STATUTORY INSTRUMENTS

2026 No. 1086

INFRASTRUCTURE PLANNING

The Steeple Renewables Project Order 2026

Made - - - -	*9th October 2026*
Coming into force	*31st October 2026*

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

(**a**) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).
(**b**) S.I. 2009/2264, amended by S.I. 2010/602, S.I. 2010/602, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2018/377, S.I. 2017/572; modified by S.I. 2012/1659.

The application was examined by a panel of 2 members 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 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(**a**).

The panel, having considered the application together with the accompanying documents and the representations made and not withdrawn, in accordance with section 74(2) of the 2008 Act, has submitted a report and recommendation to the Secretary of State.

The Secretary of State has considered the representations made and not withdrawn and the recommendations and report of the panel, and has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(**b**) and as a national policy statement has effect in relation to the proposed development, has had regard to the documents referred to in section 104(2) of the 2008 Act.

The Secretary of State, having decided the application, has determined to make an Order giving effect to the proposals comprised in the application on the terms that, in the opinion of the Secretary of State, are not materially different from those proposed in the application.

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

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Steeple Renewables Project Order 2026 and comes into force on 31st October 2026.

Interpretation

2.—(1) In this Order except where provided otherwise—

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

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

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

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

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

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

(**a**) S.I. 2010/103, amended by S.I. 2012/635.
(**b**) S.I. 2017/572.
(**c**) Section 114 was amended by paragraph 55 of Part I of Schedule 13 to the Localism Act 2011 (c. 20).
(**d**) Section 115 was amended by section 160 of the Housing and Planning Act 2016 (c. 22) and section 43 of the Wales Act 2017 (c. 4).
(**e**) Section 120 was amended by section 140 of, and paragraph 60 of Schedule 13 to, the Localism Act 2011.
(**f**) Section 122 was amended by paragraph 62 of Schedule 13 to the Localism Act 2011.
(**g**) Section 123 was amended by paragraph 62 of Schedule 13 to the Localism Act 2011.
(**h**) 1961 c. 33.
(**i**) 1965 c. 56.
(**j**) 1980 c. 66.
(**k**) 1981 c. 66.
(**l**) 1984 c. 27.
(**m**) 1989 c. 29.

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

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

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

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

"arboricultural impact assessment" means the document certified by the Secretary of State as the arboricultural impact assessment for the purposes of the Order in accordance with article 36 (certification of plans, etc);

"address" includes any number or address for the purposes of electronic transmission;

"apparatus" has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act except that, unless otherwise provided, it further includes pipelines (and parts of them), aerial markers, cathodic protective test posts, field boundary markers, transformer rectifier kiosks, electrical cables, telecommunications equipment and electricity cabinets;

"authorised development" means the development and associated development described in Schedule 1 (authorised development) which is development within the meaning of section 32 of the 2008 Act;

"book of reference" means the document certified by the Secretary of State as the book of reference for the purposes of the Order in accordance with article 36 (certification of plans, etc);

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

"commence" means to carry out any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised development other than the site preparation works (except where stated to the contrary), and "commencement" and "commenced" must be construed accordingly;

"commissioning" means the process of testing all systems and components of Work No. 1 in order to ensure that they, and the authorised development as a whole, function in accordance with plant design specifications and the undertaker's operational and safety requirement;

"construction compound" means a compound including central offices, welfare facilities, accommodation facilities, storage and parking for construction of the authorised development and other associated facilities;

"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 certified by the Secretary of State as the environmental statement for the purposes of this Order in accordance with article 36 (certification of plans, etc);

"flood risk assessment" means the documents certified by the Secretary of State as Environmental Statement: Appendix 8.1 Flood Risk Assessment Part 1, Environmental Statement: Appendix 8.1 Flood Risk Assessment Part 1 Rev 2 Appendix E update, Environmental Statement: Appendix 8.1 Flood Risk Assessment Part 2, Environmental Statement: Appendix 8.1 Flood Risk Assessment Part 3, and Environmental Statement: Appendix 8.1 Flood Risk Assessment Part 3 Appendix G update only, for the purposes of this Order in accordance with article 36 (certification of plans, etc);

(**a**) 1990 c. 8.
(**b**) 1991 c. 22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c. 26). Sections 78(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
(**c**) 2003 c. 21.
(**d**) 2008 c. 29.

“generating station” has the same meaning as in Part 1 of the 1989 Act (see section 64(1) of that Act);

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

“land plans” means the plans certified by the Secretary of State as the land plans for the purposes of this Order in accordance with article 36 (certification of plans, etc);

“lead local flood authority” has the same meaning as in section 6 (other definitions) of the Flood and Water Management Act 2010;

“local planning authority” means the local planning authority (as defined in section 336 of the 1990 Act) for the area to which the provision relates;

“maintain” includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of, but not reconstruct or replace the whole of, the authorised development, provided these do not give rise to any materially new or materially different environmental effects compared to those identified in the environmental statement, and “maintenance” and “maintaining” are to be construed accordingly;

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

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

“outline CEMP” means the document certified by the Secretary of State as the outline construction environmental management plan for the purposes of this Order in accordance with article 36 (certification of plans, etc);

“outline CTMP” means the document certified by the Secretary of State as the outline construction traffic management plan for the purposes of the Order in accordance with article 36 (certification of plans, etc);

“outline decommissioning plan” means the document certified by the Secretary of State as the outline decommissioning plan for the purposes of the Order in accordance with article 36 (certification of plans, etc);

“outline design principles” means the document certified by the Secretary of State as the outline design principles for the purposes of the Order in accordance with article 36 (certification of plans, etc);

“outline FRMP” means the plan certified by the Secretary of State as the outline fire risk management plan for the purposes of this Order in accordance with article 36 (certification of plans, etc);

“outline LEMP” means the document certified by the Secretary of State as the outline landscape ecology management plan for the purposes of this Order in accordance with article 36 (certification of plans, etc);

“outline OEMP” means the document certified by the Secretary of State as the outline operational environmental management plan for the purposes of this Order in accordance with article 36 (certification of plans, etc);

“outline supply chain, employment and skills plan” means the document certified by the Secretary of State as the outline supply chain, employment and skills plan for the purposes of this Order in accordance with article 36 (certification of plans, etc);

“outline SMP” means the document certified by the Secretary of State as the outline soil management plan for the purposes of this Order in accordance with article 36 (certification of plans, etc);

“outline WSI” means the documents certified by the Secretary of State as the outline written scheme of investigation for pre-determination trial trenching and the outline written scheme of investigation for post consent archaeological works for the purposes of this Order in accordance with article 36 (certification of plans, etc);

"owner", in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(**a**);

"plot" means any plot as may be identified by reference to a number and which is listed in the book of reference and shown on the land plans;

"requirements" means those matters set out in Schedule 2 (requirements) and "requirement" means any one of the requirements;

"site location plan" means the plan certified by the Secretary of State as figure 6.1 site location plan for the purposes of the Order in accordance with article 36 (certification of plans, etc);

