S T A T U T O R Y I N S T R U M E N T S

2026 No. 754

INFRASTRUCTURE PLANNING

The Dean Moor Solar Farm Order 2026

Made - - - -	*2nd July 2026*
Coming into force	*24th July 2026*

CONTENTS

PART 1
PRELIMINARY

1. Citation and commencement
2. Interpretation

PART 2
PRINCIPAL POWERS

3. Development consent etc. granted by this Order
4. Operation of generating station
5. Maintenance of authorised development
6. Benefit of this Order
7. Consent to transfer benefit of Order
8. Disapplication and modification of legislative provisions
9. Defence to proceedings in respect of statutory nuisance

PART 3
STREETS

10. Street works
11. Application of the 1991 Act
12. Power to alter layout, etc., of streets
13. Construction and maintenance of altered streets
14. Temporary closure or restriction of streets
15. Access to works
16. Use of private roads
17. Traffic regulation measures

PART 4
SUPPLEMENTAL POWERS

18. Discharge of water
19. Protective work to buildings
20. Authority to survey and investigate the land

PART 5
POWERS OF ACQUISITION

21. Compulsory acquisition of land
22. Compulsory acquisition of land – incorporation of the mineral code
23. Time limit for exercise of authority to acquire land compulsorily
24. Compulsory acquisition of rights and imposition of restrictive covenants
25. Private rights over land
26. Power to override easements and other rights
27. Application of the 1981 Act
28. Acquisition of subsoil only
29. Modification of Part 1 of the Compulsory Purchase Act 1965
30. Rights under or over streets
31. Temporary use of land for carrying out the authorised development
32. Temporary use of land for maintaining the authorised development
33. Statutory undertakers
34. Apparatus and rights of statutory undertakers in closed streets
35. Recovery of costs of new connections

PART 6
MISCELLANEOUS AND GENERAL

36. Application of landlord and tenant law
37. Operational land for purposes of the 1990 Act
38. Felling or lopping of trees and removal of hedgerows
39. Certification of documents, etc.
40. Service of notices
41. Arbitration
42. Requirements, appeals, etc.
43. Protective provisions
44. Funding
45. No double recovery

SCHEDULES

SCHEDULE 1 — AUTHORISED DEVELOPMENT
SCHEDULE 2 — REQUIREMENTS
PART 1 — REQUIREMENTS
PART 2 — PROCEDURE FOR DISCHARGE OF REQUIREMENTS
SCHEDULE 3 — LEGISLATION TO BE DISAPPLIED
SCHEDULE 4 — STREETS SUBJECT TO STREET WORKS
SCHEDULE 5 — ALTERATION OF STREETS

SCHEDULE 6 — STREETS TO BE TEMPORARILY CLOSED OR RESTRICTED
SCHEDULE 7 — ACCESS TO WORKS
SCHEDULE 8 — TRAFFIC REGULATION MEASURES
SCHEDULE 9 — LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED
SCHEDULE 10 — MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR THE CREATION OF NEW RIGHTS AND IMPOSITION OF NEW RESTRICTIVE COVENANTS
SCHEDULE 11 — LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN
SCHEDULE 12 — DOCUMENTS TO BE CERTIFIED
SCHEDULE 13 — PROTECTIVE PROVISIONS
PART 1 — FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWAGE UNDERTAKERS
PART 2 — FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS
PART 3 — FOR THE PROTECTION OF DRAINAGE AUTHORITIES
PART 4 — FOR THE PROTECTION OF UNITED UTILITIES WATER LIMITED
SCHEDULE 14 — ARBITRATION RULES

An application has been made to the Secretary of State for an Order under section 37 of the Planning Act 2008 ("the 2008 Act")(**a**) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(**b**) for an Order granting development consent.

The application was examined by the Examining Authority appointed by the Secretary of State pursuant to chapter 2 of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of Part 6 of the Infrastructure Planning (Examination Procedure) Rules 2010(**c**).

The Examining Authority, having considered the application together with the documents that accompanied it, and the representations made and not withdrawn, has, in accordance with section 83(1) of the 2008 Act made a report and recommendation to the Secretary of State.

The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(**d**) and has had regard to the documents and matters referred to in section 104(2) of the 2008 Act.

The Secretary of State, having decided the application, has determined to make an Order granting development consent for the development described in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

Accordingly, the Secretary of State, in exercise of the powers conferred by sections 114(**e**), 115(**f**), 120(**g**), 122(**h**), 123(**i**) and 140(**j**) of the 2008 Act makes the following Order.

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Dean Moor Solar Farm Order 2026 and comes into force on 24th July 2026.

Interpretation

2.—(1) In this Order—

"the 1961 Act" means the Land Compensation Act 1961(**k**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**l**);

(**a**) 2008 c. 29. Section 37 was amended by section 137(5) of, and paragraph 5 of Schedule 13 to, the Localism Act 2011 (c. 20).
(**b**) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/524, S.I. 2017/572 and S.I. 2018/378.
(**c**) S.I. 2010/103.
(**d**) S.I. 2017/572.
(**e**) As amended by paragraph 55 of Part 1 of Schedule 13 to the Localism Act 2011.
(**f**) As amended by section 160 of the Housing and Planning Act 2016 (c. 22) and section 43 of the Wales Act 2017 (c. 4).
(**g**) As amended by section 140 and paragraph 60 of Part 1 of Schedule 13 to the Localism Act 2011.
(**h**) As amended by paragraph 62 of Part 1 of Schedule 13 to the Localism Act 2011.
(**i**) As amended by paragraph 62 of Part 1 of Schedule 13 to the Localism Act 2011.
(**j**) S.I. 2010/101.
(**k**) 1961 c. 33.
(**l**) 1965 c. 56.

"the 1980 Act" means the Highways Act 1980(**a**);

"the 1981 Act" means the Compulsory Purchase (Vesting Declarations) Act 1981(**b**);

"the 1984 Act" means the Road Traffic Regulation Act 1984(**c**);

"the 1989 Act" means the Electricity Act 1989(**d**);

"the 1990 Act" means the Town and Country Planning Act 1990(**e**);

"the 1991 Act" means the New Roads and Street Works Act 1991(**f**);

"the 2008 Act" means the Planning Act 2008(**g**);

"apparatus" has the same meaning as in section 105(1) of the 1991 Act; except that, unless otherwise provided, it further includes pipelines (and parts of them), aerial markers, cathodic protection test posts, field boundary markers, transformer rectifier kiosks, electricity cables, telecommunications equipment and electricity cabinets;

"authorised development" means the development described in Schedule 1 (authorised development) and any other development authorised by this Order, or any part of it, which is development within the meaning of section 32 (meaning of development) of the 2008 Act;

"the book of reference" means the document of that description referenced in Schedule 12 (documents to be certified) and certified by the Secretary of State;

"building" includes any structure or erection or any part of a building, structure or erection;

"business day" means a day other than Saturday or Sunday, which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971(**h**);

"commence" means beginning to carry out any material operation, as defined in section 155 (when development begins) of the 2008 Act, comprised in or carried out for the purposes of the authorised development other than the permitted preliminary works (except where stated to the contrary) and "commencement" and "commenced" are to be construed accordingly;

"date of decommissioning" means in respect of each part of the authorised development the date that part of the authorised development has permanently ceased to generate electricity on a commercial basis;

"date of final commissioning" means the date on which the authorised development commences operation by generating electricity on a commercial basis but excluding the generation of electricity during commissioning and testing;

"electronic transmission" means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

"environmental statement" means the document of that description referenced in Schedule 12 (documents to be certified) and certified by the Secretary of State;

"footpath" and "footway" have the same meaning as in the 1980 Act;

"highway", "highway authority" and "local highway authority" have the same meaning as in the 1980 Act(**i**);

"land plan" means the document of that description referenced in Schedule 12 (documents to be certified) and certified by the Secretary of State;

(**a**) 1980 c. 66.
(**b**) 1981 c. 66.
(**c**) 1984 c. 27.
(**d**) 1989 c. 29.
(**e**) 1990 c. 8.
(**f**) 1991 c. 22.
(**g**) 2008 c. 29.
(**h**) 1971 c. 80.
(**i**) "highway" is defined in section 238(1) for "highway authority" see section 1, "local highway authority" as defined in section 329(1).

"local planning authority" means Cumberland Council;

"the location plan" means the document of that description referenced in Schedule 12 (documents to be certified) and certified by the Secretary of State;

"maintain" includes inspect, repair, adjust, alter, remove, refurbish, replace, improve or reconstruct any part of, but not remove, reconstruct or replace the whole of the authorised development provided that such works do not give rise to any materially new or materially different environmental effects in comparison to those reported in the environmental statement; and any derivative of "maintain" is to be construed accordingly;

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

"the Order limits" means the limits shown on the works plan within which the authorised development may be carried out and land acquired or used;

"the permit scheme" means the Cumberland Council Permit Scheme for Road & Street Works Activities made in accordance with Part 3 of the Traffic Management Act 2004(**a**)

"permitted preliminary works" means all or any of—

(a) pre-construction ecological mitigation (including advanced planting or the erection of temporary barriers to protect ecological interests);

(b) environmental surveys and monitoring, geotechnical surveys, intrusive archaeological surveys (including trenching) and other investigations for the purpose of assessing ground conditions (including the making of boreholes);

(c) removal of plant and machinery;

(d) above ground site preparation for temporary facilities for the use of contractors;

(e) remedial work in respect of any contamination or other adverse ground conditions;

(f) diversion and laying of apparatus;

(g) receipt and erection of construction plant and equipment;

(h) the provision of temporary means of enclosure and site security for construction;

(i) the temporary display of site notices or advertisements; or

(j) site clearance (including vegetation removal, demolition of existing structures);

"requirements" means those matters set out in Part 1 of Schedule 2 (requirements) to this Order;

"street" means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes any footpath or part of a street and road is to be construed as a "street";

"streets and access plan" means the document of that description referenced in Schedule 12 (documents to be certified) and certified by the Secretary of State;

"street authority", in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act(**b**);

"traffic authority" has the same meaning as in section 121A (traffic authorities) of the 1984 Act((**c**);

"undertaker" means FVS Dean Moor Ltd (company number 14712545) whose registered office is 127 Cheapside, London, EC2V 6BT;

"Upper Tribunal" means the Lands Chamber of the Upper Tribunal;

(**a**) 2004 c. 18.

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

(**c**) Section 121A was inserted by paragraph 70 of Schedule 8 to the 1991 Act, and subsequently amended by section 271 of the Greater London Authority Act 1999 (c. 29); section 1(6) of, and paragraphs 70 and 95 of Schedule 1 to, the Infrastructure Act 2015; and S.I. 1999/1920 and S.I. 2001/1400.

"watercourse" has the meaning given in section 72 (interpretation) of the Land Drainage Act 1991(**a**); and

"works plan" means the document of that name identified in the table at Schedule 12 (documents to be certified) and certified by the Secretary of State as the works plan for the purposes of this Order.

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

(3) In this Order, references to the purposes of the authorised development includes the construction, maintenance, operation, use and decommissioning of the authorised development.

(4) All distances, directions, capacities and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are to be taken to be measured along that work.

(5) All areas described in square metres in the book of reference are approximate.

(6) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the plans to which the reference applies.

(7) References in this Order to numbered works are references to the works numbered in Schedule 1 (authorised development).

(8) References to any statutory body in this Order includes that body's successor bodies.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by this Order

3.—(1) Subject to the provisions of this Order and the requirements in Schedule 2 (requirements) the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

Operation of generating station

4.—(1) The undertaker is authorised to use and operate the generating station comprised in the authorised development.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required from time to time to authorise the operation of an electricity generating station.

Maintenance of authorised development

5.—(1) The undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) This article only authorises the carrying out of maintenance works within the Order limits.

(3) This article does not authorise the carrying out of any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the environmental statement.

(**a**) 1991 c. 59, section 72(1).

Benefit of this Order

6. Subject to article 7 (consent to transfer benefit of the Order), the provisions of this Order have effect solely for the benefit of the undertaker.

Consent to transfer benefit of Order

7.—(1) Subject to paragraph (3) the undertaker may with the written consent of the Secretary of State—

(a) transfer to another person ("the transferee") all or any part of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; and

(b) grant to another person ("the lessee"), for a period agreed between the undertaker and the lessee, all or any part of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Subject to paragraph (8), where a transfer or grant has been made in accordance with paragraph (1) references in this Order to the undertaker include references to the transferee or the lessee.

