnwys trawsnewidiwr/trawsnewidwyr ynni'r llanw, sylfeini a strwythurau ategol;

ystyr “trawsnewidiwr ynni'r llanw” yw'r rhan honno o ddyfais lanwol sy'n trawsnewid ynni cinetig a phosibl a geir o fewn dŵr llanwol symudol yn drydan;

ystyr “gweithfeydd llanwol” yw cymaint o'r gweithfeydd awdurdodedig ag sy'n gorwedd tua'r môr o benllanw cymedrig y gorllanw neu unrhyw ran neu rannau ohonynt a byddant yn cynnwys unrhyw gyfryw weithfeydd ag sydd wedi cael eu hailbweru ac mewn perthynas ag erthygl 21 (diogelwch mordwyo) ac maent yn cynnwys unrhyw weithfeydd carthu, boed hynny yn unol ag erthygl 16 (pŵer i garthu) neu fel arall;

ystyr “y tribiwnlys” yw Siambr Diroedd yr Uwch Dribiwnlys;

ystyr “Trinity House” yw Corporation of Trinity House o Deptford Strond;

ystyr “ymgymerwr” mewn perthynas ag adeiladu, cynnal a chadw, ailbweru a datgomisiynu'r gweithfeydd awdurdodedig yw Menter Môn Morlais Cyfyngedig neu'r cyfryw gwmni arall y trosglwyddir buddiant y Gorchymyn iddo yn unol ag erthygl 6(1) ac mewn perthynas â'r gweithfeydd llanwol mae'n cynnwys unrhyw berson y mae rhan o'r gweithfeydd llanwol neu derfynau'r Gorchymyn ar y môr wedi cael ei phrydlesu iddo yn unol ag erthygl 6(2);

ystyr "asesiad risg mordwyol wedi'i ddiweddarau" yw asesiad risg mordwyol wedi'i ddiweddarau ar gyfer pob cam perthnasol o bob gwaith llanwol a wneir yn unol â methodoleg ac argymhellion Asiantaeth y Môr a Gwylwyr y Glannau a nodir yn MGN654 ‘Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response’ a'i atodiadau neu ddiweddiadau dilynol ac ystyried lleoliad a nodweddion y gweithfeydd llanwol y cynigir y dylid eu defnyddio, y dull o adeiladu, angori goleuadau a gynigir, gweithredu ac unrhyw ofynion cynnal a

“the sections” means the sections prepared in pursuance of rule 12(3) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 and certified by the Welsh Ministers as the sections for the purposes of this Order;

“street” includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“tidal device” means a discrete tidal energy generator comprising tidal energy converter(s), foundations and support structures;

“tidal energy converter” means that part of a tidal device that converts kinetic and potential energy contained within moving tidal water into electricity;

“tidal works” means so much of the authorised works as lies seaward of mean high water spring or any part or parts thereof and shall include any such works which have been repowered and in relation to article 21 (safety of navigation) includes any dredging works whether undertaken pursuant to article 16 (power to dredge) or otherwise;

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

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

“undertaker” means in relation to the construction, maintenance repowering and decommissioning of the authorised works Menter Môn Morlais Limited or such other company to whom the benefit of the Order is transferred pursuant to article 6(1) and in relation to the tidal works includes any person to whom part of the tidal works or the offshore Order limits has been let pursuant to article 6(2);

“updated navigational risk assessment” means an updated navigational risk assessment for each relevant phase of each tidal work undertaken in accordance with the methodology and recommendations set out in the Maritime and Coastguard Agency’s MGN654 ‘Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response’ and its annexes or subsequent updates thereto and taking into account the location and characteristics of the tidal works proposed for deployment, the method of construction anchoring proposed lighting, operation and any associated maintenance

chadw cysylltiedig neu ddulliau ailbweru neu ddatgomisiynu (fel y bo'n gymwys) ac asesiad o effeithiau cronol y cynigion gyda gweithfeydd llanwol a ddefnyddiwyd yn flaenorol a bydd yn cynnwys graddau unrhyw barth diogelwch arfaethedig i wneud cais amdano yn unol ag erthygl 43;

mae "cwrs dŵr" yn cynnwys pob afon, ffrwd, ffos, draen camlas, toriad, cwlfer, clawdd, llifddor, carthffos a thramwy y mae dŵr yn llifo drwyddi neu drwyddo ac eithrio carthffos neu ddraen gyhoeddus.

(2) Mae cyfeiriadau yn y Gorchymyn hwn i hawliau dros dir yn cynnwys cyfeiriadau at hawliau i wneud, neu i osod a chynnal a chadw, unrhyw beth yn y tir, arno neu oddi tano neu yn yr awyr uwchlaw ei wyneb.

(3) Dehonglir unrhyw bellteroedd, cyfeiriadau a hydroedd a nodir yn y disgrifiad o'r gweithfeydd awdurdodedig neu mewn unrhyw ddisgrifiad o bwerau neu diroedd fel pe bai'r geiriau "neu fwy neu lai" wedi'u mewnosod ar ôl pob cyfryw bellter, cyfeiriad a hyd, a thybir bod pellteroedd rhwng pwyntiau ar waith awdurdodedig wedi'u mesur ar hyd y gwaith awdurdodedig.

RHAN 2

Darpariaethau ynghylch Gweithfeydd

Prif bwerau

Pŵer i adeiladu, cynnal a chadw, ailbweru a datgomisiynu gweithfeydd

3.—(1) Yn ddarostyngedig i ddarpariaethau'r Gorchymyn hwn caiff yr ymgymwrwr adeiladu, cynnal a chadw a datgomisiynu'r gweithfeydd awdurdodedig.

(2) Yn ddarostyngedig i ddarpariaethau'r Gorchymyn hwn caiff yr ymgymwrwr adeiladu, cynnal a chadw a datgomisiynu'r gweithfeydd llanwol neu unrhyw rannau ohonynt o fewn terfynau'r Gorchymyn ar y môr.

(3) Yn ddarostyngedig i ddarpariaethau'r Gorchymyn hwn caiff yr ymgymwrwr ailbweru Gwaith Rhif 1 neu unrhyw rannau ohono o fewn terfynau'r Gorchymyn ar y môr.

(4) Wrth adeiladu, cynnal a chadw, ailbweru a datgomisiynu'r gweithfeydd llanwol, rhaid i'r dogfennau yng ngholofn 1 o Ran 4 o Atodlen 1 gael eu cyflwyno i Weinidogion Cymru a'u cymeradwyo'n ysgrifenedig ganddynt cyn bod y gweithgarwch yng ngholofn 2 yn digwydd a bydd yn rhaid i'r cyfryw ddogfennau fod yn unol ag unrhyw amodau sy'n ymwneud â'u cynnwys a osodir ar unrhyw drwydded forol ar gyfer y gweithfeydd llanwol perthnasol ac ni fyddant yn awdurdodi unrhyw weithfeydd y tu allan i baramedrau'r prosiect.

requirements or methods of repowering or decommissioning (as applicable) and an assessment of the cumulative effects of the proposals with previously deployed tidal works and shall include the extent of any proposed safety zone to be applied for in accordance with article 43;

"watercourse" includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) All distances, directions and lengths stated in the description of the authorised works or in any description of powers or lands are to be construed as if the words "or thereabouts" were inserted after each such distance, direction and length, and distances between points on an authorised work are to be taken to be measured along the authorised work.

PART 2

Works Provisions

Principal powers

Power to construct maintain, repower and decommission works

3.—(1) Subject to the provisions of this Order the undertaker may construct, maintain and decommission the authorised works.

(2) Subject to the provisions of this Order the undertaker may construct, maintain and decommission the tidal works or any parts thereof within the offshore Order limits.

(3) Subject to the provisions of this Order the undertaker may repower Work No. 1 or any parts thereof within the offshore Order limits.

(4) In constructing, maintaining, repowering and decommissioning the tidal works the documents in column 1 of Part 4 of Schedule 1 must be submitted to and approved in writing by the Welsh Ministers prior to the activity in column 2 occurring and such documents shall accord with any conditions relating to their content imposed on any marine licence for the relevant tidal works and shall not authorise any works outside the project parameters.

(5) Ni fydd Gweinidogion Cymru yn cymeradwyo unrhyw brotocol ar ddefnyddio dyfeisiau yn unol â pharagraff (4) mewn perthynas ag adeiladu neu ailbweru dyfeisiau llanwol sy'n codi o'r arwyneb a hybiau gweithredol yn ardal yr araeau heb ymgynghori â Chyngor Sir Ynys Môn yn gyntaf ac ni fydd yn cymeradwyo unrhyw brotocol ar ddefnyddio dyfeisiau, cynllun rheoli ceblau, rhaglen ddatgomisiynu nac asesiad risg mordwyol wedi'i ddiweddarau yn unol â pharagraff (4) heb ymgynghori â Trinity House ac Asiantaeth y Môr a Gwylwyr y Glannau yn gyntaf, ac ym mhob achos bydd Gweinidogion Cymru yn rhoi sylw i ymatebion yr ymgynghoreion hynny.

(6) Rhaid i'r gweithfeydd llanwol ac unrhyw rannau ohonynt gael eu hadeiladu, eu cynnal a'u cadw, eu hailbweru a'u datgomisiynu (fel y bo'n briodol) yn unol â'r dogfennau a gymeradwyir yn unol â pharagraff (4) uchod ac eithrio y gellir diwygio'r cyfryw ddogfennau o bryd i'w gilydd gyda chytundeb Gweinidogion Cymru.

(7) At ddibenion paragraffau (4) a (6) uchod, bernir y bydd unrhyw gymeradwyaeth o ddogfen gyfatebol yn unol ag un o amodau trwydded forol a roddir ar gyfer y gweithfeydd llanwol neu ddiwygiad y cytunwyd arno i'r cyfryw ddogfen yn gymeradwyaeth gan Weinidogion Cymru.

(8) Ni chaiff unrhyw weithfeydd llanwol gychwyn nes bod rhaglen ddatgomisiynu ysgrifenedig yn unol ag unrhyw hysbysiad a gyflwynir i'r ymgwymerwr gan yr Ysgrifennydd Gwladol yn unol ag adran 105(2) o Ddeddf 2004 wedi'i gyflwyno i'r Ysgrifennydd Gwladol i'w gymeradwyo.

Pŵer i wro

4. Wrth adeiladu neu gynnal a chadw'r gweithfeydd alltraeth—

- (a) caiff yr ymgwymerwr mewn perthynas â Gweithfeydd Rhif 3 i 9 wro'n ochrol i unrhyw raddau oddi wrth y llinellau neu'r sefyllfaoedd a ddangosir ar blaniau'r tir o fewn terfynau'r gwyro;
- (b) ni chaniateir i'r ymgwymerwr mewn perthynas â Gweithfeydd Rhif 7 ac 8 adeiladu unrhyw weithfeydd o fewn 1.6 metr i wyneb y ddaear; a
- (c) chaiff yr ymgwymerwr mewn perthynas â phob un o'r gweithfeydd awdurdodedig a bennir yng ngholofn (3) o'r tabl a nodir ym Mhennod 2 o Ran 2 i Atodlen 1 i'r Gorchymyn hwn, adeiladu'r gweithfeydd hynny yn y tir a nodir mewn perthynas â'r gwaith penodol hwnnw yng ngholofnau (1) a (2) o'r tabl hwnnw.

(5) The Welsh Ministers shall not approve any device deployment protocol pursuant to paragraph (4) in respect of the construction or repowering of surface emergent tidal devices and operational hubs in the array area without having first consulted with the Isle of Anglesey County Council and shall not approve any device deployment protocol, cable management plan, decommissioning programme or updated navigational risk assessment pursuant to paragraph (4) without having first consulted Trinity House and the Maritime and Coastguard Agency, and in each case the Welsh Ministers shall have regard to the responses of those consultees.

(6) The tidal works and any parts thereof must be constructed maintained, repowered and decommissioned (as appropriate) in accordance with the documents approved pursuant to paragraph (4) above save that such documents may be revised from time to time with the agreement of the Welsh Ministers.

(7) For the purposes of paragraphs (4) and (6) above any approval to an equivalent document pursuant to a condition of a marine licence granted for the tidal works or an agreed amendment to such a document shall be deemed to be approval of the Welsh Ministers.

(8) No tidal works may commence until a written decommissioning programme in compliance with any notice served upon the undertaker by the Secretary of State pursuant to section 105(2) of the 2004 Act has been submitted to the Secretary of State for approval.

Power to deviate

4. In constructing or maintaining the onshore works the undertaker —

- (a) may in relation to Works Nos 3 to 9 deviate laterally to any extent from the lines or situations shown on the onshore plans within the limits of deviation;
- (b) must not in relation to Works Nos. 7 and 8 construct any works within 1.6 metres of the surface of the ground; and
- (c) may in relation to each of the authorised works specified in column (3) of the table set out in Chapter 2 of Part 2 to Schedule 1 to this Order, construct those works in the land identified in relation to that particular works in columns (1) and (2) of that table.

Pŵer i weithredu

5.—(1) Caiff yr ymgwymerwr weithredu a defnyddio'r gweithfeydd awdurdodedig fel system ar gyfer cynhyrchu a thrawsyrro trydan.

(2) Wrth weithredu'r gweithfeydd alltraeth rhaid i'r ymgwymerwr gydymffurfio â'r dogfennau a nodir yn Rhan 4 o Atodlen 1 fel y'u cymeradwywyd i'r graddau sy'n berthnasol i weithredu a defnyddio'r gweithfeydd llanwol.

Budd y Gorchymyn

6.—(1) Caiff yr ymgwymerwr, gyda chydysyniad Gweinidogion Cymru, drosglwyddo i berson arall ("y trosglwyddai") unrhyw ran neu bob rhan o fudd darpariaeth y Gorchymyn hwn gan gynnwys ei hawl i adeiladu, cynnal a chadw, gweithredu, ailberu a datgomisiynu'r gweithfeydd awdurdodedig (neu unrhyw ran ohonynt) a'r cyfryw hawliau statudol ag y caiff yr ymgwymerwr a'r trosglwyddai gytuno arnynt.

(2) Caiff yr ymgwymerwr roi i berson arall ("y prydlesai") am gyfnod y cytunir arno rhwng yr ymgwymerwr a'r prydlesai yr hawl i adeiladu, cynnal a chadw, gweithredu, ailberu a datgomisiynu'r gweithfeydd llanwol (neu unrhyw ran ohonynt) a'r cyfryw hawliau statudol cysylltiedig ag y cytunir arnynt felly.

(3) Mae arfer y pwerau a roddir drwy ddeddfiad gan unrhyw berson yn unol â throsglwyddo neu roi'r pwerau hynny o dan baragraff (1) neu (2) yn ddarostyngedig i'r un cyfyngiadau, atebolrwyddau a rhwymedigaethau ag a fyddai'n gymwys o dan y Gorchymyn hwn pe bai'r pwerau hynny yn cael eu harfer gan yr ymgwymerwr.

*Strydoedd
Cymhwysio Deddf 1991*

Pŵer i wneud gweithfeydd stryd

7.—(1) Caiff yr ymgwymerwr, at ddibenion adeiladu, gweithredu a chynnal a chadw'r gweithfeydd awdurdodedig, fynd ar gymaint o unrhyw un o'r strydoedd a bennir yn Atodlen 3 i'r Gorchymyn hwn ag sydd o fewn terfynau'r Gorchymyn ar y tir a chaiff—

- (a) torri neu agor y stryd, neu unrhyw garthffos, draen neu dwnnel oddi tani,
- (b) twnelu neu durio o dan y stryd;
- (c) gosod cyfarpar yn y stryd;
- (d) cynnal a chadw cyfarpar yn y stryd neu newid ei leoliad; a

Power to operate

5.—(1) The undertaker may operate and use the authorised works as a system for generating and transmitting electricity.

(2) In operating the tidal works the undertaker must comply with the documents set out in Part 4 of Schedule 1 as approved to the extent relevant to the operation and use of the tidal works.

Benefit of the Order

6.—(1) The undertaker may, with the consent of the Welsh Ministers, transfer to another person ("the transferee") any or all of the benefit of the provision of this Order including its right to construct, maintain, operate, repower and decommission the authorised works (or any part of them) and such related statutory rights as may be agreed between the undertaker and the transferee.

(2) The undertaker may grant to another person ("the lessee") for a period agreed between the undertaker and the lessee the right to construct, maintain, operate, repower and decommission the tidal works (or any part of them) and such related statutory rights as may be so agreed.

(3) The exercise of the powers conferred by any enactment by any person in pursuance of any transfer or grant under paragraph (1) or (2) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those powers were exercised by the undertaker.

*Streets
Application of the 1991 Act*

Power to execute street works

7.—(1) The undertaker may, for the purposes of the construction operation and maintenance of the authorised works, enter upon so much of any of the streets specified in Schedule 3 to this Order as is within the onshore Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it,
- (b) tunnel or bore under the street;
- (c) place apparatus in the street;
- (d) maintain apparatus in the street or change its position; and

- (e) gwneud unrhyw weithfeydd sy'n ofynnol ar gyfer unrhyw weithfeydd y cyfeirir atynt yn is-baragraffau (a)-(d) neu sy'n gysylltiedig â hwy.

(2) Mae'r awdurdod a roddir gan baragraff (1) yn hawl statudol at ddibenion adrannau 48(3) (strydoedd, gweithfeydd stryd ac ymgwymerwyr) a 51(1) (gwahardd gweithfeydd stryd anawdurdodedig) o Ddeddf 1991.

(3) Mae adrannau 54 i 106 o Ddeddf 1991 yn gymwys i unrhyw weithfeydd stryd a gyflawnir o dan baragraff (1).

(4) Mae'r erthygl hon yn ddarostyngedig i baragraff 2 o Atodlen 10 (darpariaethau sy'n ymwneud ag ymgwymerwyr statudol etc) i'r Gorchymyn hwn.

(5) Yn yr erthygl hon mae i "cyfarpar" yr yn ystyr â "apparatus" yn Rhan 3 o Ddeddf 1991.

Cau strydoedd dros dro

8.—(1) Yn ddarostyngedig i ddarpariaethau'r erthygl hon, caiff yr ymgwymerwr, mewn cysylltiad ag adeiladu, gweithredu, cynnal a chadw a datgomisio'r gweithfeydd awdurdodedig, gau, newid neu ddargyfeirio unrhyw stryd dros dro a chaiff, am unrhyw gyfnod rhesymol—

- (a) dargyfeirio'r traffig o'r stryd; ac
- (b) atal personau rhag mynd ar hyd y stryd.

(2) Heb gyfyngu ar gwmpas ar baragraff (1), caiff yr ymgwymerwr ddefnyddio unrhyw stryd sy'n cael ei chau o dan y pwerau a roddir gan yr erthygl hon o fewn terfynau'r Gorchymyn ar y tir fel safle gwaith dros dro.

(3) Pan fo'r ymgwymerwr yn atal personau rhag mynd ar hyd y stryd, rhaid i'r ymgwymerwr roi mynediad rhesymol i neu o safleoedd sy'n ffinio â stryd neu a wasanaethir gan stryd yr effeithir arni o ganlyniad i gau, newid neu ddargyfeirio stryd dros dro o dan yr erthygl hon pe na bai'r cyfryw fynediad fel arall.

(4) Heb gyfyngu ar baragraff (1), caiff yr ymgwymerwr gau, newid neu ddargyfeirio dros dro y strydoedd a nodir yng ngholofnau (1) a (2) o Atodlen 4 (strydoedd sydd i'w cau dros dro) i'r graddau a bennir, drwy gyfeirio at y llythrennau a'r rhifau a ddangosir ar blaniau'r tir, yng ngholofn (3) o'r Atodlen honno.

(5) Rhaid i'r ymgwymerwr beidio â chau, newid na dargyfeirio dros dro—

- (a) y strydoedd a nodir fe y'u crybwyllir ym mharagraff (4) heb ymgynghori â'r awdurdod strydoedd yn gyntaf; ac
- (b) unrhyw stryd arall heb gydsyniad yr awdurdod strydoedd, a gaiff atodi amodau rhesymol i unrhyw gydsyniad, gan gynnwys ynglŷn â'r rhybudd i'w roi.

- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a)-(d).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) Sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

(4) This article is subject to paragraph 2 of Schedule 10 (provisions relating to statutory undertakers etc) to this Order.

(5) In this article "apparatus" has the same meaning as in Part 3 of the 1991 Act.

Temporary stopping up of streets

8.—(1) Subject to the provisions of this article, the undertaker may, in connection with the construction operation, maintenance and decommissioning of the authorised works, temporarily stop up alter or divert any street and may, for any reasonable time—

- (a) divert the traffic from the street; and
- (b) prevent persons from passing along the street.

(2) Without limitation on the scope of paragraph (1), the undertaker may use any street stopped up under the powers conferred by this article within the onshore Order limits as a temporary working site.

(3) Where the undertaker prevents persons from passing along the street, the undertaker must provide reasonable access to or from premises abutting or served by a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) Without limiting paragraph (1), the undertaker may temporarily stop up, alter or divert the streets set out in columns (1) and (2) of Schedule 4 (streets to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the onshore plans, in column (3) of that Schedule.

(5) The undertaker must not temporarily stop up, alter or divert—

- (a) the streets set out as mentioned in paragraph (4) without first consulting the street authority; and
- (b) any other street without the consent of the street authority, which may attach reasonable conditions to any consent including as to notice to be given.

(6) Mae gan unrhyw berson sy'n dioddef colled drwy atal unrhyw ffordd fynediad breifat o dan yr erthygl hon yr hawl i gael digollediad i'w benderfynu, yn achos anghydfod, o dan Ran 1 o Ddeddf 1961.

(7) Os, o fewn 56 diwrnod i gael cais am gydsyniad o dan baragraff (5)(b), bydd awdurdod strydoedd yn methu â hysbysu'r ymgwymerwr am ei benderfyniad neu'n gwrthod rhoi cydsyniad heb roi unrhyw seiliau dros wrthod, bernir bod yr awdurdod strydoedd hwnnw wedi rhoi ei gydsyniad.

(8) Mae'r erthygl hon yn ddarostyngedig i baragraff 2 o Atodlen 10 (darpariaethau sy'n ymwneud ag ymgwymerwyr statudol etc) i'r Gorchymyn hwn.

Mynediad i weithfeydd

9. Caiff yr ymgwymerwr, at ddibenion y gweithfeydd awdurdodedig—

- (a) ffurfio a gosod ffordd fynediad, neu wella ffordd fynediad bresennol, yn y lleoliad a bennir yng ngholofnau (1) a (2) o Atodlen 5 (mynediad i weithfeydd) yn y pwynt a nodir ag A ar blaniau'r tir ar gyfer y Gorchymyn hwn neu tua'r pwynt hwnnw; a
- (b) chyda chymeradwyaeth yr awdurdod priffyrdd perthnasol ar ôl ymgynghori, nad atelir y cyfryw gymeradwyaeth yn afresymol, ffurfio a gosod y cyfryw ffordd fynediad arall neu wella ffordd fynediad bresennol, yn y cyfryw leoliadau o fewn terfynau'r Gorchymyn ar y tir ag sydd ei hangen yn rhesymol ar yr ymgwymerwr at ddibenion y gweithfeydd awdurdodedig.

Cytundebau ag awdurdodau strydoedd

10.—(1) Caiff awdurdod strydoedd a'r ymgwymerwr ymrwymo i gytundebau mewn perthynas ag—

- (a) cau, newid neu ddargyfeirio unrhyw stryd a awdurdodir drwy'r Gorchymyn hwn; neu
- (b) cyflawni yn y stryd unrhyw un o'r gweithfeydd y cyfeirir atynt yn erthygl 7 (pŵer i wneud gweithfeydd stryd).

(2) Caiff y cyfryw gytundeb, heb gyfyngu ar baragraff (1),—

- (a) gwneud darpariaeth ar gyfer yr awdurdod strydoedd i gyflawni unrhyw swyddogaeth o dan y Gorchymyn hwn sy'n ymwneud â'r stryd dan sylw;
- (b) cynnwys cytundeb rhwng yr ymgwymerwr a'r awdurdod strydoedd sy'n pennu cyfnod rhesymol ar gyfer cwblhau'r gweithfeydd; ac
- (c) cynnwys y cyfryw delerau ynglŷn â thâl ac fel arall fel y tybia'r partion yn briodol.

(6) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(7) If within 56 days of receiving and application for consent under paragraph (5)(b) a street authority fails to notify the undertaker of its decision or refuses consent without giving any grounds for its refusal that street authority is deemed to have granted consent.

(8) This article is subject to paragraph 2 of Schedule 10 (provisions relating to statutory undertakers etc) to this Order.

Access to works

9. The undertaker may, for the purposes of the authorised works—

- (a) form and lay out means of access, or improve existing means of access, in the location specified in columns (1) and (2) of Schedule 5 (access to works) at or about the point marked A on the onshore plans to this Order; and
- (b) with the approval of the relevant highway authority after consultation, such approval not to be unreasonably withheld, form and lay out such other means of access or improve existing means of access, at such locations within the onshore Order limits as the undertaker reasonably requires for the purposes of the authorised works.

Agreements with street authorities

10.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) any stopping up, alteration or diversion of a street authorised by this Order; or
- (b) the carrying out in the street of any of the works referred to in article 7 (power to execute street works).

(2) Such an agreement may, without limiting paragraph (1),—

- (a) make provision for the street authority to carry out any function under this Order that relates to the street in question;
- (b) include an agreement between the undertaker and the street authority specifying a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

Defnyddio ffordd preifat ar gyfer adeiladu

11.—(1) Caiff yr ymgwymerwr ddefnyddio unrhyw ffordd breifat o fewn terfynau'r Gorchymyn ar y tir neu unrhyw ffordd breifat sy'n ffinio â therfynau'r Gorchymyn ar y tir sydd â chyffordd â'r cyfryw ffordd ar gyfer tramwy personau neu gerbydau (gyda neu heb ddeunyddiau, offer a pheiriannau) at ddibenion adeiladu, cynnal a chadw a datgomisiynu'r gweithfeydd awdurdodedig neu mewn cysylltiad â hynny.

(2) Rhaid i'r ymgwymerwr ddigolledu'r person sy'n gyfrifol am atgyweirio ffordd y mae paragraff (1) yn gymwys iddi am unrhyw golled neu ddifrod a ddioddefir gan y person hwnnw drwy arfer y pŵer a roddir gan baragraff (1).

(3) Mae unrhyw anghydfod ynglŷn â hawl person i gael ei ddigolledu o dan baragraff (2), neu ynglŷn â swm y cyfryw ddigollediad, i'w benderfynu o dan Ran 1 o Ddeddf 1961.

Pwerau atodol

Gollwng dŵr

12.—(1) Caiff yr ymgwymerwr ddefnyddio unrhyw gwrs dŵr neu unrhyw garthffos neu ddraen gyhoeddus i ddraenio dŵr mewn cysylltiad ag adeiladu, gweithredu, cynnal a chadw neu ddatgomisiynu'r gweithfeydd awdurdodedig ac at y diben hwnnw caiff osod, tynnu a newid pibellau a chaiff, ar unrhyw dir o fewn terfynau'r Gorchymyn ar y tir, wneud agoriadau i'r cwrs dŵr, carthffos neu'r ddraen gyhoeddus a chysylltiadau ag ef/hi.

(2) Rhaid i unrhyw anghydfod sy'n deillio o arfer y pwerau ym mharagraff (1) i gysylltu â charthffos neu ddraen gyhoeddus neu ei defnyddio gael ei benderfynu fel pe bai'n anghydfod o dan adran 106 o Ddeddf y Diwydiant Dŵr 1991(1).

(3) Rhaid i'r ymgwymerwr beidio â gollwng unrhyw ddŵr i mewn i unrhyw gwrs dŵr, carthffos neu ddraen gyhoeddus oni cheir cydsyniad y person sy'n berchen arno neu arni; a chaiff y cyfryw gydsyniad ei roi yn ddarostyngedig i'r cyfryw delerau ac amodau ag y caiff yn rhesymol eu gosod, ond ni ellir ei atal yn afresymol.

Use of private roads for construction

11.—(1) The undertaker may use any private road within the onshore Order limits or any private road abutting the onshore Order limits which has a junction with such a road for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction, maintenance and decommissioning of the authorised works.

(2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

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

Supplemental powers

Discharge of water

12.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction, operation, maintenance or decommissioning of the authorised works and for that purpose may lay down, take up and alter pipes and may, on any land within the onshore Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the exercise of the powers in paragraph (1) to connect to or use a public sewer or drain must be determined as if it were a dispute under section 106 of the Water Industry Act 1991(1).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as he may reasonably impose, but may not be unreasonably withheld.

(1) 1991 p. 56. Diwygiwyd adran 106 gan adrannau 35(1), 35(8) a 43(2) o Ddeddf Cystadleuaeth a Gwasanaeth (Cyfleustodau) 1992 (p. 43) ac Atodlen 2 i'r ddeddf honno, adrannau 36(2) a 99 o Ddeddf Dŵr 2003 (p. 37) a pharagraff 16(1) o Atodlen 3 i Ddeddf Llifogydd a Dŵr 2010 (p. 29).

(1) 1991 c. 56. Section 106 was amended by sections 35(1), 35(8) and 43(2) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(4) Rhaid i'r ymgwymerwr beidio â gwneud unrhyw agoriad i mewn i unrhyw garthffos na draen gyhoeddus ac eithrio—

- (a) yn unol â chynlluniau a gymeradwyir gan y person sy'n berchen ar y garthffos neu'r ddraen, ond ni ellir atal y cyfryw gymeradwyaeth yn afresymol; a
- (b) pan fo'r person hwnnw wedi cael cyfle i oruchwylio gwneud yr agoriad.

(5) Rhaid i'r ymgwymerwr, wrth arfer y pwerau a roddir gan yr erthygl hon, beidio â difrodi gwely na glannau unrhyw gwrs dŵr nac ymyrryd â hwy.

(6) Rhaid i'r ymgwymerwr gymryd y cyfryw gamau ag sy'n rhesymol ymarferol i sicrhau bod unrhyw ddŵr sy'n cael ei ollwng i mewn i gwrs dŵr neu garthffos neu ddraen gyhoeddus o dan y pwerau a roddir gan yr erthygl hon mor rhydd ag y bo'n ymarferol rhag gro, pridd neu sylwedd solet arall, olew neu sylwedd mewn toddiant.

(7) Nid yw'r erthygl hon yn awdurdodi unrhyw weithgarwch ynglŷn â dŵr daear na gweithgarwch gollwng dŵr o fewn ystyr Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016(1) nac yn trechu'r gofyniad i gael trwydded o dan reoliad 12(1)(b) o'r un rheoliadau.

(8) Os bydd person sy'n cael cais am gydsyniad neu gymeradwyaeth yn methu â hysbysu'r ymgwymerwr am benderfyniad o fewn 56 diwrnod i gael cais am gydsyniad o dan baragraff (3) neu gymeradwyaeth o dan baragraff (4)(a) tybir bod y person hwnnw wedi rhoi ei gydsyniad neu wedi rhoi ei gymeradwyaeth, yn ôl y digwydd.

(9) Yn yr erthygl hon—

- (a) ystyr “carthffos neu ddraen gyhoeddus” yw carthffos neu ddraen sy'n perthyn i Cyfoeth Naturiol Cymru, bwrdd draenio mewnol, awdurdod lleol, neu ymgwymerwr carthffosiaeth; a
- (b) mae i ymadroddion eraill, heb gynnwys cyrsiau dŵr a ddefnyddir yn yr erthygl hon ac yn Neddff Adnoddau Dŵr 1991(2) yr un ystyr ag sydd yn y Ddeddf honno.

Gweithfeydd diogelu ar adeiladau

13.—(1) Yn ddarostyngedig i ddarpariaethau canlynol yr erthygl hon, caiff yr ymgwymerwr ar ei draul ei hun gyflawni'r cyfryw weithfeydd diogelu ar unrhyw adeilad sydd o fewn terfynau'r Gorchymyn ar y tir ag y barna'r ymgwymerwr yn angenrheidiol neu'n hwylus.

(4) The undertaker must not make any opening into any public sewer or drain except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval may not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in the exercise of the powers conferred by this article, damage or interfere with the bed or banks of any watercourse.

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) This article does not authorise any groundwater activity or water discharge activity within the meaning of the Environmental Permitting (England and Wales) Regulations 2016(1) or override the requirement for a permit under regulation 12(1)(b) of the same.

(8) If a person who receives an application for consent or approval fails to notify the undertaker of a decision within 56 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be.

(9) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to Natural Resources Wales, an internal drainage board, a local authority, or a sewerage undertaker; and
- (b) other expressions, excluding watercourses, used both in this article and in the Water Resources Act 1991(2) have the same meaning as in that Act.

Protective works to buildings

13.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the onshore Order limits as the undertaker considers to be necessary or expedient.

(1) O.S. 2016/1154.
(2) 1991 p. 57.

(1) S.I. 2016/1154.
(2) 1991 c. 57.

(2) Caiff gweithfeydd diogelu eu cyflawni—

- (a) ar unrhyw adeg cyn neu yn ystod y gwaith adeiladu yng nghyffiniau adeiladu unrhyw ran o'r gweithfeydd awdurdodedig; neu
- (b) ar ôl cwblhau'r rhan honno o'r gweithfeydd awdurdodedig yng nghyffiniau'r adeilad ar unrhyw adeg hyd at ddiwedd y cyfnod o 5 mlynedd sy'n dechrau ar y diwrnod yr agorwyd y rhan honno o'r gweithfeydd awdurdodedig yn gyntaf i'w defnyddio.

(3) At ddiben penderfynu sut mae'r swyddogaethau o dan yr erthygl hon yn cael eu harfer, caiff yr ymgwymerwr fynd i mewn i unrhyw adeilad sy'n dod o dan baragraff (1) ac unrhyw dir o fewn ei gwrtil a chynnal arolwg.

(4) At ddiben cyflawni gweithfeydd diogelu o dan yr erthygl hon ar adeilad, caiff yr ymgwymerwr (yn ddarostyngedig i baragraffau (5) a (6))—

- (a) mynd i mewn i'r adeilad ac unrhyw dir o fewn ei gwrtil; a
- (b) pan na fo modd cyflawni'r gweithfeydd yn rhesymol gyfleus heb fynd ar dir sy'n gyfagos i'r adeilad ond y tu allan i'w gwrtil, fynd ar y tir cyfagos (ond nid unrhyw adeilad sydd wedi'i godi arno).

(5) Cyn arfer—

- (a) hawl o dan baragraff (1) i gyflawni gweithfeydd diogelu ar adeilad;
- (b) hawl o dan baragraff (3) i fynd i mewn i adeilad a thir o fewn ei gwrtil;
- (c) hawl o dan baragraff (4)(a) i fynd i mewn i adeilad a thir o fewn ei gwrtil; neu
- (d) hawl o dan baragraff (4)(b) i fynd ar dir,

rhaid i'r ymgwymerwr, ac eithrio mewn argyfwng, gyflwyno hysbysiad sy'n rhoi 56 diwrnod o leiaf o rybudd i berchenogion a meddianwyr yr adeilad neu'r tir am ei fwriad i arfer yr hawl honno ac, mewn achos sy'n dod o fewn is-baragraff (a) neu (c), bennu'r gweithfeydd diogelu y bwriedir eu cyflawni.

(6) Pan gyflwynir hysbysiad o dan baragraff (5)(a), (c) neu (d), caiff perchennog neu feddiannydd yr adeilad neu'r tir dan sylw, drwy gyflwyno gwrth-hysbysiad o fewn y cyfnod o 10 diwrnod sy'n dechrau ar y diwrnod y cyflwynwyd yr hysbysiad, ei gwneud yn ofynnol i'r cwestiwn ynghylch a yw'n angenrheidiol neu'n hwylus cyflawni'r gweithfeydd diogelu neu fynd i mewn i'r adeilad neu ar y tir gael ei gyfeirio at gymrodeddwr o dan erthygl 49 (cymrodeddu).

(2) Protective works may be carried out—

- (a) at any time before or during the construction in the vicinity of the building of any part of the authorised works; or
- (b) after the completion of that part of the authorised works in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised works is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 56 days' notice of its intention to exercise that right and, in a case falling within subparagraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 49 (arbitration).

(7) Rhaid i'r ymgwymerwr ddigolledu perchenogion a meddianwyr unrhyw adeilad neu dir y mae'r pwerau a roddir gan yr erthygl hon wedi cael eu harfer mewn perthynas â hwy am unrhyw golled neu ddifrod a achosir iddynt drwy arfer y pwerau hynny.

(8) Pan—

- (a) fo gweithfeydd diogelu yn cael eu cyflawni o dan yr erthygl hon ar adeilad; ac
- (b) o fewn cyfnod o 5 mlynedd sy'n dechrau ar y diwrnod yr agorwyd y rhan o'r gweithfeydd awdurdodedig a adeiladwyd yng nghyffiniau'r adeilad yn gyntaf i'w defnyddio ymddengys bod y gweithfeydd awdurdodedig yn annigonol i ddiogelu'r adeilad rhag difrod a achosir gan y gweithrediad adeiladu neu gynnal a chadw'r rhan honno o'r gweithfeydd awdurdodedig,

rhaid i'r ymgwymerwr ddigolledu perchenogion a meddianwyr yr adeilad am golled neu ddifrod a ddioddefwyd ganddynt.