"site preparation works" means all or any of—

(a) environmental surveys, geotechnical surveys, intrusive archaeological surveys and other investigations for the purpose of assessing ground conditions;

(b) demolition of buildings and removal of plant and machinery;

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

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

(e) diversion and temporary laying of services;

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

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

(h) site clearance (including vegetation removal, demolition of existing buildings and structures);

"statutory undertaker" means any person falling within section 127(8) (statutory undertakers' land) of the 2008 Act and includes a public communications provider defined by section 151(1) (interpretation of chapter 1) of the Communications Act 2003(**b**);

"street" means a street within the meaning of section 48 of the 1991 Act(**c**), together with land on the verge of a street or between two carriageways, and includes any footpath or part of a street;

"street authority" in relation to a street, has the same meaning as in Part 3 of the 1991 Act(**d**);

"streets, access and rights of way plan" means the plans described as the access and public rights of way plans certified by the Secretary of State for the purposes of this Order in accordance with article 36 (certification of plans, etc);

"surface water drainage strategy" means the documents certified by the Secretary of State as Environmental Statement: Appendix 8.2 Surface water drainage strategy, Environmental Statement: Appendix 8.2 Surface Water Drainage Strategy Rev 2 Appendix B update only, Environmental Statement: Appendix 8.2 Surface Water Drainage Strategy Rev 3 Appendix G update only, Environmental Statement: Appendix 8.2 Surface Water Drainage Strategy Rev 3 Appendix H update only, Environmental Statement: 6.3.8, Appendix 8.2 Surface Water Drainage Strategy Rev 3 Appendix L (New), and Environmental Statement: 6.3.8 Appendix 8.2 Surface Water Drainage Strategy Rev 3 Appendix M (New) for the purposes of this Order in accordance with article 36 (certification of plans, etc);

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

"tree retention and removal plan" means the plans described as the tree retention and removal plan and the tree protection plan included in the arboricultural impact assessment certified by the Secretary of State for the purposes of this Order in accordance with article 36 (certification of plans, etc) as part of that arboricultural impact assessment;

(**a**) 1981 c. 67.
(**b**) 2003 c. 21.
(**c**) 1991 c. 22.
(**d**) "street authority" is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act 2015 (c. 7).

"undertaker" means Steeple Solar Farm Limited (company number 13889253) whose registered office is at Beaufort Court, Egg Farm Lane, Station Road, Kings Langley, Hertfordshire, WD4 8LR;

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

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

"work" means a work set out in Schedule 1 (authorised development);

"working day" means any day other than a Saturday, Sunday or English bank or public holiday; and

"works plans" means the plans certified by the Secretary of State as the works plans for the purposes of this Order in accordance with article 36 (certification of plans, etc).

(2) All distances, directions, capacities and lengths referred to in this Order are approximate and distances between lines or points on a numbered work comprised in the authorised development and shown on the works plans and streets, access and rights of way plan are to be taken to be measured along that work.

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

(4) In this Order "includes" must be construed without limitation unless the contrary intention appears.

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

(6) 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 to any trusts or incidents (including restrictive covenants) to which the land is subject and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or over which rights are created and acquired under this Order or is otherwise comprised in this Order.

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

(8) References in this Order to any statute, order, regulation or similar instrument are to be construed as a reference to the statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by this Order

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

(2) Each numbered work must be situated within the corresponding numbered area shown on the works plans.

Power to maintain the authorised development

4.—(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 environmental effects compared to those identified in the environmental statement.

Consent to transfer benefit of Order

5.—(1) Subject to paragraph (3), the undertaker may—

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

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

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

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

(b) the time limits for 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 claim has been made and has been compromised or withdrawn;

(iii) compensation has been paid in full and final settlement of any such claim;

(iv) payment of compensation into court has taken place in lieu of settlement of any such claim; 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, the undertaker must notify the Secretary of State and the relevant local planning authorities in writing before transferring or granting a benefit referred to in paragraph (1).

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

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

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

(c) the powers to be transferred or granted;

(d) pursuant to paragraph (8), the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and

(e) where relevant, a plan showing the works or areas to which the transfer or grant relates.

(6) The date specified under paragraph (5)(b) must not be earlier than the expiry of five working days from the date of the receipt of the notification.

(7) The notification given 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 notification.

(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

6.—(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 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991(**a**);

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

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

(d) in so far as they relate to the temporary possession of land under articles 27 (temporary use of land for carrying out the authorised development) and 28 (temporary use of land for maintaining the authorised development), the provisions of the Neighbourhood Planning Act 2017(**d**).

(2) Regulation 6 of the Hedgerows Regulations 1997(**e**) is modified so as to read for the purposes of this Order only as if there were inserted after paragraph (1)(j) the following—

"or (k) for carrying out development which has been authorised by an order granting development consent pursuant to the Planning Act 2008.".

Defence to proceedings in respect of statutory nuisance

7.—(1) Where proceedings are brought under section 82(1) (summary proceedings by a person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(**f**) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act no order is to be made, and no fine is to 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 or maintenance 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 sites), or a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974(**g**); or

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

(b) the defendant shows that the nuisance is a consequence of the use of the authorised development and 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 the purposes of or in connection with the construction or maintenance of the authorised development.

(**a**) 1991 c. 59. Section 23 was amended by paragraph 192(2) of Schedule 22 of the Environment Act 1995 (c. 25), paragraphs 25 and 32 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and S.I. 2013/755.
(**b**) Section 32 was amended by S.I. 2013/755.
(**c**) Section 66 was amended by paragraphs 25 and 38 of Schedule 2 to the Flood and Water Management Act 2010 and section 86 of the Water Act 2014 (c. 21).
(**d**) 2017 c. 20.
(**e**) S.I. 1997/1160.
(**f**) 1990 c. 43.
(**g**) 1974 c. 40.

PART 3

STREETS

Street works

8.—(1) The undertaker may for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 3 (streets subject to street works) as is within the order limits 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 it; 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) Subject to article 9 (application of the relevant permit scheme and the 1991 Act), where the undertaker is not the street authority, 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).

Application of the relevant permit scheme and the 1991 Act

9.—(1) The relevant permit scheme applies with the modifications set out in this article to street works carried out under the power conferred by article 8 (street works) of this Order.

(2) For the purposes of this Order—

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

(b) a permit may not be granted 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 pursuant to the powers conferred by this Order; and

(c) where the undertaker makes an application for a permit pursuant to a relevant permit scheme, the relevant highway authority for that scheme must issue its response within 5 working days of such application.

(3) References to the moratoria in sub-paragraph (2)(a) include restrictions imposed under section 58 (restrictions on works following substantial road works) section 58A (restrictions on works following substantial street works) of the 1991 Act.

(4) If the relevant highway authority fails to notify the undertaker of its response within the period stated at paragraph (2)(c), beginning with the next working day following that on which the application is received by the relevant highway authority, the works are deemed to be "immediate works" for the purposes of the relevant permit scheme.

(5) Any application for a permit to which this article applies must include a written statement that the provisions of paragraphs 2(c) and (4) apply and where an application does not include such a statement, then the timescales in table 2 of the relevant permit scheme will not apply.