(3) The consent of the Secretary of State is required for the exercise of the powers under paragraph (1) except where—

(a) the transferee or lessee holds a licence under section 6 (licences authorising supply, etc.) of the 1989 Act(**a**); or

(b) the transfer or grant is made to Electricity North West Limited (company registration number 02366949 whose registered office is at Borron Street, Stockport, England, SK1 2JD for the purposes of undertaking Work Nos. 2 and 2A; or

(c) the time limits for all claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—

(i) no such claims have been made;

(ii) any such claims that have been made have all been compromised or withdrawn;

(iii) compensation has been paid in final settlement of any claims made;

(iv) payment of compensation into court in lieu of settlement of all such claims has taken place; or

(v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation is payable.

(4) Where the consent of the Secretary of State is not required under paragraph (3), the undertaker must notify the Secretary of State in writing before transferring or granting all or any part of the benefit referred to in paragraph (1).

(5) The notification referred to in paragraph (4) must—

(a) state—

(i) the name and contact details of the person to whom the benefit of the powers will be transferred or granted;

(ii) subject to paragraph (6), the date on which the transfer will take effect;

(iii) the powers to be transferred or granted; and

(iv) in accordance with paragraph (8), the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and

(b) where relevant, be accompanied by a plan showing the works or areas to which the transfer or grant relates.

(**a**) 1989 c. 29.

(6) The date specified under paragraph (5)(a)(ii) must not be earlier than the expiry of ten business days from the date of the receipt of the notice.

(7) The notice given under paragraph (4) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.

(8) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit—

(a) the benefit transferred or granted ("the transferred benefit") must include any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;

(b) the transferred benefit will reside exclusively with the transferee or, as the case may be, the lessee and the transferred benefit will not be enforceable against the undertaker; and

(c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

Disapplication and modification of legislative provisions

8.—(1) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction, operation, maintenance or decommissioning of any part of the authorised development—

(a) section 32 (variation of awards) of the Land Drainage Act 1991(**a**);

(b) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991; and

(c) the provisions of the Neighbourhood Planning Act 2017(**b**), insofar as they relate to temporary possession of land under article 31 (temporary use of land for carrying out the authorised development) and article 32 (temporary use of land for maintaining the authorised development) of this Order.

(2) The local enactments and local byelaws listed in Schedule 3 (legislation to be disapplied), and any byelaws or other provisions made under any of those enactments or byelaws, are hereby excluded and do not apply insofar as inconsistent with a provision, of or a power conferred by, this Order.

(3) For the purposes of section 9 (requirement of licence for felling) of the Forestry Act 1967(**c**) any felling comprised in the carrying out of any work or operation required for the purposes of, or in connection with, the construction of the authorised development is deemed to be immediately required for the purpose of carrying out development authorised by planning permission granted under the 1990 Act.

(4) Notwithstanding the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 (meaning of "development") of the Community Infrastructure Levy Regulations 2010(**d**) any building comprised in the authorised development is deemed to be—

(a) a building into which people do not normally go; or

(b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

Defence to proceedings in respect of statutory nuisance

9.—(1) Where proceedings are brought under section 82(1) (summary proceedings by a person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(**a**) in relation to a

(**a**) 1991 c. 59.
(**b**) 2017 c. 20.
(**c**) 1967 c. 10.
(**d**) S.I. 2010/948, amended by S.I. 2011/987; there are other amending instruments but none are relevant to this Order.

nuisance falling within paragraphs (g) and (ga) of section 79(1) (noise emitted from premises so as to be prejudicial to health or a nuisance) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

(a) the defendant shows that the nuisance—

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

(ii) is a consequence of the construction, maintenance, use, operation or decommissioning of the authorised development and that it cannot reasonably be avoided; or

(b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (prior consent for work on construction sites) of the Control of Pollution Act 1974, does not apply where the consent relates to the use of premises by the undertaker for purposes of, or in connection with, the construction, maintenance or decommissioning of the authorised development.

PART 3

STREETS

Street works

10.—(1) The undertaker may for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) and may—

(a) break up or open the street, or any sewer, drain or tunnel under it;

(b) drill, tunnel or bore under the street;

(c) place and keep apparatus under the street;

(d) maintain apparatus in the street, change its position or remove it;

(e) repair, replace or otherwise alter the surface or structure of the street or any culvert under the street; and

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

(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) Notwithstanding article 11 (application of the 1991 Act), the provisions of sections 54 (notice of certain works) to 106 (index of defined expressions) of the 1991 Act apply to any street works carried out under paragraph (1).

(**a**) 1990 c. 43. Section 82 was amended by section 103 of the Clean Neighbourhoods and Environment Act 2005 (c. 16); section 79 was amended by section 101 and 102 of the same Act. There are other amendments not relevant to this Order.

(**b**) 1974 c. 40. Section 61(9) was amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990. There are other amendments to the 1974 Act which are not relevant to the Order.

Application of the 1991 Act

11.—(1) Works executed under this Order in relation to a highway, which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major highway works if—

(a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (highway authorities, highways and related works) of that Act; or

(b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 (dual carriageways and roundabouts) of the 1980 Act or section 184 (vehicle crossings over footways and verges) of that Act.

(2) In Part 3 (street works in England and Wales) of the 1991 Act, in relation to works which are major highway works by virtue of paragraph (1), references to the highway authority concerned are to be construed as references to the undertaker.

(3) The following provisions of the 1991 Act (whether modified or not by the permit scheme) do not apply in relation to any works executed under the powers conferred by this Order—

(a) section 56 (power to give directions as to timing);

(b) section 56A (power to give directions as to placing of apparatus);

(c) section 58 (restriction on works following substantial road works);

(d) section 58A (restriction on works following substantial street works);

(e) section 73A (power to require undertaker to re-surface street);

(f) section 73B (power to specify timing etc. of re-surfacing);

(g) section 73C (materials, workmanship and standard of re-surfacing);

(h) section 78A (contributions to costs of re-surfacing by undertaker); and

(i) Schedule 3A (restriction on works following substantial street works).

(4) The provisions of the 1991 Act(**a**) mentioned in paragraph (5) (which together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions apply (with the necessary modifications) in relation to any closure, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 14 (temporary closure or restriction of streets), whether or not the closure, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act(**b**) referred to in paragraph (4) are—

(a) section 54 (advance notice of certain works) subject to paragraph (6);

(b) section 55 (notice of starting date of works) subject to paragraph (6));

(c) section 57 (notice of emergency works)(**c**);

(d) section 59 (general duty of street authority to co-ordinate works)(**d**);

(e) section 60 (general duty of undertakers to co-operate);

(f) section 68 (facilities to be afforded to street authority);

(g) section 69 (works likely to affect other apparatus in the street);

(h) section 71 (materials, workmanship and standard of reinstatement);

(i) section 75 (inspection fees);

(j) section 76 (liability for cost of temporary traffic regulation); and

(k) section 77 (liability for cost of use of alternative route),

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(**a**) Sections 55, 57, 60, 68 and 69 were amended by the Traffic Management Act 2004.
(**b**) Sections 55, 57, 60, 68 and 69 were amended by the Traffic Management Act 2004.
(**c**) As amended by section 49(1) of the Traffic Management Act 2004.
(**d**) As amended by section 42 of the Traffic Management Act 2004.

and all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a closure, alteration or diversion (as the case may be) required in a case of emergency.

(7) The permit scheme applies, with the modifications set out in this article, to street works carried out under the powers conferred by article 10 (street works), article 12 (power to alter layout, etc., of streets), article 13 (construction and maintenance of altered streets), article 14 (temporary closure or restriction of streets) and article 15 (access to works) of this Order.

(8) For the purposes of this Order—

(a) a permit may not be refused or granted subject to conditions which relate to the imposition of moratoria; and

(b) a permit may not be granted under the permit scheme subject to conditions where compliance with those conditions would constitute a breach of this Order or where the undertaker would be unable to comply with those conditions in accordance with the powers conferred by this Order.

(9) References to moratoria in paragraph (8) mean restrictions imposed under section 58 (restrictions on works following substantial road works) or section 58A (restrictions on works following substantial street works) of the 1991 Act.

(10) Without restricting the undertaker's recourse to any appeal mechanism which may be available under a permit scheme the undertaker may appeal any decision to refuse to grant a permit or to grant a permit subject to conditions in accordance with the permit schemes in accordance with the mechanism set out in Part 2 of Schedule 2 (requirements) of this Order.

Power to alter layout, etc., of streets

12.—(1) The undertaker may for the purposes of the authorised development, or in connection with the authorised development, alter the layout of or carry out any works in the street specified in column (1) of the table in Schedule 5 (alteration of streets) in the manner specified in relation to that street in column (2).

(2) Without prejudice to the specific powers conferred by paragraph (1), but subject to paragraphs (3) and (4), the undertaker may, for the purposes of constructing, operating maintaining or decommissioning the authorised development, alter permanently or temporarily the layout of any street within the Order limits and, without limitation on the scope of this paragraph, the undertaker may—

(a) alter the level or increase the width of the carriageway by reducing the width of any kerb or verge within the street;

(b) alter the level or increase the width of any such kerb or verge;

(c) reduce the width of the carriageway of the street;

(d) make and maintain passing places; and

(e) alter, remove, replace, install and relocate any street furniture, including bollards, lighting columns, road signs and chevron signs.

(3) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(4) The powers conferred by paragraph (2) must not be exercised without the written consent of the street authority.

(5) Paragraphs (3) and (4) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

(6) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

(7) For deemed consent under paragraph (6) to apply to any application for consent under paragraph (4) the application must include a statement that the provisions of paragraph (6) apply to that application.

(8) If an application for consent under paragraph (6) does not include the statement required under paragraph (7), then the provisions of paragraph (6) will not apply to that application.

Construction and maintenance of altered streets

13.—(1) The permanent alterations to each of the streets specified in column (1) of the table in Schedule 5 (alteration of streets) to this Order must be completed to the reasonable satisfaction of the street authority and, unless otherwise agreed by the street authority, the alterations must be maintained by and at the expense of the undertaker for a period of 12 months from their completion and from the expiry of that period by and at the expense of the street authority.

(2) Those restoration works carried out in accordance with article 12(3) (power to alter layout, etc., of streets) must be completed to the reasonable satisfaction of the street authority and must be maintained by the undertaker for a period of 12 months from their completion and from the expiry of that period by and at the expense of the street authority.

(3) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(4) For the purposes of a defence under paragraph (3), a court must in particular have regard to the following matters—

(a) the character of the street including the traffic which was reasonably to be expected to use it;

(b) the standard of maintenance appropriate for a street of that character and used by such traffic;

(c) the state of repair in which a reasonable person would have expected to find the street;

(d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and

(e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant that the undertaker had arranged for a competent person to carry out or supervise the maintenance of that part of the street to which the action relates unless it is also proved that the undertaker had given that person proper instructions with regard to the maintenance of the street and that those instructions had been carried out.

(5) Paragraphs (2) to (4) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

Temporary closure or restriction of streets

14.—(1) The undertaker may, for the purposes of, or in connection with, the construction, operation, maintenance and decommissioning of the authorised development temporarily close, alter, divert or restrict the use of the streets set out in column (1) of Schedule 6 (streets to be temporarily closed or restricted) to the extent specified, by reference to the letters and numbers shown on the traffic regulation measure plan, in column (2) of that Schedule.

(2) Without prejudice to the specific powers in paragraph (1) and subject to paragraph (5) the undertaker, during and for the purposes of carrying out the authorised development, may temporarily close, alter, divert, prohibit the use of, authorise the use of, or restrict the use of any street and may for any reasonable time—

(a) divert the traffic or a class of traffic from the street; and

(b) subject to paragraph (4), prevent all persons from passing along the street.

(3) The undertaker may use any street temporarily closed, altered, diverted, prohibited or restricted under the powers conferred by this article within the Order limits as a temporary working site.

(4) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary closure, alteration, diversion or restriction of a street under this article if there would otherwise be no such access.

(5) The undertaker must not temporarily close, alter, divert, prohibit the use of, authorise the use of, restrict the use of or use as a temporary working site—

(a) any street referred to in paragraph (1) without first consulting the street authority; and

(b) any other street without the consent of the street authority, which may attach reasonable conditions to the consent. Such consent not to be unreasonably withheld.

(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 (determination of questions of disputed compensation) of the 1961 Act.

(7) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily close, prohibit the use of, authorise the use of, restrict the use of, alter or divert any public right of way within the Order limits which is added to the definitive map and statement (within the meaning of the Wildlife and Countryside Act 1981(**a**)) on or after 22 December 2025.

(8) If a street authority which receives a valid application for consent under paragraph (5)(b) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

(9) For deemed consent under paragraph (8) to apply to any application for consent under paragraph (5)(b), the application must include a statement that the provisions of paragraph (8) apply to that application.

(10) If an application for consent under paragraph (5)(b) does not include the statement required under paragraph (9), then the provisions of paragraph (8) will not apply to that application.