(9) Heb ragfarnu erthygl 48 (dim adennill dwbl) nid oes dim yn yr erthygl hon yn rhyddhau'r ymgwymerwr rhag unrhyw atebolrwydd i dalu digollediad o dan adran 10(2)(1) o Ddeddf 1965.

(10) Rhaid i unrhyw ddigollediad sy'n daladwy o dan baragraff (7) neu (8) gael ei benderfynu, yn achos anghydfod, o dan Ran 1 o Ddeddf 1961.

(11) Yn yr erthygl hon, ystyr "gweithfeydd diogelu" mewn perthynas ag adeilad yw—

- (a) tanategu, atgyfnerthu ac unrhyw weithfeydd eraill a wneir er mwyn atal difrod a all gael ei achosi i'r adeilad oherwydd adeiladu, cynnal a chadw neu weithredu'r gweithfeydd awdurdodedig; ac
- (b) unrhyw weithfeydd a wneir er mwyn unioni unrhyw ddifrod a achoswyd i'r adeilad oherwydd adeiladu, cynnal a chadw neu weithredu'r gweithfeydd awdurdodedig.

Pŵer i arolygu ac ymchwilio i dir

14.—(1) Caiff yr ymgwymerwr at ddibenion y Gorchymyn hwn—

- (a) arolygu unrhyw dir a ddangosir o fewn terfynau'r Gorchymyn ar y tir neu y gall y gweithfeydd awdurdodedig effeithio arno neu ymchwilio iddo;

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which the powers conferred by this article have been exercised for any loss or damage arising to them by reason of the exercise of those powers.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised works constructed in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building against damage caused by the construction operation or maintenance of that part of the authorised works,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Without prejudice to article 48 (no double recovery) nothing in this article relieves the undertaker from any liability to pay compensation under section 10(2)(1) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) must be determined, in case of dispute, under Part 1 of the 1961 Act.

(11) In this article "protective works" in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, maintenance or operation of the authorised works; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, maintenance or operation of the authorised works.

Power to survey and investigate land

14.—(1) The undertaker may for the purposes of this Order—

- (a) survey or investigate any land shown within the onshore Order limits or which may be affected by the authorised works;

(1) Diwygiwyd adran 10 drwy adran 4 o Ddeddf Cynllunio (Darpariaethau Canlyniadol) 1990 (p. 11) a pharagraff 13(2) o Atodlen 2 i'r ddeddf honno ac O.S. 2009/1307.

(1) Section 10 was amended by section 4 of, and paragraph 13(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.

- (b) heb ragfarnu cyffredinolrwydd is-baragraff (a), gwneud tyllau treialu yn y cyfryw leoliadau ag y gwêl yr ymgwymerwr yn dda ar y tir er mwyn ymchwilio i natur haen yr arwyneb a'r is-bridd a thynnu samplau o bridd;
- (c) heb ragfarnu cyffredinolrwydd paragraff (a), cynnal ymchwiliadau ecolegol neu archaeolegol ar y cyfryw dir;
- (d) gosod cyfarpar i'w ddefnyddio mewn cysylltiad ag arolygu ac ymchwilio i'r tir a gwneud tyllau treialu ar y tir, ei adael ar y tir neu ei dynnu ymaith; ac
- (e) mynd ar y tir at ddiben arfer y pwerau a roddir gan is-baragraffau (a) i (d).

(2) Ni chaniateir mynd ar dir na gosod cyfarpar arno, ei adael arno na'i dynnu ymaith o dan baragraff (1), oni hysbysir pob perchennog ar y tir a phob meddiannydd o leiaf 7 diwrnod ymlaen llaw a bod y cyfryw hysbysiad yn cynnwys hysbysu'r derbynnydd am ei hawl i gael ei ddigolledu o dan baragraff (13).

(3) Os yw'r ymgwymerwr yn bwriadu gwneud unrhyw un o'r canlynol, rhaid i'r hysbysiad gynnwys manylion am yr hyn a fwriedir—

- (a) chwilio, turio neu gloddio;
- (b) gadael cyfarpar ar dir;
- (c) cymryd samplau;
- (d) arolwg o'r awyr; ac
- (e) cyflawni unrhyw weithgareddau eraill a all fod yn ofynnol er mwyn hwyluso cydymffurfiaeth â'r offerynnau a grybwyllir ym mharagraff (4).

(4) Yr offerynnau y cyfeirir atynt ym mharagraff (3)(e) yw—

- (a) Rheoliadau Cynllunio Gwlad a Thref (Asesu Effeithiau Amgylcheddol) (Cymru) 2017(1); neu
- (b) Rheoliadau Cadwraeth Cynefinoedd a Rhywogaethau 2017(2).

(5) Mewn perthyn ag unrhyw berson sy'n mynd ar dir o dan yr erthygl hon ar ran yr ymgwymerwr—

- (a) mae'n rhaid iddo, os gofynnir iddo wneud hynny, cyn neu ar ôl mynd ar y tir ddangos tystiolaeth ysgrifenedig o'i awdurdod i wneud hynny gan gynnwys unrhyw warant a roddir o dan baragraff (6); a

- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions as the undertaker thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without prejudice to the generality of paragraph (a), carry out ecological or archaeological investigations on such land;
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes; and
- (e) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (d).

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1), unless at least 7 days' notice has been served on every owner and occupier of the land such notice to include notice of the recipient's right to compensation under paragraph (13).

(3) If the undertaker proposes to do any of the following, the notice must include details of what is proposed—

- (a) searching, boring or excavating;
- (b) leaving apparatus on land;
- (c) taking samples;
- (d) an aerial survey; and
- (e) carrying out any other activities that may be required to facilitate compliance with the instruments mentioned in paragraph (4).

(4) The instruments referred to in paragraph (3)(e) are—

- (a) The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017;
- (b) The Conservation of Habitats and Species Regulations 2017.

(5) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required, before or after entering the land produce written evidence of his authority to do so including any warrant issued under paragraph (6); and

(1) O.S. 2017/567 (Cy. 136).

(2) O.S. 2017/1012.

(b) ni chaniateir iddo ddefnyddio grym oni bai bod ynad heddwch wedi rhoi gwariant o dan baragraff (6).

(6) Caiff ynad heddwch roi gwarant sy'n awdurdodi person i ddefnyddio grym wrth arfer y pŵer a roddwyd gan yr erthygl hon os yw wedi'i fodloni—

(a) bod person arall wedi atal neu'n debygol o atal arfer y pŵer hwnnw; a

(b) ei bod yn rhesymol defnyddio grym wrth arfer y pŵer hwnnw.

(7) Mae'r grym y gellir ei awdurdodi drwy warant wedi'i gyfyngu i'r hyn sy'n rhesymol angenrheidiol.

(8) Rhaid i warant sy'n awdurdodi'r person i ddefnyddio grym bennu nifer yr achlysuron y gall yr ymgymerwr ddibynnu ar y warant wrth fynd ar dir, ei arolygu neu ei brisio.

(9) Rhaid mai'r nifer a bennwyd yw'r nifer y mae'r ynad heddwch yn barnu ei fod yn briodol er mwyn cyflawni'r diben y mae'n ofynnol mynd ar dir a'i arolygu neu ei brisio ar ei gyfer.

(10) Rhaid i unrhyw dystiolaeth mewn achos cyfreithiol i gael gwarant o dan yr erthygl hon gael ei rhoi ar lw.

(11) Ni chaniateir gwneud unrhyw dyllau treialu o dan yr erthygl hon—

(a) mewn cerbyttfordd neu droedffordd heb gydsyniad yr awdurdod priffyrdd; neu

(b) mewn stryd breifat heb gydsyniad yr awdurdod strydoedd,

ond ni chaniateir atal y cyfryw gydsyniad yn afresymol.

(12) Os bydd awdurdod priffyrdd neu awdurdod strydoedd y cyflwynir cais am gydsyniad iddo yn methu â hysbysu'r ymgymerwr am ei benderfyniad o fewn 56 diwrnod i gael y cais am gydsyniad—

(a) o dan baragraff (11)(a) yn achos awdurdod priffyrdd; neu

(b) o dan baragraff (11)(b) yn achos awdurdod strydoedd;

tybir bod yr awdurdod hwnnw wedi rhoi cydsyniad.

(13) Rhaid i'r ymgymerwr ddigolledu perchenogion a meddianwyr y tir am unrhyw golled neu ddifrod sy'n codi drwy arfer y pwerau a roddir gan yr erthygl hon, y penderfynir ar y cyfryw ddigollediad, yn achos anghydfod, o dan Ran 1 o Ddeddf 1961.

(14) Mae paragraffau (1) i (13) yn gymwys mewn perthynas â thir y Goron, fodd bynnag dim ond os oes person wedi cael caniatâd yr awdurdod priodol y caiff arfer y pŵer a roddir gan baragraff (1) mewn perthynas â thir y Goron.

(b) may not use force unless a justice of the peace has issued a warrant under paragraph (6).

(6) A justice of the peace may issue a warrant authorising a person to use force in the exercise of the power conferred by this article if satisfied—

(a) that another person has prevented or is likely to prevent the exercise of that power; and

(b) that it is reasonable to use force in the exercise of that power.

(7) The force that may be authorised by a warrant is limited to that which is reasonably necessary.

(8) A warrant authorising the person to use force must specify the number of occasions on which the undertaker can rely on the warrant when entering and surveying or valuing land.

(9) The number specified must be the number which the justice of the peace considers appropriate to achieve the purpose for which the entry and survey or valuation are required.

(10) Any evidence in proceedings for a warrant under this article must be given on oath.

(11) No trial holes may be made under this article—

(a) in a carriageway or footway without the consent of the highway authority; or

(b) in a private street without the consent of the street authority,

but such consent may not be unreasonably withheld.

(12) If either a highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 56 days of receiving the application for consent—

(a) under paragraph (11)(a) in the case of a highway authority; or

(b) under paragraph (11)(b) in the case of a street authority,

that authority is deemed to have granted consent.

(13) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(14) Paragraphs (1) to (13) apply in relation to Crown land, however a person may only exercise the power conferred by paragraph (1) in relation to Crown land if the person has the permission of the appropriate authority.

Arbediad Deddf y Môr a Mynediad i'r Arfordir 2009

15. Nid oes unrhyw ddarpariaeth yn y Gorchymyn hwn yn dileu'r angen i gael trwydded forol o dan Ran 4 o Ddeddf 2009 nac i gydymffurfio ag amodau unrhyw drwydded forol.

Pŵer i garthu

16.—(1) Caiff yr ymgymerwr, at ddibenion adeiladu, gweithredu, cynnal a chadw, ailbweru a datgomisiynu'r gweithfeydd llanwol o bryd i'w gilydd ddyfnhau, carthu, sgwrio, glanhau, newid a gwella cymaint o wely, glannau a sianeli'r tir o fewn terfynau'r Gorchymyn ar y môr ag sy'n cyffinio â'r gweithfeydd awdurdodedig neu sy'n agos i'r gweithfeydd awdurdodedig a chaiff ddefnyddio, meddiannu neu waredu'r deunyddiau (heblaw am longdrylliad o fewn ystyr Rhan 9 o Ddeddf Llongau Masnach 1995(1)) sydd o bryd i'w gilydd yn cael eu carthu ganddo.

(2) Ni chaniateir gosod na dyddodi'r cyfryw ddeunyddiau yn groes i ddarpariaethau unrhyw ddeddfiad mewn perthynas â gwaredu gwastraff neu sgil gynhyrchion a garthwyd.

Darpariaeth rhag perygl i fordwyo

17.—(1) Os bydd gwaith llanwol neu unrhyw ran ohono heb gynnwys amlygu ceblau yn cael ei ddifrodi neu ei ddinistrio neu os bydd yn dirywio, rhaid i'r ymgymerwr, cyn gynted ag y bo'n rhesymol ymarferol a heb fod yn hwyrach na 24 awr ar ôl i'r ymgymerwr ddod yn ymwybodol o unrhyw gyfryw ddifrodi, dinistrio neu ddirywio, hysbysu Cyfoeth Naturiol Cymru, Trinity House, Asiantaeth y Môr a Gwylwyr y Glannau, Swyddfa Hydrograffig y Deyrnas Unedig a Gwasanaeth Gwybodaeth Kingfisher am Bysgod y Môr a gosod y cyfryw fwiau, arddangos y cyfryw oleuadau a chymryd y cyfryw gamau sy'n atal perygl i fordwyo ag a gyfarwyddir gan Trinity House o bryd i'w gilydd.

(2) Os bydd ceblau yn cael eu hamlygu ar wely'r môr neu uwchlaw gwely'r môr, rhaid i'r ymgymerwr o fewn tridiau ar ôl nodi bod ceblau wedi cael eu hamlygu o bosibl, hysbysu morwyr drwy gyhoeddi hysbysiad i forwyr a thrwy hysbysu Gwasanaeth Gwybodaeth Kingfisher am Bysgod y Môr am leoliad a graddau'r amlygiad a rhaid rhoi copi o bob hysbysiad i Cyfoeth Naturiol Cymru, Asiantaeth y Môr a Gwylwyr y Glannau, Trinity House a Swyddfa Hydrograffig y Deyrnas Unedig o fewn pum diwrnod.

Saving for Marine and Coastal Access Act 2009

15. No provision of this Order obviates the need to obtain a marine licence under Part 4 of the 2009 Act or to comply with the conditions of any marine licence.

Power to dredge

16.—(1) The undertaker may, for the purposes of constructing, operating, maintaining, repowering and decommissioning the tidal works from time to time deepen, dredge, scour, cleanse, alter and improve so much of the bed, shores and channels of the land within the offshore Order limits as adjoin or are near to the authorised works and may use, appropriate or dispose of the materials (other than wreck within the meaning of Part 9 of the Merchant Shipping Act 1995(1)) from time to time dredged by it.

(2) No such materials are to be laid down or deposited in contravention of the provisions of any enactment as respects the disposal of waste or dredged arisings.

Provision against danger to navigation

17.—(1) In case of damage to, or destruction or decay of, a tidal work or any part thereof excluding the exposure of cables, the undertaker must, as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify Natural Resources Wales, Trinity House, the Maritime and Coastguard Agency, the United Kingdom Hydrographic Office and the Kingfisher Information Service of Seafish and lay down such buoys, exhibit such lights and take other such steps for preventing danger to navigation as Trinity House may from time to time direct.

(2) In case of exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners by issuing a notice to mariners and by informing the Kingfisher Information Service of Seafish of the location and extent of exposure. Copies of all notices must be provided to the Natural Resources Wales, the Maritime and Coastguard Agency, Trinity House, and the United Kingdom Hydrographic office within five days.

(1) 1995 p. 21.

(1) 1995 c. 21.

Atal gweithfeydd llanwol a adawyd neu a ddinistriwyd

18.—(1) Pan fo gwaith llanwol yn cael ei adael, neu pan fo'n dirywio, caiff Gweinidogion Cymru drwy hysbysiad ysgrifenedig ei gwneud yn ofynnol i'r ymgwymerwr ar ei draul ei hun naill ai atgyweirio ac adfer y gwaith hwnnw neu unrhyw ran ohono, neu waredu'r gwaith hwnnw ac adfer y safle i'w gyflwr priodol, i'r cyfryw raddau ac o fewn y cyfryw derfynau ag yr ystyria Gweinidogion Cymru yn briodol.

(2) Pan fo gwaith sy'n cynnwys gwaith llanwol yn rhannol a gweithfeydd ar neu dros y tir uwchlaw penllanw cymedrig y gorllanw yn rhannol yn cael ei adael neu'n dirywio a bod y rhan honno o'r gwaith ar neu dros dir uwchlaw penllanw cymedrig y gorllanw yn y cyfryw gyflwr ag sy'n ymyrryd â'r hawl i fordwyo neu hawliau cyhoeddus eraill dros y blaendraeth neu sy'n achosi pryder rhesymol y caiff ymyrryd â'r cyfryw hawliau, caiff Gweinidogion Cymru gynnwys y rhan honno o'r gwaith, neu unrhyw ddarn ohono, mewn unrhyw hysbysiad o dan yr erthygl hon.

(3) Os bydd yr ymgwymerwr yn methu â chydymffurfio mewn unrhyw ffordd â hysbysiad a gyflwynir o dan yr erthygl hon o fewn y cyfnod o 30 diwrnod sy'n dechrau ar y dyddiad y cyflwynir yr hysbysiad, caiff Gweinidogion Cymru gymryd pa gamau bynnag ag y bydd Gweinidogion Cymru yn eu hystyried yn briodol i sicrhau'r canlyniad sy'n ofynnol o dan yr hysbysiad; ac mae unrhyw wariant y mae Gweinidogion Cymru yn mynd iddo yn adenilladwy oddi wrth yr ymgwymerwr.

Arolwg o weithfeydd llanwol

19.—(1) Os yw Gweinidogion Cymru o'r farn ei bod yn hwylus gwneud hynny, caiff Gweinidogion Cymru orchymyn arolwg ac archwiliad o waith llanwol neu'r safle y bwriedir adeiladu neu ailbweru'r gwaith arno, a bydd unrhyw wariant y mae Gweinidogion Cymru yn mynd iddo'n rhesymol mewn unrhyw gyfryw arolwg ac archwiliad yn adenilladwy oddi wrth yr ymgwymerwr.

(2) Yn ddarostyngedig i baragraff (3), ni chaniateir gorchymyn y cyfryw arolygon fwy nag unwaith y flwyddyn; a chyn gorchymyn y cyfryw arolwg—

- (a) rhaid i Weinidogion Cymru ymgynghori â'r ymgwymerwr er mwyn cadarnhau pa wybodaeth berthnasol o arolygon sydd eisoes ar gael; a
- (b) rhoi cyfle i ymgwymerwr gynnal yr arolwg ei hun.

(3) Nid yw paragraff (2) yn gymwys mewn argyfwng.

Abatement of tidal works abandoned or destroyed

18.—(1) Where a tidal work is abandoned, or falls into decay, the Welsh Ministers may by notice in writing require the undertaker at its own expense either to repair and restore that work or any part, or to remove that work and restore the site to its proper condition, to such an extent and within such limits as the Welsh Ministers think proper.

(2) Where a work consisting partly of a tidal work and partly of works on or over the land above the level of mean high water springs is abandoned or falls into decay and that part of the work on or over land above the level of mean high water springs is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Welsh Ministers may include that part of the work, or any portion of it, in any notice under this article.

(3) If the undertaker fails to comply in any respect with a notice served under this article within the period of 30 days beginning with the date of service of the notice, the Welsh Ministers may take whatever steps the Welsh Ministers consider appropriate to achieve the result required by the notice; and any expenditure incurred by the Welsh Ministers is to be recoverable from the undertaker.

Survey of tidal works

19.—(1) If the Welsh Ministers consider it expedient to do so, the Welsh Ministers may order a survey and examination of a tidal work or of the site on which it is proposed to construct or repower the work, and any expenditure reasonably incurred by the Welsh Ministers in any such survey and examination is recoverable from the undertaker.

(2) Subject to paragraph (3), such surveys must not be ordered more frequently than once a year; and before ordering such a survey—

- (a) the Welsh Ministers must consult the undertaker in order to establish what relevant survey information is already available; and
- (b) give the undertaker an opportunity to carry out the survey itself.

(3) Paragraph (2) does not apply in an emergency.

(4) Pan fo Gweinidogion Cymru yn bwriadu gorchymyn arolwg ac archwiliad y cyfeirir atynt ym mharagraff (1), rhaid i Weinidogion Cymru wneud hynny yn unol â'r cyfryw amodau rhesymol sy'n ymwneud ag iechyd, diogelwch neu gyfrinachedd ag a osodir gan yr ymgwymerwr.

Goleuadau ar weithfeydd llanwol

20.—(1) Rhaid i'r ymgwymerwr ar neu ger—

- (a) gwaith llanwol, gan gynnwys unrhyw waith dros dro; a
- (b) unrhyw offer, cyfarpar neu rwystr arall a osodwyd mewn cysylltiad â'r gweithfeydd llanwol,

yn ystod yr holl gyfnod adeiladu, gweithredu, cynnal a chadw, ailbweru a datgomiynu ddangos bob nos o fachlud yr haul i godiad yr haul ac mewn cyfnodau o welededd cyfyngedig y cyfryw oleuadau, os o gwbl, a chymryd y cyfryw gamau eraill er mwyn atal perygl i fordwyo ag a gyfarwyddir gan Weinidogion Cymru neu Trinity House o bryd i'w gilydd.

(2) Ar ôl cwblhau adeiladu neu ailbweru gwaith llanwol, rhaid i'r ymgwymerwr ar y ffiniau allanol dangos bob nos o fachlud yr haul i godiad yr haul ac mewn cyfnodau o welededd cyfyngedig y cyfryw oleuadau, os o gwbl, a chymryd y cyfryw gamau, os o gwbl, er mwyn atal perygl i fordwyo ag a gyfarwyddir gan Weinidogion Cymru neu Trinity House o bryd i'w gilydd.

Diogelwch mordwyo

21.—(1) Ni chaniateir cychwyn, adeiladu, gweithredu, ailbweru na datgomiynu unrhyw weithfeydd llanwol nes bod cynllun i sicrhau diogelwch mordwyo ar gyfer pob cam perthnasol o'r gwaith llanwol wedi cael ei gyflwyno i Weinidogion Cymru ac wedi cael ei gymeradwyo'n ysgrifenedig ganddynt mewn ymgynghoriad â Trinity House, Asiantaeth y Môr a Gwylwyr y Glannau a Chyngor Sir Ynys Môn.

(2) Rhaid i'r cynllun a gyflwynir i'w gymeradwyo fod yn gyson â'r asesiad risg mordwyol wedi'i ddiweddarau ar gyfer y gwaith llanwol perthnasol a gymeradwywyd yn unol ag erthygl 3(4) neu erthygl 3(7) a chydag argymhellion Asiantaeth y Môr a Gwylwyr y Glannau a geir yn MGN654 'Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response' a'i atodiadau neu ddiweddiadau dilynol.

(4) Where the Welsh Ministers propose to order a survey and examination referred to in paragraph (1), the Welsh Ministers must do so in compliance with such reasonable stipulations relating to health, safety, security or confidentiality as the undertaker may impose.

Lights on tidal works

20.—(1) The undertaker must at or near—

- (a) a tidal work, including any temporary work; and
- (b) any plant, equipment or other obstruction placed in connection with the tidal works,

during the whole time of construction, operation, maintenance, repowering and decommissioning exhibit every night from sunset to sunrise and in periods of restricted visibility such lights, if any, and take such other steps for the prevention of danger to navigation as the Welsh Ministers or Trinity House may from time to time direct.

(2) After the completion of construction or repowering of a tidal work, the undertaker must at the outer extremity of it exhibit every night from sunset to sunrise and in periods of restricted visibility such lights, if any, and must take such steps, if any, for the prevention of danger to navigation as Welsh Ministers or Trinity House may from time to time direct.

Safety of navigation

21.—(1) No tidal works may be commenced constructed operated repowered or decommissioned until a scheme to secure safety of navigation for each relevant phase of the tidal work has been submitted to and approved in writing by the Welsh Ministers in consultation with Trinity House, the Maritime and Coastguard Agency and the Isle of Anglesey County Council.

(2) The scheme submitted for approval must be consistent with the updated navigational risk assessment for the relevant tidal work approved pursuant to Article 3(4) or Article 3(7) and with the Maritime and Coastguard Agency's recommendations contained within MGN654 'Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response' and its annexes or subsequent updates.

(3) Bydd y gweithfeydd awdurdodedig yn cael eu cyflawni yn unol â'r cynllun cymeradwy ac eithrio i'r graddau y mae Gweinidogion Cymru yn cytuno ar amrywiad i'r cynllun cymeradwy ar ôl ymgynghori â'r personau a grybwyllir ym mharagraff (1).

(4) At ddiben erthygl 21(1) bydd term cychwyn yn cynnwys gwaith dymchwel, ymchwiliadau at ddiben asesu amodau gwely'r môr ac ymchwiliadau archaeolegol a chodi unrhyw ddull amgáu dros dro.

RHAN 3

Caffael a Meddiannu Tir

Pwerau caffael

Pŵer i gaffael tir

22. Caiff yr ymgwymerwr gaffael yn orfodol—

- (a) cymaint o'r tir a ddangosir ar blân y tir o fewn terfynau'r gwyro fel tir i'w gaffael yn orfodol ac a ddisgrifir yn y cyfeirlyfr ag sy'n ofynnol at ddibenion y gweithfeydd awdurdodedig; a
- (b) cymaint o'r tir a bennir yng ngholofnau (1) a (2) o Atodlen 2 i'r Gorchymyn hwn (sef tir a ddangosir ar blân y tir ac a ddisgrifir yn y cyfeirlyfr) ag sy'n ofynnol at y diben a bennir mewn perthynas â'r tir hwnnw yng ngholofn (3) o'r Atodlen honno.

a chaiff ddefnyddio unrhyw dir a gaffaelir felly at y dibenion hynny neu at unrhyw ddibenion eraill sy'n ategol i'r gweithfeydd awdurdodedig a'u gweithrediad.

Pŵer i gaffael hawliau newydd a gosod cyfamodau cyfyngol

23.—(1) Caiff yr ymgwymerwr gaffael yn orfodol y cyfryw hawddfreintiau neu hawliau eraill dros dir y cyfeirir ato yn erthygl 22 (pŵer i gaffael tir) ag sy'n ofynnol at unrhyw ddiben y gellir caffael y tir hwnnw ar ei gyfer o dan y ddarpariaeth honno, drwy eu creu yn ogystal â thrwy gaffael hawddfreintiau neu hawliau eraill sydd eisoes yn bodoli.

(2) Yn achos y tir a bennir yng ngholofnau (1) a (2) o'r tabl yn Rhan 1 o Atodlen 6 (tir na ellir ond caffael hawliau newydd ynddo) mae pwerau caffael gorfodol yr ymgwymerwr wedi'i gyfyngu i gaffael y cyfryw hawliau newydd ag sy'n ofynnol at y diben a bennir mewn perthynas â'r tir hwnnw yng ngholofn (3) o'r tabl hwnnw.

(3) The authorised works are to be carried out in accordance with the approved scheme except to the extent that a variation to the approved scheme is agreed by the Welsh Ministers after consulting the persons mentioned in paragraph (1).

(4) For the purpose of article 21(1) the term commence shall include demolition work, investigations for the purpose of assessing seabed conditions and archaeological investigations and the erection of any temporary means of enclosure.

PART 3

Acquisition and Possession of Land

Powers of acquisition

Power to acquire land

22. The undertaker may acquire compulsorily—

- (a) so much of the land shown on the onshore plan within the limits of deviation as land to be acquired compulsorily and described in the book of reference as may be required for the purposes of the authorised works; and
- (b) so much of the land specified in columns (1) and (2) of Schedule 2 to this Order (being land shown on the onshore plan and described in the book of reference) as may be required for the purpose specified in relation to that land in column (3) of that Schedule,

and may use any land so acquired for those purposes or for any other purposes that are ancillary to the authorised works and their operation.

Power to acquire new rights and impose restrictive covenants

23.—(1) The undertaker may acquire compulsorily such easements or other rights over land referred to in article 22 (power to acquire land) as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

(2) In the case of the land specified in columns (1) and (2) of the table in Part 1 of Schedule 6 (land in which only new rights may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of such new rights as may be required for the purpose specified in relation to that land in column (3) of that table.

(3) Yn achos y tir a bennir yng ngholofnau (1) a (2) o'r tabl yn Rhan 2 (tir y gellir gosod cyfamodau cyfyngol drosto) o Atodlen 6 mae pŵer yr ymgwymerwr o dan erthygl 22 (pŵer i gaffael tir) hefyd yn cynnwys pŵer i osod cyfamodau cyfyngol dros y tir at y dibenion a bennir mewn perthynas â'r tir yng ngholofn (3) o'r tabl.

(4) Yn ddarostyngedig i—

- (a) Atodlen 2A (gwrth-hysbysiad sy'n ei gwneud yn ofynnol prynu tir nad yw mewn hysbysiad i drafod telerau) i Ddeddf 1965 (fel y'i hamnewidiwyd gan baragraff 5(7) o Atodlen 7 (addasu deddfiadau digolledu a phrynu gorfodol er mwyn creu hawliau newydd)); a
- (b) Atodlen A1 i Ddeddf 1981 (fel y'i haddaswyd gan baragraff 7(7) o Atodlen 7),

pan fo'r ymgwymerwr yn caffael hawl dros dir neu'n gosod cyfamod cyfyngol o dan baragraff (1), (2) neu (3), nid yw'n ofynnol i'r ymgwymerwr gaffael mwy o fuddiant yn y tir hwnnw.

(5) Mae Atodlen 7 yn cael effaith at ddiben addasu'r deddfiadau sy'n ymwneud â digolledu, a darpariaethau Deddf 1965 a Deddf 1981 wrth eu cymhwyso mewn perthynas â chaffael yn orfodol o dan yr erthygl hon hawl dros dir drwy greu hawl newydd neu osod cyfamod cyfyngol.

Cymhwyso Rhan 1 o Ddeddf Prynu Gorfodol 1965

24.—(1) Mae Rhan 1 o Ddeddf 1965, i'r graddau nad yw wedi'i haddasu drwy ddarpariaethau'r Gorchymyn hwn ac nad yw'n anghyson â darpariaethau'r Gorchymyn hwn, yn gymwys i gaffael tir o dan y Gorchymyn hwn—

- (a) gan ei bod yn gymwys i bryniant gorfodol y mae Deddf Caffael Tir 1981(1) yn gymwys iddo; a
- (b) fel pe bai'r Gorchymyn hwn yn orchymyn prynu gorfodol o dan y Ddeddf honno.

(2) Mae Rhan 1 o Ddeddf 1965, i'r graddau y mae'n cael ei chymhwyso, yn cael effaith gyda'r addasiadau a ganlyn.

(3) Hepgorer adran 4 (sy'n darparu terfyn amser ar gyfer prynu tir yn orfodol).

(4) Yn adran 4A(1)(2) (estyn terfyn amser yn ystod her) yn lle “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4”, rhodder “section 22 of the

(3) In the case of the land specified in columns (1) and (2) of the table in Part 2 (land over which restrictive covenants may be imposed) of Schedule 6 the undertaker's power under article 22 (power to acquire land) also includes power to impose restrictive covenants over the land for the purposes specified in relation to the land in column (3) of the table.

(4) Subject to—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 5(7) of Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights)); and
- (b) Schedule A1 to the 1981 Act (as modified by paragraph 7(7) of Schedule 7),

where the undertaker acquires a right over land or imposes a restrictive covenant under paragraph (1), (2) or (3), the undertaker is not required to acquire a greater interest in that land.

(5) Schedule 7 has effect for the purpose of modifying the enactments relating to compensation, and the provisions of the 1965 Act and the 1981 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

Application of Part 1 of the Compulsory Purchase Act 1965

24.—(1) Part 1 of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, applies to the acquisition of land under this Order—

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(1) applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part 1 of the 1965 Act, as so applied, has effect with the following modifications.

(3) Omit section 4 (which provides a time limit for compulsory purchase of land).

(4) In section 4A(1)(2) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4”, substitute “section 22 of the

(1) 1981 p. 67.

(2) Mewnsoodwyd gan adran 202(1) o Ddeddf Tai a Chynllunio 2016 (p. 22).

(1) 1981 c. 67.

(2) Inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).

Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 36 (time limit for exercise of powers of acquisition) of the Morlais Demonstration Zone Order 2021”.

(5) Yn adran 11(1B)(1) (pwerau mynediad), mewn achos pan fo'r hysbysiad i drafod telerau yn ymwneud â chaffael hawddfrait neu hawl arall dros dir neu osod cyfamod cyfyngol yn unig, yn lle “3 months” rhodder “1 month”.

(6) Yn adran 11A(2) (pwerau mynediad: hysbysiadau mynediad pellach)—

- (a) yn is-adran (1)(a), ar ôl “land” mewnosoder “under that provision”; a
- (b) yn is-adran (2), ar ôl “land” mewnosoder “under that provision”.

(7) Yn adran 22(2) (darfodiad y terfyn amser ar gyfer arfer pŵer prynu gorfodol i beidio ag effeithio ar gaffael buddiannau a hepgorwyd o'r pryniant), yn lle “section 4 of this Act” rhodder “article 36 (time limit for exercise of powers of acquisition) of the Morlais Demonstration Zone Order 2021”.

(8) Yn Atodlen 2A(3) (gwrth-hysbysiad sy'n ei gwneud yn ofynnol i brynu tir nad yw mewn hysbysiad i drafod telerau)—

- (a) rhodder paragraffau 1(2) a 14(2) yn lle—
“(2) But see article 26(3) (Power to acquire subsoil only) of the Morlais Demonstration Zone Order 2021, which excludes the acquisition of subsoil only from this Schedule; and”
- (b) ar ôl paragraff 29, mewnosoder—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 28 (temporary use of land for construction of works) of the Morlais Demonstration Zone Order 2021.”

Cymhwyso Deddf 1981

25.—(1) Mae Deddf 1981 yn gymwys fel pe bai'r Gorchymyn hwn yn orchymyn prynu gorfodol.

Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 36 (time limit for exercise of powers of acquisition) of the Morlais Demonstration Zone Order 2021”.

(5) In section 11(1B)(1) (powers of entry), in a case where the notice to treat relates only to the acquisition of an easement or other right over land or the imposition of a restrictive covenant, for “3 months” substitute “1 month”.

(6) In section 11A(2) (powers of entry: further notices of entry)—

- (a) in subsection (1)(a), after “land” insert “under that provision”; and
- (b) in subsection (2), after “land” insert “under that provision”.

(7) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 36 (time limit for exercise of powers of acquisition) of the Morlais Demonstration Zone Order 2021”.

(8) In Schedule 2A(3) (counter-notice requiring purchase of land not in notice to treat)—

- (a) paragraphs 1(2) and 14(2) substitute—
“(2) But see article 26(3) (Power to acquire subsoil only) of the Morlais Demonstration Zone Order 2021, which excludes the acquisition of subsoil only from this Schedule; and”
- (b) after paragraph 29, insert—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 28 (temporary use of land for construction of works) of the Morlais Demonstration Zone Order 2021.”

Application of the 1981 Act

25.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(1) Mewnosodwyd is-adran (1B) o adran 11 gan adran 186(1) a (2)(b) o Ddeddf Tai a Chynllunio 2016.
(2) Mewnosodwyd gan adran 186(3) o Ddeddf Tai a Chynllunio 2016.
(3) Fel y'i mewnosodwyd gan adran 199(1) o Ddeddf Tai a Chynllunio 2016 a pharagraffau 1 a 3 o Atodlen 17 i'r ddeddf honno.

(1) Subsection (1B) of section 11 was inserted by section 186(1) and (2)(b) of the Housing and Planning Act 2016.
(2) Inserted by section 186(3) of the Housing and Planning Act 2016.
(3) As inserted by section 199(1) of, and paragraphs 1 and 3 of Schedule 17 to, the Housing and Planning Act 2016.

(2) Mae Deddf 1981, fel y'i cymhwyswyd gan baragraff (1), yn cael effaith gyda'r addasiadau a ganlyn.

(3) Yn adran 5 (y dyddiad cynharaf ar gyfer weithredu datganiad), yn is-adran (2), hepgorer y geiriau o “, and this subsection” hyd at y diwedd.

(4) Hefgorer adran 5A(1) (terfyn amser ar gyfer datganiad breinio cyffredinol).

(5) Yn adran 5B(1)(2) (estyn terfyn amser yn ystod her) yn lle “section 23 of the Acquisition of Land 1981 (application to the High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” rhodder “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 36 (time limit for exercise of powers of acquisition) of the Morlais Demonstration Zone Order 2021”.

(6) Yn adran 6(3) (hysbysiadau ar ôl gweithredu datganiad), yn is-adran (1)(b), yn lle “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” rhodder “section 14A(4) of the Transport and Works Act 1992”.

(7) Yn adran 7(5) (hysbysiad deongliadol i drafod telerau), yn is-adran (1)(a), hepgorer “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(8) Yn Atodlen A1(6) (gwrth-hysbysiad sy'n ei gwneud yn ofynnol prynu tir nad yw mewn datganiad breinio cyffredinol), paragraff 1(2) —

“(2) But see article 26(3) (power to acquire subsoil only) of the Morlais Demonstration Zone Order 2021 which excludes the acquisition of subsoil only from this Schedule.”

(9) Dehonglir cyfeiriadau at Ddeddf 1965 yn Neddf 1981 fel cyfeiriadau at Ddeddf 1965 fel y'u cymhwyswyd at gaffael tir o dan erthygl 22 (pŵer i gaffael tir).