(6) Without restricting the undertaking recourse to any of the alternative appeal mechanism which may be available under the relevant permit scheme or to grant a permit or otherwise, the undertaker may appeal any decision to refuse to grant a permit or to grant a permit subject to conditions pursuant to the permit scheme in accordance with the mechanism set out in Part 2 of

Schedule 2 (procedure for discharge of requirements) of this Order in the same way as if it were a requirement.

(7) For the purposes of this article, "relevant permit scheme" means the Nottinghamshire County Council Permit Scheme Order 2020 as varied by the Nottinghamshire County Council (variation of a Permit Scheme) Order 2025 which are made under Part 3 of the Traffic Management Act 2004, as applicable for the location of the relevant street works.

(8) Where the relevant permit scheme in paragraphs (1) to (7) does not apply, 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 they are of a description in section 86(3) of the 1991 Act(**a**);

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

(10) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—

(a) section 56(**b**) (power to give directions as to timing of street works);

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

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

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

(e) schedule 3A(**f**) (restriction on works following substantial street works).

(11) The provisions of the 1991 Act mentioned in paragraph (12) (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 12 (temporary closure of streets and public rights of way) whether or not the closure, alteration or diversion constitutes street works within the meaning of that Act.

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

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

(b) section 57 (notice of emergency works);

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

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

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

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

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

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

(13) Section 55 of the 1991 Act as applied by paragraph (11) has 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.

(**a**) Section 86(3) defines what highway works are major highway works.
(**b**) As amended by sections 40 and 43 of the Traffic Management Act 2004 (c. 18).
(**c**) Inserted by section 44 of the Traffic Management Act 2004.
(**d**) As amended by section 51 of the Traffic Management Act 2004.
(**e**) Inserted by section 52 of the Traffic Management Act 2004.
(**f**) Inserted by section 52 of, and Schedule 4 to, the Traffic Management Act 2004.
(**g**) All as amended by the Traffic Management Act 2004.

Power to alter layout, etc., of streets

10.—(1) The undertaker may for the purposes of the authorised development alter the layout of or carry out any works in the street—

(a) in the case of the streets specified in column (2) of the table in Part 1 (permanent alteration to layout) of Schedule 4 (alteration to streets) permanently in the manner specified in relation to that street in column (3); and

(b) in the case of the streets as specified in column (2) of the table in Part 2 (temporary alteration to layout) of Schedule 4 (alteration to streets) temporarily in the manner specified in relation to that street in column (3).

(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 or maintaining the authorised development, alter the layout of any street and, without limitation on the scope of this paragraph, the undertaker may—

(a) alter the level or increase the width of any kerb, footway, cycle track, verge or street;

(b) make and maintain passing places; and

(c) alter, remove, replace 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 Order to the reasonable satisfaction of the street authority.

(4) The powers conferred by paragraph (2)—

(a) are exercisable on the giving of not less than six weeks' notice to the street authority; and

(b) are not to be exercised without the consent of the street authority.

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

(6) Any application to which this article applies must include a statement that the provisions of paragraph (5) apply.

(7) Paragraphs (4), (5) and (6) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

Access to works

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

(a) form and lay out the permanent means of access, or improve existing means of access, in the locations specified in Part 1 (permanent private means of access to works) of Schedule 5 (access to works);

(b) form and lay out the temporary means of access in the location specified in Part 2 (temporary private means of access to works) of Schedule 5; and

(c) with the prior approval of the local planning authority after consultation with the highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(2) The undertaker must restore any access that has been temporarily created under this Order to the reasonable satisfaction of the street authority.

Temporary closure of streets and public rights of way

12.—(1) The undertaker, during and for the purposes of constructing or maintaining the authorised development, may temporarily stop up, alter or divert any streets and public rights of way and may for any reasonable time—

(a) divert the traffic or a class of traffic from the streets and public rights of way; and

(b) subject to paragraph (3), prevent all persons from passing along the streets and public rights of way.

(2) Without limiting paragraph (1), the undertaker may use any streets and public rights of way temporarily closed under the powers conferred by this article within the Order limits as a temporary working site.

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

(4) Without limiting paragraph (1), the undertaker may temporarily close, alter or divert the streets and public rights of way specified in column (2) of Schedule 6 (streets and public rights of way to be temporarily closed) to the extent specified, by reference to the streets, access and rights of way plan, in column (3) of that Schedule.

(5) The undertaker must not temporarily stop up, alter, divert or use as a temporary working site—

(a) any public rights of way referred to in paragraph (4) without first consulting the street authority; and

(b) any other street or public rights of way without the consent of the street authority, which may attach reasonable conditions to the consent.

(6) Any person who suffers loss by the suspension of any right of way under this article is entitled to compensation to be determined, in case of dispute, as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) If a street authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (5)(b), or such longer period that is agreed in writing between the undertaker and that street authority, that street authority is deemed to have granted consent.

(8) An application for consent under paragraph (5)(b) must contain a written statement that the provisions of paragraph (7) apply to that application.

(9) If an application for consent under paragraph 5(b) does not include the written statement required under paragraph (8), the provisions of paragraph (7) will not apply to that application.

(10) In this article expressions used in this article and in the 1984 Act have the same meaning.

Agreements with street authorities

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

(a) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;

(b) any closure, restriction, alteration or diversion of a street authorised by this Order;

(c) the carrying out in the street of any of the works referred to in article 8(1) (street works) and article 11 (access to works); or

(d) the adoption by a street authority which is the highway authority of works—

(i) undertaken on a street which is existing public maintainable highway; or

(ii) which the undertaker and highway authority agree to be adopted as public maintainable highway.

(2) If such agreement provides that the street authority must undertake works on behalf of the undertaker the agreement may, without prejudice to the generality of paragraph (1)—

(a) make provision for the street authority to carry out any function under this Order which relates to the street in question;

(b) specify a reasonable time for the completion of the works; and

(c) contain such terms as to payment and otherwise as the parties consider appropriate.

Traffic regulation measures

14.—(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 of the authorised development, temporarily place traffic signs and signals in the extents of the road specified in column (2) of each table in each Part of Schedule 4 (alteration of streets) and the placing of those traffic signs and signals is deemed to have been permitted by the traffic authority for the purposes of section 65 of the 1984 Act and the Traffic Signs Regulations and General Directions 2016(**a**).

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

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

(b) permitting, prohibiting or restricting the stopping, 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, 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.

(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(**b**) 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.

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

(a) given not less than 4 weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated;

(b) not less than 7 days before the provision is to take effect published the undertaker's intention to make the provision in one or more newspaper circulating in the area in which any road to which the provision relates is situated;

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

(d) either—

(i) in relation to the construction of the authorised development only, have first obtained approval under requirement 10 for a construction traffic management plan for the phase of the authorised development in relation to which the power conferred by paragraph (1) or (2) is sought to be utilised; or

(ii) in relation to the decommissioning of the authorised development only, have first obtained approval requirement 23 for a decommissioning traffic management plan for the part of the authorised development in relation to which the power conferred by paragraph (1) or (2) is sought to be utilised.