Access to works

15.—(1) The undertaker may, for the purposes of the authorised development—

(a) improve existing means of access in the locations specified in Schedule 7 (access to works); and

(b) with the consent of the relevant street authority form and lay out such other means of access, or improve existing means of access, at such locations within the Order limits.

(2) If the street authority which receives an application for consent under paragraph (1)(b) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

(3) For deemed consent under paragraph (2) to apply to any application for consent under paragraph (1)(b), the application must include a statement that the provisions of paragraph (2) apply to that application.

(4) If an application for consent under paragraph (1)(b) does not include the statement required under paragraph (3), then the provisions of paragraph (2) will not apply to that application.

Use of private roads

16.—(1) The undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in

(**a**) 1981 c. 69.

connection with, the construction, maintenance or decommissioning of the authorised development.

(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 (determination of questions of disputed compensation) of the 1961 Act.

(4) For the purposes of this article, the only private roads within the Order limits are those shown as 'tracks' on the location plan.

Traffic regulation measures

17.—(1) Subject to the provisions of this article the undertaker may at any time, in the interests of safety and for the purposes of, or in connection with, the construction, maintenance or decommissioning of the authorised development temporarily make provision in respect of the lengths of road specified in column (2) of the table in Schedule 8 (traffic regulation measures) imposing the temporary measures mentioned in column (3).

(2) Subject to the provisions of this article and without limitation to the exercise of the powers conferred by paragraph (1), the undertaker may for the purposes of the construction, maintenance or decommissioning of the authorised development make temporary provision—

(a) as to the speed at which vehicles may proceed along any road;

(b) permitting, prohibiting or restricting the closing, waiting, loading or unloading of vehicles on any road;

(c) as to the prescribed routes for vehicular traffic or the direction or priority of vehicular traffic on any road;

(d) permitting or prohibiting or restricting the use by vehicular traffic or non-vehicular traffic of any road; and

(e) suspending or amending in whole or in part any or made, or having effect as if made, under the 1984 Act,

either at all times or at times, on days or during such periods as may be reasonably specified by the undertaker.

(3) No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendments) Regulations 2011(**a**) when in accordance with regulation 3(5) of those regulations.

(4) Before exercising the power conferred by paragraph (2) the undertaker must—

(a) consult with the chief officer of police in whose area the road is situated; and

(b) obtain the written consent of the traffic authority, which consent must not be unreasonably withheld.

(5) The undertaker must not exercise the powers in paragraphs (1) or (2) unless it has—

(a) given not less than 28 days' notice in writing of its intention to do so to the chief officer of police and to the traffic authority in whose area the road is situated;

(b) not less than seven days before the provision is to take effect published the undertaker's intention to make the provision in one or more newspapers circulating in the area in which any road to which the provision relates is situated; and

(c) displayed a site notice containing the same information at each end of the length of road affected.

(**a**) S.I. 2011/935.

(6) Any provision made under the powers conferred by paragraphs (1) or (2) of this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred in paragraphs (1) or (2).

(7) Any provision made by the undertaker under paragraphs (1) or (2)—

(a) must be made by written instrument in such form as the undertaker considers appropriate;

(b) has effect as if duly made by the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act and the instrument by which it is effected may specify specific savings and exemptions to which the provision is subject; and

(c) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(**a**).

(8) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (4)(b) the traffic authority is deemed to have granted consent.

(9) For deemed consent under paragraph (8) to apply to any application for consent under paragraph (4)(b), the application must include a statement that the provisions of paragraph (8) apply to that application.

(10) If an application for consent under paragraph (4)(b) does not include the statement required under paragraph (9), then the provisions of paragraph (8) will not apply to that application.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

18.—(1) Subject to sub-paragraphs (3), (4) and (8) the undertaker may use any watercourse, public sewer or drain for the drainage of water in connection with the construction, maintenance or decommissioning of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(**b**).

(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, whose consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(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 must 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 carrying out, maintaining or decommissioning works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(**a**) 2004 c. 18. There are amendments to this Act not relevant to this Order.

(**b**) 1991 c. 56. Section 106 was amended by section 35(8)(a) of the Competition and Service (Utilities) Act 1992 (c. 43) and sections 36(2) and 99 of the Water Act 2003 (c. 37). There are other amendments to this section which are not relevant to this Order.

(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 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 the entry into controlled waters of any matters whose entry or discharge into controlled waters requires a licence in accordance with the Environmental Permitting (England and Wales) Regulations 2016(**a**).

(8) In this article—

(a) "public sewer or drain" means a sewer or drain which belongs to Homes England, the Environment Agency, a harbour authority within the meaning of section 57 (interpretation) of the Harbours Act 1964(**b**), an internal drainage board, a joint planning board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and

(b) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2016(**c**) have the same meaning as in those Regulations.

(9) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to notify the undertaker of a decision within 28 days of receiving an application that person will be deemed to have granted consent or given approval, as the case may be.

(10) For deemed consent under paragraph (9) to apply to any application for consent under paragraph (3) or approval under paragraph (4)(a), the application must include a statement that the provisions of paragraph (9) apply to that application.

(11) If an application for consent under paragraph (3) or approval under paragraph (4)(a) does not include the statement required under paragraph (10), then the provisions of paragraph (10) will not apply to that application.

Protective work to buildings

19.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building or structure located within the Order limits or which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

(a) at any time before or during the construction of any part of the authorised development in the vicinity of the building; or

(b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of five years beginning with the date of final commissioning of that part of the authorised development; and

(c) to facilitate or during decommissioning any part of the authorised development in the vicinity of the building.

(3) For the purpose of determining how the powers 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

(**a**) S.I. 2016/1154.
(**b**) 1964 c. 40.
(**c**) S.I. 2016/1154.

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

(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 14 days' notice of its intention to exercise the power and, in a case falling within sub-paragraph (a) or (c) or (d), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), 5(b), (5)(c) or (5)(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 of 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 41 (arbitration).

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

(8) Where—

(a) protective works are carried out to a building under this article; and

(b) within the period of five years beginning with the date of final commissioning for that part of the authorised development in the vicinity of the building or structure it appears that the protective works are inadequate to protect the building or structure against damage caused by the construction, operation, maintenance or decommissioning of that part of the authorised development,

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

(9) Subject to article 45 (no double recovery) nothing in this article relieves the undertaker from any liability to pay compensation under section 10(2) (further provisions as to compensation for injurious affection) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) must be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) 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 that may be caused to the building by the construction, operation, maintenance, use or decommissioning of the authorised development; and

(b) any works the purpose of which is to remedy any damage that has been caused to the building by the construction, maintenance, use or decommissioning of the authorised development.

(12) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article, to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

Authority to survey and investigate the land

20.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

(a) survey or investigate the land;

(b) without prejudice to the scope of sub-paragraph (a), make any excavation, trial holes, boreholes and other investigations in such positions on the land as the undertaker thinks fit to investigate the extent or the nature of the surface layer, subsoil, ground water underground structures, foundations, and plant or apparatus and remove soil and water samples;

(c) without prejudice to the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land including making any excavations, trenches or trial holes on the land for such purposes; and

(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, boreholes and trenches.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

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

(a) must, if so required before entering the land, produce written evidence of their authority to do so; and

(b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

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

(a) in land located within the highway boundary without the consent of the highway authority; or

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

but such consent must not be unreasonably withheld.

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

(6) If either a highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

(a) under paragraph (4)(a) in the case of a highway authority; or

(b) under paragraph (4)(b) in the case of a street authority,

that authority will be deemed to have granted consent.

(7) For deemed consent under paragraph (6) to apply to any application for consent under paragraph (4)(a) or 4(b), the application must include a statement that the provisions of paragraph (6) apply to that application.

(8) If an application for consent under paragraphs (4)(a) or (4)(b) does not include the statement required under paragraph (7), then the provisions of paragraph (6) will not apply to that application.

(9) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

21.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate, or is incidental, to it.

(2) This article is subject to—

(a) article 23 (time limit for exercise of authority to acquire land compulsorily);

(b) article 24 (compulsory acquisition of rights and imposition of restrictive covenants);

(c) article 25 (private rights over land)

(d) article 26 (power to override easements and other rights)

(e) article 28 (acquisition of subsoil only);

(f) article 30 (rights under or over streets); and

(g) article 31 (temporary use of land for carrying out the authorised development).

Compulsory acquisition of land – incorporation of the mineral code

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

(a) paragraph 8(3) is not incorporated;

(b) for the "acquiring authority" substitute "the undertaker"; and

(c) for "undertaking" substitute "authorised development".

Time limit for exercise of authority to acquire land compulsorily

23.—(1) After the end of the period of five years beginning on the day on which this Order is made—

(a) no notice to treat is to be served under Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act; and

(b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 27 (application of the 1981 Act).

(2) The authority conferred by article 31 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except 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 was taken before the end of that period.

(3) The applicable period for the purposes of section 4 of the 1965 Act (time limits for giving notice to treat) and section 5A of the 1981 Act (time limit for general vesting declaration) (as modified by this Order) is the period of five years beginning on the day on which this Order is made.

Compulsory acquisition of rights and imposition of restrictive covenants

24.—(1) Subject to paragraphs (2) to (3) and article 31 (temporary use of land for carrying out the authorised development), the undertaker may acquire such rights over the Order land, or impose restrictive covenants affecting the Order land, as may be required for any purpose for which that land may be acquired under article 21 (compulsory acquisition of land), by creating them as well as by acquiring rights already in existence.

(**a**) 1981 c. 67.

(2) In the case of the Order land specified in column (1) of Schedule 9 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of such new rights in the land and the imposition of such restrictive covenants, as may be required for the purposes specified in relation to that land in column (2) of that Schedule.

(3) Subject to section 8 (other provisions as to divided land) of the 1965 Act and Schedule 2A (counter-notice requiring purchase of land) to the 1965 Act, (as substituted by Schedule 10 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants)), where the undertaker acquires a right over land or the benefit of a restrictive covenant affecting land under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 10 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of new restrictive covenants) has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 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.

(5) In any case where the acquisition of new rights of imposition of a restriction under paragraphs (1) or (2) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

Private rights over land

25.—(1) Subject to the provisions of this article, all private rights or restrictive covenants over land under article 21 (compulsory acquisition of land) are extinguished—

(a) as 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 earliest.

(2) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 24 (compulsory acquisition of rights and imposition of restrictive covenants) are extinguished in so far as their continuance would be inconsistent with the exercise of the right or burden of the restrictive covenant—

(a) as from the date of the acquisition of the right or the benefit of the restrictive covenant 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) (power of entry) of the 1965 Act,

whichever is the earliest.

(3) Subject to the provisions of this article, all private rights and restrictions over land owned by the undertaker that are within the Order land are extinguished at the start of any activity authorised by this Order which interferes with or breaches those rights.

(4) Subject to the provisions of this article, all private rights and restrictions over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, for as long as the undertaker remains in lawful possession of the land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 33 (statutory undertakers) applies.

(7) 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 the land;

(iii) the undertaker's entry onto the land; or

(iv) the undertaker's taking temporary possession of the land,

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

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

(8) If an agreement referred to in paragraph (7)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

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

(9) 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 use of land arising by virtue of a contract, agreement or undertaking having that effect.

Power to override easements and other rights

26.—(1) Any authorised activity which takes place on land within the 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) 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.

(3) Subject to article 45 (no double recovery), where an interest, right or restriction to which this article applies is interfered with or breached under paragraph (1), unless otherwise agreed, compensation—

(a) is payable under section 7 (measure of compensation in case of severance) or 10 (further provision as to compensation for injurious affection) of the 1965 Act; and

(b) is to be assessed in the same way 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.

(4) 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 (3); and

(b) fails to discharge that liability,

the liability is enforceable against the undertaker.

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

(6) In this article "authorised activity" means—

(a) the construction, operation, maintenance or decommissioning of any part of the authorised development;

(b) the exercise of any power authorised by this Order; or

(c) the use of any land within the Order limits (including the temporary use of land).

Application of the 1981 Act

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

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

(3) In section 1 for subsection 2 substitute—

"(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.".

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

(5) In section 5B(1) (extension of time limit during challenge), in subsection (1), for "section 23 (application to High Court in respect of compulsory purchase order) substitute "section 118 (legal challenges relating to applications for orders granting development consent) of the 2008 Act.

(6) In section 6 (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 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008".

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

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

"(2) But see article 28(3) (acquisition of subsoil only) of the Dean Moor Solar Farm Order 2026, which excludes the acquisition of subsoil only from this Schedule.".

(9) References to the 1965 Act in the 1981 Act must be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 29 (modification of Part 1 of the Compulsory Purchase Act 1965) to the compulsory acquisition of land under this Order.