Pŵer i Gaffael Is-bridd yn Unig

26.—(1) Caiff yr ymgymwrwr gaffael yn orfodol gymaint o is-bridd y tir y cyfeirir ato ym mharagraff (1)(a) neu (b) o erthygl 22 (pŵer i gaffael tir), neu'r cyfryw hawliau ynddo, ag sy'n ofynnol at unrhyw ddiben y gellir caffael y tir hwnnw ar ei gyfer o dan y ddarpariaeth honno yn lle caffael y tir cyfan.

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- (1) Mewnosodwyd gan adran 182(2) o Ddeddf Tai a Chynllunio 2016.
 - (2) Mewnosodwyd gan adran 202(2) o Ddeddf Tai a Chynllunio 2016.
 - (3) Fel y'i diwygiwyd gan baragraff 52(2) o Atodlen 2 i Ddeddf Cynllunio (Darpariaethau Canlyniadol) 1990 (p. 11) a pharagraff 7 o Atodlen 15 i Ddeddf Tai a Chynllunio 2016.
 - (4) Mewnosodwyd gan O.S. 2017/16.
 - (5) Fel y'i diwygiwyd gan baragraff 3 o Atodlen 18 i Ddeddf Tai a Chynllunio 2016.
 - (6) Fel y'i mewnosodwyd gan baragraff 6 o Atodlen 18 i Ddeddf Tai a Chynllunio 2016 (p. 22).

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 5 (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.

(4) Omit section 5A(1) (time limit for general vesting declaration).

(5) In section 5B(1)(2) (extension of time limit during challenge) for “section 23 of the Acquisition of Land 1981 (application to the High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 36 (time limit for exercise of powers of acquisition) of the Morlais Demonstration Zone Order 2021”.

(6) In section 6(3) (notices after execution of declaration), in subsection (1)(b), for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 14A(4) of the Transport and Works Act 1992”.

(7) In section 7(5) (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(8) In Schedule A1(6) (counter-notice requiring purchase of land not in general vesting declaration), paragraph 1(2) —

“(2) But see article 26(3) (power to acquire subsoil only) of the Morlais Demonstration Zone Order 2021 which excludes the acquisition of subsoil only from this Schedule.”

(9) References to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied to the acquisition of land under article 22 (power to acquire land).

Power to Acquire Subsoil Only

26.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph (1)(a) or (b) of article 22 (power to acquire land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

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- (1) Inserted by section 182(2) of the Housing and Planning Act 2016.
 - (2) Inserted by section 202(2) of the Housing and Planning Act 2016.
 - (3) As amended by paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016.
 - (4) Inserted by S.I. 2017/16.
 - (5) As amended by paragraph 3 of Schedule 18 to the Housing and Planning Act 2016.
 - (6) As inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(2) Pan fo'r ymgymerwr yn caffael unrhyw ran o is-bridd tir o dan baragraff (1) neu hawliau ynddi, ni fydd yn ofynnol caffael buddiant mewn unrhyw ran arall o'r tir.

(3) Nid yw'r canlynol yn gymwys mewn cysylltiad ag arfer y pŵer o dan baragraff (1) mewn perthynas ag is-bridd neu ofod awyr yn unig—

- (a) Atodlen 2A (gwrth-hysbysiad sy'n ei gwneud yn ofynnol prynu tir nad yw mewn hysbysiad i drafod telerau) i Ddeddf 1965 (fel y'i haddaswyd gan erthygl 24 (Cymhwyso Rhan 1 o Ddeddf Prynu Gorfodol 1965));
- (b) Atodlen A1 (gwrth-hysbysiad sy'n ei gwneud yn ofynnol prynu tir nad yw mewn datganiad breinio cyffredinol) i Ddeddf 1981 (fel y'i haddaswyd gan erthygl 25 (Cymhwyso Deddf 1981)); ac
- (c) adran 153(4A) (tir o dan falltod: bwriad i gaffael buddiant rhannol; prawf niwed sylweddol) Deddf 1990.

(4) Diystyrir paragraffau (2) a (3) pan fo'r ymgymerwr yn caffael daearell seler, arch neu adeiledd arall sy'n rhan o dŷ, adeilad neu ffatri.

(5) Mae Atodlen 8 yn cynnwys darpariaeth sydd mewn achosion penodol yn cyfyngu'r pŵer o dan erthygl 22 i is-bridd neu danwyneb y tir sydd dros 9 metr o dan yr wyneb.

Hawliau o dan neu dros strydoedd

27.—(1) Caiff yr ymgymerwr fynd i mewn i unrhyw stryd o fewn terfynau'r Gorchymyn ar y tir a meddiannu cymaint o'i his-bridd neu'r gofod awyr drosti ag sy'n ofynnol at ddibenion y gweithfeydd awdurdodedig a chaiff ddefnyddio'r is-bridd neu'r gofod awyr at y dibenion hynny neu unrhyw ddiben arall sy'n ategol i'r gweithfeydd awdurdodedig.

(2) Yn ddarostyngedig i baragraff (4), caiff y pŵer o dan baragraff (1) ei arfer mewn perthynas â stryd heb fod yn ofynnol i'r ymgymerwr gaffael unrhyw ran o'r stryd neu unrhyw hawddfrait neu hawl yn y stryd.

(3) Yn ddarostyngedig i baragraff (5), mae gan unrhyw berson sy'n berchennog neu'n feddiannydd tir y mae'r pŵer i feddiannu a roddir gan baragraff (1) yn cael ei arfer yn ei gylch heb i'r ymgymerwr gaffael unrhyw ran o fuddiant y person hwnnw yn y tir, ac sy'n dioddef colled drwy arfer y pŵer hwnnw, yr hawl i gael digollediad sydd i'w benderfynu, yn achos anghydfod, o dan Ran 1 o Ddeddf 1961.

(2) Where the undertaker acquires any part of or rights in the subsoil of land under paragraph (1) it will not be required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

- (a) Schedule 2A (counter notice requiring purchase of land not in notice to treat) to the 1965 Act (as modified by article 24 (application of Part 1 of the Compulsory Purchase Act 1965));
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act (as modified by article 25 (application of the 1981 Act)); and
- (c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

(4) Paragraphs (2) and (3) are to be disregarded where the undertaker acquires a cellar vault, arch or other construction forming part of a house, building or manufactory.

(5) Schedule 8 contains provision which in certain cases restricts the power under article 22 to the subsoil or under-surface of the land as lies more than 9 metres below the level of the surface.

Rights under or over streets

27.—(1) The undertaker may enter upon and appropriate so much of the subsoil of, or air-space over, any street within the onshore Order limits as may be required for the purposes of the authorised works and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised works.

(2) Subject to paragraph (4), the power under paragraph (1) may be exercised in relation to a street without the undertaker being required to acquire any part of the street or any easement or right in the street.

(3) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person's interest in the land, and who suffers loss by the exercise of that power, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(4) Nid yw paragraff (2) yn gymwys mewn perthynas ag—

- (a) unrhyw danffordd neu adeilad tanddaearol; neu
- (b) unrhyw seler, daearegell, arch neu adeiledd arall mewn, ar neu o dan stryd sy'n rhan o ffryntiad adeilad ar y stryd.

(5) Nid yw digollediad yn daladwy o dan baragraff (3) i unrhyw berson sy'n ymgwymerwr y mae adran 85 o Ddeddf 1991 yn gymwys iddo mewn perthynas â mesurau y bydd y costau a ganiateir ar eu cyfer yn cael eu dwyn yn unol â'r adran honno.

Meddiannu Tir Dros Dro

Defnyddio tir dros dro ar gyfer adeiladu gweithfeydd

28.—(1) Caiff yr ymgwymerwr, mewn cysylltiad â chyflawni'r gweithfeydd awdurdodedig—

- (a) fynd ar—
 - (i) y tir a bennir yng ngholofnau (1) a (2) o Atodlen 9 (tir y gellir ei feddiannu dros dro) a'i feddiannu dros dro at y diben a bennir mewn perthynas â'r tir hwnnw yng ngholofn (3) o'r Atodlen honno; a
 - (ii) unrhyw dir arall o fewn terfynau'r Gorchymyn ar y tir nad yw hysbysiad mynediad wedi cael ei gyflwyno yn ei gylch o dan adran 11(1) (pwerau mynediad) o Ddeddf 1965 (ac eithrio mewn cysylltiad â chaffael hawliau yn unig) ac nad yw datganiad wedi cael ei weithredu yn ei gylch o dan adran 4(2) (gweithredu datganiad) o Ddeddf 1981 a'i feddiannu dros dro;
- (b) gwaredu unrhyw adeiladau a llystyfiant ar y tir hwnnw;
- (c) adeiladu gweithfeydd dros dro (gan gynnwys darparu ffordd fynediad) ac adeiladau ar y tir hwnnw;

(4) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(5) Compensation is not payable under paragraph (3) to any person who is an undertaker to whom section 85 of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary Possession of Land

Temporary use of land for construction of works

28.—(1) The undertaker may, in connection with the carrying out of the authorised works—

- (a) enter upon and take temporary possession of—
 - (i) the land specified in columns (1) and (2) of Schedule 9 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule; and
 - (ii) any other land within the onshore Order limits in respect of which no notice of entry has been served under section 11(1) (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been executed under section 4(2) (execution of declaration) of the 1981 Act;
- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on that land;

(1) Diwygiwyd adran 11 gan adran 34(1) o Ddeddf Caffael Tir 1981 (p. 67) ac Atodlen 4 i'r ddeddf honno, adran 3 o Ddeddf Tai (Darpariaethau Canlyniadol) 1985 (p. 71) a Rhan 1 o Atodlen 1 i'r ddeddf honno, adran 14 o Fesur Eglwys Loegr (Darpariaethau Amrywiol) 2006 (Rhif 1) a pharagraff 12(1) o Atodlen 5 i'r mesur hwnnw, adrannau 186(2), 187(2) a 188 o Ddeddf Tai a Chynllunio 2016 a pharagraff 6 o Atodlen 14 a pharagraff 3 o Atodlen 16 i'r ddeddf honno ac O.S. 2009/1307.

(2) Diwygiwyd adran 4 gan adrannau 184 a 185 o Ddeddf Tai a Chynllunio 2016 (p. 22) a pharagraffau 1 a 2 o Atodlen 18 i'r ddeddf honno.

(1) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 and S.I. 2009/1307.

(2) Section 4 was amended by sections 184 and 185 of, and paragraphs 1 and 2 of Schedule 18 to, the Housing and Planning Act 2016 (c. 22).

- (d) adeiladu unrhyw weithfeydd sy'n ofynnol fel y'i crybwyllir yn erthygl 3 (pŵer i adeiladu, cynnal a chadw, ailbweru a datgomisiynu gweithfeydd); ac
- (e) adeiladu unrhyw weithfeydd lliniaru ar y tir hwnnw.

(2) Heb fod yn llai na 28 diwrnod cyn mynd ar dir a'i feddiannu dros dro o dan yr erthygl hon, rhaid i'r ymgymerwr gyflwyno hysbysiad o'r bwriad i fynd ar dir i berchenogion a meddianwyr y tir.

(3) Ni chaiff yr ymgymerwr, heb gytundeb perchenogion y tir, barhau i feddiannu unrhyw dir o dan yr erthygl hon—

- (a) yn achos unrhyw dir a bennir ym mharagraff (1)(a)(i), ar ôl diwedd y cyfnod o flwyddyn sy'n dechrau ar y dyddiad y cwblheir y rhan o'r gweithfeydd awdurdodedig a bennir mewn perthynas â'r tir hwnnw yng ngholofn (4) o Atodlen 9; neu
- (b) yn achos unrhyw dir y cyfeirir ato ym mharagraff (1)(a)(ii), ar ôl diwedd y cyfnod o flwyddyn sy'n dechrau ar y dyddiad y cwblheir y gweithfeydd neu ddiben arall y meddiannwyd y tir dros dro ar ei gyfer oni bai bod yr ymgymerwr, erbyn diwedd y cyfnod hwnnw, wedi cyflwyno hysbysiad mynediad o dan adran 11 o Ddeddf 1965 neu wedi gwneud datganiad o dan adran 4 o Ddeddf 1981 mewn perthynas â'r tir hwnnw.

(4) Cyn ildio meddiant o dir sydd wedi cael ei feddiannu dros dro o dan yr erthygl hon, rhaid i'r ymgymerwr dynnu ymaith yr holl weithfeydd dros dro ac adfer y tir er boddhad rhesymol perchenogion y tir; ond nid yw'n ofynnol i'r ymgymerwr—

- (a) codi adeilad yn lle adeilad a dynnwyd ymaith o dan yr erthygl hon;
- (b) adfer y tir y mae unrhyw weithfeydd parhaol wedi cael eu hadeiladu arno o dan baragraffau (1)(d) neu (1)(e);
- (c) gwaredu unrhyw weithfeydd i gryfhau'r ddaear sydd wedi cael eu gosod ar y tir er mwyn hwyluso adeiladu'r gweithfeydd awdurdodedig; neu
- (d) waredu unrhyw fesurau a osodwyd dros neu o amgylch cyfarpar yr ymgymerwr statudol i ddiogelu'r cyfarpar hwnnw rhag y gweithfeydd awdurdodedig.

(5) Rhaid i'r ymgymerwr ddigolledu perchenogion a meddianwyr tir a feddiannwyd dros dro o dan yr erthygl hon am unrhyw golled neu ddifrod sy'n codi o arfer pwerau a roddir gan yr erthygl hon mewn perthynas â'r tir.

- (d) construct any works required as mentioned in article 3 (power to construct maintain repower and decommission works); and
- (e) construct any mitigation works on that land.

(2) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of any land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised works specified in relation to that land in column (4) of Schedule 9; or
- (b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the works or other purpose for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works have been constructed under paragraphs (1)(d) or (1)(e);
- (c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised works; or
- (d) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised works.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(6) Mae unrhyw anghydfod ynglŷn â hawl person i gael ei ddiogledu o dan baragraff (5), neu ynglŷn â swm y cyfryw ddioglediad, i'w benderfynu o dan Ran 1 o Ddeddf 1961.

(7) Heb effeithio ar erthygl 48 (dim adennill dwbl), nid oes dim yn yr erthygl hon yn effeithio ar unrhyw atebolrwydd i dalu digollediad o dan adran 10(2)(1) (darpariaethau pellach ynglŷn â digolledu am effeithiad andwyo) o Ddeddf 1965 nac o dan unrhyw ddeddfiad arall mewn perthynas â cholled neu ddifrod sy'n codi o gwblhau unrhyw weithfeydd, ac eithrio colled neu ddifrod y mae digollediad yn daladwy amdani neu amdano o dan baragraff (5).

(8) Pan fo'r ymgwymerwr yn meddiannu tir o dan yr erthygl hon, nid yw'n ofynnol caffael y tir nac unrhyw fuddiant ynddo.

(9) Mae adran 13(2) (gwrthod rhoi meddiant i awdurdod caffael) o Ddeddf 1965 yn gymwys i ddefnyddio tir dros dro o dan yr erthygl hon i'r un graddau y mae'n gymwys i gaffael tir o dan y Gorchymyn hwn yn rhinwedd erthygl 24(1) (cymhwyso Rhan 1 o Ddeddf 1965).

Defnyddio tir dros dro ar gyfer cynnal a chadw gweithfeydd

29.—(1) Yn ddarostyngedig i baragraff (2), ar unrhyw adeg yn ystod y cyfnod cynnal a chadw sy'n ymwneud ag unrhyw un o'r gweithfeydd awdurdodedig, caiff yr ymgwymerwr—

- (a) mynd ar unrhyw dir o fewn terfynau'r Gorchymyn ar y tir a'i feddiannu dros dro os yw'r cyfryw feddiannu yn rhesymol ofynnol at ddiben cynnal a chadw'r gwaith neu unrhyw weithfeydd ategol sy'n gysylltiedig ag ef; a
- (b) adeiladu'r cyfryw weithfeydd dros dro (gan gynnwys darparu ffordd fynediad) ac adeiladau ar y tir ag sy'n rhesymol angenrheidiol at y diben hwnnw.

(2) Nid yw paragraff (1) yn awdurdodi'r ymgwymerwr i feddiannu dros dro—

- (a) unrhyw dŷ neu ardd sy'n eiddo i dŷ; neu
- (b) unrhyw adeilad (heblaw am dŷ) os yw wedi'i feddiannu am y tro.

(3) Heb fod yn llai na 28 diwrnod cyn mynd ar dir a'i feddiannu dros dro o dan yr erthygl hon, rhaid i'r ymgwymerwr gyflwyno hysbysiad o'r bwriad i fynd ar dir i berchenogion a meddianwyr y tir.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(7) Without affecting article 48 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2)(1) (further provision as to compensation for injurious affection) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (5).

(8) Where the undertaker takes possession of land under this article, it is not required to acquire the land or any interest in it.

(9) Section 13(2) (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 24(1) (application of Part 1 of the 1965 Act).

Temporary use of land for maintenance of works

29.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any of the authorised works, the undertaker may—

- (a) enter upon and take temporary possession of any land within the onshore Order limits if such possession is reasonably required for the purpose of maintaining the work or any ancillary works connected with it; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(1) Diwygiwyd adran 10 drwy adran 4 o Ddeddf Cynllunio (Darpariaethau Canlyniadol) 1990 (p. 11) a pharagraff 13(2) o Atodlen 2 i'r ddeddf honno ac O.S. 2009/1307.

(2) Diwygiwyd adran 13 gan adrannau 62(3), 139 a 146 o Ddeddf Tribiwnlysoedd, Llysoedd a Gorfodi 2007 (p. 15) a pharagraffau 27 a 28 o Atodlen 13 a Rhan 3 o Atodlen 23 i'r ddeddf honno.

(1) Section 10 was amended by section 4 of, and paragraph 13(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.

(2) Section 13 was amended by sections 62(3), 139 and 146 of, and paragraphs 27 and 28 of Schedule 13, and Part 3 of Schedule 23, to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(4) Caiff yr ymgwymerwr ond parhau i feddiannu tir o dan yr erthygl hon am gyhyd ag y bo'n rhesymol angenrheidiol i gynnal a chadw'r rhan o'r gweithfeydd awdurdodedig y meddiannwyd y tir ar eu cyfer.

(5) Cyn ildio meddiant o dir sydd wedi cael ei feddiannu dros dro o dan yr erthygl hon, rhaid i'r ymgwymerwr waredu'r holl weithfeydd dros dro ac adfer y tir er boddhad rhesymol perchenogion y tir.

(6) Rhaid i'r ymgwymerwr ddigolledu perchenogion a meddianwyr tir a feddiannwyd dros dro o dan yr erthygl hon am unrhyw golled neu ddifrod sy'n codi o arfer pwerau a roddir gan yr erthygl hon mewn perthynas â'r tir.

(7) Bydd unrhyw anghydfod ynglŷn â hawl person i gael ei ddigolledu o dan baragraff (6), neu ynglŷn â swm y cyfryw ddigollediad, yn cael ei benderfynu o dan Ran 1 o Ddeddf 1961.

(8) Heb ragfarnu erthygl 48 (dim adennill dwbl), nid oes dim yn yr erthygl hon yn effeithio ar unrhyw atebolrwydd i dalu digollediad o dan adran 10(2) o Ddeddf 1965 neu o dan unrhyw ddeddfiad arall mewn cysylltiad â cholled neu ddifrod sy'n codi o gwblhau unrhyw weithfeydd y mae digollediad yn daladwy amdani neu amdano o dan baragraff (6).

(9) Pan fo'r ymgwymerwr yn meddiannu tir o dan yr erthygl hon, ni fydd yn ofynnol iddo gaffael y tir nac unrhyw fuddiant ynddo.

(10) Mae adran 13 o Ddeddf 1965 yn gymwys i ddefnyddio tir dros dro yn unol â'r erthygl hon i'r un graddau y mae'n gymwys i gaffael tir o dan y Gorchymyn hwn yn rhinwedd erthygl 24 (Cymhwyso Rhan 1 o Ddeddf Prynu Gorfodol 1965).

(11) Yn yr erthygl hon, ystyr "y cyfnod cynnal a chadw", mewn perthynas â gwaith awdurdodedig, yw'r cyfnod o 5 mlynedd sy'n dechrau ar y dyddiad y mae'r gwaith yn cael ei agor i'w ddefnyddio.

Ymgorffori'r cod mwynau

30. Mae Rhannau 2 a 3 o Atodlen 2 i Ddeddf Caffael Tir 1981 (mwynau) wedi'u hymgorffori yn y Gorchymyn hwn yn ddarostyngedig i'r addasiadau—

- (a) yn lle "the acquiring authority" rhodder "the undertaker";
- (b) yn lle "undertaking" rhodder "authorised works"; ac
- (c) yn lle "compulsory purchase order" rhodder "this Order".

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised works for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, will be determined under Part 1 of the 1961 Act.

(8) Without prejudice to article 48 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, it will not be required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 24 (application of Part 1 of the Compulsory Purchase Act 1965).

(11) In this article "the maintenance period", in relation to an authorised work, means the period of 5 years beginning with the date on which the work is opened for use.

Incorporation of the mineral code

30. Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981 (minerals) are incorporated in this Order subject to the modifications that—

- (a) for "the acquiring authority" substitute "the undertaker";
- (b) for "undertaking" substitute "authorised works"; and
- (c) for "compulsory purchase order" substitute "this Order".

Diogelu hawliau i bysgota

31.—(1) Rhaid i'r ymgwymerwr ddigolledu'r perchenogion, y meddianwyr neu bersonau sydd fel arall â hawl berchenogol i bysgota y mae adeiladu, gweithredu, cynnal a chadw neu ddatgomisiynu'r gweithfeydd awdurdodedig, neu arfer y pwerau a roddir i'r ymgwymerwr gan y Gorchymyn hwn, yn cael effaith andwyol arnynt, am unrhyw ddifrod a ddioddefir gan y cyfryw bersonau drwy adeiladu, gweithredu, cynnal a chadw neu ddatgomisiynu neu arfer y pwerau.

(2) Rhaid i ddigollediad o dan baragraff (1) gael ei benderfynu, yn achos anghydfod, o dan Ran 1 o Ddeddf 1961.

Digolledu

Diystyru buddiannau a gwelliannau penodol

32.—(1) Wrth asesu'r digollediad sy'n daladwy i unrhyw berson ar adeg caffael unrhyw dir oddi wrth y person hwnnw o dan y Gorchymyn hwn, rhaid i'r tribiwnlys beidio ag ystyried—

- (a) unrhyw fuddiant mewn tir; neu
- (b) unrhyw ychwanegiad at werth unrhyw fuddiant mewn tir drwy godi unrhyw adeilad, cwblhau unrhyw weithfeydd neu wneud unrhyw welliant neu newid ar dir perthnasol,

os yw'r tribiwnlys wedi'i fodloni nad oedd creu'r buddiant, codi'r adeilad, cwblhau'r gweithfeydd na gwneud y gwelliant neu'r newid yn rhesymol angenrheidiol a'i fod wedi cael ei wneud gyda'r bwriad o gael digollediad neu fwy o ddigollediad.

(2) Ym mharagraff (1) ystyr “tir perthnasol” yw'r tir sy'n cael ei gaffael oddi wrth y person dan sylw neu unrhyw dir arall y mae a wnelo'r person hwnnw, neu yr oedd a wnelo'r person hwnnw ar adeg codi'r adeilad, cwblhau'r gweithfeydd neu wneud y gwelliant neu'r newid, yn uniongyrchol neu'n anuniongyrchol ag ef.

Gwrthgyfrif ar gyfer ychwanegiad yng ngwerth tir a gadwyd

33.—(1) Wrth asesu'r digollediad sy'n daladwy i unrhyw berson mewn cysylltiad â chaffael unrhyw dir (gan gynnwys yr is-bridd) oddi wrth y person hwnnw o dan y Gorchymyn hwn, rhaid i'r tribiwnlys wrthgyfrif yn erbyn gwerth y tir a gaffaelwyd felly unrhyw gynnydd yng ngwerth unrhyw dir cyffiniol neu gyfagos sy'n eiddo i'r person hwnnw yn yr un rhinwedd a fydd yn cronni i'r person hwnnw drwy adeiladu'r gweithfeydd awdurdodedig.

Protection of rights to fish

31.—(1) The undertaker must pay to the owners, occupiers or persons otherwise having a proprietary right of fishing injuriously affected by the construction, operation, maintenance or decommissioning of the authorised works, or otherwise by the exercise of the powers conferred on the undertaker by this Order, compensation for any damage sustained by such persons by reason of the construction, operation, maintenance or decommissioning or the exercise of the powers.

(2) Compensation under paragraph (1) must be determined, in case of dispute, under Part 1 of the 1961 Act.

Compensation

Disregard of certain interests and improvements

32.—(1) In assessing the compensation payable to any person on the acquisition from that person of any land under this Order, the tribunal must not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

Set-off for enhancement in value of retained land

33.—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the construction of the authorised works.

(2) Wrth asesu'r digollediad sy'n daladwy i unrhyw berson mewn perthynas â chaffael unrhyw hawliau newydd dros dir (gan gynnwys yr is-bridd) oddi wrth y person hwnnw o dan erthygl 23 (pŵer i gaffael hawliau newydd a gosod cyfamodau cyfyngol), rhaid i'r tribiwnlys wrthgyfrif yn erbyn gwerth yr hawliau a gaffaelwyd felly—

- (a) unrhyw gynnydd yng ngwerth y tir y mae'r hawliau newydd drosto'n ofynnol; a
- (b) unrhyw gynnydd yng ngwerth unrhyw dir cyffiniol neu gyfagos sy'n eiddo i'r person hwnnw yn yr un rhinwedd,

a fydd yn cronni iddo drwy adeiladu'r gweithfeydd awdurdodedig.

(3) Mae Deddf 1961 yn cael effaith, yn ddarostyngedig i baragraffau (1) a (2), fel pe bai'r Gorchymyn hwn yn ddeddfiad lleol at ddibenion y Ddeddf honno.

Atodol

Pŵer i drechu hawddfreintiau a hawliau eraill

34.—(1) Mae unrhyw weithgarwch awdurdodedig sy'n digwydd ar dir o fewn terfynau'r Gorchymyn ar yr tir (p'un a gynhelir y gweithgarwch gan yr ymgwymerwr, neu gan unrhyw berson sy'n deillio teitl gan yr ymgwymerwr neu gan gontractwyr, gweision neu asiantau'r ymgwymerwr) wedi'i awdurdodi gan y Gorchymyn hwn os y'i gwneir yn unol â thelerau'r Gorchymyn hwn, er ei fod yn cynnwys—

- (a) ymyrraeth â diddordeb neu hawl y mae'r erthygl hon yn gymwys iddo neu iddi; neu
- (b) torri cyfyngiad ynglŷn â'r defnydd o dir sy'n codi yn rhinwedd contract.

(2) Yn yr erthygl hon, ystyr “gweithgarwch awdurdodedig” yw—

- (a) adeiladu, gweithredu, cynnal a chadw neu ddatgomisiynu unrhyw ran o'r gweithfeydd awdurdodedig;
- (b) arfer unrhyw bŵer a awdurdodir gan y Gorchymyn hwn; neu
- (c) ddefnyddio unrhyw dir (gan gynnwys defnyddio tir dros dro).

(3) Mae'r buddiannau a'r hawliau y mae'r erthygl hon yn gymwys iddynt yn cynnwys unrhyw hawddfrait, rhyddid, braint, hawl neu fantais a atodir i dir ac sy'n effeithio'n andwyol ar dir arall, gan gynnwys unrhyw hawl naturiol i gymorth; ac yn cynnwys cyfyngiadau ynglŷn â'r defnydd o dir sy'n codi yn rhinwedd contract.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) under article 23 (power to acquire new rights and impose restrictive covenants), the tribunal must set off against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are required; and
- (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,

which will accrue to him by reason of the construction of the authorised works.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2), as if this Order were a local enactment for the purposes of that Act.

Supplementary

Power to override easements and other rights

34.—(1) Any authorised activity which takes place on land within the onshore Order limits (whether the activity is undertaken by the undertaker, or by any person deriving title from the undertaker or by any contractors, servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, notwithstanding that it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) In this article “authorised activity” means—

- (a) the construction, operation, maintenance or decommissioning of any part of the authorised works;
- (b) the exercise of any power authorised by this Order; or
- (c) the use of any land (including the temporary use of land).

(3) The interests and rights to which this article applies include any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support; and include restrictions as to the user of land arising by the virtue of a contract.

(4) Pan fo unrhyw fuddiant, hawl neu gyfyngiad yn cael ei drechu neu ei threchu gan baragraff (1), mae digollediad—

- (a) yn daladwy o dan adran 7 (mesur digollediad yn achos gwahanu tir) neu adran 10 (darpariaeth bellach ynglŷn â digolledu am effeithiad andwyo) o Ddeddf 1965; a
- (b) i'w asesu yn yr un modd ac yn ddarostyngedig i'r un rheolau ag yn achos digolledu arall o dan yr adrannau hynny—
 - (i) pan fo'r digollediad i'w amcangyfrif mewn cysylltiad â phryniant o dan y Ddeddf honno; neu
 - (ii) pan fo'r niwed yn codi o gwblhau gweithfeydd ar y tir a gaffaelwyd o dan y Ddeddf honno neu o ddefnyddio'r cyfryw dir.

(5) Pan fo person sy'n deillio teitl o dan yr ymgymerwr a gaffaelodd y tir dan sylw—

- (a) yn atebol i dalu digollediad yn rhinwedd paragraff (4); a
- (b) yn methu â chyflawni'r atebolrwydd hwnnw; mae'r atebolrwydd yn orfodadwy yn erbyn yr ymgymerwr.

(6) Nid oes dim yn yr erthygl hon i'w ddehongli fel pe bai'n awdurdodi unrhyw weithred neu anwaith ar ran unrhyw berson sy'n agored i gyfraith drwy achos cyfreithiol unrhyw berson ar unrhyw seiliau heblaw am y cyfryw ymyrraeth neu'r tor cyfyngiad a grybwyllir ym mharagraff (1).

Hawliau preifat dros dir

35.—(1) Yn ddarostyngedig i ddarpariaethau'r erthygl hon, diddymir pob hawl tramwy breifat dros dir sy'n cael ei gaffael yn orfodol o dan y Gorchymyn hwn—

- (a) o'r dyddiad y mae'r ymgymerwr yn caffael y tir, boed hynny'n orfodol neu drwy gytundeb; neu
- (b) ar y dyddiad y mae'r ymgymerwr yn mynd ar y tir o dan adran 11(1) (pwerau mynediad) o Ddeddf 1965,

pa un bynnag sydd gynharaf.

(4) Where any interest, right or restriction is overridden by paragraph (1), compensation—

- (a) is payable under section 7 (measure of compensation in case of severance) or section 10 (further provision as to compensation for injurious affection) of the 1965 Act; and
- (b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—
 - (i) the compensation is to be estimated in connection with a purchase under that Act; or
 - (ii) the injury arises from the execution of works on or use of land acquired under that Act.

(5) Where a person deriving title under the undertaker by whom the land in question was acquired—

- (a) is liable to pay compensation by virtue of paragraph (4); and
 - (b) fails to discharge that liability,
- the liability is enforceable against the undertaker.

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person that is actionable at the suit of any person on any grounds other than such an interference or breach as mentioned in paragraph (1).

Private rights over land

35.—(1) Subject to the provisions of this article, all private rights of way over land subject to compulsory acquisition under this Order are extinguished—

- (a) from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (powers of entry) of the 1965 Act,

whichever is the sooner.

(1) Diwygiwyd adran 11 gan adran 34(1) o Ddeddf Caffael Tir 1981 (p. 67) ac Atodlen 4 i'r ddeddf honno, adran 3 o Ddeddf Tai (Darpariaethau Canlyniadol) 1985 (p. 71) a Rhan 1 o Atodlen 1 i'r ddeddf honno, adran 14 o Fesurau Eglwys Loegr (Darpariaethau Amrywiol) 2006 (Rhif 1) a pharagraff 12(1) o Atodlen 5 i'r mesur hwnnw, adrannau 186(2), 187(2) a 188 o Ddeddf Tai a Chynllunio 2016 (p. 22) a pharagraff 6 o Atodlen 14 a pharagraff 3 o Atodlen 16 i'r ddeddf honno ac O.S. 2009/1307.

(1) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to the Church of England (Miscellaneous Provisions) Measures 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16, to the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

(2) Yn ddarostyngedig i ddarpariaethau'r erthygl hon, diddymir pob hawl breifat dros dir sy'n ddarostyngedig i gaffael hawliau'n orfodol neu osod cyfamodau cyfyngol o dan y Gorchymyn hwn i'r graddau y byddai parhad y cyfryw hawliau preifat yn anghyson ag arfer hawl neu fyrdwn y cyfamod cyfyngol—

- (a) o'r dyddiad y caffaelir hawl neu fuddiant y cyfamod cyfyngol sy'n cael ei osod o blaid yr ymgwymerwr, boed hynny'n orfodol neu drwy gytundeb;
- (b) ar y dyddiad y mae'r ymgwymerwr yn mynd ar y tir o dan adran 11(1) o Ddeddf 1965; neu
- (c) ar adeg cychwyn unrhyw weithgarwch a awdurdodir gan y Gorchymyn sy'n ymyrryd â'r hawliau hynny sy'n eu torri,

pa un bynnag sydd gynharaf.

(3) Yn ddarostyngedig i ddarpariaethau'r erthygl hon, mae pob hawl breifat dros dir y mae'r ymgwymerwr yn ei feddiannu dros dro o dan y Gorchymyn hwn yn cael ei hatal a byddant yn anorfodadwy cyhyd ag y bo'r ymgwymerwr yn parhau i feddiannu'r tir yn gyfreithlon.

(4) Mae gan unrhyw berson sy'n dioddef colled oherwydd diddymu neu atal unrhyw hawl breifat neu oherwydd gosod unrhyw gyfamod cyfyngol o dan yr erthygl hon yr hawl i gael digollediad, i'w benderfynu, yn achos anghydfod, o dan Ran 1 (penderfynu ar gwestiynau sy'n ymwneud â digolledu y mae anghydfod yn ei gylch) o Ddeddf 1961.

(5) Nid yw'r erthygl hon yn gymwys mewn perthynas ag unrhyw hawl y mae adran 271 neu 272 (diddymu hawliau ymgwymerwyr statudol etc.) o Ddeddf 1990(1) yn gymwys iddi.

(6) Mae paragraffau (1) i (3) yn cael effaith yn ddarostyngedig i—

- (a) unrhyw hysbysiad a roddir gan yr ymgwymerwr cyn—
 - (i) cwblhau caffael y tir neu gaffael yr hawliau neu osod cyfamodau cyfyngol dros y tir neu sy'n effeithio ar y tir;
 - (ii) i'r ymgwymerwr ei feddiannu;
 - (iii) i'r ymgwymerwr fynd arno; neu
 - (iv) i'r ymgwymerwr ei feddiannu dros dro,

nad oes unrhyw un na phob un o'r paragraffau hynny yn gymwys i unrhyw hawl tramwy a bennir yn yr hysbysiad; nac

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right or burden of the restrictive covenant—

- (a) from the date of the acquisition of the right or the benefit of the restrictive covenant being imposed in favour of the undertaker, whether compulsorily or by agreement;
- (b) on the date of entry onto the land by the undertaker under section 11(1) of the 1965 Act; or
- (c) on the commencement of any activity authorised by the Order which interferes with or breaches those rights,

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right or by the imposition of any restrictive covenant under this article is entitled to compensation, to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) This article does not apply in relation to any right to which section 271 or 272 (extinguishment of rights of statutory undertakers etc.) of the 1990 Act(1) applies.

(6) Paragraphs (1) to (3) have effect subject to—

- (a) any notice given by the undertaker before—
 - (i) the completion of the acquisition of the land or the acquisition of the rights or the imposition of restrictive covenants over or affecting the land;
 - (ii) the undertaker's appropriation of it;
 - (iii) the undertaker's entry on to it; or
 - (iv) the undertaker's taking temporary possession of it,

that any or all of those paragraphs do not apply to any right of way specified in the notice; and

(1) Diwygiwyd adran 272 gan baragraff 103(1) a (2) o Atodlen 17 i Ddeddf Cyfathrebu 2003 (p. 21).

(1) Section 272 was amended by paragraph 103(1) and (2) of Schedule 17 to the Communications Act 2003 (c. 21).

- (b) unrhyw gytundeb a wneir ar unrhyw adeg rhwng yr ymgwymerwr a'r person y mae'r hawl tramwy dan sylw wedi'i breinio ynddo neu'n perthyn iddo.

(7) Os yw'r cyfryw gytundeb ag y cyfeirir ato ym mharagraff (6)(b)—

- (a) yn cael ei wneud â pherson y mae'r hawl tramwy wedi'i breinio ynddo neu'n perthyn iddo; ac
- (b) yn cael ei fynegi i gael effaith hefyd er budd y rhai sy'n deillio teitl gan neu o dan y person hwnnw.

mae'n effeithiol mewn cysylltiad â'r personau sy'n deillio teitl felly, p'un a oedd y teitl yn deillio cyn neu ar ôl gwneud y cytundeb.