(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 paragraph (1) or (2).

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

(**a**) S.I. 2016/362.
(**b**) S.I. 2011/935.

(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 to the Traffic Management Act 2004(**a**) (road traffic contraventions subject to civil enforcement).

PART 4

SUPPLEMENTAL POWERS

Discharge of water

15.—(1) Subject to paragraphs (3), (4) and (8) the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance 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 pursuant to paragraph (1) is 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; and such 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 carry out any works to or make any opening into any public sewer or drain pursuant to paragraph (1) 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) Where the undertaker discharges water into, or makes any opening into, a watercourse, public sewer or drain belonging to or under the control of a drainage authority (as defined in Part 4 of Schedule 10 (protective provisions)), the provisions of Part 4 of Schedule 10 (protective provisions) apply in substitution for the provisions of paragraphs (3) and (4).

(6) The undertaker must not, in carrying out or maintaining works pursuant to this article damage or interfere with the bed or banks of any watercourse forming part of a main river.

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

(8) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(**c**).

(9) In this article—

(a) "public sewer or drain" means a sewer or drain which belongs to Homes England, the Environment Agency, an internal drainage board, a joint planning board, a local

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

(**b**) 1991 c. 56. Section 106 was amended by section 35(8)(a) and (8) and 43(2) of, and Schedule 2 to, 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.) and paragraph 16(1) of Schedule 3 of the Flood and Water Management Act 2010 (c. 29).

(**c**) S.I. 2016/1154.

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 Water Resources Act 1991(**a**) have the same meaning as in that Act.

(10) If a person who receives an application for consent or approval fails to notify the undertaker of a decision within 28 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a), or such longer period that is agreed in writing between the undertaker and that person, that person is deemed to have granted consent or given approval, as the case may be.

(11) An application for consent under paragraph (3) or for approval under paragraph (4)(a) must contain a written statement that the provisions of paragraph (10) apply to that application.

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

Protective works to buildings

16.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building located within the Order limits 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 in respect of that phase.

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

(a) enter the building and any land within its curtilage; and

(b) where the works cannot be carried out reasonably conveniently without entering land 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), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question 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 38 (arbitration).

(**a**) 1991 c. 57.

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

(8) Where—

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

(b) within the period of 5 years beginning with the date of final commissioning it appears that the protective works are inadequate to protect the building against damage caused by the construction, operation or maintenance of that part of the authorised development,

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

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 10(2) (compensation for injurious affection) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) must be determined, in case of dispute, as if it were a 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 or use 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, operation, maintenance or use of the authorised development.

Authority to survey and investigate the land

17.—(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 or upon which entry is required in order to carry out monitoring or surveys for the purposes of the authorised development and—

(a) survey or investigate the land;

(b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;

(c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land; 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.

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

(a) searching, boring or excavating;

(b) leaving apparatus on the land; and

(c) taking samples.

(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 with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes are to 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, as if it were a 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,

or such longer period that is agreed in writing between the undertaker and that authority, that authority is deemed to have granted consent.

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

(8) If an application for consent under paragraph (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

18.—(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 paragraph (2) of article 19 (time limit for exercise of authority to acquire land compulsorily), article 20 (compulsory acquisition of rights), article 23 (acquisition of subsoil only), article 27 (temporary use of land for carrying out the authorised development), article 29 (statutory undertakers) and schedule 10 (protective provisions).

Time limit for exercise of authority to acquire land compulsorily

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

(2) No notice to treat is to be served under Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act as modified by article 25 (modification of Part 1 of the Compulsory Purchase Act 1965) and no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 22 (application of the 1981 Act) after the end of the applicable period, including any extension to the applicable period pursuant to those Acts.

(3) The authority conferred by article 27 (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.

Compulsory acquisition of rights

20.—(1) Subject to paragraph (2), the undertaker may acquire compulsorily such rights over the Order land or impose such restrictive covenants over the Order land as may be required for any purpose for which that land may be acquired under article 18 (compulsory acquisition of land), by creating them as well as by acquiring rights already in existence.

(2) Subject to the provisions of this paragraph, article 21 (private rights) and article 29 (statutory undertakers), in the case of the Order land specified in column (1) of Schedule 7 (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 and the imposition of restrictive covenants for the purpose specified in relation to that land in column (3) of that Schedule.

(3) Subject to section 8 (other provisions as to divided land) and Schedule 2A (counter-notice requiring purchase of land) of the 1965 Act (as substituted by paragraph 11 of Schedule 8 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants), where the undertaker creates or acquires an existing right over land or the benefit of a restrictive covenant under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 8 (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 restrictive covenants.

(5) In any case where the acquisition of new rights or imposition of a restriction under paragraph (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

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

(a) as from the date of acquisition of the land, or of the right, or of the benefit of the restrictive covenants 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)(**a**) 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 20 (compulsory acquisition of rights) cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant—

(a) as from the date of the acquisition of the right or imposition of the restrictive covenant by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of a lease of the land by agreement); or

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(**a**) Section 11(1) was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and sections 186(1) and (2), 187 and 188 of the Housing and Planning Act 2016.

(b) on the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act in pursuance of the right,

whichever is the earliest.

(3) Subject to the provisions of this article, all private rights or restrictive covenants 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.

(4) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant 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)(**a**) of the 2008 Act to be determined, in case of dispute, as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.)(**b**) of the 2008 Act or article 29 (statutory undertakers) applies.

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

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the land or the acquisition of 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.

(7) If an agreement referred to in paragraph (6)(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 that title was derived before or after the making of the agreement.

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

Application of the 1981 Act

22.—(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 (application of the Act), 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(2) (earliest date for execution of declaration) omit the words from "and this subsection" to the end.

(**a**) Section 152 was amended by S.I. 2009/1307.
(**b**) Section 138 was amended by section 23(1) and (4) of the Growth and Infrastructure Act 2013 (c. 27) and S.I. 2017/1285.

(5) In section 5B(1) (extension of time limit during challenge)(**a**) 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 Planning Act 2008 (legal challenges relating to applications for orders granting development consent)".

(6) In section 6 (notices after execution of declaration)(**b**), in subsection (1)(b) for "section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981" substitute "section 134 of the Planning Act 2008 (notice of authorisation of compulsory acquisition)".

(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 23(3) (acquisition of subsoil only) of the Steeple Renewables Project 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 of the 2008 Act (application of compulsory acquisition provisions), and as modified by article 25 (modification of Part 1 of the Compulsory Purchase Act 1965) to the compulsory acquisition of land under this Order.

Acquisition of subsoil only

23.—(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 18 (compulsory acquisition of land) or article 20 (compulsory acquisition of rights) 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 Schedule 8 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants);

(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)(**c**) 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 factory.

Power to override easements and other rights

24.—(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) In this article "authorised activity" means—

(**a**) Section 5B was inserted by section 202(2) of Schedule 3 to the Housing and Planning Act 2016 and amended by section 185(3)(b) of the Levelling-up and Regeneration Act 2023.

(**b**) Section 6 was amended by section 4 of, and paragraph 52(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016.