Acquisition of subsoil only

28.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph (1) of article 21 (compulsory acquisition of land) or article 24 (compulsory acquisition of rights and imposition of restrictive covenants) 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.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of land under paragraph (1), the undertaker is not 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 only—

(a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act as modified by article 29 (modification 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; 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.

Modification of Part 1 of the Compulsory Purchase Act 1965

29.—(1) Part 1 (compulsory acquisition under Acquisition of Land Act 1946) of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1) (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)" substitute "section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent)".

(3) In section 11A (powers of entry: further notice of entry)—

(a) in subsection (1)(a), after "land" insert "under that provision"; and

(b) in subsection (2), after "land" insert "under that provision".

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

(a) for paragraphs 1(2) and 14(2) substitute—

"(2) But see article 28(3) (acquisition of subsoil only) of the Dean Moor Solar Farm Order 2026, 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 16 (use of private roads), article 19 (protective works to buildings), article 20 (authority to survey and investigate the land), article 31 (temporary use of land for carrying out the authorised development) or article 32 (temporary use of land for maintaining the authorised development) of the Dean Moor Solar Farm Order 2026.".

Rights under or over streets

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

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) 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.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and

who suffers loss as a result, 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) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out the authorised development

31.—(1) Subject to paragraph (2), the undertaker may, in connection with the carrying out of the authorised development—

(a) enter on and take temporary possession of—

(i) the land specified in column (1) of the table in Schedule 11 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (2) of the table in that Schedule; and

(ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;

(b) remove any buildings, agricultural plant, apparatus, drainage, fences, landscaping, debris and vegetation from that land;

(c) construct temporary works (including the provision of means of access), haul roads, security fencing, bridges, structures and buildings on that land;

(d) use the land for the purposes of a temporary working site with access to the working site in connection with the authorised development;

(e) construct any works, on that land as are mentioned in Schedule 1 (authorised development); and

(f) carry out mitigation works required in accordance with the requirements in Schedule 2 (requirements).

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

(a) any house or garden belonging to a house;

(b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on 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.

(4) The undertaker must not remain in possession of any land under this article for longer than reasonably necessary and in any event must not, without the agreement of the owners of the land, remain in possession of any land under this article—

(a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of final commissioning of the part of the authorised development for which temporary possession of the land was taken; or

(b) in the case of land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of final commissioning of the part of the authorised development for which temporary possession of the land was taken, unless the undertaker has, before the end of that period, served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act.

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

(a) replace any building, debris, drain or electric line removed under this article;

(b) remove any drainage works installed by the undertaker under this article;

(c) remove any new road surface or other improvements carried out under this article to any street;

(d) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development;

(e) remove any fencing or boundary treatments installed by the undertaker under this article to replace or enhance existing fencing or boundary treatments; or

(f) restore the land on which any works have been carried out under paragraph (1)(f) insofar as the works relate to mitigation, compensation or enhancement works identified in the environmental statement or required under the requirements in Schedule 2 (requirements).

(6) The undertaker must pay compensation to the owners and occupiers of land which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of any power 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, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) Subject to article 45 (no double recovery) nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(9) The undertaker may not compulsorily acquire, acquire new rights over, or impose restrictive covenants over, the land referred to in paragraph (1)(a)(i) under this Order.

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

(11) Section 13 (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 compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) Nothing in this article prevents the taking of temporary possession more than once in relation to any land under paragraph (1).

Temporary use of land for maintaining the authorised development

32.—(1) Subject to paragraph (2), at any time during the maintenance period (as defined in paragraph (12) relating to any part of the authorised development, the undertaker may—

(a) enter on and take temporary possession of any land within the Order land if possession is reasonably required for the purpose of maintaining the authorised development;

(b) enter on any land within the Order land for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and

(c) 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 on 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.

(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 development 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, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

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

(10) Section 13 (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 compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) In this article "the maintenance period" means the period of five years beginning with the date of final commissioning save that in relation to landscaping works where "the maintenance period" means such period as may be approved in a landscaping and ecological management plan in accordance with requirement 7 of Schedule 2 to this Order beginning with the date on which that part of the landscape or ecological works is completed.

Statutory undertakers

33. Subject to the provisions of Schedule 13 (protective provisions) the undertaker may—

(a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plan within the Order land and described in the book of reference; and

(b) extinguish the rights of, remove, relocate the rights of or reposition the apparatus belonging to statutory undertakers over or within the Order land.

Apparatus and rights of statutory undertakers in stopped up or temporarily closed streets

34. Where a street is altered or diverted or its use is temporarily prohibited or restricted under article 10 (street works), article 12 (power to alter layout, etc., of streets), article 13 (construction and maintenance of new or altered means of access) or article 14 (temporary closure or restriction of streets) any statutory undertaker whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to Schedule 13 (protective provisions), as if this Order had not been made.

Recovery of costs of new connections

35.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 33 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, 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.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 33 (statutory undertakers), 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,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which article 34 (apparatus and rights of statutory undertakers in closed streets) or Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this article—

"public communications provider" has the same meaning as in section 151(1) (interpretation of Chapter 1) of the Communications Act 2003(**a**); and

"public utility undertaker" means a gas, water, electricity or sewerage undertaker.

PART 6

MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

36.—(1) This article applies to—

(a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and

(b) any agreement entered into by the undertaker with any person for the construction, maintenance, use, operation or decommissioning of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants may prejudice 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.

Operational land for purposes of the 1990 Act

37. Development consent granted by this Order is treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land) of the 1990 Act.

(**a**) 2003 c. 21.

Felling or lopping of trees and removal of hedgerows

38.—(1) The undertaker may fell or lop any tree or shrub near the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from—

(a) obstructing or interfering with the construction, maintenance, operation or decommissioning of the authorised development or any apparatus used in connection with the authorised development;

(b) constituting a danger to persons using the authorised development; or

(c) obstructing or interfering with the passage of vehicles to the extent necessary for the purposes of construction or decommissioning of the authorised development.

(2) In carrying out any activity authorised by paragraphs (1) or (4), 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 such activity.

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

(4) The undertaker may, for the purposes of the authorised development, or in connection with the authorised development, and subject to paragraph (2), undertake works to or remove any hedgerows within the Order limits that may be required.

(5) The undertaker may not under paragraphs (1) and (4) fell or lop a tree or remove hedgerows within the extent of the publicly maintainable highway without the prior consent of the highway authority.

(6) In this article "hedgerow" has the same meaning as in the Hedgerows Regulations 1997(**a**) and includes important hedgerows.

Certification of documents, etc.

39.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of all documents and plans referred to in Schedule 12 (documents to be certified) to this Order for certification that they are true copies of those documents.

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

Service of notices

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

(a) by post;

(b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or

(c) with the consent of the recipient and subject to paragraphs (5) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(**b**) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address and otherwise—

(**a**) S.I. 1997/1160.
(**b**) 1978 c. 30.

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body, and

(b) in any other case, the last known address of that person at that 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 an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to that person by 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 the person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

(a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;

(b) the notice or document is capable of being accessed by the recipient;

(c) the notice or document is legible in all material respects; and

(d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient 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) Any consent to the use of an electronic transmission by a person may be revoked by that person in accordance with paragraph (8).

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

(a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and

(b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

(10) In this article "legible in all material respects" means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Arbitration

41.—(1) Except where otherwise expressly provided for in this Order and unless otherwise agreed in writing between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the Upper Tribunal or which falls to be determined under paragraph (20) (appeals) of Schedule 2 to this Order) must be resolved in accordance with this article.

(2) The parties must use reasonable endeavours to settle any difference to which paragraph (1) applies through negotiations undertaken in good faith by senior representatives of the parties.

(3) Any difference which is not resolved to the satisfaction of the parties under paragraph (2) within ten business days of the dispute arising (or such longer period as may be agreed) must be referred to and settled by arbitration in accordance with the rules set at Schedule 14 (arbitration rules) by a single arbitrator to be agreed between the parties, within 14 days of receipt of the

notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

(4) Any matter for which the consent or approval of the Secretary of State is required under any provision of this Order is not subject to arbitration.

Requirements, appeals, etc.

42.—(1) Where an application or request is submitted to the local planning authority or any other relevant person for any consent, agreement or approval required or contemplated by any of the provisions of this Order, such consent, agreement or approval, must, to be validly given, be given in writing.

(2) Where paragraph (1) applies to any consent, agreement or approval, such consent, agreement or approval must not be unreasonably withheld.

(3) Part 2 (procedure for discharge of requirements) of Schedule 2 (requirements) has effect in relation to all agreements or approvals granted, refused or withheld in relation to requirements included in Part 1 (requirements) of that Schedule, and any document referred to in any requirement in that Part 1.

Protective provisions

43. Schedule 13 (protective provisions) has effect.

Funding

44.—(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any Order land unless it has first put in place either—

(a) a guarantee and the amount of that guarantee approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation in accordance with the provisions referred to in paragraph (2) in relation to that land; or

(b) an alternative form of security and the amount of that security for that purpose approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation in accordance with the provisions referred to in paragraph (2) in relation to that land.

(2) The provisions are—

(a) article 21 (compulsory acquisition of land);

(b) article 24 (compulsory acquisition of rights and imposition of restrictive covenants);

(c) article 25 (private rights over land);

(d) article 28 (acquisition of subsoil only);

(e) article 30 (rights under or over streets);

(f) article 31 (temporary use of land for carrying out the authorised development)

(g) article 32 (temporary use of land for maintaining the authorised development); and

(h) article 33 (statutory undertakers).

(3) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under this Order is to be treated as enforceable against the guarantor or person providing the alternative form of security by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.

(4) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised.

No double recovery

45. 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.

Signed by Authority of the Secretary of State for Energy Security and Net Zero

David Wagstaff
Head of Energy Infrastructure Planning
2nd July 2026 Department for Energy Security and Net Zero

SCHEDULES

SCHEDULE 1

Article 3

AUTHORISED DEVELOPMENT

1. In this Schedule—

"electrical cables" means—

(a) cables of differing types and voltages installed for the purposes of conducting electricity, auxiliary cables, cables connecting to direct current (DC) boxes, earthing cables and optical fibre cables; and

(b) works connected with cable laying including excavations, storage of excavated material, jointing pits, hardstanding adjoining the jointing pits, combiner boxes, fibre bays, cable ducts, cable protections, joint protection, manholes, kiosks, marker posts, underground cable marker, tiles and tape, send and receive pits for horizontal directional drilling, trenching, lighting, and a pit or container to capture fluids associated with drilling;

"inverter" means electrical equipment required to convert direct current (DC) power generated by the solar pv panels to alternating current (AC);

"mounting structure" means a frame or rack designed to support the solar pv panels and inverters, affixed to the ground via posts;

"power conversion system" means inverters and transformers required to step up low voltage (LV) inverter AC output to medium voltage (MV) and would be either—

(a) central inverter being a station comprising a combined inverter-transformer equipment with or without housing on a foundation; or

(b) string inverters attached either to mounting structures or a frame and standalone transformers with or without housing on concrete foundation;

"solar pv panel" means a solar photovoltaic panel designed to convert solar irradiance to DC electrical energy; and

"transformer" means equipment required to transform electricity including inverter-transformers, auxiliary transformers, collector transformers, voltage regulators, and earthing transformers.

2. In the administrative area of Cumberland Council a nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act and associated development under section 115 of the 2008 Act.

The nationally significant infrastructure project comprises all or part of the following works—

Work No. 1 — a ground mounted solar photovoltaic generating station with a gross electrical output capacity of over 50 megawatts including—

(a) solar pv panels;

(b) mounting structures; and

(c) power conversion system,

and associated development within the meaning of section 115(2) of the 2008 Act comprising—

Work No. 2 — grid connection infrastructure comprising—

(a) up to two substation buildings;

(b) a control building;

(c) Point of Connection ('POC') compound comprising external electrical equipment including transformers, relays, circuit breakers and harmonic filters and ancillary infrastructure;

(d) communication mast;

(e) security fencing; and

(f) electrical cables.

Work No. 2A — up to two POC masts.

Work No. 3 — works including—

(a) electrical cables including connecting equipment within Work No. 1 and within Work No. 2 and connecting Works Nos. 1 and 2 to one another;

(b) fencing, gates, boundary treatment and other means of enclosure;

(c) improvement, maintenance and use of existing private tracks;

(d) laying down of internal access tracks, ramps, means of access, permissive paths, crossing of watercourses, culverts, and roads, including the laying and construction of drainage infrastructure, temporary traffic management measures including traffic lights and signage and information boards;

(e) works for the provision of security and monitoring measures such as CCTV columns, lighting columns and lighting, cameras, communication infrastructure, and perimeter fencing;

(f) monitoring, communications and control systems;

(g) electrical vehicle charging points;

(h) operation and maintenance units including storage, welfare and site management;

(i) works, improvements or extensions to the existing drainage and irrigation system and works to alter the position and extent of such irrigation system;

(j) landscaping and biodiversity mitigation and enhancement measures including planting;

(k) site drainage and waste management infrastructure including underground pipework, watercourse outfalls, sub-bases, filter drains, swales and attenuation tanks;

(l) working sites in connection with the construction, maintenance and decommissioning of the authorised development, lay down areas and compounds, storage compounds and their restoration; and

(m) noise attenuation works including acoustic barrier.