(8) Mae cyfeiriadau yn yr erthygl hon at hawliau preifat dros dir yn cynnwys unrhyw hawl tramwy, ymddiriedolaeth, nodwedd, hawddfraint, rhyddid, braint, hawl neu fantais a atodir i dir ac sy'n effeithio'n andwyol ar dir arall, gan gynnwys unrhyw hawl naturiol i gymorth; ac yn cynnwys cyfyngiadau ynghylch y defnydd o dir sy'n codi yn rhinwedd contract, cytundeb neu ymgwymeriad sy'n cael yr effaith honno.

Terfyn amser ar gyfer arfer pwerau caffael

36.—(1) Ar ôl diwedd y cyfnod o 5 mlynedd sy'n dechrau ar y diwrnod y daw'r Gorchymyn hwn i rym—

- (a) ni ellir cyflwyno unrhyw hysbysiad i drafod telerau o dan Ran 1 o Ddeddf 1965 fel y'i cymhwysir at gaffael tir gan erthygl 24 (cymhwyso Rhan 1 o Ddeddf Prynu Gorfodol 1965); a
- (b) ni ellir gweithredu unrhyw ddatganiad o dan adran 4 o Ddeddf 1981 fel y'i cymhwysir gan erthygl 25 (Cymhwyso Deddf 1981).

(2) Mae'r pwerau a roddir gan erthygl 28 (defnyddio tir dros dro ar gyfer adeiladu gweithfeydd) yn peidio ar ddiwedd y cyfnod y cyfeirir ato ym mharagraff (1), ac eithrio nad oes dim yn y paragraff hwn yn atal yr ymgwymerwr rhag parhau i feddiannu tir ar ôl diwedd y cyfnod hwnnw, os aethpwyd ar y tir a'i feddiannu cyn diwedd y cyfnod hwnnw.

- (b) any agreement made at any time between the undertaker and the person in or to whom the right of way in question is vested or belongs.

(7) If any such agreement as is referred to in paragraph (6)(b)—

- (a) is made with a person in or to whom the right of way is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(8) References in this article to private rights over land include any right of way, trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support; and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Time limit for exercise of powers of acquisition

36.—(1) After the end of the period of 5 years beginning with the day on which this Order comes into force—

- (a) no notice to treat may be served under Part 1 of the 1965 Act as applied to the acquisition of land by article 24 (application of Part 1 of the Compulsory Purchase 1965 Act); and
- (b) no declaration may be executed under section 4 of the 1981 Act as applied by article 25 (application of the 1981 Act).

(2) The powers conferred by article 28 (temporary use of land for construction of works) cease at the end of the period referred to in paragraph (1), save that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession of it was taken before the end of that period.

RHAN 4

Amrywiol a Chyffredinol

Datgymhwysio darpariaethau deddfwriaethol

37.—(1) Nid yw darpariaethau adran 36 o Ddeddf Trydan 1989(1) yn gymwys mewn perthynas â'r gweithfeydd awdurdodedig.

(2) Nid yw darpariaethau adran 23 o Ddeddf Draenio Tir 1991(2) yn gymwys mewn perthynas â'r gweithfeydd awdurdodedig.

Amddiffyniad i achosion cyfreithiol mewn cysylltiad â niwsans statudol

38.—(1) Pan fo achos cyfreithiol yn cael ei ddwyn o dan adran 82(1) o Ddeddf Diogelu'r Amgylchedd 1990(3) (achos cyfreithiol diannod gan berson sydd wedi cael ei dramgwyddo gan niwsans statudol) mewn perthynas â niwsans sy'n dod o fewn adran 79(1) (d), (e), (fb), (g), (ga) neu (h) o'r Ddeddf honno(4), nid oes unrhyw orchymyn i'w wneud, ac nid oes unrhyw ddirwy i'w gosod, o dan adran 82(2) o'r Ddeddf honno os yw'r amddiffynnydd yn dangos bod y niwsans—

- (a) yn ymwneud â safle a ddefnyddir gan yr ymgymwrwr at ddibenion adeiladu a chynnal y gweithfeydd awdurdodedig ac mewn cysylltiad â hynny ac y gellir ei briodoli i gyflawni'r gweithfeydd awdurdodedig yn unol â hysbysiad a gyflwynir o dan adran 60 (rheoli sŵn ar safle adeiladu), neu gydsyniad a roddir o dan adran 61(5) (cydsyniad ymlaen llaw ar gyfer gwaith ar safle adeiladu), o Ddeddf Rheoli Llygredd 1974(6);

PART 4

Miscellaneous and General

Disapplication of legislative provisions

37.—(1) The provisions of section 36 of the Electricity Act 1989(1) do not apply in relation to the authorised works.

(2) The provisions of section 23 of the Land Drainage Act 1991(2) do not apply in relation to the authorised works.

Defence to proceedings in respect of statutory nuisance

38.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(3) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within section 79(1) (d), (e), (fb), (g), (ga) or (h) of that Act(4), no order is to be made, and no fine is to be imposed, under section 82(2) of that Act if the defendant shows that the nuisance—

- (a) relates to premises used by the undertaker for the purposes of or in connection with the construction maintenance of the authorised works and is attributable to the carrying out of the authorised works in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61(5) (prior consent for work on construction site), of the Control of Pollution Act 1974(6);

(1) 1989 p. 29.

(2) 1991 p. 59.

(3) 1990 p. 43. Diwygiwyd adran 82 gan adran 5 o Ddeddf Sŵn a Niwsans Statudol 1993 (p. 40), paragraff 6 o Atodlen 17 i Ddeddf yr Amgylchedd 1995 (p. 25), adran 103(1), (4) a (5) o Ddeddf Cymdogaethau Glân a Deddf yr Amgylchedd 2005 (p. 16) ac O.S. 2015/664.

(4) Diwygiwyd adran 79(1) gan adran 2(2) o Ddeddf Sŵn a Niwsans Statudol 1993, adran 120 o Ddeddf yr Amgylchedd 1995 a pharagraff 2(a) o Atodlen 17 a pharagraff 89(2) o Atodlen 22 i'r ddeddf honno, adrannau 101(2) a 102(2) o Ddeddf Cymdogaethau Glân a'r Amgylchedd 2005 (p. 16) ac adrannau 109(2), 110(2), 111(2) a 112(2)(a) o Ddeddf Iechyd y Cyhoedd etc (yr Alban) 2008 (dsa.8).

(5) Diwygiwyd adran 61 gan Atodlen 7 i Ddeddf Adeiladu 1984 (p. 55), paragraff 15(3) o Atodlen 15 i Ddeddf Diogelu'r Amgylchedd 1990 (p. 43), Atodlen 24 i Ddeddf yr Amgylchedd 1995 (p. 25) a pharagraff 10 o Atodlen 6 i Ddeddf Adeiladu (yr Alban) 2003 (dsa.8).

(6) 1974 p. 40.

(1) 1989 c. 29.

(2) 1991 c. 59.

(3) 1990 c. 43. Section 82 was amended by section 5 of the Noise and Statutory Nuisance Act 1993 (c. 40), paragraph 6 of Schedule 17 to the Environment Act 1995 (c. 25), section 103(1), (4) and (5) of the Clean Neighbourhoods and Environment Act 2005 (c. 16) and S.I. 2015/664.

(4) Section 79(1) was amended by section 2(2) of the Noise and Statutory Nuisance Act 1993, section 120 of, and paragraph 2(a) of Schedule 17 and paragraph 89(2) of Schedule 22 to, the Environment Act 1995, sections 101(2) and 102(2) of the Clean Neighbourhoods and Environment Act 2005 (c. 16) and sections 109(2), 110(2), 111(2) and 112(2)(a) of the Public Health etc. (Scotland) Act 2008 (asp. 8).

(5) Section 61 was amended by Schedule 7 to the Building Act 1984 (c. 55), paragraph 15(3) of Schedule 15 to the Environmental Protection Act 1990 (c. 43), Schedule 24 to the Environment Act 1995 (c. 25) and paragraph 10 of Schedule 6 to the Building (Scotland) Act 2003 (asp. 8).

(6) 1974 c. 40.

- (b) o ganlyniad i adeiladu, cynnal a chadw neu ddatgomisiynu'r gweithfeydd awdurdodedig ac na ellir yn rhesymol ei osgoi;
- (c) yn ymwneud â safle a ddefnyddir gan yr ymgymerwr at ddibenion y gweithfeydd awdurdodedig neu mewn cysylltiad â'u defnyddio a gellir ei briodoli i'r defnydd o'r gweithfeydd awdurdodedig yn unol â chynllun monitro sŵn y cytunir arno â'r awdurdod cynllunio yn unol ag un o amodau'r caniatâd cynllunio tybiedig; neu
- (d) o ganlyniad i'r defnydd o'r gweithfeydd awdurdodedig ac na ellir yn rhesymol ei osgoi;

(2) Nid yw adran 61(9) o Ddeddf Rheoli Llygredd 1974 (cydsyniad ar gyfer gwaith ar safle i gynnwys datganiad nad yw ynddo'i hun yn gyfystyr ag amddiffyniad i achos cyfreithiol o dan adran 82 o Ddeddf Diogelu'r Amgylchedd 1990) yn gymwys pan fo'r cydsyniad yn ymwneud â'r defnydd o'r safle gan yr ymgymerwr at ddibenion adeiladu neu gynnal a chadw'r gweithfeydd awdurdodedig neu mewn cysylltiad â hynny.

Caniatâd cynllunio a materion atodol

39.—(1) Mewn perthynas â chymhwysio paragraff 3(c) o'r Ail Atodlen i Ffurff Gorchymyn Diogelu Coed a nodwyd yn yr Atodlen i Reoliadau Cynllunio Gwlad a Thref (Gorchymyn Diogelu Coed) 1969(1) (gan gynnwys y paragraff hwnnw fel y'i cymhwyswyd gan reoliad 3(ii) o Reoliadau Cynllunio Gwlad a Thref (Gorchymyn Diogelu Coed) (Diwygio) a (Coed Mewn Ardaloedd Cadwraeth) (Achosion Eithriedig) 1975(2), neu fel y'i hymgorfforwyd mewn unrhyw orchymyn diogelu coed), trinnir unrhyw gyfarwyddyd o dan adran 90(2A) o Ddeddf 1990 sy'n tybio bod caniatâd cynllunio wedi cael ei roi mewn perthynas â gweithfeydd a awdurdodir gan y Gorchymyn hwn fel un sy'n tybio bod caniatâd wedi cael ei roi ar gais a wneir o dan Ran 3 o'r Ddeddf honno at ddibenion y Rhan honno.

- (b) is a consequence of the construction, maintenance or decommissioning of the authorised works and cannot reasonably be avoided;
- (c) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised works and is attributable to the use of the authorised works in accordance with a noise monitoring scheme agreed with the planning authority pursuant to a condition of the deemed planning permission; or
- (d) is a consequence of the use of the authorised works and cannot reasonably be avoided.

(2) Section 61(9) of the Control of Pollution Act 1974 (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised works.

Planning permission and supplementary matters

39.—(1) In relation to the application of paragraph 3(c) of the Second Schedule of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Tree Preservation Order) Regulations 1969(1) (including that paragraph as applied by regulation 3(ii) of the Town and Country Planning (Tree Preservation Order) (Amendment) and (Trees in Conservation Areas) (Exempted Cases) Regulations 1975(2), or as incorporated in any tree preservation order), any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to works authorised by this Order is treated as deeming the permission to have been granted on application made under Part 3 of that Act for the purposes of that Part.

(1) O.S. 1969/17 (Noder bod y rhain wedi cael ei dirymu).
 (2) O.S. 1975/148.

(1) S.I. 1969/17 (Note these have been revoked).
 (2) S.I. 1975/148.

(2) Mewn perthynas â chymhwyso erthygl 5(1)(d) o Ffurf Gorchymyn Diogelu Coed a nodwyd yn yr Atodlen i Reoliadau Cynllunio Gwlad a Thref (Coed) 1999(1) fel y'i hymgorfforwyd mewn unrhyw orchymyn diogelu coed neu sy'n cael effaith yn rhinwedd rheoliad 10(1)(a) o'r Rheoliadau hynny, ni fydd unrhyw gyfarwyddyd o dan adran 90(2A) o Ddeddf 1990 sy'n tybio bod caniatâd cynllunio wedi cael ei roi mewn perthynas â gweithfeydd a awdurdodir gan y Gorchymyn hwn yn cael ei drin fel caniatâd cynllunio amlinellol.

(3) Mae caniatâd cynllunio y bernir ei fod wedi cael ei roi gan gyfarwyddyd o dan adran 90(2A)(2) o Ddeddf 1990 mewn perthynas â gweithfeydd a awdurdodir gan y Gorchymyn hwn i'w drin fel caniatâd cynllunio penodol at ddibenion adran 264(3)(a) o'r Ddeddf honno (achosion lle mae tir i'w drin fel pe bai'n dir gweithredol at ddibenion y Ddeddf honno).

Pŵer i docio coed sy'n gorhongian dros y gweithfeydd awdurdodedig a gwaredu gwrychoedd

40.—(1) Caiff yr ymgymerwr gwympto neu docio unrhyw goeden neu llwyn ger unrhyw ran o'r gweithfeydd awdurdodedig, neu dorri ei gwreiddiau yn ôl, os cred yn rhesymol ei bod yn angenrheidiol gwneud hynny er mwyn atal y goeden neu'r llwyn rhag rhwystro neu ymyrryd ag adeiladu, cynnal a chadw, gweithredu neu ddatgomisiynu'r gweithfeydd awdurdodedig neu unrhyw gyfarpar a ddefnyddir ar y gweithfeydd awdurdodedig.

(2) Drwy arfer pwerau paragraff (1), rhaid i'r ymgymerwr beidio â gwneud unrhyw ddifrod diangen i unrhyw goeden na llwyn a rhaid iddo ddigolledu unrhyw berson am unrhyw golled neu ddifrod sy'n codi o arfer y pwerau hynny.

(3) Rhaid i unrhyw anghydfod ynglŷn â hawl person i gael ei ddigolledu o dan baragraff (2), neu ynglŷn â swm y cyfryw ddigollediad, gael ei benderfynu o dan Ran 1 o Ddeddf 1961.

(4) Caiff yr ymgymerwr waredu unrhyw wrychoedd o fewn terfynau'r Gorchymyn ar y tir y mae'n ofynnol eu gwaredu at ddibenion cyflawni'r gweithfeydd awdurdodedig.

(2) In relation to the application of article 5(1)(d) of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Trees) Regulations 1999(1) as incorporated in any tree preservation order or as having effect by virtue of regulation 10(1)(a) of those Regulations, any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to works authorised by this Order is not to be treated as an outline planning permission.

(3) Planning permission which is deemed by a direction under section 90(2A)(2) of the 1990 Act to be granted in relation to works authorised by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) of that Act (cases in which land is to be treated as operational land for the purposes of that Act).

Power to lop trees overhanging the authorised works and removal of hedgerows

40.—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised works, 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, operation or decommissioning of the authorised works or any apparatus used on the authorised works.

(2) In exercising the powers of 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 the exercise of those powers.

(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 onshore Order limits that may be required to be removed for the purposes of carrying out the authorised works.

(1) O.S. 1999/1892.

(2) Mewnosodwyd adran 90(2A) gan adran 16(1) o Ddeddf Trafnidiaeth a Gweithfeydd 1992 (p. 42).

(1) S.I. 1999/1892.

(2) Section 90(2A) was inserted by section 16(1) of the Transport and Works Act 1992 (c. 42).

Cymhwyso cyfraith landlord a thenant

41.—(1) Mae'r erthygl hon yn gymwys i—

- (a) unrhyw gytundeb ar gyfer prydlesu'r gweithfeydd awdurdodedig cyfan neu unrhyw ran ohonynt neu'r hawl i'w gweithredu i unrhyw berson; a
- (b) unrhyw gytundeb y mae'r ymgymwr yn ymrwymo iddo ag unrhyw berson ar gyfer adeiladu, cynnal a chadw, gweithredu, ailbweru a datgomisiynu'r gweithfeydd awdurdodedig, neu unrhyw ran ohonynt;

i'r graddau y mae unrhyw gyfryw gytundeb yn ymwneud â'r telerau y mae unrhyw dir sy'n destun prydles a roddir gan neu o dan y cytundeb hwnnw i'w ddarparu at ddefnydd y person hwnnw.

(2) Nid oes unrhyw ddeddfiad na rheol gyfreithiol sy'n rheoleiddio hawliau a rhwymedigaethau landlordiaid a thenantiaid yn lleihau effaith gweithrediad unrhyw gytundeb y mae'r erthygl hon yn gymwys iddo.

(3) Yn unol â hynny, nid oes unrhyw gyfryw ddeddfiad na rheol gyfreithiol yn gymwys mewn perthynas â hawliau a rhwymedigaethau'r partion mewn unrhyw brydles a roddir gan neu o dan unrhyw gyfryw gytundeb er mwyn—

- (a) eithrio unrhyw un o hawliau a rhwymedigaethau'r partion hynny o dan delerau'r brydles na'u haddasu mewn unrhyw ffordd, boed hynny mewn cysylltiad â therfynu'r denantiaeth neu unrhyw fater arall;
- (b) rhoi neu osod unrhyw gyfryw hawl neu rwymedigaeth i unrhyw gyfryw barti sy'n codi o unrhyw beth sy'n cael ei wneud neu ei hepgor ar neu mewn perthynas â thir sy'n ddarostyngedig i'r brydles neu mewn cysylltiad â hynny, yn ychwanegol at unrhyw gyfryw hawl neu rwymedigaeth y darperir ar ei chyfer gan delerau'r brydles; neu
- (c) cyfyngu ar orfodi (boed hynny drwy achos cyfreithiol am iawndal neu fel arall) gan unrhyw barti yn y brydles unrhyw rwymedigaeth gan unrhyw barti arall o dan y brydles.

Rhwystro adeiladu gweithfeydd awdurdodedig

42. Mae unrhyw berson sydd, heb esgus rhesymol—

- (a) yn rhwystro unrhyw berson sy'n gweithredu o dan awdurdod yr ymgymwr wrth adeiladu, cynnal a chadw, gweithredu, ailbweru neu ddatgomisiynu unrhyw waith awdurdodedig; neu

Application of landlord and tenant law

41.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised works or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, operation, repowering and decommissioning of the authorised works, or any part of them;

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.

Obstruction of construction of authorised works

42. Any person who, without reasonable excuse—

- (a) obstructs any person acting under the authority of the undertaker in constructing, maintaining, operating, repowering or decommissioning of any authorised work; or

- (b) yn ymyrryd ag unrhyw gyfarpar sy'n eiddo i unrhyw berson sy'n gweithredu o dan awdurdod yr ymgwymerwr, yn ei dynnu ymaith neu'n ei waredu,

yn euog o drosedd ac, ar ôl euogfarn ddiannod, yn agored i dalu dirwy nad yw'n fwy na lefel 3 ar y raddfa safonol.

Parthau diogelwch ar gyfer mordwyo, treillrwydo ac angori

43.—(1) Caiff Gweinidogion Cymru mewn cysylltiad ag adeiladu, gweithredu, cynnal a chadw, ailbweru a datgomiynu unrhyw weithfeydd llanwol gyflwyno hysbysiad neu hysbysïadau sy'n datgan bod yr ardaloedd a ddisgrifir yn yr hysbysiad yn barthau diogelwch.

(2) Bydd unrhyw geisiadau a wneir gan yr ymgwymerwr am barth diogelwch yn cynnwys asesiad risg mordwyol wedi'i ddiweddarau.

(3) Bydd adrannau 95 i 98 o Ddeddf 2004 a Rheoliadau 2007 yn gymwys i gais o dan baragraffau (2) a'r datganiad a gweithrediad parthau diogelwch o dan baragraff (1).

(4) Yn yr erthygl hon, mae i "parthau diogelwch" yr un ystyr â "safety zones" ym Mhennod 2 o Ddeddf 2004.

Ymgwymerwyr statudol a darpariaethau diogelu etc

44. Mae Atodlen 10 (darpariaethau sy'n ymwneud ag ymgwymerwyr statudol a darpariaethau diogelu etc) yn cael effaith.

Diogelu buddiannau

45. Mae Atodlen 11 (darpariaethau diogelu) yn cael effaith.

Ardystio planiau etc

46. Rhaid i'r ymgwymerwr, cyn gynted ag y bo'n ymarferol ar ôl i'r Gorchymyn hwn gael ei wneud, gyflwyno copïau o'r datganiad amgylcheddol, y cyfeirlyfr, planiau'r gweithfeydd alltraeth, planiau'r tir, y strategaeth gwella bioamrywiaeth forol amlinellol, y trawsluniau a phlan yr ardal gyfyngedig i Weinidogion Cymru i ardystio eu bod, yn y drefn honno, yn gopïau cywir o'r datganiad amgylcheddol, y cyfeirlyfr, planiau'r gweithfeydd alltraeth, planiau'r tir, y strategaeth gwella bioamrywiaeth forol amlinellol, y trawsluniau a phlan yr ardal gyfyngedig y cyfeirir atynt yn y Gorchymyn hwn; ac mae dogfen a ardystir felly yn dderbyniadwy mewn unrhyw achos cyfreithiol fel tystiolaeth o gynnwys y ddogfen y mae'n gopi ohoni.

- (b) interferes with, moves or removes any apparatus belonging to any person acting under the authority of the undertaker,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Safety zones for navigation, trawling and anchoring

43.—(1) The Welsh Ministers may in connection with the construction, operation, maintenance, repowering and decommissioning of any tidal works issue a notice or notices declaring that the areas described in the notice are to be safety zones.

(2) Any applications made by the Undertaker for a safety zone shall include an updated navigational risk assessment.

(3) Sections 95 to 98 of the 2004 Act and the 2007 Regulations shall apply to an application under paragraphs (2) and the declaration and operation of safety zones under paragraph (1).

(4) In this Article "safety zones" has the same meaning as in Chapter 2 of the 2004 Act.

Statutory undertakers and protective provisions etc

44. Schedule 10 (provisions relating to statutory undertakers and protective provisions etc) has effect.

Protection of interests

45. Schedule 11 (protective provisions) has effect.

Certification of plans etc

46. The undertaker must, as soon as practicable after the making of this Order, submit copies of the environmental statement, book of reference, the offshore works plans, the onshore plans, the outline marine biodiversity enhancement strategy, the sections and the restricted area plan to the Welsh Ministers for certification that they are, respectively, true copies of the environmental statement, book of reference, the offshore works plans, the onshore plans, the outline marine biodiversity enhancement strategy, the sections and the restricted area plan referred to in this Order; and a document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Cyflwyno hysbysiadau

47.—(1) Caiff hysbysiad neu ddogfen arall y mae'n ofynnol ei gyflwyno neu ei chyflwyno neu yr awdurdodwyd ei gyflwyno neu ei chyflwyno at ddibenion y Gorchymyn hwn ei gyflwyno neu ei chyflwyno—

- (a) drwy'r post; neu
- (b) gyda chydysyniad y derbynnydd ac yn ddarostyngedig i baragraffau (6) i (8) drwy ddarlledu electronig.

(2) Pan fo'r person y mae hysbysiad neu ddogfen arall i'w gyflwyno neu i'w chyflwyno iddo at ddibenion y Gorchymyn hwn yn gorff corfforaethol, cyflwynir yr hysbysiad neu'r ddogfen yn briodol os y'i cyflwynir i ysgrifennydd neu glerc y corff hwnnw.

(3) At ddibenion adran 13 o Ddeddf Deddfwriaeth (Cymru) 2019(1) fel y mae'n gymwys at ddibenion yr erthygl hon, cyfeiriad priodol unrhyw berson mewn perthynas â chyflwyno hysbysiad neu ddogfen iddo o dan baragraff (1), os yw wedi rhoi cyfeiriad cyflwyno, yw'r cyfeiriad hwnnw, ac fel arall—

- (a) yn achos ysgrifennydd neu glerc corff corfforaethol, swyddfa gofrestrdig neu brif swyddfa'r corff hwnnw; a
- (b) mewn unrhyw achos arall, ei gyfeiriad hysbys diwethaf ar adeg cyflwyno.

(4) Pan fo'n ofynnol at ddibenion y Gorchymyn hwn gyflwyno hysbysiad neu ddogfen arall i berson am fod ganddo fuddiant mewn tir, neu fel meddiannydd y tir, neu pan awdurdodir hynny, ac ni ellir cadarnhau ei enw na'i gyfeiriad ar ôl ymholiadau rhesymol, caiff yr hysbysiad ei gyflwyno drwy—

- (a) ei gyfeirio ato yn ôl enw neu yn ôl y disgrifiad o "perchennog", neu yn ôl y digwydd "meddiannydd", y tir (sy'n ei ddisgrifio); a
- (b) naill ai ei adael yn nwylo'r person sydd neu sy'n ymddangos ei fod yn preswyllo neu'n cael ei gyflogi ar y tir neu ei adael wedi'i osod mewn man amlwg ar ryw adeilad neu wrthrych ar neu ger y tir.

(5) Pan fo hysbysiad neu ddogfen arall y mae'n ofynnol ei gyflwyno neu ei chyflwyno neu ei (h)anfon drwy ddarlledu electronig, tybir bod y gofyniad wedi'i fodloni pan fo derbynnydd yr hysbysiad neu ddogfen arall i'w (d)darlledu wedi cydsynio i'r defnydd o ddarlledu electronig naill ai'n ysgrifenedig neu drwy ddarlledu electronig.

Service of notices

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

- (a) by post; or
- (b) 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 13 of the Legislation (Wales) Act 2019(1) as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) is, if he 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, his last known address 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 his name or address cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to him 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 taken to be fulfilled where the recipient of the notice or other document to be transmitted has given his consent to the use of electronic transmission either in writing or by electronic transmission.

(1) 2019 anaw 4.

(1) 2019 anaw 4.

(6) Pan fo derbynnydd hysbysiad neu ddogfen arall a gyflwynwyd neu a anfonwyd drwy ddarlledu electronig yn hysbysu'r anfonwr o fewn 7 diwrnod i'w (d)derbyn bod arno angen copi papur o'r holl hysbysiad hwnnw neu'r ddogfen arall honno neu unrhyw ran ohono neu ohoni, rhaid i'r anfonwr ddarparu'r cyfryw gopi cyn gynted ag y bo'n rhesymol ymarferol.

(7) Caiff person ddirymu ei gydsyniad i'r defnydd o ddarlledu electronig yn unol â pharagraff (8).

(8) Pan na fydd person yn barod i dderbyn y defnydd o ddarlledu trosglwyddo at unrhyw un o ddibenion y Gorchymyn hwn mwyach—

- (a) rhaid iddo roi hysbysiad yn ysgrifenedig neu drwy ddarlledu electronig yn dirymu unrhyw gydsyniad a roddir ganddo at y diben hwnnw; a
- (b) bydd y cyfryw ddirymiad yn derfynol a bydd yn weithredol ar ddyddiad a bennir gan y person yn yr hysbysiad ond ni chaiff y dyddiad hwnnw fod yn llai na 7 diwrnod ar ôl y dyddiad y rhoddir yr hysbysiad.

(9) Ni thbyir bod yr erthygl hon yn eithrio defnyddio unrhyw ddull o gyflwyno nad yw'n darparu ar ei gyfer yn benodol.

Dim adennill dwbl

48. Ni fydd digollediad yn daladwy mewn perthynas â'r un mater o dan y Gorchymyn hwn nac o dan unrhyw ddeddfiad arall, unrhyw gontract nac unrhyw reol gyfreithiol.

Cymrodeddu

49.—(1) Mae unrhyw wahaniaeth o dan unrhyw un o ddarpariaethau'r Gorchymyn hwn, oni ddarperir fel arall ar ei gyfer, i'w gyfeirio at un cymrodeddwr y cytunir arno gan y partïon, neu os ydynt yn methu â chytuno, i'w benodi ar gais y naill barti neu'r llall (ar ôl cyflwyno hysbysiad yn ysgrifenedig i'r llall) gan Lywydd Sefydliad y Peirianwyr Sifil a'i ddatrys ganddo.

(2) Er mwyn osgoi amheuaeth, ni fydd unrhyw fater y mae'n ofynnol cael cydsyniad neu gymeradwyaeth Gweinidogion Cymru, neu sy'n ddarostyngedig i bwerau gwneud cyfarwyddyd Trinity House, o dan unrhyw un o ddarpariaethau'r Gorchymyn hwn, yn ddarostyngedig i gymrodeddu.

Arbediad ar gyfer Trinity House

50. Nid oes dim yn y Gorchymyn hwn yn lleihau effaith unrhyw un o hawliau, dyletswyddau neu freintiau Trinity House nac yn eu rhanddirymu.

(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 he requires a paper copy of all or any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) A person may revoke his consent to the use of electronic transmission 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) he must give notice in writing or by electronic transmission revoking any consent given by him for that purpose; and
- (b) such revocation will be final and will take effect on a date specified by the person in the notice but that date may 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.

No double recovery

48. Compensation will not be payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law.

Arbitration

49.—(1) Any difference under any provision of this Order, unless otherwise provided for, is to 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 President of the Institution of Civil Engineers.

(2) For the avoidance of doubt, any matter for which the consent or approval of the Welsh Ministers is required, or which is subject to the direction making powers of Trinity House, under any provision of this Order shall not be subject to arbitration.

Saving for Trinity House

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

Deddf Cynllunio Cymdogaeth 2017

51. Nid yw darpariaethau Pennod 1 o Ran 2 o Ddeddf Cynllunio Cymdogaeth 2017(1) yn gymwys o ran y Gorchymyn hwn.

The Neighbourhood Planning Act 2017

51. The provisions of Chapter 1 of Part 2 of the Neighbourhood Planning Act 2017(1) do not apply as regards this Order.

Julie James

Y Gweinidog Newid Hinsawdd, un o Weiniogion
Cymru
17 Rhagfyr 2021

Minister for Climate Change, one of the Welsh
Ministers
17 December 2021

(1) 2017 p. 20.

(1) 2017 c. 20.

RHAN 1

Gweithfeydd Awdurdodedig

Gwaith Rhif 1

Gorsaf gynhyrchu llanwol alltraeth sydd â chapasiti trydanol gros i gynhyrchu hyd at 240 megawat o fewn ardal yr araeau sy'n cynnwys:

(1) hyd at 620 o ddyfeisiau llanwol ar unrhyw un adeg benodol sy'n cynnwys

- (a) dyfeisiau llanwol o dan yr wyneb ar wely'r môr sy'n cael eu hatodi i wely'r môr drwy:
 - (i) sylfaen disgyrchiant; neu
 - (ii) sylfeini o fath piler unigol; neu
 - (iii) sylfeini o fath aml-biler;
- (b) dyfeisiau llanwol colofn dŵr canol ac sy'n cael eu clymu wrth wely'r môr drwy naill ai:
 - (i) sylfaen disgyrchiant;
 - (ii) sylfaen o fath piler unigol;
 - (iii) sylfaen o fath aml-biler; neu
 - (iv) eu hangori wrth sylfaen disgyrchiant; sylfaen o fath piler unigol neu sylfaen o fath aml-biler;
- (c) dyfeisiau llanwol arnofiol neu sy'n codi o'r wyneb ac sy'n cael eu clymu wrth wely'r môr drwy naill ai:
 - (i) sylfaen disgyrchiant;
 - (ii) sylfaen o fath piler unigol;
 - (iii) sylfaen o fath aml-biler; neu
 - (iv) eu hangori wrth sylfaen disgyrchiant; sylfaen o fath piler unigol neu sylfaen o fath aml-biler;

(2) rhwydwaith o geblau ar gyfer trawsyrru trydan a chyfathrebu electronig a osodir ar neu o dan wely'r môr gan gynnwys croesfannau ceblau rhwng—

- (a) unrhyw un o'r dyfeisiau llanwol sy'n cynnwys Gwaith Rhif 1(1);
- (b) unrhyw un o'r dyfeisiau llanwol sy'n cynnwys Gwaith Rhif 1(1) a hybiau gweithredol sy'n cynnwys Gwaith Rhif 1(3) ac unrhyw un o'r gweithfeydd sy'n cynnwys Gwaith Rhif 2; neu
- (c) unrhyw hwb sy'n cynnwys Gwaith Rhif 1(3) a chebl sy'n cynnwys Gwaith Rhif 2;

PART 1

Authorised Works

Work No. 1

An offshore tidal generating station with a gross electrical output capacity of up to 240 megawatts within the array area comprising;

(1) up to 620 tidal devices at any one time comprising

- (a) seabed mounted sub-surface tidal devices and being fixed to the seabed by:
 - (i) gravity base; or
 - (ii) monopile type foundations; or
 - (iii) multi-pile type foundations;
- (b) mid-water column tidal devices and being secured to the seabed by either:
 - (i) gravity base;
 - (ii) monopile type foundation;
 - (iii) multi-pile type foundation; or
 - (iv) anchors to a gravity base, monopile type foundation or multi-pile type foundation;
- (c) floating or surface emergent tidal devices and being secured to the seabed by either:
 - (i) gravity base;
 - (ii) monopile type foundation;
 - (iii) multi-pile type foundation; or
 - (iv) anchors to a gravity base, monopile type foundation or multi-pile type foundation;

(2) a network of cables for the transmission of electricity and electronic communications laid on or beneath the seabed including cable crossings between—

- (a) any of the tidal devices comprising Work No. 1(1);
- (b) any of the tidal devices comprising Work No. 1(1) and operational hubs comprising Work No. 1(3) and any of the works comprising Work No. 2; or
- (c) any hub comprising Work No. 1(3) to a cable comprising Work No. 2;

(3) hyd at 120 o hybiau gweithredol alltraeth sy'n cynnwys:

- (a) hyd at 120 o hybiau ar wely'r môr, yn gyfan gwbl o dan y dŵr, hybiau sy'n cael eu clymu wrth wely'r môr drwy sylfaen disgyrchiant, sylfaen o fath piler unigol neu sylfaen o fath aml-biler; neu
- (b) hyd at 93 o hybiau arnofiol sy'n codi o'r wyneb sy'n cael eu hangori wrth wely'r môr drwy sylfaen disgyrchiant, sylfaen o fath piler unigol neu sylfaen o fath aml-biler; neu
- (c) hyd at 8 hwb gweithredol alltraeth ar wely'r môr sy'n codi o'r wyneb sy'n cael eu clymu wrth wely'r môr drwy sylfaen disgyrchiant, sylfaen o fath piler unigol neu sylfaen o fath aml-biler;

(4) hyd at 60 o fwiau mordwyol a marcio;

(5) hyd at 40 o broffilwyr ceryntau doppler acwstig;

(6) hyd at 8 o unedau monitro amgylcheddol ar wely'r môr;

(7) hyd at 5 o fwiau monitro amgylcheddol ar lefel y môr; a

(8) croesfannau ceblau a chysylltwyr i gysylltu Gwaith Rhif 1(2) a Gwaith Rhif 2.

Gwaith Rhif 2

Hyd at 9 cebl allforio, pob un yn cynnwys ceblau ar gyfer trawsyrru trydan a chyfathrebu sy'n cael eu gosod o fewn y coridor ceblau allforio ar neu o dan wely'r môr rhwng Gwaith Rhif 1 a Gwaith Rhif 3 gan gynnwys diogelwch ceblau, croesfannau ceblau a chysylltwyr.

Gwaith Rhif 3

Hyd at 9 cebl allforio, pob un yn cynnwys ceblau ar gyfer trawsyrru trydan a chyfathrebu o fewn yr ardal rynglanw naill ai wedi'u gosod o dan y ddaear, ar wyneb y blaendraeth neu o fewn hyd at 9 ffos agored wedi'u torri ynghyd â diogelwch ceblau a chysylltu Gwaith Rhif 2 a Gwaith Rhif 4.

Gwaith Rhif 4

Hyd at 9 cebl allforio, pob un yn cynnwys cebl ar gyfer trawsyrru trydan a chyfathrebu sy'n cael ei osod naill ai o dan y ddaear, dros arwyneb clogwyn y blaendraeth a phen y clogwyn neu o fewn hyd at 9 ffos agored wedi'u torri ynghyd â diogelwch ceblau rhwng Gwaith Rhif 3 a'r cyd-gilfachau trosglwyddo sy'n ffurfio Gwaith Rhif 5.

(3) up to 120 offshore operational hubs comprising;

- (a) up to 120 seabed mounted, fully submerged, hubs being fixed to the seabed by gravity base, monopile or multi-pile type foundation; or
- (b) up to 93 floating surface emergent hubs being anchored to the seabed by gravity base, monopile type foundation or multi-pile type foundation; or
- (c) up to 8 seabed mounted surface emergent offshore operational hubs being fixed to the seabed by gravity base, monopile type foundation or multi-pile type foundation;

(4) up to 60 navigational and marker buoys;

(5) up to 40 acoustic doppler current profilers;

(6) up to 8 seabed mounted environmental monitoring units;

(7) up to 5 sea level environmental monitoring buoys; and

(8) cable crossings and connectors to connect Work No. 1(2) with Work No. 2.