(**c**) Section 153(4A) was inserted by section 200(1) and (2) of the Housing and Planning Act 2016.

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

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

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

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

(4) Where an interest, right or restriction is overridden by paragraph (1), 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 manner and subject to the same rules as in the case of other compensation under those sections where—

(i) the compensation is to be estimated in connection with a purchase under that Act; or

(ii) the injury arises from the execution of works on or use of land acquired under that Act.

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

(a) is liable to pay compensation by virtue of paragraph (4); and

(b) fails to discharge that liability,

the liability is enforceable against the undertaker.

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person 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).

Modification of Part 1 of the Compulsory Purchase Act 1965

25.—(1) Part 1 (compulsory acquisition under Acquisition of Land Act 1946) of the 1965 Act, as applied to this Order by section 125 of the 2008 Act (application of compulsory acquisition provisions), 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 the 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 23(3) (acquisition of subsoil only) of the Steeple Renewables Project 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 (protective works to buildings), article 27 (temporary use of land for carrying out the authorised development) or article 28 (temporary use of land for maintaining the authorised development) of the Steeple Renewables Project Order 2026.".

Rights under or over streets

26.—(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 air-space 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, as if it were a 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

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

(a) enter on and take temporary possession of the 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) carry out site preparation works for the authorised development;

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

(d) construct temporary works, haul roads, security fencing, bridges, structures and buildings on that land;

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

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

(g) carry out mitigation works required pursuant to 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; 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 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 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 a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(5) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or otherwise acquired the land or rights over land subject to temporary possession, the undertaker must before giving up possession of land of which temporary possession has been taken under this article, remove all works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

(a) replace any building, structure, 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 specified in Schedule 3 (streets subject to street works); or

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

(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 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, as if it were a dispute 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 carrying out 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 pursuant to 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) Nothing in this article prevents the taking of temporary possession more than once in relation to any land that the undertaker takes temporary possession of under this article.

Temporary use of land for maintaining authorised development

28.—(1) Subject to paragraph (2), at any time during the maintenance period (as defined in paragraph (11)) 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 such 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 provisions of 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 as if it were a dispute 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 pursuant to 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 5 years beginning with the date on which a phase of the authorised development first exports electricity to the national electricity transmission network except in relation to landscaping where "the maintenance period" means such period as set out in the landscape and ecological management plan which is approved by the relevant planning authority pursuant to requirement 6 of Schedule 2 (requirements) to this Order beginning with the date on which that part of the landscaping is completed.

Statutory undertakers

29. Subject to the provisions of Schedule 10 (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 plans within the Order land; 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 closed streets and rights of way

30. Where a street or rights of way is altered or diverted or its use is temporarily prohibited or restricted under article 8 (street works), article 10 (power to alter layout, etc., of streets) or article 12 (temporary closure of streets and public rights of way) 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 10 (protective provisions), as if this Order had not been made.

Recovery of costs of new connections

31.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 29 (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 29 (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 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" has the same meaning as in the 1980 Act.

Compulsory acquisition of land – incorporation of the mineral code

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

(a) for "the acquiring authority" substitute "the undertaker";

(b) for the "undertaking" substitute "authorised development"; and

(c) paragraph 8(3) is not incorporated.

PART 6

OPERATIONS

Operation of generating station

33.—(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.

Felling or lopping of trees or removal of hedgerows

34.—(1) The undertaker may fell or lop any tree, or shrub within or overhanging 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—

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

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

(2) In carrying out any activity authorised by paragraph (1), the undertaker must—

(a) do no unnecessary damage to any tree or shrub;

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

(b) ensure all works are carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards; and

(c) 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 as if it were a dispute under Part 1 of the 1961 Act.

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

(a) remove those parts of the important hedgerows within the Order limits and specified in Schedule 9 Part 1 (removal of important hedgerows); and

(b) remove those parts of the hedgerows as are within the Order limits and specified in Schedule 9 Part 2 (removal of hedgerows)

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

(6) In this article "hedgerow" and "important hedgerow" have the same meaning as in the Hedgerow Regulations 1997(**a**).

PART 7

MISCELLANEOUS AND GENERAL

Operational land for the purposes of the 1990 Act

35. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as being operational land) of the 1990 Act.

Certification of plans, etc.

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

(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

37.—(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(**a**) as it applies for the purposes of this article, the proper address of any person in relation to the

(**a**) S.I. 1997/1160.

service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

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

(b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having 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 name or by the description of "owner", or as the case may be "occupier", of the land (describing it); and

(b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving is 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 part of that notice or other document the sender must provider such a copy as soon as reasonably practicable.

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

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

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

(b) such revocation is 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 that it would be if served, given or supplied by means of a notice or document in printed form.

Arbitration

38.—(1) Any difference under any provision of this Order, unless otherwise provided for, is to be referred to and settled in arbitration in accordance with the rules at Schedule 11 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(**a**) 1978 c. 30.

(2) 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.

39.—(1) Where an application is made to, or a request is made of, a relevant consenting 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 and must not be unreasonably withheld or delayed.

(2) 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 in Part 1 (requirements) of that Schedule.

Application of landlord and tenant law

40.—(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 or operation 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 prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law to which paragraph (2) 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.

Protective provisions

41. Schedule 10 (protective provisions) has effect.

Funding

42.—(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, the form and the amount of which has been approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2); or

(b) an alternative form of security, the form and the amount of which has been approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2).

(2) The provisions are—

(a) article 18 (compulsory acquisition of land);

(b) article 20 (compulsory acquisition of rights);

(c) article 21 (private rights);

(d) article 23 (acquisition of subsoil only);

(e) article 26 (rights under or over streets);

(f) article 27 (temporary use of land for carrying out the authorised development);

(g) article 28 (temporary use of land for maintaining the authorised development); and

(h) article 29 (statutory undertakers).

(3) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2) 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

43. Compensation is not payable in respect of the same matter both under this Order and under any enactment, any contract or any rule of law.

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

John Wheadon
Head of Energy Infrastructure Planning and Innovation
Department for Energy Security and Net Zero

9th October 2026

SCHEDULE 1

Article 2

AUTHORISED DEVELOPMENT

1. In this Schedule—

"balance of solar plant" means inverters, transformers, and switch gear and would be either—

(a) inverter / transformer stations, each being a station comprising centralised inverters, transformers and switch gear combined as a solar conversion unit or separated with each component for each station either—

(i) located outside, with a concrete foundation slab or placed on metal skids for each of the inverters and transformers and switch gear; or

(ii) housed together within a container sitting on a concrete foundation slab or placed on metal skids; or

(b) string inverters attached either to mounting structures or a ground mounted frame switchgear and transformers on a concrete foundation slab or placed on metal skids;

"battery energy storage" means equipment used for the storage of electrical energy by battery;

"CCTV" means a closed circuit television security system;

"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;

(b) excavations to install trenching, including storage of excavated material;

(c) provision of ducting or alternative means of conducting media including 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 put or container to capture fluids associated with drilling;

"inverter" means electrical equipment required to convert direct current power generated by the solar panels to alternating current power;

"mounting structure" means a frame or rack with posts made of galvanised steel or other material pushed into the ground to support the solar panels;

"solar panel" means a solar photovoltaic panel designed to convert solar irradiance to direct current electrical energy fitted to a mounted structure;

"substation" means a compound containing electrical equipment required to switch, transform, convert electricity and provide reactive power compensation with welfare facilities, means of access and other associated facilities;

"switch gear" means a combination of electrical disconnect switches, fuses or circuit breakers used to control, protect, and isolate electrical equipment; and

"transformer" means a structure containing electrical switch gear serving to transform electricity generated by the solar panels and imported and exported by the batteries to a higher voltage.