Work No. 4 — up to five temporary construction compounds including—

(a) site entry security stations;

(b) areas of hardstanding;

(c) parking;

(d) areas for vehicle loading, unloading and turning;

(e) site management offices, welfare facilities, canteens and workshops;

(f) safety and security infrastructure, including signage, cameras, fencing, gates and lighting; and

(g) areas to store materials, plant, machinery, equipment and waste.

Work No. 5 — works to facilitate vehicular access for all works, including—

(a) enhancement of accesses from the street;

(b) visibility splays;

(c) works to widen and surface the street and private means of access; and

(d) installation of temporary traffic management measures including traffic lights and signs

Work No. 6 — works to create, enhance and maintain green infrastructure, including—

(a) landscape and biodiversity mitigation and enhancement measures including planting and improvement of existing features;

(b) habitat creation and management including, earth works including embankments, landscaping;

(c) construction of drainage infrastructure;

(d) watercourse enhancements;

(e) maintenance of existing access routes and laying down of permissive paths, signage and information boards; and

(f) fencing, gates, boundary treatment and other means of enclosure.

In connection with, and in addition to Works Nos. 1 to 6 further associated development comprising—

(a) alteration of the layout of any street permanently or temporarily, including increasing or reducing the width of the carriageway;

(b) street works, including breaking up or opening a street, or any sewer, drain or tunnel under it, and tunnelling or boring under a street;

(c) relocation, removal or provision of new road traffic signs, signals, street lighting, road restraints and carriageway lane markings;

(d) works to place, alter, remove or maintain street furniture or apparatus (including statutory undertakers' apparatus) in, under or above a street, including mains, sewers, drains, pipes, cables, cofferdams, lights, fencing and other boundary treatments;

(e) works to facilitate traffic management and to deliver information relating to the authorised development;

(f) laying down, maintenance and repair of internal access tracks, ramps, means of access, footpaths and permissive paths including the laying and construction of drainage infrastructure, signage and information boards;

(g) bunds, embankments, trenching and swales;

(h) fencing, gates, boundary treatments and other means of enclosure;

(i) works, improvements or extensions to the existing drainage and irrigation system and works to alter the position and extent of such irrigation system;

(j) surface water drainage systems, storm water attenuation systems including storage basins, oil water separators, including channelling and culverting and works to existing drainage networks;

(k) electrical, gas, water, foul water drainage and telecommunications infrastructure connections, diversions and works to, and works to alter the position of, such services and utilities connections;

(l) works for the provision of security and monitoring measures such as CCTV columns, lighting columns and lighting, cameras, weather stations, communication infrastructure, and perimeter fencing;

(m) habitat creation and management, including earthworks, landscaping, means of enclosure, and the laying and construction of drainage infrastructure;

(n) jointing bays, cable ducts, cable protection, joint protection, manholes, kiosks, marker posts, underground cable marker, tiles and tape, and lighting and other works associated with cable laying;

(o) landscaping and biodiversity mitigation and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;

(p) works for the benefit or protection of land affected by the authorised development;

(q) working sites in connection with the construction, maintenance and decommissioning of the authorised development, construction lay down areas and compounds, storage

compounds and their restoration, improvement, strengthening, reconstruction, maintenance and use of existing streets, private tracks and access roads;

(r) temporary footpath diversions and footpath enhancement;

(s) site establishments and preparation works including site clearance (including vegetation removal, demolition of existing buildings and structures); coal mine remediation works; earthworks (including soil stripping and storage and site levelling) and excavations; the alteration of the position of services and utilities; and works for the protection of buildings and land;

(t) tunnelling, boring and drilling works;

(u) works required for crossing, moving re-routing or over/undergrounding of existing utility assets (including water, gas, sewer pipes, electricity distribution/transmission cabling, telecommunications etc.); and

(v) earthworks;

and further associated development comprising such other works or operations as may be necessary or expedient for the purposes of or in connection with the construction, operation, maintenance and decommissioning of the authorised development insofar as they are unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

SCHEDULE 2

Article 3

REQUIREMENTS

PART 1

REQUIREMENTS

Interpretation

1. In this Schedule—

"archaeological mitigation strategy" means the document certified by the Secretary of State under article 39 as the archaeological mitigation strategy for the purposes of this Order;

"CEMP" means the construction environmental management plan;

"CTMP" means the construction traffic management plan;

"design parameters document" means the document certified by the Secretary of State under article 39 as the design parameters document for the purposes of this Order;

"DMP" means the decommissioning management plan;

"framework DMP" means the document certified by the Secretary of State under article 39 as the framework decommissioning management plan for the purposes of this Order;

"LEMP" means the landscape and ecological management plan;

"LEP" means the landscape and ecology plan;

"LSP" means the document certified by the Secretary of State under article 39 as the landscape strategy plan for the purposes of this Order;

"OMP" means the operational management plan;

"outline CEMP" means the document certified by the Secretary of State under article 39 as the outline construction environmental management plan for the purposes of this Order;

"outline CTMP" means the document of that description certified by the Secretary of State under article 39 as the outline construction traffic management plan for the purposes of this Order;

"outline drainage strategy" means section 8 of the flood risk assessment and outline drainage strategy which forms part of the document certified by the Secretary of State under article 39 as the outline drainage strategy for the purposes of this Order;

"outline LEMP" means the document certified by the Secretary of State under article 39 as the outline landscape and ecological management plan for the purposes of this Order;

"outline OMP" means the document certified by the Secretary of State under article 39 as the outline operational management plan for the purposes of this Order; and

"outline soil management plan" means the document certified by the Secretary of State under article 39 as the outline soil management plan for the purposes of this Order.

Time limits

2.—(1) The authorised development must commence no later than the expiration of five years beginning with the date that this Order comes into force.

Detailed design approval

3.—(1) No part of the authorised development may commence until details of—

(a) the layout;

(b) scale;

(c) proposed finished ground levels;

(d) external appearance;

(e) hard surfacing materials;

(f) drainage, water, power and communications cables and pipelines; and

(g) vehicular and pedestrian access, parking and circulation areas,

relating to that part have been submitted to and approved in writing by the local planning authority.

(2) The details submitted must accord with the design parameters document unless it can be demonstrated to the satisfaction of the local planning authority that the subject matter of the approval sought would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

(3) The authorised development must be carried out in accordance with the approved details.

(4) Sub-paragraph (1) does not apply to the matters listed under sub-paragraph (1)(f) if consent has already been given to the details of those works in accordance with articles 12 (power to alter layout, etc. of streets), 13 (construction and maintenance of altered streets) or 15 (access to works).

Construction environmental management plan

4.—(1) No part of the authorised development may commence until a CEMP for that part has been submitted to and approved by the local planning authority following consultation by the undertaker with the Mining Remediation Authority, Environment Agency, and Natural England.

(2) Any CEMP submitted must include a commitment to regularly share all relevant pre-construction, construction, and post-construction/operational survey and monitoring data in the appropriate formats with the relevant Local Environmental Records Centre(s) and relevant national/regional environmental recording schemes.

(3) Any CEMP submitted for approval under sub-paragraph (1) must be in accordance with the outline CEMP.

(4) The construction of any part of the authorised development must be carried out in accordance with the approved CEMP for that part.

(5) The plan submitted and approved pursuant to sub-paragraph (1) must include a site waste management plan that must be in accordance with the framework site waste management plan and must be implemented as approved.

Construction traffic management plan

5.—(1) No part of the authorised development may commence until a CTMP for that part has been submitted to and approved by the local planning authority following consultation by the undertaker with the local highway authority and National Highways on matters relevant to their functions.

(2) Any CTMP submitted for approval under sub-paragraph (1) must be in accordance with the outline CTMP.

(3) The construction of any part of the authorised development must be carried out in accordance with the CTMP approved for that part.

Landscaping design

6.—(1) No part of the authorised development containing landscaping mitigation may commence until a LEP which relates to that part has been submitted to and approved in writing by the local planning authority.

(2) The LEP approved under sub-paragraph (1) must be in accordance with the principles set out in the LSP, and must include details of—

(a) location, number, species mix, size and planting density of any proposed planting; and

(b) existing vegetation to be retained.

(3) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards, other recognised codes of good practice and in line with the requirements of any environmental permit applicable to the works.

(4) The authorised development must be constructed in accordance with the LEP approved under sub-paragraph (1) and thereafter maintained in accordance with the relevant LEMP for that part approved under paragraph 7.

Landscape and ecological management plan

7.—(1) No part of the authorised development may commence until a LEMP for that part has been submitted to and approved by the local planning authority following consultation by the undertaker with Natural England.

(2) Any LEMP submitted for approval under sub-paragraph (1) must be in accordance with the outline LEMP and must demonstrate how a minimum biodiversity net gain of 60% for area habitat units, 20% for hedgerow units and 5% for watercourse units, calculated using the Department of Environment Food and Rural Affairs' Statutory Biodiversity Metric (February 2024), or if this is withdrawn or replaced, a biodiversity metric approved by the local planning authority in consultation with the relevant statutory nature conservation body, will be delivered.

(3) Any LEMP submitted must include a commitment to regularly share all relevant pre-construction, construction, and post-construction/operational survey and monitoring data in the appropriate formats with the relevant Local Environmental Records Centre(s) and relevant national/regional environmental recording schemes.

(4) Any LEMP approved under sub-paragraph (1) must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the LEMP relates.

Fencing and other means of enclosure

8.—(1) No part of the authorised development may commence until written details of any proposed temporary fences, walls or other means of enclosure for that part have been submitted to and approved by the local planning authority.

(2) No part of the authorised development may commence until written details of any proposed permanent fences, walls or other means of enclosure for that part have been submitted to and approved by the local planning authority.

(3) Any construction site must remain securely fenced in accordance with the approval details under sub-paragraphs (1) and (5) at all times during construction of the part of the authorised development for which it was used.

(4) Any temporary fencing must be removed on completion of the construction of the part of the authorised development for which it was used.

(5) In the event that temporary fences, walls or other means of enclosure are required for the permitted preliminary works, no permitted preliminary works may take place until written details of all proposed temporary fences, walls or other means of enclosure required for such works have been submitted to and approved by the local planning authority.

(6) Prior to the date of final commissioning of the authorised development, any permanent fencing, walls or other means of enclosure approved under sub-paragraph (2) must be completed and properly maintained for the operational lifetime of that part of the authorised development.

Surface water drainage strategy

9.—(1) No part of the authorised development may commence until written details of the surface water drainage strategy (including means of pollution control) for that part have been submitted to and approved by the local planning authority following consultation by the undertaker with the lead relevant flood authority and the Environment Agency.

(2) The written details under sub-paragraph (1) must be in accordance with the outline drainage strategy.

(3) Any approved strategy must be implemented as approved.

Archaeology

10.—(1) No part of the authorised development may commence until a written scheme of investigation for the investigation of areas of archaeological interest within that part has been submitted to and approved by the local planning authority.

(2) Any written scheme of investigation submitted for approval under sub-paragraph (1) must be in accordance with the archaeological mitigation strategy.

(3) Any archaeological works or programme of archaeological investigation must be carried out in accordance with the written scheme of investigation approved under sub-paragraph (1) for the duration of the works in the part of the authorised development to which the written scheme of investigation relates.

(4) For the purposes of sub-paragraph (1) "commence" includes any intrusive archaeological surveys (including trenching).

Soil management plan

11.—(1) No part of the authorised development may commence until a soil management plan for that part has been submitted to and approved by the local planning authority following consultation by the undertaker with Natural England and Mining Remediation Authority.

(2) Any soil management plan submitted for approval under sub-paragraph (1) must be in accordance with the outline soil management plan.

(3) The construction of any part of the authorised development must be carried out in accordance with the approved soil management plan for that part.

Operational management plan

12.—(1) Prior to the date of final commissioning for any part of the authorised development, an OMP for that part must be submitted to and approved by the local planning authority.

(2) Any OMP submitted for approval under sub-paragraph (1) must be in accordance with the outline OMP.

(3) The operation of the authorised development must be carried out in accordance with the approved OMP for that part.

Operational noise

13.—(1) No part of Work No. 1 may be operational until a noise assessment demonstrating that Work No. 1 will not have a significant operational noise effect for that part has been submitted to and approved by the local planning authority.