Work No. 2

Up to 9 export cables each comprising cables for the transmission of electricity and communication laid within the export cable corridor on or beneath the seabed between Work No. 1 and Work No. 3 including cable protection, cable crossings and connectors.

Work No. 3

Up to 9 export cables each comprising cables for the transmission of electricity and communication within the intertidal area either laid underground, over the surface of foreshore or within up to 9 open cut trenches with cable protection and connecting Work No. 2 and Work No. 4.

Work No. 4

Up to 9 export cables each comprising cable for the transmission of electricity and communication laid either underground, over the surface of foreshore cliff face and cliff top or within up to 9 open cut trenches with cable protection between Work No. 3 and the transition joint bays forming Work No. 5.

Gwaith Rhif 5

Gwaith sy'n cynnwys hyd at 9 cyd-gilfach drosglwyddo sy'n cysylltu Gwaith Rhif 4 â Gwaith Rhif 6.

Gwaith Rhif 6

Hyd at 9 cebl allforio, pob un yn cynnwys un neu fwy o gyfryngau dargludo ar gyfer trawsyrru trydan a chyfathrebu sy'n cael eu gosod o dan y ddaear ac yn cysylltu Gwaith Rhif 5 â'r is-orsaf drydanol y cyfeirir ati ym Mhennod 2 o Ran 2 o'r Atodlen 1 hon.

Gwaith Rhif 7

Hyd at 6 chebl allforio ar gyfer trawsyrru trydan a hyd at 2 gebl cyfathrebu sy'n cael eu gosod o dan y ddaear a chyd-gilfachau trosglwyddo a chysylltu'r is-orsaf drydanol â'r seilwaith offer switsio, y cyfeirir at bob un ym Mhennod 2 o Ran 2 o'r Atodlen 1 hon.

Gwaith Rhif 8

Hyd at 6 chebl allforio ar gyfer trawsyrru trydan, pob un yn cynnwys un neu ragor o gyfryngau dargludo a hyd at 2 gebl cyfathrebu sy'n cael eu gosod o dan y ddaear, gan gynnwys cyd-gilfachau trosglwyddo o'r seilwaith offer switsio y cyfeirir ato ym Mhennod 2 o Ran 2 o'r Atodlen 1 hon i Waith Rhif 9.

Gwaith Rhif 9

Hyd at 6 chebl allforio ar gyfer trawsyrru trydan, pob un yn cynnwys un neu ragor o gyfryngau dargludo a hyd at 2 gebl cyfathrebu sy'n cael eu gosod drwy ddrliau cyfeiriadol gorweddol o dan yr A55 a llinell reilffordd Llinell Arfordir Gogledd Cymru sy'n cysylltu Gwaith Rhif 8 â'r gweithfeydd cysylltu â'r grid y cyfeirir atynt ym Mhennod 2 o Ran 2 o'r Atodlen 1 hon.

Work No. 5

Works comprising up to 9 transition joint bays connecting Work No. 4 with Work No. 6.

Work No. 6

Up to 9 export cables each comprising one or more conducting media for the transmission of electricity and communication laid underground connecting Work No. 5 to the electrical substation referred to in Chapter 2 of Part 2 of this Schedule 1.

Work No. 7

Up to 6 export cables for the transmission of electricity and up to 2 communication cables laid underground and transition joint bays and connecting the electrical substation to the switchgear infrastructure each referred to in Chapter 2 of Part 2 of this Schedule 1.

Work No. 8

Up to 6 export cables for the transmission of electricity each comprising one or more conducting media and up to 2 communication cables laid underground including transition joint bays from the switchgear infrastructure referred to in Chapter 2 of Part 2 of this Schedule 1 to Work No. 9.

Work No. 9

Up to 6 export cables for the transmission of electricity each comprising one or more conducting media and up to 2 communication cables installed by way of horizontal directional drills under both the A55 and the North Wales Coast Line railway line connecting Work No. 8 to the grid connection works referred to in Chapter 2 of Part 2 of this Schedule 1.

RHAN 2

Gweithfeydd Pellach

PENNOD 1

(1) Caiff yr ymgymwrwr o fewn terfynau'r Gorchymyn ar y môr adeiladu, cynnal a chadw a gweithredu'r cyfryw weithfeydd canlynol ag sy'n angenrheidiol neu'n hwylus at ddibenion adeiladu, gweithredu, cynnal a chadw, ailbweru a datgomiynu'r gweithfeydd llanwol, neu at ddibenion ategol, sef—

- (a) angorfeydd dros dro neu barhaol neu fodd arall i ddarparu ar gyfer cychod a llongau wrth adeiladu neu gynnal a chadw'r gweithfeydd awdurdodedig;

PART 2

Further Works

CHAPTER 1

(1) The undertaker may within the offshore Order limits construct maintain and operate such of the following works as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction, operation, maintenance, repowering and decommissioning of the tidal works, namely—

- (a) temporary or permanent moorings or other means of accommodating vessels in the construction or maintenance of the scheduled works;

- (b) bwiau, goleuadau, ffenders a gweithfeydd eraill sy'n rhoi rhybuddion mordwyol neu'n diogelu rhag trawiadau â llongau;
- (c) gwaith i newid lleoliad cyfarpar, gan gynnwys ceblau;
- (d) y cyfryw weithfeydd a chyfarpar, offer a pheiriannau eraill o ba natur bynnag y bo ag sy'n angenrheidiol neu'n hwylus.

(2) Caiff yr ymgymerwr o fewn terfynau'r Gorchymyn ar y tir adeiladu, cynnal a chadw a gweithredu'r cyfryw weithfeydd canlynol ag sy'n angenrheidiol neu'n hwylus at ddibenion adeiladu, gweithredu, cynnal a chadw, ailbweru a datgomisio'nau'r gweithfeydd ar y tir, neu at ddibenion ategol, sef—

- (a) gwaith tirlunio a sgrinio;
- (b) caeadeoedd a manau storio;
- (c) creu pyllau tynnu ar gyfer llwybr y ceblau ar y tir;
- (d) manau arwyneb caled ar gyfer cyd-gilfachau trosglwyddo;
- (e) cysylltiadau â'r rhwydwaith ffonau a'r rhwydwaith dŵr;
- (f) gweithfeydd er budd y tir y mae'r gweithfeydd awdurdodedig yn effeithio arno neu er mwyn diogelu'r tir y mae'r gweithfeydd awdurdodedig yn effeithio arno;
- (g) gwaith i newid lleoliad cyfarpar, gan gynnwys ceblau; neu
- (h) y cyfryw weithfeydd a chyfarpar, offer a pheiriannau eraill o ba natur bynnag y bo ag sy'n angenrheidiol neu'n hwylus.

PENNOD 2

Heb ragfarnu cyffredinolrwydd Pennod 1 uchod caiff yr ymgymerwr o fewn y tir a bennir yng ngholofn (2) o'r tabl isod adeiladu'r gweithfeydd a grybwyllir yng ngholofn (3)

(1) <i>Ardal</i>	(2) <i>Rhif y parcel o dir a ddangosir ar blaniau'r tir</i>	(3) <i>Disgrifiad o'r Gweithfeydd</i>
Sir Ynys Môn	10	Is-orsaf drydanol sy'n cynnwys— - is-orsaf drydan ag offer awyru ac oeri cysylltiedig;

- (b) buoys, beacons, fenders and other navigational warning or ship impact protection works;
- (c) work to alter the position of apparatus, including cables;
- (d) such other works and apparatus, plant and machinery of whatever nature as may be necessary or expedient.

(2) The undertaker may within the onshore Order limits construct maintain and operate such of the following works as may be necessary or expedient for the purposes of or for purposes ancillary to the construction, operation, maintenance and decommissioning of the onshore works, namely—

- (a) landscaping and screening works;
- (b) compounds and storage areas;
- (c) creation of draw pits for the onshore cable route;
- (d) hardstanding for transition joint bays;
- (e) connections to the telephone and water network;
- (f) works for the benefit or protection of land affected by the authorised works;
- (g) work to alter the position of apparatus, including cables; or
- (h) such other works and apparatus, plant and machinery of whatever nature as may be necessary or expedient.

CHAPTER 2

Without prejudice to the generality of Chapter 1 above the undertaker may within the land specified in column (2) of the table below construct the works mentioned in column (3).

(1) <i>Area</i>	(2) <i>Number of land parcel shown on onshore plans</i>	(3) <i>Description of Works</i>
Isle of Anglesey County	10	Electrical substation comprising— - an electricity substation with associated air conditioning and cooling;

		<ul style="list-style-type: none"> - cebl sy'n cysylltu'r is-orsaf â'r ceblau allforio sy'n rhan o Waith Rhif 6 a Gwaith Rhif 7; - adeilad ar wahân ar gyfer cyfarpar a ddefnyddir i storio ynni trydanol; - swyddfeydd a chyfleusterau lles cysylltiedig; - caeadle adeiladu; - pyllau ar y cyd cysylltiedig â manau arwyneb caled; - maes parcio, â manau gwefru cerbydau trydan; ac - adeiladu gweithfeydd mynediad o Ffordd Ynys Lawd. 			<ul style="list-style-type: none"> - cable connecting the substation to the export cables comprising Work No. 6 and Work No. 7; - separate building housing equipment used for the storage of electrical energy; - associated offices and welfare facilities; - construction compound; - associated joint pits with hard standing; - car parking, with electric vehicle charging points; and - construction of access works from South Stack Road.
Sir Ynys Môn	38a	<p>Seilwaith gan gynnwys gweithfeydd cysylltu'r grid â'r rhwydwaith dosbarth ac sy'n cynnwys—</p> <ul style="list-style-type: none"> - hyd at 6 chebl allforio ar gyfer trawsyrru trydan a hyd at 2 gebl cyfathrebu; 	Isle of Anglesey County	38a	<p>Infrastructure including grid connection works to the distribution network and comprising—</p> <ul style="list-style-type: none"> - up to 6 export cables for the transmission of electricity and up to 2 communication cables;

		<ul style="list-style-type: none"> - adeilad offer switsio ac anecs mesur cysylltiedig.
Sir Ynys Môn	48, 49 a 50	<p>Gweithfeydd cysylltu'r grid â'r rhwydwaith trydan presennol sy'n cynnwys—</p> <ul style="list-style-type: none"> - hyd at 6 chebl allforio ar gyfer trawsyrru trydan a hyd at 2 gebl cyfathrebu; - hyd at 4 adeilad; - systemau storio ynni gyda seilwaith cysylltiedig; - ceblau ar gyfer trawsyrru trydan; - ceblau cyfathrebu; - cilfach gysylltu sy'n cynnwys— - ynysyddion; - torwyr cylchedau; - cyfarpar cyflyru pŵer.

		<ul style="list-style-type: none"> - a switchgear building and associated metering annex.
Isle of Anglesey County	48, 49 and 50	<p>Grid connection works to the existing electricity network comprising—</p> <ul style="list-style-type: none"> - up to 6 export cables for the transmission of electricity and up to 2 communication cables; - up to 4 buildings; - energy storage systems with associated infrastructure; - cables for transmission of electricity; - communication cables; - a connection bay incorporating— - isolators; - circuit breakers; - power conditioning equipment.

RHAN 3

Ardal ar gyfer Gweithfeydd Llanwol
Ardal Araeau, coridor ceblau allforio ac ardaloedd
cyfyngedig

PART 3

Area for Tidal Works
Array Area, export cable corridor, and restricted
areas

(1) <i>Cyfesurynnau grid ar gyfer</i>	(2) <i>Hydredd</i>	(3) <i>Lledredd</i>
Ardal Araeau (fel y'i dangosir yn Ffigur 1-1 o'r datganiad amgylcheddol)		
1	04° 44' 8044"Gn	53° 20' 0232"G
2	04° 45' 8658"Gn	53° 17' 4900"G
3	04° 45' 8658"Gn	53° 15' 5400"G
4	04° 41' 4552"Gn	53° 15' 5400"G
5	04° 41' 0129"Gn	53° 15' 9503"G
6	04° 42' 5328"Gn	53° 18' 3882"G
7	04° 41' 2896"Gn	53° 20' 0232"G
Coridor Ceblau Allforio (fel y'i dangosir ar Ffigur 1-1 o'r datganiad amgylcheddol)		
5	04° 41' 0129"Gn	53° 15' 9503"G
6	04° 42' 5328"Gn	53° 18' 3882"G
7	04° 41' 2896"Gn	53° 20' 0232"G
8	04° 40' 8918"Gn	53° 19' 4553"G
9	04° 42' 1572"Gn	53° 18' 3923"G
10	04° 41' 4538"Gn	53° 18' 0234"G
11	04° 41' 3192"Gn	53° 17' 9827"G

(1) <i>Grid co- ordinates for</i>	(2) <i>Longitude</i>	(3) <i>Latitude</i>
Array Area (as show on Figure 1-1 of the environmental statement)		
1	04° 44' 8044"W	53° 20' 0232"N
2	04° 45' 8658"W	53° 17' 4900"N
3	04° 45' 8658"W	53° 15' 5400"N
4	04° 41' 4552"W	53° 15' 5400"N
5	04° 41' 0129"W	53° 15' 9503"N
6	04° 42' 5328"W	53° 18' 3882"N
7	04° 41' 2896"W	53° 20' 0232"N
Export Cable Corridor (as shown on Figure 1-1 of the environmental statement)		
5	04° 41' 0129"W	53° 15' 9503"N
6	04° 42' 5328"W	53° 18' 3882"N
7	04° 41' 2896"W	53° 20' 0232"N
8	04° 40' 8918"W	53° 19' 4553"N
9	04° 42' 1572"W	53° 18' 3923"N
10	04° 41' 4538"W	53° 18' 0234"N
11	04° 41' 3192"W	53° 17' 9827"N

a rhwng y cyfesurynnau sy'n cynnwys pwynt 11 uchod yn dilyn lefel penllanw cymedrig y gorllanw a'r cyfesurynnau sy'n cynnwys pwynt 12 isod			and between the coordinates comprising point 11 above following the mean high water spring level to the coordinates comprising point 12 below		
12	04° 41' 0437"Gn	53° 17' 4793"G	12	04° 41' 0437"W	53° 17' 4793"N
13	04° 41' 4248"Gn	53° 17' 2703"G	13	04° 41' 4248"W	53° 17' 2703"N
14	04° 41' 1701"Gn	53° 16' 8109"G	14	04° 41' 1701"W	53° 16' 8109"N
Ardal Gyfyngedig – Gogleddol (<i>fel y'i dangosir ar blân yr ardal gyfyngedig</i>)			Restricted Area - Northern (<i>as shown on the restricted area plan</i>)		
3	4° 42' 1615"Gn	53° 19' 4682"G	3	4° 42' 1615"W	53° 19' 4682"N
4	4° 44' 0251"Gn	53° 19' 4682"G	4	4° 44' 0251"W	53° 19' 4682"N
5	4° 44' 9249"Gn	53° 18' 9282"G	5	4° 44' 9249"W	53° 18' 9282"N
6	4° 44' 9249"Gn	53° 18' 2196"G	6	4° 44' 9249"W	53° 18' 2196"N
17	4° 42' 5741"Gn	53° 17' 7330"G	17	4° 42' 5741"W	53° 17' 7330"N
16	4° 42' 9827"Gn	53° 18' 3882"G	16	4° 42' 9827"W	53° 18' 3882"N
19	4° 43' 7090"Gn	53° 18' 2230"G	19	4° 43' 7090"W	53° 18' 2230"N
Ardal Gyfyngedig – UKC 20m (<i>fel y'i dangosir ar blân yr ardal gyfyngedig</i>)			Restricted Area - UKC 20m (<i>as shown on the restricted area plan</i>)		
1	4° 41' 2896"Gn	53° 20' 0232"G	1	4° 41' 2896"W	53° 20' 0232"N
15	4° 44' 8044"Gn	53° 20' 0232"G	15	4° 44' 8044"W	53° 20' 0232"N
14	4° 45' 8658"Gn	53° 17' 4900"G	14	4° 45' 8658"W	53° 17' 4900"N
13	4° 45' 8658"Gn	53° 15' 5400"G	13	4° 45' 8658"W	53° 15' 5400"N
12	4° 41' 4552"Gn	53° 15' 5400"G	12	4° 41' 4552"W	53° 15' 5400"N
11	4° 41' 0129"Gn	53° 15' 9503"G	11	4° 41' 0129"W	53° 15' 9503"N
10	4° 41' 1864"Gn	53° 16' 2282"G	10	4° 41' 1864"W	53° 16' 2282"N
8	4° 44' 0251"Gn	53° 16' 2282"G	8	4° 44' 0251"W	53° 16' 2282"N
7	4° 44' 9249"Gn	53° 17' 3082"G	7	4° 44' 9249"W	53° 17' 3082"N

5	4° 44' 9249"Gn	53° 18' 9282"G
4	4° 44' 0251"Gn	53° 19' 4682"G
2	4° 41' 7116"Gn	53° 19' 4682"G
Ardal Gyfyngedig – UKC 8m (<i>fel y'i dangosir ar blân yr ardal gyfyngedig</i>)		
2	4° 41' 7116"Gn	53° 19' 4682"G
3	4° 42' 1615"Gn	53° 19' 4682"G
16	4° 42' 9827"Gn	53° 18' 3882"G
9	4° 41' 6363"Gn	53° 16' 2282"G
10	4° 41' 1864"Gn	53° 16' 2282"G
18	4° 42' 5328"Gn	53° 18' 3882"G

5	4° 44' 9249"W	53° 18' 9282"N
4	4° 44' 0251"W	53° 19' 4682"N
2	4° 41' 7116"W	53° 19' 4682"N
Restricted Area - UKC 8m (<i>as shown on the restricted area plan</i>)		
2	4° 41' 7116"W	53° 19' 4682"N
3	4° 42' 1615"W	53° 19' 4682"N
16	4° 42' 9827"W	53° 18' 3882"N
9	4° 41' 6363"W	53° 16' 2282"N
10	4° 41' 1864"W	53° 16' 2282"N
18	4° 42' 5328"W	53° 18' 3882"N

RHAN 4

Erthygl 3

Dogfennau i'w cyflwyno ac i'w cymeradwyo gan Weinidogion Cymru

(1) <i>Dogfen</i>	(2) <i>I'w chymeradwyo cyn y camau gweithredu hyn</i>
Cynllun Rheoli Ceblau	Cyn cychwyn ar unrhyw weithfeydd llanwol cysylltiedig
Cynllun Rheoli Amgylcheddol Adeiladu	Cyn cychwyn ar unrhyw weithfeydd llanwol cysylltiedig
Rhaglen Ddatgomiynu	Cyn datgomiynu unrhyw weithfeydd llanwol cysylltiedig

PART 4

Article 3

Documents to be submitted and approved by the Welsh Ministers

(1) <i>Document</i>	(2) <i>To be approved prior to these actions</i>
Cable Management Plan	Prior to the commencement of any related tidal works
Construction Environmental Management Plan	Prior to the commencement of any related tidal works
Decommissioning Programme	Prior to the decommissioning of any related tidal works

<p>Strategaeth gwella bioamrywiaeth forol fanwl</p>	<p>Cyn pob un o'r gweithgareddau a ganlyn:</p> <ul style="list-style-type: none"> - cychwyn ar unrhyw weithfeydd llanwol cysylltiedig - ailbweru unrhyw waith llanwol cysylltiedig 	<p>Detailed marine biodiversity enhancement strategy</p>	<p>Prior to each of the following activities:</p> <ul style="list-style-type: none"> - the commencement of any related tidal works - the repowering of any related tidal work
<p>Protocol ar Ddefnyddio Dyfeisiau</p>	<p>Cyn defnyddio unrhyw ddyfais llanwol neu hwb gweithredu a fydd—</p> <ul style="list-style-type: none"> - yn codi o'r wyneb yn yr ardal gyfyngedig neu yng ngweddill ardal yr araeau. - â lle clirio o dan y cêl o lai nag 8 metr islaw'r llanw astronomaidd isaf yn yr ardal gyfyngedig – UKC 8m - â lle clirio o dan y cêl o lai nag 20 metr islaw'r llanw astronomaidd isaf yn yr ardal gyfyngedig – UKC 20m 	<p>Device Deployment Protocol</p>	<p>Prior to the deployment of any tidal device or operational hub which will be—</p> <ul style="list-style-type: none"> - surface emergent in the restricted areas or the remainder of the array area - have an under keel clearance of less than 8 metres below lowest astronomical tide in the restricted area – UKC 8m - have an under keel clearance of less than 20 metres below lowest astronomical tide in the restricted area – UKC 20m
<p>Cynllun Lliniaru a Monitro Amgylcheddol</p>	<p>Cyn pob un o'r gweithgareddau a ganlyn—</p> <ul style="list-style-type: none"> - cychwyn ar unrhyw weithfeydd llanwol cysylltiedig - ailbweru unrhyw weithfeydd llanwol cysylltiedig 	<p>Environmental Mitigation and Monitoring Plan</p>	<p>Prior to each of the following activities—</p> <ul style="list-style-type: none"> - the commencement of any related tidal works - the repowering of any related tidal works

Nodi Parthau Archaeolegol Neilltuedig	Cyn cychwyn ar unrhyw weithfeydd llanwol cysylltiedig	Identification of Archaeological Exclusion Zones	Prior to the commencement of any related tidal works
Methodoleg Gosod	Cyn cychwyn ar unrhyw weithfeydd llanwol cysylltiedig pan fo angen torri ffosydd ar gyfer gosod ceblau	Installation Methodology	Prior to the commencement of any related tidal works where trenching is required for laying of cables
Protocol Lliniaru Mamaliaid Morol	Cyn pob un o'r gweithgareddau a ganlyn— - cychwyn ar unrhyw weithfeydd llanwol cysylltiedig - ailbweru unrhyw weithfeydd llanwol cysylltiedig - datgomisiynu unrhyw weithfeydd llanwol cysylltiedig	Marine Mammal Mitigation Protocol	Prior to each of the following activities— - the commencement of any related tidal works - the repowering of any related tidal works - decommissionin g of any related tidal works
Cynllun Llygredd Morol Wrth Gefn	Cyn cychwyn ar unrhyw weithfeydd llanwol cysylltiedig	Marine Pollution Contingency Plan	Prior to the commencement of any related tidal works
Asesiad Risg Mordwyol Wedi'i Ddiweddarau	Cyn pob un o'r gweithgareddau canlynol— - cychwyn ar unrhyw waith llanwol - ailbweru unrhyw waith llanwol - datgomisiynu unrhyw waith llanwol	Updated Navigational Risk Assessment	Prior to each of the following activities— - the commencement of any tidal work - the repowering of any tidal work - the decommissionin g of any tidal work
Cynllun Atal a Rheoli Llygredd	Cyn cychwyn ar unrhyw weithfeydd llanwol cysylltiedig	Pollution Prevention and Management Plan	Prior to the commencement of any related tidal works

ATODLEN 2 Erthygl 22

Tir ychwanegol y gellir ei gaffael neu ei ddefnyddio

<i>(1)</i> <i>Ardal</i>	<i>(2)</i> <i>Rhif y tir a ddangosir ar blân y tir</i>	<i>(3)</i> <i>At ba ddiben y gellir caffael neu ddefnyddio tir</i>
Ynys Môn	9	Mynediad at ddibenion adeiladu a chynnal a chadw
	51	Mynediad at ddibenion adeiladu a chynnal a chadw

SCHEDULE 2 Article 22

Additional land which may be acquired or used

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on onshore plan</i>	<i>(3)</i> <i>Purpose for which land may be acquired or used</i>
Isle of Anglesey	9	Access for construction and maintenance
	51	Access for construction and maintenance

ATODLEN 3 Erthygl 7

Strydoedd sy'n destun Gweithfeydd Stryd

<i>(1)</i> <i>Ardal</i>	<i>(2)</i> <i>Stryd sy'n destun gweithfeydd stryd</i>
Sir Ynys Môn	Ffordd Ynys Lawd Llwybr Arfordir Cymru Ffordd ddiennw o Ffordd Ynys Lawd i Fferm Tŷ Mawr Lôn Isallt Ffordd y Plas Ffordd Porthdafarch Ffordd y Felin Llwybr troed 19/021/2 A5153 (o'r gyffordd â B4545) Ffordd Fynediad i Ganolfan Hamdden Caergybi, oddi ar yr A5153 Parc Cybi Ffordd ddiennw oddi ar Barc Cybi (Ffordd Gangen Parc Cybi) Ffordd ddiennw o fewn Orthios Eco Parks (Anglesey) Ltd

SCHEDULE 3 Article 7

Streets Subject to Street Works

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to street works</i>
Isle of Anglesey County	South Stack Road Wales Coastal path Unnamed road from South Stack Road to Ty Mawr Farm Lon Isallt Plas Road Porthdafarch Road Mill Road Footpath 19/021/2 A5153 (from junction with B4545) Access Road to Holyhead Leisure Centre, off A5153 Parc Cybi Unnamed road off Parc Cybi (Parc Cybi Spur) Unnamed road within Orthios Eco Parks (Anglesey) Ltd

Strydoedd i'w Cau Dros Dro

Streets to be Temporarily Stopped Up

<i>(1)</i> <i>Ardal</i>	<i>(2)</i> <i>Stryd i'w chau dros dro</i>	<i>(3)</i> <i>Graddau'r cau dros dro</i>
Sir Ynys Môn	Ffordd Ynys Lawd	O fewn terfynau'r Gorchymyn ar y tir
	Ffordd Arfordir Cymru	O fewn terfynau'r Gorchymyn ar y tir
	Ffordd ddiennw o Ffordd Ynys Lawd i Fferm Tŷ Mawr	O fewn terfynau'r Gorchymyn ar y tir
	Lôn Isallt	O fewn terfynau'r Gorchymyn ar y tir
	Ffordd y Plas	O fewn terfynau'r Gorchymyn ar y tir
	Ffordd Porthdafarch	O fewn terfynau'r Gorchymyn ar y tir
	Ffordd y Felin	O fewn terfynau'r Gorchymyn ar y tir
	Llwybr troed 19/021/2	O fewn terfynau'r Gorchymyn ar y tir
	A5153 (o'r gyffordd â B4545)	O fewn terfynau'r Gorchymyn ar y tir
	Ffordd Fynediad i Ganolfan Hamdden	O fewn terfynau'r Gorchymyn ar y tir
	Caergybi, oddi ar yr A5153	
	Parc Cybi	O fewn terfynau'r Gorchymyn ar y tir
	Ffordd ddiennw oddi ar Barc Cybi (Ffordd Gangen Parc Cybi)	O fewn terfynau'r Gorchymyn ar y tir
Ffordd ddiennw o fewn Orthios Eco Parks (Anglesey) Ltd	O fewn terfynau'r Gorchymyn ar y tir	

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>
Isle of Anglesey County	South Stack Road	Within onshore Order limits
	Wales Coastal Road	Within onshore Order limits
	Unnamed road from South Stack Road to Ty Mawr Farm	Within onshore Order limits
	Lon Isallt	Within onshore Order limits
	Plas Road	Within onshore Order limits
	Porthdafarch Road	Within onshore Order limits
	Mill Road	Within onshore Order limits
	Footpath 19/021/2	Within onshore Order limits
	A5153 (from junction with B4545)	Within onshore Order limits
	Access road to Holyhead Leisure Centre, off A5153	Within onshore Order limits
	Parc Cybi	Within onshore Order limits
	Unnamed road off Parc Cybi (Parc Cybi Spur)	Within onshore Order limits
	Unnamed road within Orthios Eco Parks (Anglesey) Ltd	Within onshore Order limits

Mynediad i Weithfeydd

<i>(1)</i> <i>Ardal</i>	<i>(2)</i> <i>Disgrifiad o'r mynediad</i>
Sir Ynys Môn	Ffordd Ynys Lawd Lôn Isallt Ffordd Porthdafarch Ffordd y Felin Ffordd Fynediad i Ganolfan Hamdden Caergybi, oddi ar yr A5153 Ffordd ddienw oddi ar Barc Cybi (Ffordd Gangen Parc Cybi) Ffordd Llundain (A5)

Access to Works

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Description of access</i>
Isle of Anglesey County	South Stack Road Lon Isallt Portdafarch Road Mill Road Access road to Holyhead Leisure Centre, off A5153 Unnamed road off Parc Cybi (Parc Cybi Spur) London Road (A5)

RHAN 1

Tir na ellir ond caffael hawliau newydd ynddo

<i>(1)</i> <i>Ardal</i>	<i>(2)</i> <i>Rhif y tir a ddangosir ar blân y tir</i>	<i>(3)</i> <i>At ba ddiben y gellir caffael hawliau</i>
Ynys Môn	1 a 3a	Gosod a chynnal a chadw ceblau tanddaearol a/neu gyda diogelwch ceblau mewn cysylltiad â'r gweithfeydd awdurdodedig
	9 a 51	Mynediad at ddibenion adeiladu a chynnal a chadw'r gweithfeydd awdurdodedig

PART 1

Land in which only new rights may be acquired

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on onshore plan</i>	<i>(3)</i> <i>Purpose for which rights may be acquired</i>
Isle of Anglesey	1 and 3a	Installation and maintenance of cables underground and/or with cable protection in connection with the authorised works
	9 and 51	Access for construction and maintenance of the authorised works

RHAN 2

Tir y gellir gosod cyfamodau cyfyngol drosto

(1) <i>Ardal</i>	(2) <i>Rhif y tir a ddangosir ar blân y tir</i>	(3) <i>At ba ddiben y gellir gosod cyfamodau cyfyngol</i>
Ynys Môn	3, 8, 10, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 38, 38a, 39, 40, 42, 43, 48, 49 a 50	Diogelu ceblau tanddaearol a seilwaith

ATODLEN 7

Erthygl 23

Addasu Deddfiadau Digolledu a Phrynu Gorfodol ar gyfer Creu Hawliau Newydd a Gosod Cyfamodau Cyfyngol

Deddfiadau Digolledu

1. Mae'r deddfiadau sydd mewn grym am y tro mewn perthynas â digolledu am brynu tir yn orfodol yn gymwys gyda'r addasiadau angenrheidiol mewn perthynas â digolledu yn achos caffael hawl yn orfodol o dan y Gorchymyn hwn drwy greu hawl newydd neu osod cyfamod cyfyngol fel y maent yn gymwys mewn perthynas â digolledu ar adeg prynu tir a buddiannau mewn tir yn orfodol.

2.—(1) Heb gyfyngu ar gwmpas paragraff 1, mae Deddf 1961 yn cael effaith yn ddarostyngedig i'r addasiad a nodir yn is-baragraff (2).

(2) Yn lle adran 5A(5A) (dyddiad prisio perthnasol) o Ddeddf 1961, rhodder—

“(5A) If—

- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) (powers of entry) of the 1965 Act (as modified by paragraph 5(5) of Schedule 7 to the Morlais Demonstration Zone Order 2021);

PART 2

Land over which restrictive covenants may be imposed

(1) <i>Area</i>	(2) <i>Number of land shown on onshore plan</i>	(3) <i>Purpose for which restrictive covenants may be imposed</i>
Isle of Anglesey	3, 8, 10, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 38, 38a, 39, 40, 42, 43, 48, 49 and 50	Protection of underground cables and infrastructure

SCHEDULE 7

Article 23

Modification of Compensation and Compulsory Purchase Enactments for Creation of New Rights and the Imposition of Restrictive Covenants

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land applies with the necessary modifications as respects compensation in the case of a compulsory acquisition under this Order of a right by the creation of a new right or imposition of a restrictive covenant as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act, substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) (powers of entry) of the 1965 Act (as modified by paragraph 5(5) of Schedule 7 to the Morlais Demonstration Zone Order 2021);

- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 5(8) of Schedule 7 to the Morlais Demonstration Zone Order 2021) to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.”

3.—(1) Heb ragfarnu cyffredinolrwydd paragraff 1, mae Deddf Digollediad Tir 1973(1) yn cael effaith yn ddarostyngedig i'r addasiadau a nodir yn is-baragraffau (2) a (3).

(2) Yn adran 44(1) (digolledu am effeithiad andwyol), fel y mae'n gymwys i ddiolledu am effeithiad andwyol o dan adran 7 o Ddeddf 1965 fel y'i hamnewidiwyd gan baragraff 5(2)—

- (a) yn lle'r geiriau “land is acquired or taken” rhodder y geiriau “a right or restrictive covenant over land is purchased from or imposed on”; a
- (b) yn lle'r geiriau “acquired or taken from him” rhodder y geiriau “over which the right is exercisable or the restrictive covenant is enforceable”.

(3) Yn adran 58(1) (penderfynu ar niwed sylweddol pan fwriedir caffael rhan o dŷ etc yn orfodol), fel y mae'n gymwys i benderfyniadau o dan adran 8 o Ddeddf 1965—

- (a) yn lle'r gair “part” ym mharagraffau (a) a (b) rhodder y geiriau “a right or restrictive covenant over land consisting”;
- (b) yn lle'r gair “severance” rhodder y geiriau “right or restrictive covenant over the whole of the house, building or manufactory or of the house and the park or garden”;
- (c) yn lle'r geiriau “part proposed” rhodder y geiriau “right or restrictive covenant proposed”; a
- (d) yn lle'r geiriau “part is” rhodder y geiriau “right or restrictive covenant is”.

- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 5(8) of Schedule 7 to the Morlais Demonstration Zone Order 2021) to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.”

3.—(1) Without prejudice to the generality of paragraph 1, the Land Compensation Act 1973(1) has effect subject to the modifications set out in sub-paragraphs (2) and (3).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 5(2)—

- (a) for the words “land is acquired or taken” there are substituted the words “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for the words “acquired or taken from him” there are substituted the words “over which the right is exercisable or the restrictive covenant is enforceable”.

(3) In section 58(1) (determination of material detriment where part of house etc proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act—

- (a) for the word “part” in paragraphs (a) and (b) there are substituted the words “a right or restrictive covenant over land consisting”;
- (b) for the word “severance” there is substituted the words “right or restrictive covenant over the whole of the house, building or manufactory or of the house and the park or garden”;
- (c) for the words “part proposed” there are substituted the words “right or restrictive covenant proposed”; and
- (d) for the words “part is” there are substituted the words “right or restrictive covenant is”.

(1) 1973 p. 26.

(1) 1973 c. 26.

Cymhwyso Deddf 1965

4.—(1) Mae Deddf 1965 yn cael effaith gyda'r addasiadau sy'n angenrheidiol i wneud iddi fod yn gymwys i gaffael hawl yn orfodol o dan y Gorchymyn hwn drwy greu hawl newydd neu osod cyfamod cyfyngol fel y bo'n gymwys i gaffael tir yn orfodol o dan y Gorchymyn hwn, mewn cyd-destunau priodol, mae cyfeiriadau yn y Ddeddf honno at dir i'w darllen (yn unol â gofynion y cyd-destun penodol) fel pe baent yn gyfeiriadau at, neu fel pe baent yn cynnwys cyfeiriadau at—

- (a) yr hawl a gaffaelwyd neu sydd i'w chaffael, neu'r cyfamod cyfyngol a osodwyd neu sydd i'w osod; neu
- (b) y tir y mae'r hawl yn arferadwy drosto neu sydd i'w harfer drosto, neu'r cyfyngiad sy'n orfodadwy drosto neu sydd i'w orfodi drosto.

(2) Heb ragfarnu cyffredinolrwydd is-baragraff (1), mae Rhan 1 o Ddeddf 1965 yn gymwys mewn perthynas â chaffael hawl yn orfodol o dan y Gorchymyn hwn drwy greu hawl newydd neu osod cyfamod cyfyngol gyda'r addasiadau a bennir yn narpariaethau canlynol yr Atodlen hon.

5.—(1) Yn lle adran 7 o Ddeddf 1965 (mesur o ddigolledu) rhodder yr adran a ganlyn—

“7. In assessing the compensation to be paid by the acquiring authority under this Act regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

(2) Mae darpariaethau canlynol Deddf 1965 (sy'n nodi effaith gweithred unrhan a weithredir o dan amrywiol amgylchiadau pan na fo trawsgludo gan bersonau a chanddynt fuddiannau yn y tir), hynny yw—

- (a) adran 9(4) (methiant perchenogion i drawsgludo);
- (b) paragraff 10(3) o Atodlen 1 (perchenogion nad oes ganddynt alluogedd);
- (c) paragraff 2(3) o Atodlen 2 (perchenogion absennol a heb eu holrhain); a
- (d) paragraffau 2(3) a 7(2) o Atodlen 4 (tir comin),

Application of the 1965 Act

4.—(1) The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right or to the imposition of a restrictive covenant as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are to be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or the restrictive covenant imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(2) Without prejudice to the generality of subparagraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restrictive covenant with the modifications specified in the following provisions of this Schedule.

5.—(1) For section 7 of the 1965 Act (measure of compensation) there is substituted the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

(2) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

i'w haddasu felly fel y byddant yn sicrhau, fel yn erbyn personau a chanddynt fuddiannau yn y tir a fynegir i'w trechu gan y weithred, bod yr hawl sydd i'w chaffael yn orfodol neu'r cyfamod cyfyngol sydd i'w osod yn cael ei breinio neu ei freinio'n llwyr yn yr awdurdod caffael.