2. In the District of Bassetlaw and in the County of Nottinghamshire a nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act and associated development under section 115(1)(b) of the 2008 Act.

The nationally significant infrastructure project authorised by this Order comprises a generating station with a gross electrical output of over 50 megawatts alternating current comprising all of any of the work numbers in this Schedule or any part of any work number in this Schedule—

Work No. 1 – a ground mounted solar photovoltaic generating station comprising—

(a) solar panels fitted to mounting structures; and

(b) balance of solar plant,

and associated development within the meaning of section 115(2) (for which development consent may be granted) of the 2008 Act comprising—

Work No. 2 – a battery energy storage system compound comprising—

(a) battery energy storage system units;

(b) auxiliary transformers and associated bunding;

(c) power conversion system units including inverters, switch gear, transformers and ancillary equipment;

(d) monitoring and control systems;

(e) containers or similar structures housing control room and all or any of Work Nos. 2(a) to 2(d) and storage areas;

(f) heating, ventilation and air conditioning systems;

(g) fire safety infrastructure including water storage in tanks or other containers;

(h) compound ground works and surfacing; and

(i) lighting columns,

Work No. 3 – works in connection with a new 400/33kV onsite substation comprising—

(a) switch room buildings, electrical switchgear, transformers, busbars, and ancillary equipment including reactive power units;

(b) control building housing offices, storage space, welfare facilities and waste storage;

(c) monitoring and control systems for Work Nos. 1 to 3;

(d) grid compliance equipment;

(e) compound ground works and surfacing; and

(f) lighting columns,

Work No. 4 – works to install 400kV electrical cables connecting Work No. 3 to Work No. 5 including—

(a) underground cabling including infrastructure for cable access, ducting and containment;

(b) works required for crossing existing utility assets with cables; and

(c) trenching, excavation, directional drilling and storage of excavated material,

Work No. 5 – connection and installation works to the existing transmission network substation including—

(a) works to construct and install network connection assets;

(b) cabling including infrastructure for cable access, ducting and containment;

(c) works required for crossing existing utility assets with cables; and

(d) trenching, excavation, directional drilling and storage of excavated material,

Work No. 6 – works to facilitate project access and cabling comprising—

(a) creation of accesses from or across the public highway or private access tracks;

(b) underground cabling including infrastructure for cable access, ducting and containment;

(c) works required for crossing existing utility assets with cables and vehicles;

(d) clearance works to facilitate appropriate access visibility splays;

(e) works to widen the public highway or private access tracks;

(f) temporary traffic lights or facilities for traffic management;

(g) upgrading and strengthening of the public highway or private access tracks including bridges to bear project traffic;

(h) works to facilitate vehicular and cable crossing of watercourses including temporary stopping up of watercourses for installation of culverts and other crossing features; and

(i) trenching, excavation, directional drilling and storage of excavated material,

Work No. 6A – works to install 33kV cabling comprising—

(a) underground cabling including infrastructure for cable access, ducting and containment;

(b) works required for crossing existing utility assets with cables;

(c) works to facilitate cable crossing of watercourses including temporary stopping up of watercourses for the installation of culverts and other crossing features; and

(d) trenching, excavation, directional drilling and storage of excavated material,

Work No. 7 – general works comprising—

(a) cabling and earthing infrastructure including structures for cable access, ducting and containment;

(b) internal access tracks;

(c) equipment foundations, crane hardstandings and bunding;

(d) security fencing, CCTV columns, signage, access gates, weather stations, communication infrastructure;

(e) drainage infrastructure and water containment features;

(f) works required for crossing existing utility assets with cables and vehicles;

(g) alteration or upgrading of private access tracks;

(h) works to facilitate vehicular and cable crossing of watercourses including temporary stopping up of watercourses for installation of culverts and other crossing features; and

(i) trenching, excavation, directional drilling and storage of excavated material,

Work No. 8 – works for areas of habitat management comprising—

(a) landscape and biodiversity enhancement measures;

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

(c) excavation and storage of excavated material,

Work No. 9 – works to implement new permissive paths through Order limits comprising—

(a) clearance of obstacles and laying down of permissive paths;

(b) signage and information boards; and

(c) works to facilitate pedestrian crossing of watercourses,

Work No. 10 – temporary construction and decommissioning of site compounds comprising—

(a) excavation, earthworks and storage of excavated material;

(b) temporary drainage measures, stormwater management, erosion and environmental controls;

(c) temporary access tracks, vehicle turning areas, and car and cycle parking area;

(d) storage of equipment and materials;

(e) temporary site lighting, fencing and security infrastructure;

(f) work facilities including site offices, toilets, break areas and first aid station;

(g) electricity, water and telecommunications connections;

(h) waste management systems;

(i) fuel storage and refuelling stations;

(j) temporary road signage for construction period; and

(k) removal of temporary infrastructure,

and in connection with the construction of Work Nos. 1 to 10 above and to the extent that they do not form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purpose of or in connection with the relevant part of the authorised development and which fall within the scope of work assessed by the environmental statement within the Order limits—

(a) boundary treatments, including means of enclosure;

(b) bunds, embankments, trenching and swales;

(c) works to the existing irrigation system and works to alter the position and extent of such irrigation system;

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

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

(f) works to alter the course of or otherwise interfere with non-navigable rivers, streams or watercourses;

(g) site establishments and site preparation works including site clearance (including vegetation removal, demolition of existing buildings and structure), 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;

(h) works to maintain and repair streets and access roads;

(i) tunnelling, boring and drilling works; and

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

SCHEDULE 2

Articles 2 and 39

REQUIREMENTS

PART 1

REQUIREMENTS

Time limits

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

Phases of authorised development and date of final commissioning

2.—(1) The authorised development must not commence until a written scheme setting out the phases of construction of the authorised development has been submitted to and approved by the local planning authority.

(2) The scheme submitted pursuant to sub-paragraph (1) must include a timetable for the construction of the phases of the authorised development and a plan identifying the phasing areas.

(3) The scheme submitted and approved pursuant to sub-paragraph (1) must be implemented as approved.

(4) Notice of the date of final commissioning with respect of the first phase of Work No. 1 to complete commissioning must be given to the local planning authority within 15 working days of the date of final commissioning for that phase.