(2) The design as modelled in the noise assessment must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the plan relates.

Decommissioning and restoration

14.—(1) Unless otherwise agreed with the local planning authority no later than 6 months prior to the intended date of decommissioning of any part of the authorised development, the undertaker must submit to the local planning authority for approval a DMP for that part.

(2) Decommissioning must commence no later than 40 years following the date of final commissioning.

(3) Any DMP submitted and approved under sub-paragraph (1) must be in accordance with the framework DMP.

(4) Any DMP submitted and approved under sub-paragraph (1) must be implemented as approved.

(5) This requirement is without prejudice to any other consents or permissions that may be required to decommission any part of the authorised development.

Requirement for written approval

15. Where under any of the requirements the approval, agreement or confirmation of the Secretary of State, local planning authority or another person is required, that approval, agreement or confirmation must be given in writing.

Amendments to approved details

16.—(1) The undertaker must submit any amendments to the approved documents to the local planning authority for approval and, following approval, the relevant approved document is to be taken to include the amendments as approved under this paragraph.

(2) Approval under sub-paragraph (1) for the amendments to any approved document, may not be given except where it has been demonstrated to the satisfaction of the local planning authority that the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(3) In this paragraph, "approved document" means any document certified under article 39 (certification of documents, etc) and any plans, details or schemes which have been approved pursuant to any requirement.

Consultation

17. In relation to any provision of this Schedule requiring details to be submitted to the local planning authority for approval following consultation by the undertaker with another party, the undertaker must provide such other party with not less than 21 business days for any response to the consultation and thereafter the details submitted to the Secretary of State for approval must be accompanied by a summary report setting out the consultation undertaken by the undertaker to inform the details submitted including copies of any representations made by a consultee about the proposed application and the undertaker's response to those representations.

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under Part 1

18.—(1) Where an application has been made to the local planning authority for any consent, agreement or approval required by a requirement (including consent, agreement or approval in respect of part of a requirement included in this Order), the local planning authority must give notice to the undertaker of its decision on the application within a period of 56 days beginning with the later of—

(a) the day immediately following that on which the application is received by the local planning authority;

(b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 19 (further information regarding requirements); or

(c) such other period that is agreed in writing between the undertaker and the local planning authority.

(2) In determining any application made to the local planning authority for any consent, agreement or approval required by a requirement included in this Order, the local planning authority may—

(a) give or refuse its consent, agreement or approval; or

(b) give its consent, agreement or approval subject to reasonable conditions,

and where consent, agreement or approval is refused or granted subject to conditions the local planning authority must provide its reasons for that decision with the notice of the decision.

(3) In the event that the local planning authority does not determine an application within the period set out in sub-paragraph (1), the local planning authority is deemed to have granted all parts of the application (without any condition or qualification) at the end of that period.

(4) For deemed consent under sub-paragraph (3) to apply to any application for consent under sub-paragraph (1), the application must include a statement that the provisions of sub-paragraph (3) apply to that application.

(5) If an application for consent under sub-paragraph (1) does not include the statement required under paragraph (4), then the provisions of sub-paragraph (3) will not apply to that application.

Further information regarding requirements

19.—(1) In relation to any application made under this Schedule 2, the local planning authority may request such further information from the undertaker as it considers necessary to enable it to consider the application.

(2) In the event the local planning authority considers such further information to be necessary and the requirement concerned contained in Part 1 of this Schedule does not specify that consultation with a consultee is required, the local planning authority must, within 15 business days of receipt of the application, notify the undertaker in writing specifying the further information required and (if applicable) to which part of the application it relates.

(3) In the event that the local planning authority does not give such notification within the period specified in sub-paragraph (2) or (4) the local planning authority (and the consultee, as the case may be) is deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(4) If the requirement concerned contained in Part I of this Schedule specifies that a consultation with a consultee is required, the local planning authority must issue the application to the consultee within 14 days of receipt of the application, and notify the undertaker in writing specifying any further information requested by the consultee within 14 days of receipt of such a request.

Appeals

20.—(1) The undertaker may appeal to the Secretary of State in the event that the local planning authority—

(a) refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions;

(b) issues a notice further to sections 60 (control of noise on construction sites) or 61 (prior consent for work on construction sites) of the 1974 Act;

(c) on receipt of a request for further information under paragraph 19, the undertaker considers that either the whole or part of the specified information requested by the local planning authority is not necessary for consideration of the application; or

(d) on receipt of any further information requested under paragraph 19, the local planning authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The appeal process applicable under sub-paragraph (1) is as follows—

(a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision;

(b) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the local planning authority;

(c) the Secretary of State must appoint a person to consider the appeal ("the appointed person") as soon as is practicable after the submission under sub-paragraph (b) and must notify the appeal parties of the identity of the appointed person, a start date and the address to which all correspondence for their attention should be sent;

(d) the local planning authority must submit their written representations to the appointed person in respect of the appeal within 15 business days of the start date and must ensure that copies of their written representations and any other representations as sent to the appointed person are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;

(e) the applicant must make any counter-submissions to the appointed person within ten business days of receipt of written representations under sub-paragraph (d); and

(f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable but in any event no longer than 30 business days from receipt of counter-submissions under sub-paragraph (e).

(3) The appointment of the appointed person under sub-paragraph (2)(c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(4) In the event that the appointed person considers that further information is necessary to enable the appointed person to consider the appeal the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.

(5) Any further information required under sub-paragraph (4) must be provided by the party from whom the information is sought to the appointed person and to the other appeal parties by the date specified by the appointed person.

(6) The appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day.

(7) The revised timetable for the appeal must require submission of written representations to the appointed person within 10 business days of the agreed date but must otherwise be in accordance with the process and time limits set out in sub-paragraphs (2)(c) to (f).

(8) On an appeal under this paragraph, the appointed person may—

(a) allow or dismiss the appeal; or

(b) reverse or vary any part of the decision of the local planning authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(9) The appointed person may proceed to a decision on an appeal taking into account such written representations as have been sent within the relevant time limits and in the sole discretion

of the appointed person such written representations as have been sent outside of the relevant time limits.

(10) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(11) The decision of the appointed person on an appeal is final and binding on the parties unless proceedings are brought by a claim for a judicial review.

(12) Except where a direction is given under sub-paragraph (13) requiring some or all the costs of the appointed person to be paid by the local planning authority, the reasonable costs of the appointed person must be met by the undertaker.

(13) The appointed person may give directions as to the costs of the appeal and as to the parties by whom the costs are to be paid.

(14) In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to relevant guidance on planning appeals and award costs published in Planning Practice Guidance: Appeals (March 2024) or any circular or guidance which may from time to time replace it.

Fees

21.—(1) Where an application is made to the local planning authority for written consent, agreement or approval in respect of a requirement, the fee prescribed under regulation 16(1)(b) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(**a**) (as may be amended or replaced from time to time) is to apply and must be paid to the local planning authority for each application.

(2) Any fee paid under this Schedule must be refunded to the undertaker within four weeks of—

(a) the application being rejected as invalidly made; or

(b) the local planning authority failing to determine the application within the relevant period in paragraph 18(1) unless—

(i) within that period the undertaker agrees, in writing, that the fee is to be retained by the local planning authority and credited in respect of a future application; or

(ii) a longer period of time for determining the application has been agreed under paragraph 18 of this Schedule.

(**a**) S.I. 2012/2920.

SCHEDULE 3

Article 8

LEGISLATION TO BE DISAPPLIED

1. The following provisions do not apply in so far as they relate to the construction of any numbered work or the carrying out of any operation required for the purpose of, or in connection with, the construction, operation, maintenance or decommissioning of the authorised development—

(a) Cumbria Act 1982(**a**);

(b) Dean (Cumberland) Inclosure Act 1809(**b**);

(c) Whitehaven, Cleator and Egremont Railway Act 1854(**c**);

(d) Whitehaven, Cleator and Egremont Railway Act 1861(**d**);

(e) Whitehaven, Cleator and Egremont Railway Act 1863(**e**);

(f) Whitehaven, Cleator and Egremont Railway Act 1865(**f**);

(g) Whitehaven, Cleator and Egremont Railway Act 1875(**g**);

(h) Whitehaven, Cleator and Egremont Railway Act 1876(**h**);

(i) Whitehaven, Cleator and Egremont Railway Act 1877(**i**);

(j) Workington and Winscales Inclosures Act 1809(**j**).

(**a**) 1982 c. xv.
(**b**) 1809 c. 13.
(**c**) 1854 c. lxiv.
(**d**) 1861 c. lxii.
(**e**) 1863 c. lxiv.
(**f**) 1865 c. lxxxvi.
(**g**) 1875 c. cxci.
(**h**) 1876 c. lviii.
(**i**) 1877 c. ccxii.
(**j**) 1809 c. ix.

SCHEDULE 4

Article 10

STREETS SUBJECT TO STREET WORKS

(1) *Street*	*(2)* *Extent of street works*
(U2186 101) Gilgarran Road	Between points SW/1 and SW/2 hatched blue on sheet 2 of the streets and access plans
(U2186 101) Gilgarran Road	Between points SW/3 and SW/4 hatched blue on sheet 2 of the streets and access plans

SCHEDULE 5

Article 12

ALTERATION OF STREETS

(1) *Street subject to alteration of layout*	*(2)* *Description of alteration*
C2054 103 Branthwaite Road	Works to enhance the existing means of access to the authorised development within the area shown as AS/1 to AS/2 shaded purple on sheet 1 of the streets and access plans
C2054 102 Branthwaite Edge Road	Works for the provision of temporary signage within the area shown as AS/3 to AS/4 shaded purple on sheets 1 and 2 of the streets and access plans
U2186 101 Gilgarran Road	Works to enhance the existing means of access to the authorised development within the area shown as AS/5 to AS/6 shaded purple on sheet 2 of the streets and access plans
U2186 101 Gilgarran Road	Works to enhance the existing means of access to the authorised development within the area shown as AS/7 to AS/8 shaded purple on sheet 2 of the streets and access plans
U2186 101 Gilgarran Road	Works to enhance the existing means of access to the authorised development within the area shown as AS/9 to AS/10 shaded purple on sheet 2 of the streets and access plans
C2054 102 Branthwaite Edge Road	Works to enhance the existing means of access to the authorised development within the area shown as AS/11 to AS/12 shaded purple on sheet 2 of the streets and access plans
C2054 102 Branthwaite Edge Road	Works to enhance the existing means of access to the authorised development within the area shown as AS/13 to AS/14 shaded purple on sheets 2 and 3 of the streets and access plans
C2054 102 Branthwaite Edge Road	Works to enhance the existing means of access to the authorised development within the area shown as AS/15 to AS/16 shaded purple on sheet 3 of the streets and access plans

SCHEDULE 6

Article 14

STREETS TO BE TEMPORARILY CLOSED OR RESTRICTED

(1) *Street to be temporarily stopped up*	*(2)* *Extent of temporary closure*
U2186 101 Gilgarran Road	Temporarily closed or restricted for the length shown between point TSC/1 and TSC/2 hatched yellow on sheet 1 of the traffic regulation measures plan

SCHEDULE 7

Article 15

ACCESS TO WORKS

(1) *Street*	*(2)* *Description of means of access*
C2054 103 Branthwaite Road	Existing access to be improved within the area shown as A/1 shaded pink on sheet 1 of the streets and access plans
U2186 101 Gilgarran Road	Existing access to be improved within the area shown as A/2 shaded pink on sheet 2 of the streets and access plans
C2054 102 Branthwaite Edge Road	Existing access to be improved within the area shown as A/3 shaded pink on sheet 2 of the streets and access plans
U2186 101 Gilgarran Road	Existing access to be improved within the area shown as A/4 shaded pink on sheet 2 of the streets and access plans
U2186 101 Gilgarran Road	Existing access to be improved within the area shown as A/5 shaded pink on sheet 2 of the streets and access plans
C2054 102 Branthwaite Edge Road	Existing access to be improved within the area shown as A/6 shaded pink on sheet 3 of the streets and access plans
C2054 102 Branthwaite Edge Road	Existing access to be improved within the area shown as A/7 shaded pink on sheet 3 of the streets and access plans
U2186 101 Gilgarran Road	Existing access to be improved within the area shown as A/8 shaded pink on sheet 2 of the streets and access plans
U2186 101 Gilgarran Road	Existing access to be improved within the area shown as A/9 shaded pink on sheet 2 of the streets and access plans

SCHEDULE 8

Article 17

TRAFFIC REGULATION MEASURES

(1) *Street*	*(2)* *Extent of temporary measure*	*(3)* *Temporary traffic regulation measure*
U2186 101 Gilgarran Road	For the length shown between point TRO/01 and TRO/02 on sheet 1 of the traffic regulation measures plan	Temporary 30mph speed limit

SCHEDULE 9

Article 24

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

(1) *Number of Plot number shown on land plan*	*(2)* *Purpose for which rights may be acquired or restrictive covenants may be imposed*
1-09, 1-17, 1-21, 1-31, 1-40, 1-43 and 4-12	Provision of access for authorised development
1-70, 1-71, 2-01 and 2-02	Installation of electricity cable underground and the rights and restrictive covenants to construct, protect, operate, access and maintain that cable

SCHEDULE 10

Article 24

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR THE CREATION OF NEW RIGHTS AND IMPOSITION OF NEW RESTRICTIVE COVENANTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land are to apply, 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 the 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 Land Compensation Act 1973(**a**) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5—

(a) for the words "land is acquired or taken from" substitute "a right or restrictive covenant over land is purchased from"; and

(b) for the words "acquired or taken from him" substitute "over which the right is exercisable or the restrictive covenant enforceable".