(3) Mae adran 11(1) (pwerau mynediad) o Ddeddf 1965 yn cael ei haddasu er mwyn sicrhau, pan fo'r awdurdod caffael wedi cyflwyno hysbysiad i drafod telerau mewn cysylltiad ag unrhyw hawl neu gyfyngiad yn ogystal â'r hysbysiad mynediad sy'n ofynnol gan is-adran (1) o'r adran honno (fel sy'n gymwys i gaffaeliad gorfodol o dan erthygl 24(1) (cymhwyso Rhan 1 o Ddeddf 1965)), mae ganddo y pŵer sy'n arferadwy yn yr un amgylchiadau ac sy'n ddarostyngedig i'r un amodau, i gael mynediad at ddiben arfer yr hawl honno neu orfodi'r cyfamod hwnnw; ac mae adrannau 11A(2) (pwerau mynediad: hysbysadau mynediad pellach), 11B(3) (gwrth-hysbysiad sy'n ei gwneud yn ofynnol i feddiannu tir ar ddyddiad penodedig), 12(4) (cosb am fynediad anawdurdodedig) a 13(5) (gwrthod rhoi meddiant i awdurdod caffael) o'r Ddeddf yn cael eu haddasu yn unol â hynny.

(4) Mae adran 20 o Ddeddf 1965 (diogelu buddiannau tenantiaid wrth ewylllys etc) yn gymwys gyda'r addasiadau sy'n angenrheidiol i sicrhau bod personau sydd â'r cyfryw fuddiannau mewn tir ag a grybwyllir yn yr adran honno yn cael eu digolledu mewn modd sy'n cyfateb i'r modd y byddent yn cael eu digolledu ar adeg caffael y tir hwnnw yn orfodol o dan y Gorchymyn hwn, ond gan ystyried graddau (os o gwbl) y cyfryw ymyrraeth â'r cyfryw fuddiant ag a achosir mewn gwirionedd yn unig, drwy arfer yr hawl neu orfodi'r cyfamod cyfyngol dan sylw.

(5) Mae adran 22 o Ddeddf 1965 (diogelu meddiant awdurdod caffael pan na fo mynediad i ystad, hawl neu fuddiant drwy ddiolfalwch) i'w haddasu fel y bydd yn galluogi'r awdurdod caffael, o dan amgylchiadau sy'n cyfateb i'r rhai y cyfeirir atynt yn yr adran honno,

are to be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(3) Section 11(1) (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority have served notice to treat in respect of any right or restriction as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 24(1) (application of Part 1 of the 1965 Act)), they have power, exercisable in the same circumstances and subject to the same conditions, to enter for the purpose of exercising that right or enforcing that covenant; and sections 11A(2) (powers of entry: further notices of entry), 11B(3) (counter-notice requiring possession to be taken on specified date), 12(4) (penalty for unauthorised entry) and 13(5) (refusal to give possession to acquiring authority) of that Act are modified accordingly.

(4) Section 20 of the 1965 Act (protection for interests of tenants at will etc) applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

(5) Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) are to be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in

(1) Diwygiwyd adran 11 gan adran 34(1) o Ddeddf Caffael Tir 1981 (p. 67) ac Atodlen 4 i'r ddeddf honno, adran 3 o Ddeddf Tai (Darpariaethau Canlyniadol) 1985 (p. 71) a Rhan 1 o Atodlen 1 i'r ddeddf honno, adran 14 o Fesur Eglwys Loegr (Darpariaethau Amrywiol) 2006 (Rhif 1), a pharagraff 12(1) o Atodlen 5 i'r mesur hwnnw, adrannau 186(2), 187(2) a 188 o Ddeddf Tai a Chynllunio 2016 a pharagraff 6 o Atodlen 14 a pharagraff 3 o Atodlen 6 i'r ddeddf honno (p. 22) ac O.S. 2009/1307.

(2) Mewnosodwyd adran 11A gan adran 186(3) o Ddeddf Tai a Chynllunio 2016 (p. 22).

(3) Mewnosodwyd adran 11B gan adran 187(2) o Ddeddf Tai a Chynllunio 2016.

(4) Diwygiwyd adran 12 gan adran 56(2) o Ddeddf Llysoedd 1971 (p. 23) a Rhan 1 o Atodlen 9 i'r ddeddf honno a pharagraff 4 o Atodlen 16 i Ddeddf Tai a Chynllunio 2016.

(5) Diwygiwyd adran 13 gan adrannau 62(3), 139(4) i (9) a 146 o Ddeddf Tribiwnlysoedd, Llysoedd a Gorfodi 2007 (p. 15) a pharagraffau 27 ac 28 o Atodlen 13 a Rhan 3 o Atodlen 23 i'r ddeddf honno.

(1) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 6 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

(2) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).

(3) Section 11B was inserted by section 187(2) of the Housing and Planning Act 2016.

(4) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23) and paragraph 4 of Schedule 16 to the Housing and Planning Act 2016.

(5) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

yn parhau â'r hawl i arfer yr hawl a gaffaelwyd neu orfodi'r cyfamod cyfyngol a osodwyd, yn ddarostyngedig i gydymffurfiaeth â'r adran honno mewn perthynas â digolledu.

(6) Yn lle Atodlen 2A(1) i Ddeddf 1965 Act rhodder—

"SCHEDULE 2A COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1.—(1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over, or a restrictive covenant affecting, the whole or part of a house, building or factory, and have not executed a general vesting declaration under section 4 of the 1981 Act in respect of the land to which the notice to treat relates.

(2) But see article 26(3) (power to acquire subsoil only) of the Morlais Demonstration Zone Order 2021 which excludes the acquisition of subsoil only from this schedule.

2. In this Schedule, "house" includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory ("the owner") may serve a counter-notice requiring the authority to purchase the owner's interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or

(1) Mewnosodwyd gan adran 199(1) o Ddeddf Tai a Chynllunio 2016 a pharagraffau 1 a 3 o Ran 1 o Atodlen 17 i'r ddeddf honno.

that section, to continue to be entitled to exercise the right acquired or enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

(6) For Schedule 2A(1) to the 1965 Act substitute—

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Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or

(1) Inserted by section 199(1) and paragraphs 1 and 3 of Part 1 of Schedule 17 to the Housing and Planning Act 2016.

(c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served ("the decision period").

7. If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the restrictive covenant,
- (b) the proposed use of the right or the restrictive covenant, and
- (c) if the right is proposed to be acquired or the restrictive covenant is proposed to be imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the restrictive covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

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7. If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the restrictive covenant,
- (b) the proposed use of the right or the restrictive covenant, and
- (c) if the right is proposed to be acquired or the restrictive covenant is proposed to be imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the restrictive covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal."

Deddf 1981

6.—(1) Mae Deddf 1981, fel y'i cymhwysir gan erthygl 25 (cymhwyso Deddf 1981) at gaffael tir o dan erthygl 22 (pŵer i gaffael tir), yn gymwys i gaffael hawl yn orfodol neu osod cyfamod cyfyngol o dan erthygl 23 (pŵer i gaffael hawliau newydd a gosod cyfamodau cyfyngol)—

- (a) gyda'r addasiadau a bennir ym mharagraff 7; a
- (b) y cyfryw addasiadau eraill ag sy'n angenrheidiol.

(2) Mae'r deddfiadau sy'n ymwneud â digolledu am brynu tir yn orfodol hefyd yn gymwys i gaffael hawl yn orfodol neu osod cyfamod cyfyngol o dan erthygl 23.

7.—(1) Mae'r addasiadau y cyfeirir atynt ym mharagraff 6(1)(a) fel a ganlyn.

(2) Mae cyfeiriadau yn Neddf 1981 at dir, mewn cyd-destunau priodol, i'w darllen (yn unol â gofynion y cyd-destun penodol) fel pe baent yn gyfeiriadau at, neu fel pe baent yn cynnwys cyfeiriadau at—

- (a) yr hawl a gaffaelwyd neu sydd i'w chaffael, neu'r cyfamod cyfyngol a osodwyd neu sydd i'w osod; neu
- (b) y tir y mae'r hawl yn arferadwy drosto neu sydd i'w harfer drosto, neu'r cyfyngiad sy'n orfodadwy drosto neu sydd i'w orfodi drosto.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal."

The 1981 Act

6.—(1) The 1981 Act, as applied by article 25 (application of the 1981 Act) to the acquisition of land under article 22 (power to acquire land), applies to a compulsory acquisition of a right or the imposition of a restrictive covenant under article 23 (power to acquire new rights and impose restrictive covenants)—

- (a) with the modifications specified in paragraph 7; and
- (b) with such other modifications as may be necessary.

(2) The enactments relating to compensation for the compulsory purchase of land also apply to a compulsory acquisition of a right or the imposition of a restrictive covenant under article 23.

7.—(1) The modifications referred to in paragraph 6(1)(a) are as follows.

(2) References in the 1981 Act to land are, in appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired or the restrictive covenant imposed or to be imposed; or
- (b) the land over which the right is, or is to be, exercisable, or over which the restrictive covenant is, or is to be, enforced.

(3) Mae cyfeiriadau yn Neddf 1981 at Ddeddf 1965 i'w darllen fel pe baent yn gyfeiriadau at y Ddeddf honno fel y mae'n gymwys i gaffael hawl yn orfodol neu osod cyfamod cyfyngol o dan erthygl 23.

(4) Mae adran 8(1) o Ddeddf 1981 (breinio, a'r hawl i fynd ar dir a'i feddiannu) yn cael ei haddasu er mwyn sicrhau—

- (a) bod datganiad breinio cyffredinol mewn cysylltiad ag unrhyw hawl yn breinio'r hawl neu'r cyfamod cyfyngol yn yr awdurdod caffael ar y dyddiad breinio; a
- (b) bod gan yr awdurdod caffael, o'r dyddiad breinio, bŵer sy'n arferadwy o dan yr un amgylchiadau ac sy'n ddarostyngedig i'r un amodau, i fynd ar dir at ddiben arfer yr hawl honno neu orfodi'r cyfamod cyfyngol hwnnw fel pe bai'r amgylchiadau a grybwyllir yn adran 8(1)(a) a (b) o Ddeddf 1981 wedi codi.

(5) Mae adran 9(2) o Ddeddf 1981 (hawl mynediad o dan adran 8(1) nad yw'n arferadwy mewn perthynas â thir sy'n ddarostyngedig i denantiaethau penodol, oni chyflwynir hysbysiad i feddianwyr y tir) yn cael ei haddasu er mwyn ei gwneud yn ofynnol i hysbysiad a gyflwynir gan yr awdurdod priodol o dan y ddarpariaeth honno gyfeirio at fwriad yr awdurdod i fynd ar dir a bennir yn yr hysbysiad er mwyn arfer yr hawl neu orfodi'r cyfamod cyfyngol hwnnw.

(6) Yn adran 10(1) o Ddeddf 1981 (atebolrwydd awdurdod caffael ar adeg breinio tir), mae'r cyfeiriad at feddiannu'r tir gan yr awdurdod caffael o dan adran 11(1) o Ddeddf 1965 i'w ddarllen yn lle hynny fel pe bai'n gyfeiriad at arfer y pŵer i fynd ar dir gan yr awdurdod o dan y ddarpariaeth honno fel y'i haddaswyd gan baragraff 4(5) o'r Atodlen hon.

(7) Mae Atodlen A1 i Ddeddf 1981 (gwrth-hysbysiad sy'n ei gwneud yn ofynnol prynu tir nad yw mewn datganiad breinio cyffredinol) yn cael effaith fel pe bai—

- (a) ym mharagraff 1(1), yn lle “part only of” rhoddwyd “only the acquisition of a right or the imposition of a restrictive covenant over”;
- (b) cyfeiriadau at y tir y bwriedir ei gaffael yn gyfeiriadau (yn ddarostyngedig i baragraff (d) isod) at yr hawl y bwriedir ei chaffael neu'r cyfamod cyfyngol y bwriedir ei osod;
- (c) cyfeiriadau at y tir ychwanegol yn gyfeiriadau at y tŷ, yr adeilad neu'r ffatri y bwriedir arfer yr hawl drosto neu drosti neu y bwriedir gorfodi'r cyfamod cyfyngol drosto neu drosti;
- (d) ym mharagraffau 14 a 15, gyfeiriadau at wahanu'r tir y bwriedir ei gaffael yn gyfeiriadau at gaffael yr hawl neu osod y cyfamod cyfyngol; ac

(3) References in the 1981 Act to the 1965 Act are to be read as references to that Act as it applies to a compulsory acquisition of a right or the imposition of a restrictive covenant under article 23.

(4) Section 8(1) of the 1981 Act (vesting, and right to enter and take possession) is modified so as to secure—

- (a) that a general vesting declaration in respect of any right vests the right or the restrictive covenant in the acquiring authority on the vesting date; and
- (b) that, as from the vesting date, the acquiring authority have power, exercisable in the same circumstances and subject to the same conditions, to enter land for the purpose of exercising that right or enforcing the restrictive covenant as if the circumstances mentioned in section 8(1)(a) and (b) of the 1981 Act had arisen.

(5) Section 9(2) of the 1981 Act (right of entry under section 8(1) not exercisable in respect of land subject to certain tenancies, unless notice has been served on occupiers of the land) is modified so as to require a notice served by the appropriate authority under that provision to refer to the authority's intention to enter land specified in the notice in order to exercise the right or enforce that restrictive covenant.

(6) In section 10(1) of the 1981 Act (acquiring authority's liability on vesting of land), the reference to the acquiring authority's taking possession of the land under section 11(1) of the 1965 Act is to be read instead as a reference to the authority's exercising the power to enter the land under that provision as modified by paragraph 4(5) of this Schedule.

(7) Schedule A1 to the 1981 Act (counter-notice requiring purchase of land not in general vesting declaration) has effect as if—

- (a) in paragraph 1(1), for “part only of” there were substituted “only the acquisition of a right or the imposition of a restrictive covenant over”;
- (b) references to the land proposed to be acquired were (subject to paragraph (d) below) to the right proposed to be acquired or to the restrictive covenant proposed to be imposed;
- (c) references to the additional land were to the house, building or factory over which the right is proposed to be exercisable or the restrictive covenant to be enforceable;
- (d) in paragraphs 14 and 15, references to the severance of the land proposed to be acquired were to the acquisition of the right or the imposition of the restrictive covenant; and

(e) ym mharagraff 15, "or in substitution for" yn cael ei fewnosod ar ôl "in addition to".

(e) in paragraph 15, after "in addition to" there were inserted "or in substitution for".

ATODLEN 8 Erthygl 26

SCHEDULE 8 Article 26

Tir na ellir ond caffael is-bridd sydd dros 9 metr o dan ei wyneb

Land of which only subsoil more than 9 metres beneath surface may be acquired

<i>(1)</i> <i>Ardal</i>	<i>(2)</i> <i>Rhif y tir a ddangosir ar blân y tir</i>
Ynys Môn	45, 46 a 47

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on onshore plan</i>
Isle of Anglesey	45, 46 and 47

ATODLEN 9 Erthygl 28

SCHEDULE 9 Article 28

Tir y gellir ei Feddiannu Dros Dro

Land of which Temporary Possession may be taken

<i>(1)</i> <i>Ardal</i>	<i>(2)</i> <i>Rhif y tir a ddangosir ar blân y tir</i>	<i>(3)</i> <i>At ba ddiben y gellir meddiannu tir dros dro</i>	<i>(4)</i> <i>Gwaith awdurdodedig</i>
Ynys Môn	2	Safle gwaith dros dro, gwaith gosod a mynediad at ddibenion adeiladu	Gwaith Rhif 3 a 4
	4 a 6	Safle gwaith dros dro, gwaith gosod a mynediad at ddibenion adeiladu	Gwaith Rhif 4
	7	Safle gwaith dros dro, gwaith gosod a mynediad at ddibenion adeiladu	Gwaith Rhif 5, 6 a 7

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on onshore plan</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Authorised work</i>
Isle of Anglesey	2	Temporariy working site, laydown and access for construction	Works No. 3 and 4
	4 and 6	Temporariy working site, laydown and access for construction	Work No. 4
	7	Temporariy working site, laydown and access for construction	Works No. 5, 6 and 7

	17 a 26	Safle gwaith dros dro, gwaith gosod a mynediad at ddibenion adeiladu	Gwaith Rhif 7
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	17 and 26	Temporary working site, laydown and access for construction	Work No. 7
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ATODLEN 10 Erthygl 44

Darpariaethau sy'n ymwneud ag Ymgwymerwyr Statudol etc

Cyfarpar ymgwymerwyr statudol etc ar dir a gaffaelwyd

1.—(1) Mae adrannau 271 i 274(1) o Ddeddf 1990 (pŵer i ddiddymu hawliau ymgwymerwyr statudol etc a phŵer ymgwymerwyr statudol etc i dynnu ymaith gyfarpar neu ei ail-leoli) yn gymwys mewn perthynas ag unrhyw dir sy'n cael ei gaffael neu ei feddiannu gan yr ymgwymerwr o dan y Gorchymyn hwn yn ddarostyngedig i ddarpariaethau canlynol y paragraff hwn: ac mae holl gyfryw ddarpariaethau eraill y Ddeddf honno ag sy'n gymwys at ddibenion y darpariaethau hynny (gan gynnwys adrannau 275 i 278), sy'n cynnwys darpariaethau sy'n ganlyniadol i ddiddymu unrhyw hawliau o dan adrannau 271 a 272, ac adrannau 279(2) i (4), 280 a 282,(2) sy'n darparu ar gyfer talu digollediad yn cael effaith yn unol â hynny.

(2) Yn narpariaethau Deddf 1990, fel y'u cymhwyswyd gan baragraff (1), mae cyfeiriadau at y Gweinidog priodol yn gyfeiriadau at Weinidogion Cymru.

(3) Pan fo cyfarpar unrhyw ymgwymerwr cyfleustod cyhoeddus neu unrhyw ddarparwr cyfathrebu cyhoeddus yn cael ei dynnu yn unol â hysbysiad neu orchymyn a roddir neu a wneir o dan adran 271, 272 neu 273 o Ddeddf 1990, fel y'i cymhwyswyd gan is-baragraff (1), bydd gan unrhyw berson sy'n berchen ar safle neu sy'n feddiannydd safle y rhoddwyd cyflenwad o'r cyfarpar hwnnw iddo yr hawl i adennill digollediad gan yr ymgwymerwr mewn perthynas â gwariant y mae'n mynd iddo'n rhesymol, o ganlyniad i dynnu'r cyfarpar, at ddiben creu cysylltiad rhwng y safle ac unrhyw gyfarpar arall y mae cyflenwad yn cael ei roi ohono.

SCHEDULE 10 Article 44

Provisions relating to Statutory Undertakers etc

Apparatus of statutory undertakers etc on land acquired

1.—(1) Sections 271 to 274(1) of the 1990 Act (power to extinguish rights of statutory undertakers etc and power of statutory undertakers etc to remove or re-site apparatus) apply in relation to any land acquired or appropriated by the undertaker under this Order subject to the following provisions of this paragraph: and all such other provisions of that Act as apply for the purposes of those provisions (including sections 275 to 278, which contain provisions consequential on the extinguishment of any rights under sections 271 and 272, and sections 279(2) to (4), 280 and 282,(2) which provide for the payment of compensation) have effect accordingly.

(2) In the provisions of the 1990 Act, as applied by paragraph (1), references to the appropriate Minister are references to the Welsh Ministers.

(3) Where any apparatus of public utility undertakers or of a public communications provider is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the 1990 Act, as applied by sub-paragraph (1), any person who is the owner or occupier of premises to which a supply was given from that apparatus will be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(1) Diwygiwyd adrannau 272 i 274 gan baragraff 103(1) a (2) o Atodlen 17 i Ddeddf Cyfathrebu 2003 (p. 21).
(2) Diwygiwyd adran 279(3) gan baragraffau 103(1) a (2), a diwygiwyd adran 280 gan baragraff 104 o Atodlen 17 i Ddeddf Cyfathrebu 2003. Diwygiwyd adrannau 280 a 282 gan O.S. 2009/1307.

(1) Sections 272 to 274 were amended by paragraph 103(1) and (2) of Schedule 17 to the Communications Act 2003 (c. 21).
(2) Section 279(3) was amended by paragraphs 103(1) and (2), and section 280 was amended by paragraph 104, of Schedule 17 to the Communications Act 2003. Sections 280 and 282 were amended by S.I. 2009/1307.

(4) Nid yw paragraff (3) yn gymwys yn achos gwaredu carthffos gyhoeddus ond pan fo'r cyfryw garthffos yn cael ei gwaredu yn unol â'r cyfryw hysbysiad neu orchymyn fel y'i crybwyllwyd yn y paragraff hwnnw, bydd gan unrhyw berson—

- (a) sy'n berchennog safle neu'n feddiannydd safle y mae ei ddraeniau yn cysylltu â'r garthffos honno; neu
- (b) sy'n berchennog carthffos breifat a oedd yn cysylltu â'r garthffos honno,

yr hawl i adennill digollediad gan yr ymgwymerwr mewn perthynas â gwariant y mae'n mynd iddo'n rhesymol, o ganlyniad i waredu cyfarpar, at ddiben gwneud i'w ddraen neu i'w garthffos gysylltu ag unrhyw garthffos gyhoeddus arall neu â safle gwaredu carthffosiaeth preifat.

(5) Ni fydd darpariaethau Deddf 1990 a grybwyllir yn is-baragraff (1), fel y'u cymhwysir gan yr is-baragraff hwnnw, yn cael effaith mewn perthynas â chyfarpar y mae paragraff 2 neu Ran 3 o Ddeddf 1991 yn gymwys mewn perthynas ag ef.

(6) Yn y paragraff hwn—

mae i “ddarparwr cyfathrebu cyhoeddus” yr un ystyr â “public communications provider” yn adran 151(1) o Ddeddf Cyfathrebu 2003(1); ac

mae i “ymgymerwyr cyfleustod cyhoeddus” yr un ystyr â “public utility undertakers” yn Neddf Priffyrdd 1980(2).

Cyfarpar ymgwymerwyr statudol etc mewn strydoedd wedi'u cau

2.—(1) Pan fo stryd wedi'i chau o dan erthygl 8 (cau strydoedd dros dro) bydd gan unrhyw gyfleustod statudol y mae ei gyfarpar o dan y stryd, yn y stryd, ar y stryd, ar hyd y stryd neu ar draws y stryd yr un pwerau a hawliau mewn perthynas â'r cyfarpar hwnnw, yn ddarostyngedig i ddarpariaethau'r paragraff hwn, fel pe na bai'r Gorchymyn hwn wedi cael ei wneud.

(2) Pan fo stryd wedi'i chau o dan erthygl 8 (cau strydoedd dros dro) caiff unrhyw gyfleustod statudol y mae ei gyfarpar o dan y stryd, yn y stryd, ar y stryd, dros y stryd, ar hyd y stryd neu ar draws y stryd, ac os gofynnir yn rhesymol iddo wneud hynny gan ymgwymerwr rhaid iddo—

- (a) dynnu ymaith y cyfarpar a'i osod neu osod cyfarpar arall a ddarparwyd yn ei le yn y cyfryw leoliad arall ag a bennir yn rhesymol gan y cyfleustod ac y mae ganddo'r pŵer i'w osod; neu

(4) Paragraph (3) does not apply in the case of the removal of a public sewer but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that paragraph, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

will be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of making his drain or sewer communicate with any other public sewer or with a private sewerage disposal plant.

(5) The provisions of the 1990 Act mentioned in sub-paragraph (1), as applied by that sub-paragraph, will not have effect in relation to apparatus as respects which paragraph 2 or Part 3 of the 1991 Act applies.

(6) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003(1); and

“public utility undertakers” has the same meaning as in the Highways Act 1980(2).

Apparatus of statutory undertakers etc in stopped up streets

2.—(1) Where a street is stopped up under article 8 (temporary stopping up of streets) any statutory utility whose apparatus is under, in, upon, along or across the street will have the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Order had not been made.

(2) Where a street is stopped up under article 8 (temporary stopping up of streets) any statutory utility whose apparatus is under, in, upon, over, along or across the street may, and if reasonably requested to do so by the undertaker must—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or

(1) 2003 p. 21.

(2) Diwygiwyd y diffiniad o “ymgymerwyr cyfleustod cyhoeddus” gan adran 190(3) o Ddeddf Dŵr 1989 (p. 15) a Rhan 1 o Atodlen 27 i'r ddeddf honno ac adran 112(4) o Ddeddf Trydan 1989 (p. 29) ac Atodlen 18 i'r ddeddf honno.

(1) 2003 c. 21.

(2) The definition of “public utility undertakers” was amended by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c. 15) and section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c. 29).

- (b) ddarparu cyfarpar arall yn lle'r cyfarpar presennol a'i osod yn y cyfryw leoliad arall ag a nodwyd uchod.

(3) Yn ddarostyngedig i ddarpariaethau'r paragraff hwn, rhaid i'r ymgymwr dalu i unrhyw gyfleustod statudol swm sy'n hafal i'r gost y mae'r cyfleustod yn rhesymol yn mynd iddi wrth—

- (a) gwblhau'r gweithfeydd adleoli sy'n ofynnol i gau'r stryd neu mewn cysylltiad â hynny; a
- (b) gwneud unrhyw waith neu beth arall sy'n angenrheidiol o ganlyniad i gwblhau'r gweithfeydd adleoli neu mewn cysylltiad â hynny.

(4) Os, wrth gwblhau gweithfeydd adleoli o dan baragraff (2)—

- (a) gosodir cyfarpar o fath gwell, o gapasiti ychwanegol neu o ddimensiynau mwy yn lle'r cyfarpar presennol; neu
- (b) gosodir cyfarpar (y cyfarpar presennol neu gyfarpar a osodwyd yn lle'r cyfarpar presennol) ar ddyfnder sy'n ddyfnach na'r cyfarpar presennol,

ac nad yw'r ymgymwr yn cytuno i osod cyfarpar o'r math hwnnw neu'r capasiti hwnnw neu o'r dimensiynau hynny nac i osod cyfarpar ar y dyfnder hwnnw, yn ôl y digwydd, neu yn niffyg cytundeb, penderfynir drwy gymrodeddu nad yw'n angenrheidiol, yna os oes cost ynghlwm wrth gwblhau'r gweithfeydd adleoli sy'n fwy na'r hyn a fyddai wedi bod ynghlwm pe bai'r cyfarpar a osodwyd yn gyfarpar o'r math, y capasiti neu'r dimensiynau presennol neu ar y dyfnder presennol, yn ôl y digwydd, bydd y swm a fyddai ar wahân i'r paragraff hwn yn daladwy i'r cyfleustod statudol yn rhinwedd is-baragraff (3) yn cael ei leihau o'r gorswm hwnnw.

(5) At ddibenion paragraff (4)—

- (a) ni thrinnir estyn cyfarpar i hyd sy'n fwy na hyd y cyfarpar presennol fel pe bai'n gosod cyfarpar o ddimensiynau mwy na rhai'r cyfarpar presennol; a
- (b) phan gytunir ar ddarparu uniad mewn cebl, neu pan benderfynir bod uniad yn angenrheidiol, bydd darparu siambr uno neu dwll archwilio o ganlyniad i hynny yn cael ei drin fel pe bai cytundeb hefyd yn ei gylch fel pe bai wedi cael ei benderfynu felly.

(6) Bydd swm a fyddai ar wahân i'r is-baragraff hwn yn daladwy i gyfleustod statudol mewn cysylltiad â gweithfeydd yn rhinwedd paragraff (3) (ar ôl rhoi sylw i baragraff (4) lle y bo'n berthnasol), os yw'r gweithfeydd yn cynnwys gosod cyfarpar a ddarparwyd

- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as aforesaid.

(3) Subject to the following provisions of this paragraph, the undertaker must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this paragraph would be payable to the statutory utility by virtue of sub-paragraph (3) will be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(6) An amount which apart from this sub-paragraph would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) will, if the works include the placing of apparatus provided in

yn lle'r cyfarpar a osodwyd fwy na 7 mlynedd a 6 mis yn gynharach er mwyn rhoi unrhyw fuddiant ariannol i'r cyfleustod sy'n codi drwy ohirio amser adnewyddu'r cyfarpar fel arfer, yn cael ei leihau o swm y buddiant hwnnw.

(7) Nid yw paragraffau (3) i (6) yn gymwys pan fo'r gweithfeydd awdurdodedig yn gyfystyr â gweithfeydd trafniadaeth mawr at ddibenion Rhan 3 o Ddeddf 1991, ond yn lle hynny—

- (a) penderfynir ar y costau a ganiateir am y gweithfeydd adleoli yn unol ag adran 85 o'r Ddeddf honno (rhannu cost mesurau angenrheidiol) ac unrhyw reoliadau sydd yn cael effaith am y tro o dan yr adran honno; a
- (b) bydd y costau a ganiateir yn cael eu dwyn gan yr ymgymerwr a'r cyfleustod statudol yn y cyfryw gyfrannau ag a ragnodir gan unrhyw gyfryw reoliadau.

(8) Yn y paragraff hwn—

mae i "cyfarpar" yr un ystyr ag "apparatus" yn Rhan 3 o Ddeddf 1991;

ystyr "gweithfeydd adleoli" yw gwaith a weithredir, neu gyfarpar a ddarperir o dan isbaragraff (2); ac

ystyr "cyfleustod statudol" yw ymgymerwr statudol at ddibenion Deddf Priffyrdd 1980 neu ddarparwr cyfathrebu cyhoeddus fel y'i diffiniwyd ym mharagraff 1(6)(1).

Ymgymeriadau rheilffyrdd a mordwyo

3.—(1) Yn ddarostyngedig i ddarpariaethau canlynol y paragraff hwn, nid yw'r pwerau o dan erthygl 7 (pŵer i wneud gweithfeydd stryd) o'r Gorchymyn hwn i dorri neu agor stryd yn arferadwy pan fo'r stryd, nad yw'n briffordd y gellir ei chynnal a'i chadw ar draul y cyhoedd (o fewn ystyr Deddf 1980)—

- (a) o dan reolaeth ymgymerwyr rheilffordd neu dramffordd neu awdurdod mordwyo neu sy'n cael ei rheoli neu ei chynnal a'i chadw gan ymgymerwyr rheilffordd neu dramffordd neu awdurdod mordwyo; neu
- (b) yn rhan o groesfan reilffordd sy'n eiddo i unrhyw gyfryw ymgymerwr neu i'r cyfryw awdurdod neu unrhyw berson arall,

ac eithrio gyda chydysyniad yr ymgymerwyr neu'r awdurdod neu, yn ôl y digwydd, y person y mae'r groesfan reilffordd yn eiddo iddynt neu iddo.

substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Paragraphs (3) to (6) do not apply where the authorised works constitute major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works will be determined in accordance with section 85 of that Act (sharing of cost of necessary measures) and any regulations for the time being having effect under that section; and
- (b) the allowable costs are to be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this paragraph—

"apparatus" has the same meaning as in Part 3 of the 1991 Act;

"relocation works" means work executed, or apparatus provided, under sub-paragraph (2); and

"statutory utility" means a statutory undertaker for the purposes of the Highways Act 1980 or a public communications provider as defined in paragraph 1(6)(1).

Railway and navigation undertakings

3.—(1) Subject to the following provisions of this paragraph, the powers under article 7 (power to execute street works) of this Order to break up or open a street is not exercisable 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, railway or tramway undertakers or a navigation authority; or
- (b) forms part of a level crossing belonging to any such undertakers or to such an authority or to any other person,

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

(1) 2003 p. 21. (Mae diwygiadau i adran 151(1) nad ydynt yn berthnasol i'r Gorchymyn hwn).

(1) 2003 c. 21. (There are amendments to section 151(1) not relevant to this Order).

(2) Nid yw paragraff (1) yn gymwys i gyflawni gweithfeydd brys o dan y Gorchymyn hwn, o fewn ystyr Rhan 3 o Ddeddf 1991.

(3) Gellir gwneud cydsyniad a roddir at ddiben baragraff (1) yn ddarostyngedig i'r cyfryw amodau rhesymol ag a bennir gan y person sy'n ei roi ond rhaid iddo beidio â chael ei atal yn afresymol.

(4) Yn y paragraff hwn, ystyr "awdurdod mordwyo" yw unrhyw berson sydd â dyletswydd neu bŵer o dan unrhyw ddeddfiad i weithio, cynnal a chadw, gwarchod, gwella neu reoli unrhyw gamlas neu fath arall o fordwyo mewndirol, afon fordwyadwy, aber, harbwr neu ddoc.

(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 paragraph "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, harbour or dock.

ATODLEN 11 Erthygl 45

Darpariaethau Diogelu

RHAN 1

Diogelu ymgymerwyr trydan, nwy, dŵr a charthffosiaeth

1. Mae darpariaethau'r Rhan hon yn cael effaith oni chytunir fel arall yn ysgrifenedig rhwng yr ymgymerwr a'r ymgymerwr cyfleustod dan sylw.

2. Yn y Rhan hon—

ystyr "cyfarpar amgen" yw cyfarpar amgen sy'n ddigonol i alluogi'r ymgymerwr cyfleustod dan sylw i gyflawni ei swyddogaethau statudol mewn modd nad yw'n llai effeithlon na chynt;

ystyr "cyfarpar"—

(a) yn achos ymgymerwr cyfleustod o fewn paragraff (a) o'r diffiniad o'r term hwnnw, yw llinellau trydan neu safle trydanol (fel y'u diffiniwyd yn Neddf Trydan 1989(1)) sy'n eiddo i'r ymgymerwr cyfleustod neu sy'n cael eu cynnal a'u cadw gan yr ymgymerwr cyfleustod;

(b) yn achos ymgymerwr cyfleustod o fewn paragraff (b) o'r diffiniad o'r term hwnnw, yw unrhyw brif bibellau, pibellau neu gyfarpar arall sy'n eiddo i'r ymgymerwr cyfleustod neu sy'n cael eu cynnal a'u cadw gan yr ymgymerwr cyfleustod at ddibenion cyflenwi nwy;

SCHEDULE 11 Article 45

Protective Provisions

PART 1

Protection of electricity, gas, water and sewerage undertakers

1. The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and the utility undertaker in question.

2. In this Part—

"alternative apparatus" means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus"—

(a) in the case of a utility undertaker within paragraph (a) of the definition of that term, means electric lines or electrical plant (as defined in the Electricity Act 1989(1)) belonging to or maintained by the utility undertaker;

(b) in the case of a utility undertaker within paragraph (b) of the definition of that term, means any mains, pipes or other apparatus belonging to or maintained by the utility undertaker for the purposes of gas supply;

(1) 1989 p. 29.

(1) 1989 c. 29.

(c) yn achos ymgwymerwr cyfleustod o fewn paragraff (c) o'r diffiniad o'r term hwnnw, yw prif bibellau, pibellau neu gyfarpar arall sy'n eiddo i'r ymgwymerwr cyfleustod neu sy'n cael eu cynnal a'u cadw gan yr ymgwymerwr cyfleustod at ddibenion cyflenwi dŵr; a

(d) yn achos ymgwymerwr cyfleustod o fewn paragraff (d) o'r diffiniad o'r term hwnnw—

(i) yw—

(aa) unrhyw ddraen neu weithfeydd a freiniwyd yn yr ymgwymerwr cyfleustod o dan Ddeddf y Diwydiant Dŵr 1991; a

(bb) unrhyw garthffos y'i breiniwyd felly neu'n sy'n destun hysbysiad o fwriad i'w mabwysiadu a roddwyd o dan adran 102(4) o'r Ddeddf honno(1) neu gytundeb i fabwysiadu a wnaed o dan adran 104 o'r Ddeddf honno, a

(ii) yn cynnwys prif bibell slwtsh, prif bibell waredu (o fewn ystyr adran 219 o'r Ddeddf honno) neu ollyngfa garthffosiaeth ac unrhyw dyllau archwilio, siaffftiau awyru, pypiau neu ategolion eraill sy'n ffurfio rhan o unrhyw gyfryw garthffos, draen neu weithfeydd,

ac ym mhob achos yn cynnwys unrhyw strwythur y mae cyfarpar wedi'i osod neu i'w osod ynddo neu sy'n rhoi neu a fydd yn rhoi mynediad i gyfarpar;

mae “swyddogaethau” yn cynnwys pwerau a dyletswyddau;

mae “mewn”, yng nghyd-destun cyfeirio at gyfarpar neu gyfarpar amgen mewn tir, yn cynnwys cyfeiriad at gyfarpar neu gyfarpar amgen o dan, dros neu ar dir;

ystyr “ymgwymerwr cyfleustod” yw—

(a) unrhyw ddeiliad trwydded o fewn ystyr Rhan 1 o Ddeddf Trydan 1989;

(b) cludwr nwy o fewn ystyr Rhan 1 o Ddeddf Nwy 1986(2);

(c) ymgwymerwr dŵr(3); a

(c) in the case of a utility undertaker within paragraph (c) of the definition of that term, means mains, pipes or other apparatus belonging to or maintained by the utility undertaker for the purposes of water supply; and

(d) in the case of a utility undertaker within paragraph (d) of the definition of that term—

(i) means—

(aa) any drain or works vested in the utility undertaker under the Water Industry Act 1991; and

(bb) any sewer that is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act(1) or an agreement to adopt made under section 104 of that Act, and

(ii) includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

and in each case includes any structure in which apparatus is or is to be lodged or that gives or will give access to apparatus;

“functions” includes powers and duties;

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or on land;

“utility undertaker” means—

(a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;

(b) a gas transporter within the meaning of Part 1 of the Gas Act 1986(2);

(c) a water undertaker(3); and

(1) Diwygiwyd adran 102(4) gan adran 96 o Ddeddf Dŵr 2003. Diwygiwyd adran 104 gan adran 96 o Ddeddf Dŵr 2003 a Rhan 3 o Atodlen 9 i'r ddeddf honno a chan adran 42(3) o Ddeddf Rheoli Llifogydd a Dŵr 2010 (p. 29).