Detailed design approval

3.—(1) No phase of the authorised development can commence until details of—

(a) the layout;

(b) scale;

(c) proposed finished ground levels;

(d) external appearance;

(e) hard surfacing materials;

(f) vehicular and pedestrian access, parking and circulation areas;

(g) refuse or other storage units, signs and lighting;

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

(i) programme for landscaping works,

relating to that phase have been submitted to and approved in writing by the local planning authority in consultation with the highway authority and street authority in relation to sub-paragraph (1)(f).

(2) The details submitted must accord with the—

(a) site location plan;

(b) works plans;

(c) outline design principles; and

(d) details under requirements 6 (landscape and ecological management plan), 17 (fencing and other means of enclosure), 18 (surface and foul water drainage) and 19 (archaeology) of this Schedule.

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

Implementation and maintenance of landscaping

4.—(1) All landscaping works must be carried out in accordance with the landscape and ecology management plan approved under requirement 6 (landscape and ecology management plan), and in accordance with the relevant recommendations of appropriate British Standards.

(2) Any tree or shrub planted as part of an approved landscaping management scheme that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the local planning authority, seriously damaged or diseased must be replaced in the first available planting season with a specimen of the same species and size as that originally planted.

Arboricultural method statement (AMS)

5.—(1) No phase of the authorised development can commence until an AMS for that phase has been submitted to and approved by the local planning authority.

(2) Any AMS submitted for approval must be in accordance with the tree retention and removal plan

(3) Each phase of the authorised development must comply with the AMS approved pursuant to sub-paragraph (1) for the duration of the works in the phase of the authorised development to which the AMS relates.

Landscape and ecology management plan (LEMP)

6.—(1) No phase of the authorised development can commence until a written LEMP covering that phase which accords with the outline LEMP has been submitted to and approved by the local planning authority in consultation with Natural England.

(2) The LEMP must include—

(a) details of the method of protection of existing landscape features and habitats during the construction, operation and decommissioning stage of the authorised development;

(b) details of habitat creation, including new native hedgerow planting, planting of wildflowers and other measures including the erection of bat roosts and bird nesting features and a community orchard;

(c) details of ongoing management including a seasonal grazing regime and other measures including the annual review of the need for additional mitigation planting works, during the lifetime of the authorised development;

(d) a timetable for the landscape management of the land within the Order limits during the lifetime of the authorised development;

(e) details of how all relevant pre-construction, construction, post-construction and operational survey and monitoring data will be shared in the appropriate formats with the relevant Local Environmental Records Centre(s) and relevant national and regional environmental recording schemes; and

(f) landscaping details.

(3) The LEMP must be implemented in accordance with the scheme approved pursuant to sub-paragraph (1) and the implemented measures thereafter maintained throughout the operation of the relevant part of the authorised development to which the plan relates in accordance with the LEMP.

Skylark mitigation strategy

7.—(1) No part of Work No. 1 may commence until a skylark mitigation strategy in relation to that part has been submitted to and approved by the Secretary of State in consultation with the relevant statutory nature conservation body and the local planning authority for the area in which the mitigation measure is to be provided.

(2) The skylark mitigation strategy must be in accordance with the principles set out in the outline skylark mitigation strategy and include—

(a) an assessment of the suitability of individual fields in the Eastern and Western Mitigation Areas for conversion to a spring-cropping regime with retained winter stubble. If the fields suitable for conversion under the outline skylark mitigation strategy are not to be adopted, a written explanation must be provided to the Secretary of State;

(b) the location(s) of where the mitigation measures will be delivered and the ecological suitability of that location or locations, including details of the capacity and ability of the mitigation areas to successfully mitigate for the impact of the authorised development on skylark;

(c) confirmation that the necessary landowner agreement(s) are in place;

(d) an implementation timetable for delivery of the mitigation measure, including any arrangements made with a third party for implementation of the measures;

(e) details for the ongoing management and maintenance of the mitigation measures;

(f) details for the ongoing monitoring and reporting of the effectiveness of the mitigation measures including—

(i) survey methods;

(ii) survey programmes;

(iii) success criteria; and

(iv) timescale for the monitoring reports to be delivered under sub-paragraph (4);

(g) details of any adaptive management or remediation measures, including the identification and justification of thresholds (including an assessment of the relevance of national, regional and county level population trends) used to trigger any alternative or adaptive management measures; and

(h) details of how survey and monitoring data will be shared in the appropriate formats with the relevant Local Environmental Records Centre(s) and relevant ecological recording schemes.

(3) The undertaker must implement the measures set out in the skylark mitigation strategy as approved by the Secretary of State, unless otherwise agreed by the Secretary of State following consultation with the relevant statutory nature conservation body and the local planning authority for the area in which the mitigation measure is to be provided.

(4) Results from the monitoring and reporting scheme referred to in paragraph (2)(f) must be submitted to the Secretary of State, the relevant statutory nature conservation body and the local planning authority for the area in which the mitigation measure is to be provided following the monitoring timetables set out in the outline skylark mitigation strategy. This must include details of the effectiveness of the mitigation measures delivered. If the undertaker, or on receipt of a monitoring report, the Secretary of State, determines that the mitigation measures delivered have been ineffective, the undertaker must provide proposals for any alternative or adaptive management measures to address this. Any proposals to address the ineffectiveness of mitigation measures must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant statutory nature conservation body and the local planning authority for the area in which the mitigation measure is to be provided.

Biodiversity net gain

8.—(1) No part of the authorised development may commence until a biodiversity net gain strategy has been submitted to and approved by the relevant planning authority for that part, in consultation with the relevant statutory nature conservation body.

(2) The biodiversity net gain strategy must include details of how the strategy will secure a minimum of 10% biodiversity net gain in area-based habitat units, a minimum of 10% biodiversity net gain in hedgerow units, and 10% biodiversity net gain in watercourse units for all of the authorised development during the operation of the authorised development, using the Department of Environment, Food and Rural Affairs' 4.0 metric to calculate those percentages (or such other biodiversity metric approved by the relevant planning authority in consultation with the relevant statutory nature conservation body).

(3) The biodiversity net gain strategy must be maintained throughout the operation of the relevant part of the authorised development to which the plan relates.

Construction environmental management plan (CEMP)

9.—(1) No phase of the authorised development can commence until a CEMP for that phase has been submitted to and approved by the local planning authority in consultation with the Environment Agency and Natural England.

(2) Any CEMP submitted for approval must be in accordance with the outline CEMP.

(3) The CEMP for each phase of the authorised development must provide details of—

(a) community liaison;

(b) complaints procedures;

(c) nuisance management including measures to avoid or minimise the impacts of construction works (covering dust, noise and vibration);

(d) site waste and materials management measures;

(e) pollution control measures to prevent the introduction of any hazardous substances;

(f) a water quality and silt management plan;

(g) security measures and use of artificial lighting;

(h) a protocol requiring consultation with the Environment Agency in the event that unexpected contaminated land is identified during ground investigation or construction;

(i) details of out of hours working procedures;

(j) details of measures to be adopted including pre-construction surveys to protect species defined as a European Protected Species in regulation 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017(**a**) or any species to which Part I (wildlife) and Schedule 5 (animals which are protected) of the Wildlife and Countryside Act 1981(**b**) applies;

(k) details of the method of species protection during the construction stage of the authorised development;

(l) environmental monitoring plan;

(m) details of how all relevant pre-construction, construction, post-construction and operational survey and monitoring data will be shared in the appropriate formats with the relevant Local Environmental Records Centre(s) and relevant national and regional environmental recording schemes;

(n) flood risk management measures including surface water management; and

(o) a habitats constraints plan.