3.—(1) Without limitation on the scope 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, after "if" substitute—

"(a) the acquiring authority enters on land for the purpose of exercising a right in accordance with a notice of entry under section 11(1) of the 1965 Act(as modified by paragraph 7 of Schedule 10 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants) to the Dean Moor Solar Farm Order 2026;

(b) the acquiring authority is subsequently required by a determination under paragraph 13 of Schedule 2A to the 1965 Act (as substituted by paragraph 9 of Schedule 10 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants) to the Dean Moor Solar Farm Order 2026) 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 where it entered on that land for the purpose of exercising that right.".

Application of the 1965 Act

4. 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 under this Order 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 read (according to the requirements of the particular context) as referring to, or as including references—

(**a**) 1973 c. 26.

(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 restrictive covenant is or is to be enforceable.

(2) Without limiting sub-paragraph (1), Part 1 (compulsory purchase under Acquisition of Land Act 1946) 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, in relation to the imposition of a restrictive covenant, with the modifications specified in the following provisions of this Schedule.

5. For section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

"**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 the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.".

6. 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),

are modified so 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.

7. Section 11(**a**) (powers of entry) of the 1965 Act is modified so as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 21 (compulsory acquisition of land)), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 11A (powers of entry: further notices of entry), 11B (counter-notice requiring possession to be taken on specified date), 12(**b**) (unauthorised entry) and 13(**c**) (refusal to give possession to acquiring authority) entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

8. Section 20(**d**) (tenants at will, etc.) of the 1965 Act 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.

(**a**) 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) and S.I. 2009/1307.

(**b**) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).

(**c**) 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).

(**d**) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

9. Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 29(4) (modification of Part 1 of the Compulsory Purchase Act 1965) is so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or restrictive covenant imposed, subject to compliance with that section as respects compensation.

10. For Schedule 2A (counter-notice requiring purchase of land not in notice to treat) of the 1965 Act substitute—

"SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and has not executed a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981(**a**) as applied by article 27 (application of the 1981 Act) and article 31 (modification of the 2017 Regulations) in respect of the land to which the notice to treat relates.

(2) But see article 28(3) (acquisition of subsoil only) of the Dean Moor Solar Farm Order 2026 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 acquiring 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

(c) refer the counter-notice to the Upper Tribunal.

6. The acquiring 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 acquiring authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

8. If the acquiring authority does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

(**a**) 1981 c. 66, as amended by Part 7 of the Housing and Planning Act 2016 (c. 22).

9. If the acquiring authority serves 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 covenant,

(b) the use to be made of the right or covenant proposed to be acquired or imposed, and

(c) if the right or covenant is proposed to be acquired or 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 covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

13. If the Upper Tribunal determines that the acquiring 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 acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring 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 acquiring authority withdraws the notice to treat under this paragraph it 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.".

SCHEDULE 11

Article 31

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) *Number of plot shown on land plan*	*(2)* *Purpose for which temporary possession may be taken*
1-01, 1-02, 1-03, 1-10, 1-47, 1-48, 1-49, 1-50, 1-51, 1-52, 1-53, 1-54, 1-55, 1-56, 1-57, 1-58, 1-59, 1-60, 1-61, 1-62, 1-63, 1-64, 1-65, 1-66 and 4-04	Temporary use (including access) for the purposes of Work No. 3 and to facilitate the carrying out of Works Nos. 1 to 6
1-04, 1-05, 1-06, 1-07, 1-08, 1-68, 1-69, 1-72, 1-73, 2-03, 2-04, 2-05, 2-06, 2-07, 2-11, 4-01, 4-02, 4-03, 4-05 and 4-06	Temporary use (including access) for the purposes of Works Nos. 3 and 5 and to facilitate the carrying out of Works Nos. 1 to 6

SCHEDULE 12

Article 39

DOCUMENTS TO BE CERTIFIED

(1) Document	*(2) Document Reference*	*(3) Examination Library Reference*	*(4) Version*	*(5) Date*
Book of reference	4.3	REP6-017	2	December 2025
Land plan	2.2	AS-007	2	July 2025
Location plan	2.1	APP-005	1	March 2025
Design parameters document	5.7	APP-028	1	March 2025
Streets and access plan	2.4	AS-008	2	July 2025
Traffic regulation measures plan	2.5	AS-009	2	July 2025
Works plan	2.3	APP-007	1	March 2025
Environmental statement(other than those listed individually below)	6.2		1	
ES Figure 2.1 - Cumulative Schemes within 10km of Order Limits	3.17	REP3-025	2	September 2025
ES Appendix 2.4 - Flood Risk Assessment and Outline Drainage Strategy (1 of 3)	6.3	REP4-025	4	October 2025
ES Appendix 2.4 - Flood Risk Assessment and Outline Drainage Strategy (2 of 3)	6.3	AS-015	2	July 2025
ES Appendix 2.5 - Transport Statement	4.16	REP4-027	2	October 2025
ES Appendix 2.6 - Noise and Vibration Impact Assessment	4.11	REP4-017	2	October 2025
ES Appendix 3.1 - Outline Operational Management Plan	5.13	AS-024	3	November 2025
ES Appendix 5.1 - Outline Construction Environmental Management Plan	5.14	AS-026	3	November 2025
ES Appendix 5.2 - Outline Construction Traffic Management Plan	2.20	REP2-025	2	August 2025
ES Appendix 5.3 - Outline Soil Management Plan	4.14	REP4-023	2	October 2025
ES Appendix 5.4 - Framework decommissioning management plan	6.3	APP-111	1	March 2025
ES Chapter 6 - Cultural Heritage	2.21	REP2-027	2	August 2025
ES Chapter 6 - Figure 6.1 - Designated Heritage Receptors within 3km of the Order Limits	2.22	REP2-029	2	August 2025

ES Appendix 6.1 - Historic Environment Desk Based Assessment	2.23	REP2-030	2	August 2025
ES Appendix 6.3 - Archaeological Mitigation Strategy	6.3	APP-117	1	March 2025
ES Chapter 7 - Landscape and Visual	2.24	REP2-032	2	August 2025
ES Appendix 7.1 - Landscape & Visual Methodology	2.25	REP2-034	2	August 2025
ES Appendix 7.2 - Schedule of Landscape Effects	5.15	AS-028	2	November 2025
ES Appendix 7.3 - Schedule of Visual Effects	2.26	REP2-036	2	August 2025
ES Appendix 7.4 - Cumulative Assessment (report & photosheets only) (1 of 4)	3.8	REP3-010	2	September 2025
ES Appendix 7.5 - View Location Photosheets (8 documents)	2.27	REP2-038 to REP2-045	2	August 2025
ES Figure 7.6 - 1-5 Landscape Strategy Plan	2.28	REP2-046	2	August 2025
ES Appendix 7.6 - Visualisations (6 documents)	2.29	REP2-047 to REP2-052	2	August 2025
ES Appendix 7.7 - Outline Landscape and Ecological Management Plan	5.16	REP5-016	2	November 2025
ES Appendix 7.8 - Arboricultural Impact Assessment	2.17	REP2-020	2	August 2025
ES Appendix 7.9 - Glint and Glare Assessment (1 of 2)	3.9	REP3-013	2	September 2025
ES Appendix 7.9 - Glint and Glare Assessment (2 of 2)	3.10	REP3-011	2	September 2025
ES Chapter 8 - Biodiversity	2.30	REP2-053	2	August 2025
ES Figure 8.1 - Statutory Designated Sites	6.2	AS-012	2	July 2025
ES Appendix 8.7 - Shadow Habitat Regulation Assessment	5.17	REP5-018	2	November 2025

SCHEDULE 13

Article 43

PROTECTIVE PROVISIONS

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWAGE UNDERTAKERS

1. For the protection of the utility undertakers referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertaker concerned.

2. In this Part of this Schedule—

"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" means—

(a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(**a**)), belonging to or maintained by that utility undertaker;

(b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter within the meaning of Part 1 of the Gas Act 1986(**b**) for the purposes of gas supply;

(c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that utility undertaker for the purposes of water supply; and

(d) in the case of a sewerage undertaker—

(i) any drain or works vested in the utility undertaker under the Water Industry Act 1991(**c**); and

(ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal of works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewage disposal works, at a future date) of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any inspection chambers, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which 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 upon land;

"plan" includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

"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;

(c) a water undertaker within the meaning of the Water Industry Act 1991; and

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(**a**) 1989 c. 29.
(**b**) 1986 c. 44. 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 (c. 27).
(**c**) 1991 c. 56.

(d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

On street apparatus

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

Apparatus in closed streets

4. Regardless of the temporary prohibition or restriction of use of streets under the powers conferred by article 14 (temporary closure or restriction of streets), a utility undertaker is at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction was in that street.

Acquisition of land

5. Regardless of any provision in this Order or anything shown on the land plan, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

6.—(1) If, the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (6).

(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, the undertaker must give to the utility undertaker in question 28 days' written notice of that requirement, together with a plan 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 must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule 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 41 (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 41 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraphs (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 of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land controlled by 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.

Facilities and rights for alternative apparatus

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, 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 are to be granted upon 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 41 (arbitration).

(2) 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 that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

8.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 6(2), the undertaker must submit to the utility undertaker in question a plan and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan 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 those 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 date on which a plan under sub-paragraph (1) is 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 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

(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 unless otherwise agreed with the utility undertaker, a new plan and description instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to the utility undertaker in question notice as soon as is reasonably

practicable and a plan and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

Expenses and costs

9.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker all expenses reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 6(2).

(2) There must be deducted from any sum payable under subparagraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(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 situated,

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 41 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule 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 sub-paragraph (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 pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of an inspection chamber 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), 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, is to be reduced by the amount which represents that benefit.

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph 6(2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative 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 property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

(a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and

(b) make reasonable compensation to that 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 such claim or demand and no settlement or compromise is to be made without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Cooperation

11. Nothing in this Part of this Schedule 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 on the date on which this Order is made.

PART 2

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

12. For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

13. In this Part of this Schedule—

"the 2003 Act" means the Communications Act 2003(**a**);

"electronic communications apparatus" has the same meaning as in the electronic communications code;

"the electronic communications code" has the same meaning as in section 106 (application of the electronic code) of the 2003 Act(**b**);

"electronic communications code network" means—

(a) so much of an electronic communications network or infrastructure 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 (application of the electronic communications code) of the 2003 Act; and

(b) an electronic communications network which the undertaker 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 (application of the electronic communications code) of the 2003 Act; and

"operator" means the operator of an electronic communications code network.

14. The exercise of the powers conferred by article 33 (statutory undertakers) is subject to Part 10 (undertaker's works affecting electronic communications apparatus) of the electronic communications code.

15.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

(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 those works), or other property of an operator; or

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(**a**) 2003 c. 21.
(**b**) See section 106.

(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 and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, 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 an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 41 (arbitration).

(5) This Part of this Schedule does not apply to—

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or

(b) any damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.

(6) Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF DRAINAGE AUTHORITIES

16. The provisions of this Part have effect for the protection of a drainage authority unless otherwise agreed in writing between the undertaker and the drainage authority.

17. In this Part—

"construction" includes execution, placing, altering, replacing, relaying and removal; and "construct" and "constructed" must be construed accordingly;

"drainage authority" means in relation to an ordinary watercourse—

(a) the drainage board concerned within the meaning of section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991(**a**); and

(b) in the case of any area for which there is no such drainage board, the lead local flood authority within the meaning of section 6 (other definitions) of the Flood and Water Management Act 2010(**b**);

"drainage work" means any ordinary watercourse and includes any land that provides or is expected to provide flood storage capacity for an ordinary watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence;

"ordinary watercourse" has the meaning given by section 72 (interpretation) of the Land Drainage Act 1991(**b**);

"plans" includes sections, drawings, specifications and method statements;

(**a**) 1991 c. 59
(**b**) 1991 c. 59, section 72(1).