(2) 1986 p. 44. Diffinnir “cludwr nwy” yn adran 7. Amnewidiwyd adran 7 newydd gan adran 5 o Ddeddf Nwy 1995 (p. 45) ac fe'i diwygiwyd ymhellach gan adran 76 o Ddeddf Cyfleustodau 2000.

(3) Diffinnir “ymgwymerwr dŵr” yn Atodlen 1 i Ddeddf Dehongli 1978.

(1) Section 102(4) was amended by section 96 of the Water Act 2003. Section 104 was amended by section 96 of, and Part 3 of Schedule 9 to, the Water Act 2003 and by section 42(3) of the Flood and Water Management Act 2010 (c. 29).

(2) 1986 c. 44. “Gas transporter” is defined in section 7. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45) and was further amended by section 76 of the Utilities Act 2000.

(3) “Water undertaker” is defined in Schedule 1 to the Interpretation Act 1978.

- (d) ystyr ymgwymerwr carthffosiaeth, ar gyfer ardal y gweithfeydd ar y tir, ac mewn perthynas ag unrhyw gyfarpar, yw'r ymgwymerwr cyfleustod y mae'n eiddo iddo neu sy'n ei gynnal a'i gadw.

3. Nid yw'r Rhan hon yn gymwys i—

- (a) cyfarpar y mae cysylltiadau rhwng yr ymgwymerwr a'r ymgwymerwr cyfleustod mewn perthynas ag ef yn cael eu rheoleiddio gan Ran 3 o Ddeddf 1991; a
- (b) y gweithfeydd llanwol.

4. Er gwaethaf unrhyw ddarpariaeth yn y Gorchymyn hwn neu unrhyw beth a ddangosir ar blân y tir, rhaid i'r ymgwymerwr beidio â chaffael unrhyw gyfarpar ac eithrio drwy gytundeb.

5.—(1) Os yw'r ymgwymerwr, drwy arfer y pwerau a roddir gan y Gorchymyn hwn, yn caffael unrhyw fuddiant mewn unrhyw dir y mae unrhyw gyfarpar yn cael ei osod arno, ni chaniateir tynnu ymaith y cyfarpar hwnnw o dan y Rhan hon, ac ni chaniateir diddymu unrhyw hawl gan ymgwymerwr cyfleustod i gynnal a chadw'r cyfarpar hwnnw yn y tir hwnnw, oni bai bod cyfarpar amgen wedi cael ei adeiladu a'i fod yn weithredol er boddhad rhesymol yr ymgwymerwr cyfleustod dan sylw.

(2) Os yw'r ymgwymerwr, at ddiben gweithredu unrhyw weithfeydd mewn, ar neu o dan unrhyw dir sy'n caei brynu, ei ddal, ei feddiannu neu ei ddefnyddio o dan y Gorchymyn hwn, yn ei gwneud yn ofynnol i unrhyw gyfarpar a osodwyd yn y tir hwnnw gael ei dynnu ymaith, rhaid iddo roi hysbysiad ysgrifenedig o'r gofyniad hwnnw i'r ymgwymerwr cyfleustod dan sylw, ynghyd â phlan a thrawslun o'r gwaith a gynigir a lleoliad arfaethedig y cyfarpar amgen sydd i'w ddarparu neu i'w adeiladu; ac yn yr achos hwnnw (neu os oes angen i ymgwymerwr cyfleustod yn rhesymol dynnu ymaith unrhyw ran o'i gyfarpar o ganlyniad i arfer unrhyw un o'r pwerau a roddir gan y Gorchymyn hwn), rhaid i'r ymgwymerwr, yn ddarostyngedig i is-baragraff (3) roi i'r ymgwymerwr cyfleustod y cyfleusterau a'r hawliau angenrheidiol i adeiladu cyfarpar amgen mewn tir arall o eiddo'r ymgwymerwr ac wedyn i gynnal a chadw'r cyfarpar hwnnw.

(3) Os oes cyfarpar amgen neu unrhyw ran o'r cyfryw gyfarpar i'w adeiladu mewn man arall ac eithrio ar dir arall yr ymgwymerwr, neu os na all yr ymgwymerwr roi'r cyfryw gyfleusterau a'r hawliau ag a grybwyllir yn is-baragraff (2) yn y tir y mae'r cyfarpar amgen neu ran o'r cyfryw gyfarpar i'w adeiladu ynddo, rhaid i'r ymgwymerwr cyfleustod dan sylw, ar ôl cael hysbysiad ysgrifenedig i'r perwyl hwnnw gan yr ymgwymerwr, cyn gynted ag y bo'n rhesymol bosibl, ddefnyddio ei ymdrechion gorau i gael y cyfleusterau a'r hawliau angenrheidiol yn y tir y mae'r cyfarpar i'w adeiladu ynddo.

- (d) a sewerage undertaker, for the area of the onshore works, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

3. This Part does not apply to—

- (a) apparatus in respect of which relations between the undertaker and the utility undertaker are regulated by Part 3 of the 1991 Act; and
- (b) the tidal works.

4. Despite any provision in this Order or anything shown on the onshore plan, the undertaker must not acquire any apparatus otherwise than by agreement.

5.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished, until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the utility undertaker in question written notice of that requirement, together with a plan and section of the work proposed and of the proposed position of the alternative apparatus to be provided or constructed; and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3) afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Rhaid i unrhyw gyfarpar amgen sydd i'w adeiladu yn nhir yr ymgymerwr o dan y Rhan hon gael ei adeiladu yn y cyfryw fodd ac yn y cyfryw linell neu leoliad ag y cytunir arnynt rhwng yr ymgymerwr cyfleustod dan sylw a'r ymgymerwr neu, yn niffyg cytundeb, ag y'u setlir drwy gymrodeddu yn unol ag erthygl 49 (cymrodeddu).

(5) Rhaid i'r ymgymerwr cyfleustod dan sylw, ar ôl cytuno ar y cyfarpar amgen sydd i'w ddarparu neu i'w adeiladu neu ei setlo drwy gymrodeddu yn unol ag erthygl 49 (cymrodeddu), ac ar ôl rhoi i'r ymgymerwr cyfleustod unrhyw gyfryw gyfleusterau a hawliau ag y cyfeirir atynt yn is-baragraff (2) neu (3), heb oedi diangen ddechrau adeiladu a gweithredu'r cyfarpar amgen ac wedyn dynnu ymaith unrhyw gyfarpar y mae'n ofynnol gan yr ymgymerwr ei dynnu ymaith o dan ddarpariaethau'r Rhan hon.

(6) Er gwaethaf is-baragraff (5), os yw'r ymgymerwr yn rhoi hysbysiad yn ysgrifenedig i'r ymgymerwr cyfleustod dan sylw ei fod yn dymuno cwblhau ei hun unrhyw waith, neu ran o unrhyw waith mewn cysylltiad ag adeiladu neu dynnu ymaith gyfarpar mewn unrhyw dir sy'n eiddo i'r ymgymerwr, rhaid i'r gwaith hwnnw, yn lle cael ei gwblhau gan yr ymgymerwr cyfleustod, gael ei gwblhau gan yr ymgymerwr heb oedi diangen o dan oruchwyliaeth yr ymgymerwr cyfleustod, os y'i rhoddir, ac er boddhad rhesymol yr ymgymerwr cyfleustod.

(7) Nid oes dim yn is-baragraff (6) yn awdurdodi'r ymgymerwr i gwblhau lleoli, gosod, sadio, gwasgu, tynnu, cysylltu neu ddatgysylltu unrhyw gyfarpar, neu gwblhau unrhyw lenwi o amgylch y cyfarpar (pan fo'r cyfarpar yn cael ei osod mewn ffos) o fewn 300 milimetr i'r cyfarpar.

6.—(1) Pan fo'r ymgymerwr yn rhoi i ymgymerwr cyfleustod, yn unol â'r Rhan hon, gyfleusterau a hawliau i adeiladu a chynnal a chadw cyfarpar amgen yn nhir yr ymgymerwr yn lle'r cyfarpar sydd i'w dynnu ymaith, rhaid i'r cyfleusterau a'r hawliau hynny gael eu rhoi ar y cyfryw delerau ac amodau ag y cytunir arnynt rhwng yr ymgymerwr a'r ymgymerwr cyfleustod dan sylw neu, yn niffyg cytundeb, ag y'u setlir drwy gymrodeddu yn unol ag erthygl 49 (cymrodeddu).

(2) Wrth setlo'r telerau ac amodau hynny mewn cysylltiad â'r cyfarpar amgen sydd i'w adeiladu yn neu ar hyd y prosiect awdurdodedig, rhaid i'r cymrodeddwr—

- (a) gweithredu pob un o ofynion rhesymol yr ymgymerwr o ran sicrhau diogelwch a gweithrediad effeithlon y prosiect awdurdodedig a sicrhau unrhyw newidiadau neu addasiadau canlyniadol i'r cyfarpar amgen ag sy'n ofynnol er mwyn atal ymyriadau â gweithfeydd awdurdodedig yr ymgymerwr; a

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 49 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 49 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part.

(6) Despite sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction, of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench), within 300 millimetres of the apparatus.

6.—(1) Where, in accordance with this Part, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted on such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 49 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in or along the authorised project, the arbitrator must—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised project and for securing any subsequent alterations or adaptations of the alternative apparatus that may be required to prevent interference with any proposed works of the undertaker; and

(b) i'r graddau y mae'n rhesymol ac yn ymarferol gwneud hynny o dan amgylchiadau'r achos penodol, weithredu telerau ac amodau, os o gwbl, sy'n gymwys i'r cyfarpar a adeiladwyd yn neu ar hyd y prosiect awdurdodedig y mae'r cyfarpar amgen i'w roi yn ei le.

(3) Os yw'r cyfleusterau a'r hawliau sydd i'w rhoi gan yr ymgwymerwr mewn cysylltiad ag unrhyw gyfarpar amgen, a'r telerau ac amodau y mae'r cyfleusterau a'r hawliau hynny i'w rhoi yn ddarostyngedig iddynt, ym marn y cymrodeddwr, yn llai ffafriol ar y cyfan i'r ymgwymerwr cyfleustod dan sylw na'r cyfleusterau a'r hawliau y mae'n eu mwynhau mewn cysylltiad â'r cyfarpar sydd i'w dynnu ymaith a'r telerau ac amodau y mae'r cyfleusterau a'r hawliau hynny yn ddarostyngedig iddynt, rhaid i'r cymrodeddwr wneud y cyfryw ddarpariaeth i'r ymgwymerwr ddigolledu'r ymgwymerwr cyfleustod ag yr ymddengys yn rhesymol i'r cymrodeddwr wedi iddo roi sylw i holl amgylchiadau'r achos penodol.

7.—(1) Heb fod yn llai na 28 diwrnod cyn dechrau ar unrhyw weithfeydd o'r math y cyfeirir ato ym mharagraff 5(2) sydd wrth ymyl unrhyw gyfarpar nad yw'r ymgwymerwr wedi'i gwneud yn ofynnol ei dynnu ymaith o dan yr is-baragraff hwnnw, neu a fydd yn effeithio neu a all effeithio ar y cyfryw gyfarpar, rhaid i'r ymgwymerwr gyflwyno i'r ymgwymerwr cyfleustod dan sylw blan, trawslun a disgrifiad o'r gweithfeydd i'w cwblhau.

(2) Rhaid i'r gweithfeydd hynny gael eu cwblhau yn unol â'r cynllun, y trawslun a'r disgrifiad a gyflwynwyd o dan is-baragraff (1) yn unig ac yn unol â'r cyfryw ofynion rhesymol ag a wneir yn unol ag is-baragraff (3) gan yr ymgwymerwr cyfleustod i newid neu fel arall ddiogelu'r cyfarpar, neu i sicrhau mynediad iddo; ac mae gan yr ymgwymerwr cyfleustod yr hawl i wyllo ac archwilio'r gweithfeydd sy'n cael eu cwblhau.

(3) Rhaid i unrhyw ofynion a wneir gan ymgwymerwr cyfleustod o dan is-baragraff (2) gael eu gwneud o fewn cyfnod o 21 diwrnod sy'n dechrau gyda'r diwrnod y cyflwynwyd plan, trawslun a disgrifiad o dan is-baragraff (1) iddo.

(4) Os yw ymgwymerwr cyfleustod, yn unol ag is-baragraff (3) ac o ganlyniad i'r gweithfeydd a gynigir gan yr ymgwymerwr, yn ei gwneud yn ofynnol yn rhesymol dynnu ymaith unrhyw gyfarpar ac yn rhoi hysbysiad ysgrifenedig i'r ymgwymerwr o'r gofyniad hwnnw, mae paragraffau 1 i 6 yn gymwys fel pe bai'r ymgwymerwr wedi'i gwneud yn ofynnol tynnu ymaith y cyfarpar o dan baragraff 5(2).

(b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or along the authorised project for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to the utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

7.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 5(2) that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under that sub-paragraph, the undertaker must submit to the utility undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it; and the utility undertaker is entitled to watch and inspect the execution of the works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the day on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If a utility undertaker, in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 6 apply as if the removal of the apparatus had been required by the undertaker under paragraph 5(2).

(5) Nid oes dim yn y paragraff hwn yn atal yr ymgwymerwr rhag cyflwyno ar unrhyw adeg neu o bryd i'w gilydd, ond nid mewn unrhyw achos lai na 28 diwrnod cyn dechrau ar unrhyw weithfeydd, blan, trawslun a disgrifiad newydd yn lle'r plan, y trawslun a'r disgrifiad a gyflwynwyd yn flaenorol, ac wedi gwneud hynny mae darpariaethau'r paragraff hwn yn gymwys i'r plan, y trawslun a'r disgrifiad newydd ac mewn cysylltiad â hwy.

(6) Nid yw'n ofynnol i'r ymgwymerwr gydymffurfio ag is-baragraff (1) mewn achos brys, ond yn yr achos hwnnw, rhaid iddo hysbysu'r ymgwymerwr cyfleustod dan sylw cyn gynted ag y bo'n rhesymol ymarferol a rhoi plan, trawslun a disgrifiad o'r gweithfeydd hynny iddo cyn gynted ag y bo'n rhesymol ymarferol a rhaid iddo gydymffurfio ag is-baragraff (2) i'r graddau y mae'n rhesymol ymarferol o dan yr amgylchiadau.

8.—(1) Yn ddarostyngedig i ddarpariaethau'r paragraff hwn, rhaid i'r ymgwymerwr ad-dalu i ymgwymerwr cyfleustod y treuliau rhesymol y mae'r ymgwymerwr cyfleustod wedi mynd iddynt wrth neu mewn cysylltiad ag—

- (a) archwilio, tynnu ymaith ac ailosod neu adnewyddu, newid neu ddiogelu unrhyw gyfarpar neu adeiladu unrhyw gyfarpar newydd o dan y Rhan hon (gan gynnwys unrhyw gostau yr eir iddynt yn rhesymol neu ddioglediad a delir yn briodol mewn cysylltiad â chaffael hawliau neu arfer pwerau statudol ar gyfer y cyfryw gyfarpar);
- (b) torri unrhyw gyfarpar oddi wrth unrhyw gyfarpar arall, neu wneud unrhyw gyfarpar diangen yn ddiogel, o ganlyniad i arfer unrhyw bŵer gan yr ymgwymerwr o dan y Gorchymyn hwn;
- (c) arolygu unrhyw dir, cyfarpar neu weithfeydd, archwilio, goruchwyllo a monitro gweithfeydd neu osod neu dynnu ymaith unrhyw weithfeydd dros dro sy'n rhesymol angenrheidiol o ganlyniad i arfer unrhyw bŵer gan yr ymgwymerwr o dan y Gorchymyn hwn; a
- (d) unrhyw waith neu beth arall sy'n rhesymol angenrheidiol o ganlyniad i arfer unrhyw gyfryw bŵer gan yr ymgwymerwr,

o fewn cyfnod rhesymol i gael ei hysbysu gan yr ymgwymerwr cyfleustod ei fod wedi mynd i'r cyfryw dreuliau.

(2) Rhaid didynnu o unrhyw swm sy'n daladwy o dan is-baragraff (1) werth unrhyw gyfarpar a dynnwyd ymaith o dan y Rhan hon, y cyfrifir y gwerth hwnnw ar ôl ei dynnu ymaith.

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency, but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

8.—(1) Subject to the provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses incurred by the utility undertaker in, or in connection with—

- (a) the inspection, removal and relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus under this Part (including any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or exercise of statutory powers for such apparatus);
- (b) the cutting off of any apparatus from any other apparatus, or the making safe of any redundant apparatus, in consequence of the exercise by the undertaker of any power under this Order;
- (c) the survey of any land, apparatus or works, the inspection, superintendence and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the exercise by the undertaker of any power under this Order; and
- (d) any other work or thing rendered reasonably necessary in consequence of the exercise by the undertaker of any such power,

within a reasonable time of being notified by the utility undertaker that it has incurred such expenses.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under this Part, that value being calculated after removal.

(3) Os yn unol â'r Rhan hon—

- (a) gosodir cyfarpar o fath gwell, o gapasiti ychwanegol neu o ddimensiynau mwy yn lle'r cyfarpar presennol o fath gwaeth, o gapasiti llai neu o ddimensiynau llai; neu
- (b) gosodir cyfarpar (y cyfarpar presennol neu gyfarpar a roddwyd yn lle'r cyfarpar presennol) ar ddyfnder sy'n ddyfnach na'r dyfnder y bu'r cyfarpar presennol, ac na chytunwyd i osod cyfarpar o'r math hwnnw neu'r capasiti hwnnw neu o'r dimensiynau hynny nac i osod cyfarpar ar y dyfnder hwnnw, yn ôl y digwydd, gan yr ymgwymerwr neu, yn niffyg cytundeb, na phenderfynir drwy gymrodeddu yn unol ag erthygl 49 (cymrodeddu) ei bod yn angenrheidiol, yna os oes cost ynghlwm wrth y cyfryw osod wrth adeiladu gweithfeydd o dan y Rhan hon sy'n fwy na'r hyn a fyddai wedi bod ynghlwm pe bai'r cyfarpar a osodwyd wedi bod yn gyfarpar o'r math, y capasiti neu'r dimensiynau presennol, neu ar y dyfnder presennol, yn ôl y digwydd, rhaid i'r swm a fyddai ar wahân i'r is-baragraff hwn yn daladwy i'r ymgwymerwr cyfleustod dan sylw yn rhinwedd is-baragraff (1) gael ei leihau o'r gorswm hwnnw.

(4) At ddibenion is-baragraff (3)—

- (a) nid yw estyn cyfarpar i hyd sy'n fwy na hyd y cyfarpar presennol i'w drin fel pe bai'n gosod cyfarpar o ddimensiynau mwy na rhai'r cyfarpar presennol; a
- (b) phan gytunir ar ddarparu uniad mewn cebl, neu pan benderfynir bod darparu uniad mewn cebl yn angenrheidiol, mae darpariaeth gysylltiedig siambr uno neu dwll archwilio i'w thrin fel pe cytunid arni hefyd neu fel pe penderfynid ami felly.

(5) Rhaid i swm a fyddai ar wahân i'r is-baragraff hwn yn daladwy i ymgwymerwr cyfleustod mewn cysylltiad â gweithfeydd yn rhinwedd is-baragraff (1), os yw'r gweithfeydd yn cynnwys gosod cyfarpar a ddarparwyd yn lle'r cyfarpar a osodwyd fwy na 7 mlynedd a 6 mis yn gynharach roi unrhyw fuddiant ariannol i'r ymgwymerwr cyfleustod sy'n codi drwy ohirio amser adnewyddu'r cyfarpar fel arfer gael ei leihau o swm y buddiant hwnnw.

9.—(1) Yn ddarostyngedig i is-baragraffau (2) a (3), os achosir unrhyw ddifrod i unrhyw gyfarpar oherwydd neu o ganlyniad i adeiladu unrhyw weithfeydd y cyfeirir atynt ym mharagraff 5(2) (heblaw cyfarpar nad yw'n rhesymol angenrheidiol ei atgyweirio o ystyried y bwriad i'w waredu at ddibenion y gweithfeydd hynny) neu eiddo ymgwymerwr

(3) If in accordance with this Part—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 49 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of subparagraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount that represents that benefit.

9.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works referred to in paragraph 5(2) any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or

cyfleustod, neu oes unrhyw darfu ar unrhyw wasanaeth a ddarperir gan yr ymgwymerwr cyfleustod, rhaid i'r ymgwymerwr—

- (a) dwyn a thalu'r gost y mae'r ymgwymerwr cyfleustod yn rhesymol yn mynd iddi wrth unioni'r cyfryw ddifrod neu wrth adfer y cyflenwad; a
- (b) rhoi digollediad rhesymol i'r ymgwymerwr cyfleustod am unrhyw dreuliau, colled, iawndal, cosb neu gostau eraill y mae'r ymgwymerwr cyfleustod yn mynd iddynt, oherwydd neu o ganlyniad i unrhyw gyfryw ddifrod neu darfu.

(2) Nid oes dim yn is-baragraff (1) yn gosod unrhyw atebolrwydd ar yr ymgwymerwr mewn cysylltiad ag unrhyw ddifrod neu darfu i'r graddau y gellir ei briodoli i weithred, esgeulustod neu ddiffyg ymgwymerwr cyfleustod, ei swyddogion, ei weision, ei gontractwyr neu ei asiantau.

(3) Rhaid i ymgwymerwr cyfleustod roi rhybudd rhesymol i'r ymgwymerwr am unrhyw hawliad neu archeb am dâl ac ni chaniateir gwneud unrhyw setliad na chyfaddawd heb gydsyniad yr ymgwymerwr y mae'n rhaid iddo, os yw'n atal y cyfryw gydsyniad, gynnal ar ei ben ei hun unrhyw setliad neu gyfaddawd neu unrhyw achos llys sy'n angenrheidiol i wrthsefyll yr hawliad neu'r archeb am dâl.

10. Nid oes dim yn y Rhan hon yn effeithio ar ddarpariaethau unrhyw ddeddfiad neu gytundeb sy'n rheoleiddio'r cydberthnasau rhwng yr ymgwymerwr a'r ymgwymerwr cyfleustod mewn cysylltiad ag unrhyw gyfarpar sydd wedi ei osod neu wedi ei godi mewn tir sy'n eiddo i'r ymgwymerwr ar y dyddiad y gwneir y Gorchymyn hwn.

RHAN 2

Diogelu Network Rail Infrastructure Limited

11. Mae darpariaethau'r Rhan hon yn cael effaith oni chytunir fel arall yn ysgrifenedig rhwng yr ymgwymerwr a Network Rail a, phan fo paragraff 15 yn gymwys, unrhyw berson arall y rhoddir hawliau neu rwymedigaethau iddo gan y paragraff hwnnw.

12. Yn y Rhan hon—

mae “adeiladu” yn cynnwys cwblhau, gosod, newid ac ailadeiladu ac mae i “adeiladu” ac “wedi ei adeiladu” ystyron cyfatebol;

ystyr “peiriannydd” yw peiriannydd a benodir gan Network Rail at ddibenion y Gorchymyn hwn;

ystyr “trwydded rhwydwaith” yw'r drwydded rhwydwaith, fel y'i diwygir o bryd i'w gilydd, a roddwyd i Network Rail gan yr Ysgrifennydd

property of a utility undertaker, or there is any interruption in any service provided by the utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by the utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to the utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker, by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(3) A utility undertaker must give the undertaker reasonable notice of any claim or demand and no settlement or compromise must be made without the consent of the undertaker which, if it withholds such consent, must have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

10. Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus laid or erected in land belonging to the undertaker at the date on which this Order is made.

PART 2

Protection of Network Rail Infrastructure Limited

11. The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and Network Rail and, where paragraph 15 applies, any other person on whom rights or obligations are conferred by that paragraph.

12. In this Part—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail by the Secretary of State in exercise

Gwladol drwy arfer pwerau o dan adran 8 o Ddeddf Rheilffyrdd 1993(1);

ystyr “Network Rail” yw Network Rail Infrastructure Limited ac unrhyw gwmni cysylltiedig i Network Rail Infrastructure Limited sy'n dal eiddo at ddibenion rheilffordd, ac at ddiben y diffiniad hwn ystyr “cwmni cysylltiedig” yw unrhyw gwmni sydd (o fewn ystyr adran 1159 o Ddeddf Cwmnïau 2006(2)) sy'n gwmni daliannol Network Rail Infrastructure Limited, sy'n is-gwmni i Network Rail Infrastructure Limited neu sy'n is-gwmni arall i gwmni daliannol Network Rail Infrastructure Limited;

mae “planiau” yn cynnwys trawsluniau, dyluniadau, data dylunio, meddalwedd, lluniadau, rhagofynion, adroddiadau ar bridd, cyfrifiadau, disgrifiadau (gan gynnwys disgrifiadau o ddulliau adeiladu), cynigion fesul cam, rhaglenni a manylion y graddau y bwriedir meddiannu eiddo rheilffordd ac amseriad a hyd hynny;

ystyr “gweithdrefnau gweithredol rheilffyrdd” yw gweithdrefnau a bennir o dan unrhyw gytundeb ynglŷn â mynediad (fel y'i diffiniwyd yn Neddf Rheilffyrdd 1993(3)) neu brydles gorsaf;

ystyr “eiddo rheilffordd” yw unrhyw reilffordd sy'n eiddo i Network Rail ac—

- (a) unrhyw orsaf, tir, gweithfeydd, cyfarpar ac offer sy'n eiddo i Network Rail neu sy'n gysylltiedig ag unrhyw gyfryw reilffordd; a
- (b) unrhyw hawddfaint neu fuddiant arall mewn eiddo a ddelir neu a ddefnyddir gan Network Rail at ddibenion y cyfryw reilffordd neu weithfeydd, cyfarpar neu offer;

ystyr “gwaith penodedig” yw cymaint o unrhyw un o'r gweithfeydd ar y tir ag sydd wedi'i leoli ar, ar draws, o dan, dros neu o fewn 15 metr i eiddo rheilffordd, neu a all effeithio ar eiddo rheilffordd mewn unrhyw ffordd.

13.—(1) Pan fo'n ofynnol o dan y Rhan hon i Network Rail roi ei gydsyniad neu ei gymeradwyaeth mewn cysylltiad ag unrhyw fater, mae'r cydsyniad hwnnw neu'r gymeradwyaeth honno yn ddarostyngedig i'r amod bod Network Rail yn cydymffurfio ag unrhyw weithdrefnau gweithredol perthnasol rheilffordd, ac unrhyw rwymedigaethau o dan ei drwydded rhwydwaith neu o dan statud.

of powers under section 8 of the Railways Act 1993(1);

“Network Rail” means Network Rail Infrastructure Limited and any associated company of Network Rail Infrastructure Limited that holds property for railway purposes, and for the purpose of this definition “associated company” means any company that is (within the meaning of section 1159 of the Companies Act 2006(2)) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993(3)) or station lease;

“railway property” means any railway belonging to Network Rail and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail for the purposes of such railway or works, apparatus or equipment;

“specified work” means so much of any of the onshore works as is situated on, across, under, over or within 15 metres of, or may in any way affect, railway property.

13.—(1) Where under this Part Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures, and any obligations under its network licence or under statute.

(1) 1993 p. 43. Diwygiwyd adran 8 gan baragraff 4 o Atodlen 17 a Rhan 4 o Atodlen 31 i Ddeddf Trafnidiaeth 2000 (p. 38), paragraffau 3 a 5 o Atodlen 2 i Ddeddf Rheilffyrdd a Diogelwch Trafnidiaeth 2003 (p. 20) a pharagraff 3 o Atodlen 1 a Rhan 1 o Atodlen 13 i Ddeddf Rheilffyrdd 2005 (p. 14).

(2) 2006 p. 46.

(3) Diffinnir “cytundeb ynglŷn â mynediad” yn adran 83.

(1) 1993 c. 43. Section 8 was amended by paragraph 4 of Schedule 17 and Part 4 of Schedule 31 to the Transport Act 2000 (c. 38), paragraphs 3 and 5 of Schedule 2 to the Railways and Transport Safety Act 2003 (c. 20) and paragraph 3 of Schedule 1 and Part 1 of Schedule 13 to the Railways Act 2005 (c. 14).

(2) 2006 c. 46.

(3) “Access agreement” is defined in section 83.

(2) I'r graddau y mae unrhyw waith penodedig neu gaffael neu ddefnyddio eiddo rheilffordd yn ddarostyngedig neu y gall fod yn ddarostyngedig i weithdrefnau gweithredol rheilffordd, rhaid i Network Rail—

- (a) cydweithredu â'r ymgwymerwr gyda'r nod o osgoi oedi amhriodol a sicrhau cydymffurfiaeth rhwng unrhyw blaniau a gymeradwyir gan y peiriannydd a gofynion sy'n deillio o'r gweithdrefnau hynny; a
- (b) defnyddio ei ymdrechion rhesymol i osgoi unrhyw wrthdaro sy'n codi rhwng cymhwyso'r gweithdrefnau hynny a gweithredu'r prosiect awdurdodedig yn briodol yn unol â'r Gorchymyn hwn.

14.—(1) Ni chaniateir i'r ymgwymerwr arfer y pwerau a roddir gan

- (a) erthygl 12 (*gollwng dŵr*);
- (b) erthygl 14 (*pŵer i arolygu ac ymchwilio i dir*);
- (c) erthygl 22 (*pŵer i gaffael tir*);
- (d) erthygl 23 (*pŵer i gaffael hawliau a gosod cyfamodau cyfyngol*);
- (e) erthygl 26 (*pŵer i gaffael is-bridd yn unig*);
- (f) erthygl 28 (*defnyddio tir dros dro ar gyfer adeiladu gweithfeydd*);
- (g) erthygl 29 (*defnyddio tir dros dro ar gyfer cynnal a chadw gweithfeydd*);
- (h) erthygl 34 (*pŵer i drechu hawddfrentiau a hawliau eraill*);
- (i) erthygl 35 (*hawliau preifat dros dir*);
- (j) erthygl 40 (*pŵer i docio coed sy'n gorhongian dros y gweithfeydd awdurdodedig a gwaredu gwrychoedd*);
- (k) erthygl 44 ac Atodlen 10 i'r Gorchymyn (*ymgymerwyr statudol*); neu
- (l) y pwerau a roddwyd gan adran 11(3) o Ddeddf 1965,

mewn cysylltiad ag unrhyw eiddo rheilffordd oni bai bod y cyfryw bwerau yn cael eu harfer gyda chydysniad Network Rail.

(2) Ni chaniateir i'r ymgwymerwr drwy arfer y pwerau a roddir gan y Gorchymyn hwn atal mynediad i unrhyw eiddo rheilffordd i gerddwyr na cherbydau, onid atelir y cyfryw fynediad gyda chydysniad Network Rail.

(3) Ni chaniateir i'r ymgwymerwr arfer y pwerau a roddwyd gan adrannau 271 neu 272 o Ddeddf 1990, nac Atodlen 10 i'r Gorchymyn hwn, mewn perthynas ag unrhyw hawl mynediad sydd gan Network Rail i eiddo rheilffordd ond caniateir dargyfeirio'r cyfryw hawliau mynediad gyda chydysniad Network Rail.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use its reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised project pursuant to this Order.

14.—(1) The undertaker must not exercise the powers conferred by—

- (a) article 12 (*discharge of water*);
- (b) article 14 (*power to survey and investigate land*);
- (c) article 22 (*power to acquire land*);
- (d) article 23 (*power to acquire rights and impose restrictive covenants*);
- (e) article 26 (*power to acquire subsoil only*);
- (f) article 28 (*temporary use of land for construction of works*);
- (g) article 29 (*temporary use of land for maintenance of works*);
- (h) article 34 (*power to override easements and other rights*);
- (i) article 35 (*private rights over land*);
- (j) article 40 (*power to lop trees overhanging the authorised works and removal of hedgerows*);
- (k) article 44 and Schedule 10 to the Order (*statutory undertakers*); or
- (l) the powers conferred by section 11(3) of the 1965 Act,

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, or Schedule 10 to this Order, in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) Ni chaniateir i'r ymgwymerwr o dan bwerau'r Gorchymyn hwn gaffael neu ddefnyddio neu gaffael hawliau newydd, na cheisio gosod unrhyw gyfamodau cyfyngol, dros unrhyw eiddo rheilffordd, na diddymu unrhyw hawliau presennol sydd gan Network Rail mewn cysylltiad ag eiddo unrhyw drydydd parti, ac eithrio gyda chydysyniad Network Rail.

(5) Pan ofynnir i Network Rail roi ei gydsyniad yn unol â'r paragraff hwn, ni chaniateir iddo atal y cyfryw ganiatâd yn afresymol ond caiff ei roi yn ddarostyngedig i amodau rhesymol.

15.—(1) Rhaid i'r ymgwymerwr cyn cychwyn ar adeiladu unrhyw waith penodedig ddarparu planiau priodol a digonol o'r gwaith hwnnw i Network Rail ar gyfer cymeradwyaeth resymol y peiriannydd ac ni chaniateir cychwyn ar y gwaith penodedig ac eithrio yn unol â'r cyfryw blaniau ag a gymeradwywyd yn ysgrifenedig gan y peiriannydd neu ag a setlwyd drwy gymrodeddu.

(2) Ni chaniateir i'r peiriannydd o dan is-baragraff (1) atal cymeradwyaeth nac oedi cyn rhoi cymeradwyaeth yn afresymol, ac os nad yw'r peiriannydd, erbyn diwedd y cyfnod o 28 diwrnod sy'n dechrau ar y diwrnod y darparwyd y cyfryw blaniau i Network Rail, wedi mynegi ei fod yn anghymeradwyo'r planiau hynny nac wedi nodi'r seiliau dros eu hanghymeradwyo, caiff yr ymgwymerwr gyflwyno hysbysiad ysgrifenedig i'r peiriannydd yn ei gwneud yn ofynnol iddo fynegi cymeradwyaeth neu anghymeradwyaeth o fewn cyfnod pellach o 28 diwrnod sy'n dechrau ar y diwrnod y mae'r peiriannydd yn cael hysbysiad ysgrifenedig gan yr ymgwymerwr. Os nad yw'r peiriannydd wedi mynegi cymeradwyaeth nac anghymeradwyaeth erbyn diwedd y cyfnod pellach o 28 diwrnod, bernir bod y peiriannydd wedi cymeradwyo'r planiau fel y'u cyflwynwyd.

(3) Os yw Network Rail, erbyn diwedd 28 diwrnod sy'n dechrau ar y diwrnod y cyflwynwyd hysbysiad ysgrifenedig i'r peiriannydd o dan is-baragraff (2), yn hysbysu'r ymgwymerwr bod Network Rail ei hun yn dymuno adeiladu unrhyw ran o waith penodedig a fydd neu a all, ym marn y peiriannydd, effeithio ar sefydlogrwydd eiddo rheilffordd neu weithrediad diogel traffig ar reilffyrdd Network Rail yna, os yw'r ymgwymerwr yn dymuno bod y cyfryw ran o'r gwaith penododig yn cael ei hadeiladu, rhaid i Network Rail ei hadeiladu mor gyflym ag y bo'n rhesymol bosibl ar ran yr ymgwymerwr ac er boddhad rhesymol yr ymgwymerwr yn unol â'r planiau a gymeradwywyd neu y bernir eu bod wedi cael eu cymeradwyo neu eu setlo o dan y paragraff hwn ac o dan oruchwyliaeth (pan fo'n briodol ac os y'i rhoddir) yr ymgwymerwr.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

(5) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions.

15.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld or delayed, and if by the end of the period of 28 days beginning with the day on which such plans have been supplied to Network Rail the engineer has not intimated disapproval of those plans and the grounds of disapproval, the undertaker may serve on the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the day on which the engineer receives written notice from the undertaker. If by the expiry of the further period of 28 days the engineer has not intimated approval or disapproval, the engineer is deemed to have approved the plans as submitted.

(3) If by the expiry of 28 days beginning with the day on which written notice was served on the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work that in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph and under the supervision (where appropriate and if given) of the undertaker.

(4) Wrth fynegi ei gymeradwyaeth o'r planiau, caiff y peiriannydd bennu unrhyw weithfeydd diogelu (boed yn rhai dros dro neu barhaol) a ddylai, ym marn y peiriannydd, gael eu cyflawni cyn cychwyn ar adeiladu gwaith penodedig er mwyn sicrhau diogelwch neu sefydlogrwydd eiddo rheilffordd neu barhad gweithrediad diogel ac effeithlon rheilffyrdd Network Rail neu wasanaethau gweithredwyr sy'n eu defnyddio (gan gynnwys adleoli, datgomisiynu a gwaredu unrhyw weithfeydd, cyfarpar ac offer sy'n angenrheidiol oherwydd gwaith penodedig ac er cysur a diogelwch teithwyr y gall y gweithfeydd penodedig effeithio arnynt), a rhaid i'r cyfryw weithfeydd diogelu ag y bo'n rhesymol angenrheidiol at y dibenion hynny gael eu hadeiladu gan Network Rail neu gan yr ymgymwr, os dymuna Network Rail felly, a rhaid i'r cyfryw weithfeydd diogelu gael eu cyflawni ar draul yr ymgymwr, yn y naill achos neu'r llall mor gyflym ag y bo'n rhesymol bosibl, a rhaid i'r ymgymwr beidio â chychwyn ar adeiladu'r gweithfeydd penodedig nes bod y peiriannydd wedi hysbysu'r ymgymwr bod y gweithfeydd diogelu wedi cael eu cwblhau er boddhad rhesymol y peiriannydd.

16.—(1) Rhaid i unrhyw weithfeydd penodedig ac unrhyw weithfeydd diogelu sydd i'w hadeiladu yn rhinwedd paragraff 15(4), pan gychwynir arnynt, gael eu hadeiladu—

- (a) mor gyflym ag y bo'n rhesymol bosibl yn unol â'r planiau a gymeradwywyd neu y barnwyd eu bod wedi cael eu cymeradwyo neu eu setlo o dan baragraff 5;
- (b) o dan oruchwyliaeth (pan fo'n briodol ac os y'i rhoddir) y peiriannydd ac er boddhad rhesymol y peiriannydd;
- (c) yn y cyfryw fodd ag sy'n achosi cyn lleied o ddifrod ag y bo'n bosibl i eiddo rheilffordd;
- (d) i'r graddau y mae'n rhesymol ymarferol, fel nad ydynt yn ymyrryd â defnydd rhydd, didor a diogel o unrhyw un o reilffyrdd Network Rail na'r traffig arnynt a'r defnydd o eiddo rheilffordd gan deithwyr nac yn eu rhwystro.

(2) Os achosir unrhyw ddifrod i eiddo rheilffordd neu os achosir unrhyw ymyriad neu rwystr oherwydd adeiladu gwaith penodedig neu o ganlyniad i adeiladu gwaith penodedig, rhaid i'r ymgymwr, er gwaethaf unrhyw gyfryw gymeradwyaeth, unioni'r cyfryw ddifrod a rhaid iddo dalu pob traul resymol i Network Rail y gall Network Rail fynd iddi a digollediad am unrhyw golled a achosir i Network Rail drwy unrhyw gyfryw ddifrod, ymyriad neu rwystr

(4) When signifying approval of the plans, the engineer may specify any protective works (whether temporary or permanent) that in the engineer's opinion should be carried out before commencement of construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation, decommissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker, in either case with all reasonable dispatch, and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to the engineer's reasonable satisfaction.

16.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 15(4) must, when commenced, be constructed—

- (a) with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled under paragraph 5;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property;
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic on it and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of, the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss that it may sustain by reason of any such damage, interference or obstruction.

(3) Nid oes dim yn y Rhan hon yn gosod unrhyw atebolrwydd ar yr ymgwymerwr o ran—

- (a) unrhyw ddifrod, costau, treuliau neu golled y gellir ei briodoli neu ei phriodoli i esgeuluster Network Rail neu ei weision, ei gontractwyr neu ei asiantau; neu
- (b) unrhyw atebolrwydd ar Network Rail o ran unrhyw ddifrod, costau, treuliau neu golled y gellir ei briodoli neu ei phriodoli i esgeuluster yr ymgwymerwr neu ei weision, ei gontractwr neu ei asiantau.

17. Rhaid i'r ymgwymerwr—

- (a) ar bob adeg ddarparu cyfleusterau rhesymol i'r peiriannydd gael mynediad i waith penodedig wrth iddo gael ei adeiladu; a
- (b) darparu'r holl gyfryw wybodaeth i'r peiriannydd ag y caiff y peiriannydd yn rhesymol ofyn amdani o ran gwaith penodedig neu'r dull o'i adeiladu.

18. Rhaid i Network Rail ar bob adeg ddarparu cyfleusterau rhesymol i'r ymgwymerwr a'i asiantau gael mynediad i unrhyw weithfeydd a gyflawnir gan Network Rail o dan y Rhan hon wrth iddynt gael eu hadeiladu a rhaid iddo roi'r cyfryw wybodaeth i'r ymgwymerwr ag y caiff yn rhesymol ofyn amdani o ran y cyfryw weithfeydd neu'r dull o'u hadeiladu.

19.—(1) Os oes unrhyw newidiadau neu ychwanegiadau parhaol neu dros dro i eiddo rheilffordd yn rhesymol angenrheidiol o ganlyniad i adeiladu gwaith penodedig neu yn ystod y cyfnod o 24 mis ar ôl cwblhau'r gwaith hwnnw er mwyn sicrhau diogelwch eiddo rheilffordd neu barhad gweithrediad diogel ac effeithlon rheilffordd Network Rail, caiff y cyfryw newidiadau ac ychwanegiadau gael eu cyflawni gan Network Rail, ac os yw Network Rail yn rhoi hysbysiad rhesymol i'r ymgwymerwr o'i fwriad i gyflawni'r cyfryw newidiadau neu ychwanegiadau (y mae'n rhaid iddynt gael eu pennu yn yr hysbysiad), rhaid i'r ymgwymerwr dalu cost resymol y newidiadau a'r ychwanegiadau hynny i Network Rail gan gynnwys, mewn perthynas ag unrhyw gyfryw newidiadau ac ychwanegiadau ag y bo'n barhaol, swm wedi ei gyfalafu sy'n cynrychioli'r cynnydd mewn costau y gellir disgwyl y bydd Network Rail yn mynd iddynt yn rhesymol wrth gynnal a chadw, gweithio a, phan fo'n angenrheidiol, adnewyddu unrhyw gyfryw newidiadau neu ychwanegiadau.

(3) Nothing in this Part imposes any liability on the undertaker with respect to—

- (a) any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents; or
- (b) any liability on Network Rail with respect to any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractor or agents.

17. The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing it.

18. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

19.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction of a specified work or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe and efficient operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail, and if Network Rail gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs that may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) Os yw Network Rail, pan fo'r ymgwymerwr yn adeiladu gwaith penodedig, yn hysbysu'r ymgwymerwr bod Network Rail ei hun yn dymuno adeiladu'r rhan honno o'r gwaith penodedig sydd, ym marn y peiriannydd, yn peryglu sefydlogrwydd eiddo rheilffordd neu weithrediad diogel traffig ar reilffyrdd Network Rail yna, os yw'r ymgwymerwr yn penderfynu bod y rhan honno o'r gwaith penodedig i'w hadeiladu, rhaid i Network Rail ymgymryd ag adeiladu'r rhan honno o'r gwaith penodedig a rhaid i'r ymgwymerwr, er gwaethaf unrhyw gymeradwyaeth o'r gwaith penodedig o dan baragraff 15(1), dalu pob traul resymol i Network Rail y gall Network Rail fynd iddi a digollediad am unrhyw golled a achosir i Network Rail drwy gwblhau'r gwaith penodedig gan Network Rail.

(3) Rhaid i'r peiriannydd, mewn cysylltiad â'r symiau wedi eu cyfalafu y cyfeirir atynt yn y paragraff hwn a pharagraff 20(a) ddarparu'r cyfryw fanylion am y fformiwla a ddefnyddiwyd i gyfrifo'r symiau hynny ag y caiff yr ymgwymerwr yn rhesymol ofyn amdanynt.

(4) Os bydd cost cynnal a chadw, gweithio neu adnewyddu eiddo rheilffordd yn lleihau o ganlyniad i unrhyw gyfryw newidiadau neu ychwanegiadau, rhaid i swm wedi ei gyfalafu sy'n cynrychioli'r cyfryw arbedion gael ei wrthgyfrif yn erbyn unrhyw swm sy'n daladwy gan yr ymgwymerwr i Network Rail o dan y paragraff hwn.

20. Rhaid i'r ymgwymerwr ad-dalu'r holl ffioedd, costau, taliadau a threuliau yr eir iddynt gan Network Rail i Network Rail—

- (a) wrth adeiladu unrhyw ran o waith penodedig ar ran yr ymgwymerwr fel y'i darperir gan baragraff 15(3) neu wrth adeiladu unrhyw weithfeydd diogelu o dan baragraff 15(4) gan gynnwys, mewn cysylltiad ag unrhyw weithfeydd diogelu parhaol, swm wedi ei gyfalafu sy'n cynrychioli cost cynnal a chadw ac adnewyddu'r gweithfeydd hynny;
- (b) mewn cysylltiad â chymeradwyaeth y peiriannydd o blaniau a gyflwynir gan yr ymgwymerwr a goruchwyliaeth y peiriannydd dros adeiladu gwaith penodedig;
- (c) mewn cysylltiad â defnyddio neu gaffael gwasanaethau unrhyw arolygwyr, signalwyr, gwylwyr a phersonau eraill y mae'n rhesymol angenrheidiol eu penodi i archwilio, signalu, gwyllo a goleuo eiddo rheilffordd ac i atal, i'r graddau y bo'n rhesymol angenrheidiol, ymyriad, rhwystr, perygl neu ddamwain sy'n codi o ganlyniad i adeiladu gwaith penodedig neu fethiant gwaith penodedig;

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail itself desires to construct that part of the specified work that in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any approval of the specified work under paragraph 15(1), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss that it may suffer by means of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 20(1) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining working or renewing railway property is reduced in consequence of any such alterations or additions, a capitalised sum representing such savings must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

20. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 15(3) or in constructing any protective works under paragraph 15(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signalmen, watchmen and other persons whom it is reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;

- (d) mewn cysylltiad ag unrhyw waith traffig arbennig o ganlyniad i unrhyw gyfyngiadau cyflymder y gall, ym marn y peiriannydd, fod yn ofynnol eu gosod oherwydd neu o ganlyniad i adeiladu gwaith penodedig neu fethiant gwaith penodedig neu drwy amnewid neu ddargyfeirio gwasanaethau a all fod yn rhesymol angenrheidiol am yr un rheswm; ac
- (e) mewn cysylltiad ag unrhyw oleuadau dros dro ychwanegol ar eiddo rheilffordd yng nghyffiniau'r gweithfeydd penodedig, sef goleuadau sy'n rhesymol angenrheidiol oherwydd neu o ganlyniad i adeiladu gwaith penodedig neu fethiant gwaith penodedig.

21.—(1) Yn y paragraff hwn—

ystyr “EMI”, yn ddarostyngedig i is-baragraff (2), yw ymyrraeth electromagnetig â chyfarpar Network Rail a achosir gan weithredu'r gweithfeydd alltraeth pan fo'r cyfryw ymyrraeth ar lefel sy'n cael effaith andwyol ar weithrediad diogel cyfarpar Network Rail;

ystyr “cyfarpar Network Rail” yw unrhyw linellau, cylchedau, gwifrau, cyfarpar neu offer (pa un a ydynt wedi eu haddasu neu wedi eu gosod fel rhan o'r gweithfeydd ar y tir ai peidio) sy'n eiddo i Network Rail neu a ddefnyddir gan Network Rail at ddiben darlledu neu dderbyn ynni trydanol signalu radio, telegraffig, teleffonig, trydanol, electronig neu ddull cyffelyb arall o signalu neu ddulliau cyfathrebu eraill.

(2) Mae'r paragraff hwn yn gymwys i EMI dim ond i'r graddau na ellir priodoli'r cyfryw EMI i unrhyw newid yng nghyfarpar Network Rail a wneir ar ôl cymeradwyo'r planiau o dan baragraff 15(1) ar gyfer y rhan berthnasol o'r gweithfeydd ar y tir sy'n achosi EMI (oni bai bod yr ymgwymerwr wedi cael ei hysbysu'n ysgrifenedig cyn i'r cynlluniau hynny gael eu cymeradwyo am y bwriad i wneud y cyfryw newid).

(3) Yn ddarostyngedig i is-baragraff (2), rhaid i'r ymgwymerwr, wrth ddylunio ac adeiladu'r prosiect awdurdodedig, weithredu pob mesur angenrheidiol i atal EMI a rhaid iddo gadarnhau ar y cyd â Network Rail (y mae'r ddau barti yn gweithredu'n rhesymol) drefniadau priodol i ddilysu eu heffeithiolrwydd.

(4) Er mwyn hwyluso cydymffurfiaeth yr ymgwymerwr ag is-baragraff (3)—

- (a) rhaid i'r ymgwymerwr ymgynghori â Network Rail mor gynnar ag y bo'n rhesymol ymarferol er mwyn nodi holl gyfarpar Network Rail a all fod mewn perygl o EMI, ac wedi hynny rhaid iddo barhau i ymgynghori â Network Rail (cyn ac ar ôl i blaniau o dan 15(1) gael eu cyflwyno'n ffurfiol) er mwyn nodi holl achosion posibl EMI a'r mesurau sy'n ofynnol i gael gwared arnynt;

- (d) in respect of any special traffic working resulting from any speed restrictions that may, in the opinion of the engineer, be required to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services that may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

21.—(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the onshore works where such interference is of a level that adversely affects the safe operation of Network Rail’s apparatus;

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the onshore works) that are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 5(1) for the relevant part of the onshore works giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (2), the undertaker must in the design and construction of the authorised project take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus that may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 5(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;

- (b) rhaid i Network Rail ddarparu'r holl wybodaeth sydd ym meddiant Network Rail i'r ymgwymerwr y mae'r ymgwymerwr wedi gofyn yn rhesymol amdani mewn cysylltiad â chyfarpar Network Rail a nodir yn unol â pharagraff (a); ac
- (c) rhaid i Network Rail ganiatáu cyfleusterau rhesymol i'r ymgwymerwr archwilio cyfarpar Network Rail a nodir yn unol â pharagraff (a).

(5) Mewn unrhyw achos pan gadarnheir na ellir yn rhesymol atal EMI ond drwy addasiadau i gyfarpar Network Rail, rhaid i Network Rail beidio ag atal yn afresymol ei gydsyniad i addasiadau i gyfarpar Network Rail, ond rhaid i'r modd atal a'r dull o'u cwblhau gael eu dewis yn ôl disgrisiwn rhesymol Network Rail, ac mewn perthynas â'r cyfryw addasiadau mae paragraff 15(1) yn cael effaith yn ddarostyngedig i'r is-baragraff hwn.

(6) Os, ar unrhyw adeg cyn cychwyn gweithrediad rheolaidd y gweithfeydd ar y tir ac er gwaethaf unrhyw fesurau a fabwysiadwyd yn unol ag is-baragraff (3), bydd profi neu gomisiynu'r prosiect awdurdodedig yn achosi EMI, rhaid i'r ymgwymerwr ar unwaith ar ôl cael ei hysbysu gan Network Rail am y cyfryw EMI naill ai'n ysgrifenedig neu ar lafar (y cyfryw hysbysiad ar lafar i'w gadarnhau'n ysgrifenedig cyn gynted ag y bo'n rhesymol ymarferol ar ôl iddo gael ei roi) beidio â defnyddio (neu beri peidio â defnyddio) cyfarpar yr ymgwymerwr sy'n achosi'r cyfryw EMI ar unwaith nes bod pob mesur angenrheidiol wedi cael ei weithredu i unioni'r cyfryw EMI drwy addasu ffynhonnell y cyfryw EMI neu (o dan yr amgylchiadau, ac yn ddarostyngedig i'r cydsyniad a bennir yn is-baragraff (5) i gyfarpar Network Rail).

(7) Os bydd EMI wedi digwydd—

- (a) rhaid i'r ymgwymerwr ddarparu cyfleusterau rhesymol i Network Rail gael mynediad at gyfarpar yr ymgwymerwr wrth ymchwilio i'r cyfryw EMI;
- (b) rhaid i Network Rail ddarparu cyfleusterau rhesymol i'r ymgwymerwr gael mynediad at gyfarpar Network Rail wrth ymchwilio i'r cyfryw EMI; a
- (c) rhaid i Network Rail ddarparu unrhyw wybodaeth berthnasol ychwanegol sydd yn ei feddiant y mae'r ymgwymerwr wedi gofyn yn rhesymol amdani mewn cysylltiad â chyfarpar Network Rail neu'r cyfryw EMI.

- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail's apparatus identified pursuant to paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail's apparatus identified pursuant to paragraph (a).

(5) In any case where it is established that EMI can reasonably be prevented only by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 5(1) has effect subject to this sub-paragraph.

(6) If, at any time before commencement of regular operation of the onshore works and notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing or commissioning of the authorised project causes EMI, the undertaker must immediately on receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5) to Network Rail's apparatus).

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI; and
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI.

(8) Pan fo Network Rail yn cymeradwyo addasiadau i gyfarpar Network Rail yn unol ag is-baragraffau (5) neu (6)—

- (a) rhaid i Network Rail ganiatáu cyfleusterau rhesymol i'r ymgymerwr archwilio'r rhan berthnasol o gyfarpar Network Rail; a
- (b) rhaid i unrhyw addasiadau i gyfarpar Network Rail a gymeradwyir yn unol â'r is-baragraffau hynny gael eu cyflawni a'u cwblhau gan yr ymgymerwr yn unol â pharagraff 16.

(9) I'r graddau na fyddai'n ei wneud fel arall, mae'r indemnïad ym mharagraff 25(1) yn gymwys i gostau a threuliau yr aethpwyd iddynt yn rhesymol neu golledion a achoswyd i Network Rail drwy weithredu darpariaethau'r paragraff hwn (gan gynnwys costau yr aethpwyd iddynt mewn cysylltiad ag ystyried cynigion, cymeradwyo planiau, goruchwyllo ac archwilio gweithfeydd a hwyluso mynediad at gyfarpar Network Rail) neu o ganlyniad i unrhyw EMI y mae is-baragraff (6) yn gymwys iddi.

(10) At ddiben paragraff 20(a), bernir bod unrhyw addasiadau i gyfarpar Network Rail o dan y paragraff hwn yn weithfeydd diogelu y cyfeirir atynt yn yr is-baragraff hwnnw.

(11) Mewn perthynas ag unrhyw anghydfod sy'n codi o dan y paragraff hwn, bydd y cyfeiriad yn erthygl 49 (cymrodeddu) at Sefydliad y Peirianwyr Sifil yn cael ei ddarllen fel pe bai'n gyfeiriad at y Sefydliad Peirianeg a Thechnoleg.

22. Os ar unrhyw adeg ar ôl i waith penodedig gael ei gwblhau, nad yw'n waith sydd wedi ei freinio yn Network Rail, bydd Network Rail yn hysbysu'r ymgymerwr bod cyflwr cynnal a chadw unrhyw ran o'r gwaith penodedig yn ymddangos fel pe bai'n cael effaith andwyol ar weithrediad eiddo rheilffordd, rhaid i'r ymgymerwr, ar ôl cael y cyfryw hysbysiad, gymryd y cyfryw gamau ag y bo'n rhesymol angenrheidiol i roi'r gwaith penodedig hwnnw yn y cyfryw gyflwr cynnal a chadw fel nad yw'n effeithio'n andwyol ar eiddo rheilffordd

23. Ni chaniateir i'r ymgymerwr ddarparu unrhyw olau nac arwydd na signal goleuedig ar waith penodedig neu mewn cysylltiad â gwaith penodedig yng nghyffiniau unrhyw reilffordd sy'n eiddo i Network Rail oni bai ei fod wedi ymgynghori â Network Rail yn gyntaf a rhaid iddo gydymffurfio â gofynion rhesymol Network Rail o ran atal amryfusedd rhwng y cyfryw olau neu arwydd neu signal goleuedig neu olau arall a ddefnyddir i reoli, cyfarwyddo neu sicrhau diogelwch traffig ar y rheilffordd.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to subparagraph (5) or (6)—

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus; and
- (b) any modifications to Network Rail's apparatus approved pursuant to those subparagraphs must be carried out and completed by the undertaker in accordance with paragraph 16.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 25(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which subparagraph (6) applies.

(10) For the purpose of paragraph 20(1) any modifications to Network Rail's apparatus under this paragraph is deemed to be protective works referred to in that sub-paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 49 (arbitration) to the Institution of Civil Engineers shall be read as a reference to the Institution of Engineering and Technology.

22. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

23. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

24. Rhaid i unrhyw dreuliau ychwanegol y gall Network Rail fynd iddynt yn rhesymol wrth newid, ailadeiladu neu gynnal a chadw eiddo rheilffordd o dan unrhyw bwerau sy'n bodoli ar adeg gwneud y Gorchymyn hwn oherwydd bodolaeth gwaith penodedig, cyhyd â bod rhybudd blaenorol o 56 diwrnod am gychwyn y cyfryw newid, ailadeiladu neu gynnal a chadw wedi cael ei roi i'r ymgwymerwr, gael eu had-dalu gan yr ymgwymerwr i Network Rail.

25.—(1) Rhaid i'r ymgwymerwr dalu pob cost, tâl, iawndal a thraul resymol i Network Rail na ddarperir ar ei gyfer neu ar ei chyfer yn y Rhan hon y gellir ei (h)achosi i Network Rail neu y gall Network Rail yn rhesymol fynd iddo neu iddi—

- (a) oherwydd adeiladu neu gynnal a chadw gwaith penodedig neu fethiant gwaith penodedig; neu
- (b) oherwydd unrhyw weithred neu anwaith gan yr ymgwymerwr neu gan unrhyw berson a gyflogir ganddo neu gan ei gontractwr neu eraill tra byddant wedi eu penodi i ymgymryd â gwaith penodedig; a rhaid i'r ymgwymerwr indemnio Network Rail a pharhau i indemnio Network Rail rhag ac yn erbyn pob hawliad ac archeb am dâl sy'n codi o ganlyniad i waith penodedig neu mewn cysylltiad â gwaith penodedig neu unrhyw gyfryw fethiant, weithred neu anwaith; ac nid yw'r ffaith y gall unrhyw weithred fod wedi ei chyflawni gan Network Rail ar ran yr ymgwymerwr neu yn unol â phlantiau a gymeradwywyd gan y peiriannydd neu yn unol ag unrhyw ofyniad gan y peiriannydd neu o dan oruchwyliaeth y peiriannydd (os y'i cyflawnwyd heb esgeuluster ar ran Network Rail neu unrhyw berson a gyflogir ganddo neu gan ei gontractwyr neu ei asiantau) yn esgusodi'r ymgwymerwr rhag unrhyw atebolrwydd o dan y Rhan hon.

(2) Rhaid i Network Rail roi rhybudd rhesymol i'r ymgwymerwr am unrhyw gyfryw hawliad neu archeb am dâl, ac ni chaniateir setlo'r cyfryw hawliad neu archeb am dâl na chyfaddawdu yn ei gylch neu yn ei chylch heb gydsyniad yr ymgwymerwr ymlaen llaw.

(3) Rhaid i'r symiau sy'n daladwy gan yr ymgwymerwr o dan is-baragraff (1) gynnwys swm sy'n hafal i'r costau perthnasol.

(4) Yn ddarostyngedig i delerau unrhyw gytundeb rhwng Network Rail a gweithredwr trenau o ran amseriad neu ddull talu'r costau perthnasol mewn cysylltiad â'r gweithredwr trenau hwnnw, rhaid i Network Rail dalu'n brydlon swm unrhyw symiau y mae Network Rail yn eu derbyn o dan is-baragraff (1) sy'n ymwneud â chostau perthnasol y gweithredwr trenau hwnnw i bob gweithredwr trenau.

24. Any additional expenses that Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

25.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part that may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction or maintenance of a specified work or its failure; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged on a specified work; and the undertaker must indemnify Network Rail and keep Network Rail indemnified from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission; and the fact that any act may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision does not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under this Part.

(2) Network Rail must give the undertaker reasonable notice of any such claim or demand, and no settlement or compromise of such a claim or demand must be made without the prior consent of the undertaker.

(3) The sums payable by the undertaker under sub-paragraph (1) must include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums that Network Rail receives under sub-paragraph (1) that relates to the relevant costs of that train operator.

(5) Mae'r rhwymedigaeth o dan is-baragraff (3) i dalu'r costau perthnasol i Network Rail, os bydd diffyg, yn uniongyrchol orfodadwy gan unrhyw weithredwr trenau dan sylw i'r graddau y byddai'r cyfryw symiau yn daladwy i'r gweithredwr hwnnw yn unol ag is-baragraff (4).

(6) Yn y paragraff hwn—

ystyr “costau perthnasol” yw'r costau, y colledion uniongyrchol a'r treuliau (gan gynnwys colli refeniw) y mae pob gweithredwr trenau yn mynd iddynt o ganlyniad i unrhyw gyfyngiad ar y defnydd o rwydwaith rheilffyrdd Network Rail o ganlyniad i adeiladu, cynnal a chadw neu fethiant gwaith penodedig, neu unrhyw gyfryw weithred neu anwaith ag a grybwyllir yn is-baragraff (1);

ystyr “gweithredwr trenau” yw unrhyw berson sydd wedi ei awdurdodi i weithredu fel gweithredwr trên drwy drwydded o dan adran 8 o Ddeddf Rheilffyrdd 1993.

26. Rhaid i Network Rail, ar ôl cael cais gan yr ymgwymerwr, o bryd i'w gilydd roi amcangyfrifon ysgrifenedig am ddim o'r costau, y taliadau, y treuliau ac atebolrwyddau eraill i'r ymgwymerwr y mae'r ymgwymerwr neu y bydd yr ymgwymerwr yn atebol amdanynt o dan y Rhan hon (gan gynnwys swm y costau perthnasol a grybwyllir ym mharagraff 25) ynghyd â'r cyfryw wybodaeth ag sy'n galluogi'r ymgwymerwr yn rhesymol i asesu rhesymoldeb unrhyw gyfryw amcangyfrif neu hawliad a wneir neu sydd i'w wneud yn unol â'r Rhan hon (gan gynnwys unrhyw hawliad sy'n ymwneud â'r costau rhesymol).

27. Wrth asesu unrhyw symiau sy'n daladwy i Network Rail o dan y Rhan hon, rhaid peidio ag ystyried unrhyw gynnydd yn y symiau a hawlir y gellir ei briodoli i unrhyw gam a gymerir gan Network Rail neu unrhyw gytundeb y mae Network Rail yn ymrwymo iddo os nad oedd y cam hwnnw na'r cytundeb hwnnw yn rhesymol angenrheidiol a bod Network Rail wedi cymryd y cam hwnnw neu wedi ymrwymo i'r cytundeb hwnnw gyda'r bwriad o gael yr ymgwymerwr i dalu'r symiau hynny o dan y Rhan hon neu o gynyddu'r symiau sydd felly'n daladwy.

28. Caiff yr ymgwymerwr a Network Rail, yn ddarostyngedig i gydymffurfiaeth Network Rail â thelerau ei drwydded rhwydwaith, ymrwymo i gytundebau, a'u gweithredu, ar gyfer trosglwyddo i'r ymgwymerwr—

(a) unrhyw eiddo rheilffordd a ddangosir ar blaniau gweithfeydd a phlan y tir ac a ddisgrifir yn y cyfeirlyfr;

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs is, in the event of default, enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

“relevant costs” means the costs, direct losses and expenses (including loss of revenue) incurred by each train operator as a consequence of any restriction of the use of Network Rail’s railway network as a result of the construction, maintenance or failure of a specified work, or any such act or omission as mentioned in sub-paragraph (1);

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

26. Network Rail must, on receipt of a request from the undertaker, from time to time provide to the undertaker free of charge written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part (including the amount of the relevant costs mentioned in paragraph 25) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part (including any claim relating to the relevant costs).

27. In the assessment of any sums payable to Network Rail under this Part, there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part or increasing the sums so payable.

28. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

(a) any railway property shown on the works plans and onshore plan and described in the book of reference;

- (b) unrhyw diroedd, gweithfeydd neu eiddo arall a ddelir mewn cysylltiad ag unrhyw gyfryw eiddo rheilffordd; ac
- (c) unrhyw hawliau a rhwymedigaethau (boed yn rhai statudol ai peidio) sydd gan Network Rail sy'n ymwneud ag unrhyw eiddo rheilffordd.

29. Nid oes dim yn y Gorchymyn hwn, nac mewn unrhyw ddeddfiad a gorfforir gyda'r Gorchymyn hwn neu a gymhwysir gan y Gorchymyn hwn, yn rhagfarnu nac yn effeithio ar weithrediad Rhan 1 o Ddeddf Rheilffyrdd 1993.

30. Rhaid i'r ymgwymerwr, heb fod yn hwyrach na 28 diwrnod ar ôl y dyddiad yr ardystir y planiau gan Weinidogion Cymru yn unol ag erthygl 46 (ardystio planiau etc), roi set o blaniau i Network Rail sy'n ymwneud â'r gweithfeydd penodedig ar ffurf disg gyfrifiadurol sydd â chof darllen yn unig.

- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property.

29. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part 1 of the Railways Act 1993.

30. The undertaker must, no later than 28 days from the date that the plans are certified by the Welsh Ministers in accordance with article 46 (certification of plans etc.), provide to Network Rail a set of plans that relate to the specified works in the form of a computer disc with read-only memory.

RHAN 3

Diogelu gweithredwyr rhwydweithiau'r cod cyfathrebu electronig

31.—(1) Mae darpariaethau'r Rhan hon yn cael effaith oni chytunir fel arall yn ysgrifenedig rhwng yr ymgwymerwr a'r gweithredwr.

(2) Yn y Rhan hon—

ystyr “Deddf 2003” yw Deddf Cyfathrebu 2003;

mae i “system ddargludo” yr un ystyr â “conduit system” yn y cod cyfathrebu electronig ac mae cyfeiriadau at ddarparu system ddargludo i'w dehongli yn unol â pharagraff 1(3A) o'r cod hwnnw(1);

mae i “cyfarpar cyfathrebu electronig” yr un ystyr ag “electronic communications apparatus” yn y cod cyfathrebu electronig;

mae i “cod cyfathrebu electronig” yr un ystyr ag “electronic communications code” ym Mhennod 1 o Ran 2 o Ddeddf 2003(2);

ystyr “rhwydwaith y cod cyfathrebu electronig” yw—

- (a) cymaint o rwydwaith cyfathrebu electronig neu system ddargludo a ddarperir gan weithredwr o dan y cod cyfathrebu electronig ag sydd ddim yn cael ei hepgor wrth gymhwyso'r cod cyfathrebu electronig drwy gyfarwyddyd o dan adran 106 o Ddeddf 2003; a

PART 3

Protection of operators of electronic communications code networks

31.—(1) The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and the operator.

(2) In this Part—

“2003 Act” means the Communications Act 2003;

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system are to be construed in accordance with paragraph 1(3A) of that code(1);

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act(2);

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and

(1) Ychwanegwyd paragraff 1(3A) at y cod (Atodlen 2 i Ddeddf Telathrebu 1984) gan baragraff 4 o Atodlen 3 i Ddeddf Cyfathrebu 2003.

(2) Diffinnir “The electronic communications code” yn adran 106(1).

(1) Paragraph 1(3A) was added to the code (Schedule 2 to the Telecommunications Act 1984) by paragraph 4 of Schedule 3 to the Communications Act 2003.

(2) “The electronic communications code” is defined in section 106(1).

- (b) rhwydwaith cyfathrebu electronig y mae'r Ysgrifennydd Gwladol yn ei ddarparu neu'n cynnig ei ddarparu;

ystyr "gweithredwr y cod cyfathrebu electronig" yw person y mae'r cod cyfathrebu electronig yn cael ei gymhwyso yn ei gylch drwy gyfarwyddyd o dan adran 106 o Ddeddf 2003; ac

ystyr "gweithredwr" yw gweithredwr rhwydwaith o dan y cod cyfathrebu electronig.

32. Nid yw cau na dargyfeirio unrhyw stryd dros dro o dan erthygl 8 (cau strydoedd dros dro) yn effeithio ar hawl y gweithredwr o dan baragraff 9 o'r cod cyfathrebu electronig i gynnal a chadw unrhyw gyfarpar sydd, ar adeg cau neu ddargyfeirio, yn y stryd honno.

33.—(1) Yn ddarostyngedig i is-baragraffau (2) i (4), os o ganlyniad i'r prosiect awdurdodedig neu ei adeiladu, neu unrhyw ymsuddo o ganlyniad i unrhyw ran o'r prosiect—

- (a) achosir unrhyw ddifrod i unrhyw gyfarpar cyfathrebu electronig sy'n eiddo i weithredwr (heblaw am gyfarpar nad yw'n rhesymol angenrheidiol ei atgyweirio o ystyried y bwriad i'w waredu at ddibenion y prosiect) neu eiddo arall gweithredwr; neu
- (b) mae tarfu ar gyflenwad y gwasanaeth a ddarperir gan weithredwr, rhaid i'r ymgwymerwr ddwyn a thalu'r gost y mae'r gweithredwr yn rhesymol yn mynd iddi wrth unioni'r cyfryw ddifrod neu wrth adfer y cyflenwad;
- (c) rhoi digollediad rhesymol i weithredwr am golled a achosir iddo; a
- (d) indemnio gweithredwr rhag hawliadau, archebion am dâl, achosion cyfreithiol, costau, iawndal a threuliau y gellir eu gwneud neu eu dwyn yn erbyn gweithredwr neu y gellir eu hadennill oddi wrth weithredwr neu y gall gweithredwr fynd iddynt oherwydd neu o ganlyniad i unrhyw gyfryw ddifrod neu darfu.

(2) Nid yw is-baragraff (1) yn gymwys i—

- (a) unrhyw gyfarpar y mae cysylltiadau rhwng yr ymgwymerwr a gweithredwr mewn perthynas ag ef yn cael eu rheoleiddio gan Ran 3 o Ddeddf 1991; neu
- (b) unrhyw ddifrod, neu unrhyw darfu, a achosir gan ymyrraeth electro-magnetig sy'n codi o adeiladu neu ddefnyddio'r prosiect awdurdodedig.

- (b) an electronic communications network that the Secretary of State is providing or proposing to provide;

"electronic communications code operator" means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

"operator" means the operator of an electronic communications code network.

32. The temporary stopping up or diversion of any street under article 8 (temporary stopping up of streets) does not affect any right of the operator under paragraph 9 of the electronic communications code to maintain any apparatus that, at the time of the stopping up or diversion, is in that street.

33.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised project or its construction, or of any subsidence resulting from any of the project—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the project), or other property of an operator; or
- (b) there is any interruption in the supply of the service provided by an operator, the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply;
- (c) make reasonable compensation to an operator for loss sustained by it; and
- (d) indemnify an operator against claims, demands, proceedings, costs, damages and expenses that may be made or taken against, or recovered from, or incurred by, an operator by reason, or in consequence of, any such damage or interruption.

(2) Sub-paragraph (1) does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by Part 3 of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised project.

(3) Nid oes dim yn is-baragraff (1) yn gosod unrhyw atebolrwydd ar yr ymgymerwr mewn cysylltiad ag unrhyw ddifrod neu darfu i'r graddau y gellir ei briodoli i weithred, esgeulustod neu ddiffyg gweithredwr, ei swyddogion, ei weision, ei contractwyr neu ei asiantau.

(4) Rhaid i'r gweithredwr roi rhybudd rhesymol i'r ymgymerwr am unrhyw gyfryw hawliad neu archeb am dâl, ac ni chaniateir gwneud unrhyw setliad na chyfaddawd heb gydsyniad yr ymgymerwr sydd, os yw'n atal y cyfryw gydsyniad, yn cynnal ar ei ben ei hun unrhyw setliad neu gyfaddawd neu unrhyw achos llys sy'n angenrheidiol i wrthsefyll yr hawliad neu'r archeb am dâl.

(5) Mae unrhyw wahaniaeth sy'n codi rhwng yr ymgymerwr a'r gweithredwr o dan y Rhan hon i'w gyfeirio at gymrodeddwr ac i'w setlo drwy gymrodeddu o dan erthygl 49 (cymrodeddu).

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(4) The operator must give the undertaker reasonable notice of any such claim or demand, and no settlement or compromise of the claim or demand may be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(5) Any difference arising between the undertaker and the operator under this Part is to be referred to and settled by arbitration under article 49 (arbitration).

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