"specified work" means so much of any work or operation authorised by this Order as is in, on, under, over or within 16 metres of a drainage work or is otherwise likely to—

(a) affect the total volume or the volumetric rate of flow of water in or flowing to or from any drainage work; or

(b) affect the conservation, distribution or use of water resources.

18.—(1) Before beginning to construct any specified work, the undertaker must submit to the drainage authority plans of the specified work and such further particulars available to it as the drainage authority may within 28 days of the submission of the plans reasonably require.

(2) The undertaker must not commence construction of the specified work until approval, unconditionally or conditionally, has been given as provided in this paragraph.

(3) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the drainage authority or determined under sub-paragraph (1).

(4) Any approval of the drainage authority required under this paragraph—

(a) must not be unreasonably withheld or delayed;

(b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval (or submission of further particulars if required by the drainage authority under sub-paragraph (1)); and

(c) may be given subject to such reasonable requirements as the drainage authority may make for the protection of any drainage work, for the protection of any ordinary watercourse or for the prevention of flooding or pollution or discharge of its environmental function.

(5) For deemed consent under sub-paragraph (4)(b) to apply to any application for consent under sub-paragraph (1), the application must include a statement that the provisions of sub-paragraph (4)(b) apply to that application.

(6) If a submission of plans for approval (or submission of further particulars if required by the drainage authority) under sub-paragraph (1) does not include the statement required under sub-paragraph (5), then the provisions of sub-paragraph (4)(b) will not apply to that submission of plans for approval.

(7) Any refusal under this paragraph must be accompanied by a statement of reasons for refusal.

19. Without limiting paragraph 18, the requirements which the drainage authority may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

(a) to safeguard any drainage work against damage; or

(b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

20.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 19, must be constructed—

(a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part; and

(b) to the reasonable satisfaction of the drainage authority,

and an officer of the drainage authority is entitled to watch and inspect the construction of such works.

(2) The undertaker must give to the drainage authority—

(a) not less than 14 days' notice in writing of its intention to commence construction of any specified work; and

(b) notice in writing of its completion not later than 7 days after the date of completion.

(3) If the drainage authority reasonably requires, the undertaker must construct all or part of the protective works so that they are in place before the construction of the specified work.

(4) If any part of a specified work or any protective work required by the drainage authority is constructed otherwise than in accordance with the requirements of this Part, the drainage authority may by notice in writing require the undertaker at the undertaker's expense to comply with the requirements of this Part or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the drainage authority reasonably requires.

(5) Subject to sub-paragraph (6), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (4) is served on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, the drainage authority may execute the works specified in the notice, and any expenditure reasonably incurred by it in so doing is recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the drainage authority must not except in emergency exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined.

21. If by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes is impaired, or the drainage work is otherwise damaged, the impairment or damage must be made good by the undertaker to the reasonable satisfaction of the drainage authority and, if the undertaker fails to do so, the drainage authority may make good the impairment or damage and recover from the undertaker the expense reasonably incurred by it in doing so.

22. The undertaker must make reasonable compensation to the drainage authority in respect of all reasonable costs, charges and expenses that the drainage authority may reasonably incur, have to pay or may sustain—

(a) in the examination or approval of plans under this Part;

(b) in inspecting the construction of any specified work or any protective works required by the drainage authority under this Part; and

(c) in carrying out of any surveys or tests by the drainage authority that are reasonably required in connection with the construction of the specified work.

23.—(1) Without limiting the other provisions of this Part, the undertaker must make reasonable compensation to the drainage authority in respect of all claims, demands, proceedings, costs, damages, expenses or loss that may be made or taken against, recovered from or incurred by, the drainage authority by reason of—

(a) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence; or

(b) any flooding or increased flooding of any such land,

that is caused by the construction of any specified work or any act or omission of the undertaker, its contractors, agents or employees whilst engaged on the work.

(2) The drainage authority must give to the undertaker reasonable notice of any such claim or demand, and no settlement or compromise may be made without the agreement of the undertaker (such agreement not to be unreasonably withheld or delayed).

(3) The drainage authority must use its reasonable endeavours to mitigate in whole or in part and to minimise any claims, demands, proceedings, costs, damages, expenses or loss to which this paragraph applies.

(4) If requested to do so by the undertaker, the drainage authority must provide an explanation of how the claim has been minimised.

(5) The undertaker is only liable under this paragraph for claims reasonably incurred by the drainage authority.

(6) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage to the extent that it is attributable to the act, neglect or default of the drainage authority or the breach of a statutory duty of the drainage authority, its officers, servants, contractors or agents.

24. The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by the drainage authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under this Part.

25. Any dispute between the undertaker and the drainage authority under this Part, if the parties agree, must be determined by arbitration under article 41 (arbitration).

PART 4

FOR THE PROTECTION OF UNITED UTILITIES WATER LIMITED

26. The provisions of this Part have effect, in addition to the provisions of Part 1, for the protection of UU Water unless otherwise agreed in writing between the undertaker and UU Water.

27. In this Part—

"UU Water" means United Utilities Water Limited (company number 02366678), registered office at Haweswater House, Lingley Mere Business Park, Lingley Green Avenue, Great Sankey, Warrington, WA5 3LP and includes its successors in title or any successor as a water and sewerage undertaker within the meaning of the Water Industry Act 1991.

Expenses and costs

28.—(1) If the undertaker proposes to connect foul water to a public sewer operated by UU Water, the undertaker shall give to UU Water notice of the proposal, and within 42 days of the receipt by them of the notice, UU Water may refuse permission for the connection (but only if it has reasonable grounds for doing so), or it may grant permission for the connection or alteration, subject to such reasonable conditions as it thinks fit acting reasonably. Any such permission may in particular specify the mode and point of connection.

(2) If the undertaker proposes to connect surface water to a public sewer operated by UU Water, the undertaker shall give to UU Water notice of the proposal, and within 42 days of the receipt by them of the notice, UU Water may refuse permission for the connection (but only if it has reasonable grounds for doing so), or it may grant permission for the connection or alteration, subject to such reasonable conditions as it thinks fit acting reasonably. Any such permission may in particular specify the mode, the point of connection, the rate of discharge and the size of any attenuation necessary. UU Water shall be entitled to refuse any connection where the sustainable drainage system hierarchy for managing surface water has not been reasonably investigated and / or sustainable drainage has not been incorporated within the proposed surface water drainage to the satisfaction of UU Water.

(3) UU Water may prohibit the discharge of foul water into the public sewer reserved for surface water, and prohibit the discharge of surface water into the public sewer reserved for foul water.

(4) Where UU Water has not granted or refused permission under this paragraph within 42 days from the receipt of notice of a proposal the permission shall be deemed to be granted.

(5) Nothing in this section entitles the undertaker to—

(a) discharge into a public sewer (directly or indirectly), highway drainage, groundwater, trade effluent or any liquid or other matter, the discharge of which into a public sewer is prohibited by or under any enactment; or

(b) have drains or sewers that communicate directly with a storm water overflow.

SCHEDULE 14

Article 41

ARBITRATION RULES

Commencing an arbitration

1. The arbitration is deemed to have commenced when a party ("the claimant") serves a written notice of arbitration on the other party ("the respondent").

Time periods

2.—(1) All time periods in these arbitration rules are measured in days and include weekends, but not bank or public holidays.

(2) Time periods are calculated from the day after the arbitrator is appointed which is either—

(a) the date the arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or

(b) the date the arbitrator is appointed by the Secretary of State.

Timetable

3.—(1) The timetable for the arbitration is that which is set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 14 days of the arbitrator being appointed, the claimant must provide both the respondent and the arbitrator with—

(a) a written statement of claim which describes the nature of the difference between the parties, the legal and factual issues, the claimant's contentions as to those issues, the amount of its claim or the remedy it is seeking;

(b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 14 days of receipt of the claimant's statements under sub-paragraph (2) by the arbitrator and respondent, the respondent must provide the claimant and the arbitrator with—

(a) a written statement of defence consisting of a response to the claimant's statement of claim, its statement in respect of the nature of the difference, the legal and factual issues in the claimant's claim, its acceptance of any elements of the claimant's claim and its contentions as to those elements of the claimant's claim it does not accept;

(b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports;

(c) any objection it wishes to make to the claimant's statements, comments on the claimant's expert reports (if submitted by the claimant) and explanations of the objections.

(4) Within seven days of the respondent serving its statements under sub-paragraph (3) the claimant may make a statement of reply by providing both the respondent and the arbitrator with—

(a) a written statement responding to the respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;

(b) all statements of evidence and copies of documents in response to the respondent's submissions;

(c) any expert report in response to the respondent's submissions;

(d) any objections to the statements of evidence, expert reports or other documents submitted by the respondent; and

(e) its written submissions in response to the legal and factual issues involved.

Procedure

4.—(1) The parties' pleadings, witness statements and expert reports (if any) must be concise. A single pleading must not exceed 30 single-sided A4 pages using 10pt Arial font.

(2) The arbitrator will make an award on the substantive differences based solely on the written material submitted by the parties unless the arbitrator decides that a hearing is necessary to explain or resolve any matters.

(3) Either party may, within two days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(4) Within seven days of receiving the last submission, the arbitrator must notify the parties whether a hearing is to be held and the length of that hearing.

(5) Within 10 days of the arbitrator advising the parties that a hearing is to be held, the date and venue for the hearing are to be fixed by agreement with the parties, save that if there is no agreement the arbitrator must direct a date and venue which the arbitrator considers is fair and reasonable in all the circumstances. The date for the hearing must not be less than 35 days from the date of the arbitrator's direction confirming the date and venue of the hearing.

(6) A decision must be made by the arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the arbitrator, then any experts attending the hearing may be asked questions by the arbitrator.

(7) There is to be no examination or cross examination of experts, but the arbitrator must invite the parties to ask questions of the experts by way of clarification of any answers given by the experts in response to the arbitrator's questions. Prior to the hearing in relation to the experts—

(a) at least 28 days before a hearing, the arbitrator must provide a list of issues to be addressed by the experts;

(b) if more than one expert is called, they will jointly confer and produce a joint report or reports within 14 days of the issues being provided; and

(c) the form and content of a joint report must be as directed by the arbitrator and must be provided at least seven days before the hearing.

(8) Within 14 days of a hearing or a decision by the arbitrator that no hearing is to be held the parties may by way of exchange provide the arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The arbitrator must take these submissions into account in the award.

(9) The arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within four months of the date on which the arbitrator is appointed, unless both parties otherwise agree to an extension to the date for the award.

(10) If a party fails to comply with the timetable, procedure or any other direction then the arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before the arbitrator attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure or direction.

(11) The arbitrator's award must include reasons. The parties must accept that the extent to which reasons are given must be proportionate to the issues in dispute and the time available to the arbitrator to deliver the award.

Arbitrator's powers

5.—(1) The arbitrator has all the powers of the Arbitration Act 1996(**a**), save where modified in this Schedule.

(2) There must be no discovery or disclosure, except that the arbitrator is to have the power to order the parties to produce such documents as are reasonably requested by another party no later than the statement of reply, or by the arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the arbitrator. In the absence of agreement, the arbitrator may vary the timescales or procedure—

(a) if the arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;

(b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the arbitrator's fees and expenses.

Costs

6.—(1) The costs of the arbitration must include the fees and expenses of the arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the arbitration.

(2) Where the difference involves connected or interrelated issues, the arbitrator must consider the relevant costs collectively.

(3) The final award must fix the costs of the arbitration and decide which of the parties are to bear them or in what proportion they are to be borne by the parties.

(4) The arbitrator must award recoverable costs on the general principle that each party should bear its own costs, having regard to all material circumstances, including such matters as exaggerated claims or defences, the degree of success for different elements of the claims, claims that have incurred substantial costs, the conduct of the parties and the degree of success of a party.

Confidentiality

7.—(1) Subject to sub-paragraphs (2) and (3), any arbitration hearing and documentation will be open to and accessible by the public.

(2) The arbitrator may direct that the whole or part of a hearing is to be private or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(3) Nothing in this paragraph will prevent any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

(**a**) 1996 c. 23.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises FVS Dean Moor Limited (company number 14712545) (referred to in this Order as the undertaker) to construct, operate, maintain and decommission a ground mounted solar photovoltaic generating station with a gross electrical output capacity over 50 megawatts and associated development. The Order would permit the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

A copy of the Order plans and the book of reference mentioned in the Order and certified in accordance with article 39 (certification of documents, etc.) of this Order may be inspected free of charge during normal working hours at Cumberland Council, Allerdale House, New Bridge Road, Workington CA14 3YJ.

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