(**a**) S.I. 2017/1012.
(**b**) 1981 c. 69.

(4) All construction works associated with a relevant phase must adhere to the approved CEMP for that phase.

(5) Pre-commencement establishment of construction compounds, preparation of land for construction, construction area fencing and installation of drainage must only take place in accordance with a specific plan for such works which accords with the outline CEMP and which has been submitted to and approved by the local planning authority in consultation with the Environment Agency.

(6) For the purposes of this paragraph "commence" includes any site preparation works comprising site clearance (including vegetation removal, demolition of existing buildings and structures).

Construction traffic management plan (CTMP)

10.—(1) No phase of the authorised development can commence until a CTMP covering that phase, prepared in accordance with the outline CTMP has been submitted to and approved by the local planning authority in consultation with the highway authority for the highway(s) to which the CTMP for that phase relates.

(2) The CTMP must include details of—

(a) associated traffic movements including delivery vehicles and staff construction/vehicle movements;

(b) traffic management requirements on the adjoining public highway; and

(c) a condition survey for any road which will be affected by undertaking that phase of the authorised development and a further condition survey following that phase of the construction works. In the event that any defects are identified in that condition survey that are directly attributable to that phase of the construction works of the authorised development, details of how those defects are to be remediated by the undertaker.

(3) The CTMP must be implemented as approved.

(4) For the purposes of this paragraph "commence" includes any site preparation works comprising site clearance (including vegetation removal, demolition of existing buildings and structures).

Operational environmental management plan (OEMP)

11.—(1) No phase of the authorised development can commence until an OEMP prepared in accordance with the outline OEMP for that phase has been submitted to and approved by the local planning authority in consultation with the Environment Agency on matters related to its functions.

(2) The OEMP must include details of—

(a) nuisance management including measures to avoid or minimise the impacts of operational works (covering dust, noise, lighting and vibration);

(b) associated traffic movements, including delivery vehicles and staff operation/vehicle movements;

(c) detailed operational drainage plan; and

(d) measures for the replacement of damaged solar panels.

(3) The OEMP must be implemented in accordance with the scheme as approved pursuant to sub-paragraph (1) and the implemented measures thereafter maintained throughout the operation of the relevant part of the authorised development to which the plan relates in accordance with the OEMP.

Fire risk management plan (FRMP)

12.—(1) Work No. 2 must not commence until a FRMP is submitted to and approved by the local planning authority in consultation with the Environment Agency and the Nottinghamshire Fire and Rescue Service on matters related to their functions.

(2) The submitted FRMP must either be in accordance with the outline FRMP or otherwise detail such changes as the undertaker considers are required.

(3) The FRMP must be implemented in accordance with the scheme as approved pursuant to sub-paragraph (1) and the implemented measures thereafter maintained throughout the construction, maintenance, operation and decommissioning of the authorised development in accordance with the FRMP.

Soil management plan (SMP)

13.—(1) No phase of the authorised development can commence until an SMP prepared in accordance with the outline SMP for that phase has been submitted to and approved by the local planning authority in consultation with Natural England.

(2) The SMP must be implemented in accordance with the scheme as approved pursuant to sub-paragraph (1) and the implemented measures thereafter maintained throughout the operation of the relevant part of the authorised development to which the plan relates in accordance with the approved SMP.

Land contamination

14.—(1) No phase of the authorised development, and no part of the site preparation works for the phase comprising remedial work in respect of any contamination, can commence until a contamination risk assessment in respect of soils has been produced which is to include details of—

(a) any existing sources of contamination within the Order limits that may be affected by the carrying out of the authorised development;

(b) any reasonably required protective measures to ensure that the carrying out of the authorised development does not make worse any adverse conditions or risks associated with such existing sources of contamination;

(c) appropriate remediation strategies and mitigation measures to address any historic contamination which is shown to be having significant, unacceptable effects on the environment within the context of the proposed works; and

(d) appropriate remediation strategies and mitigation measures to address any contaminated material that may be found at any time when carrying out the authorise development, which was not previously identified in the environmental statement,

and has been submitted to and approved by the local planning authority in consultation with the Environment Agency.

(2) The steps and measures that are identified as necessary for the purposes of carrying out the authorised development in the assessment referred to in sub-paragraph (1) must be implemented as part of the authorised development.

(3) Where the risk assessment determines that remediation is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose must be prepared submitted to and approved in writing by the local planning authority in consultation with the Environment Agency.

(4) Remedial measures must be carried out in accordance with the approved scheme, and a verification report following completion of those remedial measures must be submitted to the local planning authority.

Public rights of way diversions

15.—(1) No phase of the authorised development can commence and no decommissioning will be undertaken until a public rights of way management plan (as part of the outline CTMP) for any sections of public rights of way shown to be temporarily closed on the streets, access and rights of way plans for that phase has been submitted to and approved by the local planning authority in consultation with the relevant highway authority.

(2) The plan must include details of—

(a) measures to minimise the length of any sections of public rights of way to be temporarily closed;

(b) advance publicity and signage in respect of any sections of public rights of way to be temporarily closed;

(c) the locations of any public rights of way to be temporarily closed;

(d) the hours of proposed works effecting public rights of way; and

(e) measures to safeguard users of public rights of way during construction of the authorised development.

(3) The plan must be implemented and thereafter maintained in accordance with the details approved under sub-paragraph (1).

Operational noise

16.—(1) No phase of the authorised development can commence until an operational noise assessment containing details of how the design of the authorised development has incorporated mitigation to ensure the operational noise rating levels as set out in the outline OEMP are to be complied with for that phase has been submitted to and approved by the local planning authority.

(2) The design as described in the operational 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.

Fencing and other means of enclosure

17.—(1) No phase of the authorised development can commence until written details of all proposed permanent and temporary fences, walls or other means of enclosure of the connection works for that phase have been submitted to and approved by the local planning authority as part of the detailed design approval required by requirement 3(1) of this Schedule.

(2) No site preparation works can commence until written details of all proposed temporary fences, walls or other means of enclosure for the site preparation works have been submitted to and approved by the local planning authority.

(3) Any proposed temporary fences, walls or other means of enclosure for the site preparation works must be carried out in accordance with the approved details.

(4) Any construction site must remain securely fenced in accordance with the approved details at all times during construction of the authorised development.

(5) Any permanent fencing must be completed before the date of final commissioning of the authorised development in accordance with the written details established by sub-paragraph (1) and thereafter maintained in accordance with the approved details.

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

(7) For the purposes of this paragraph "commence" includes any site preparation works.

Surface and foul water drainage

18.—(1) No phase of the authorised development can commence until written details of the surface and foul water drainage system for that phase have been submitted to and approved by the

local planning authority in consultation with the Environment Agency and lead local flood authority on matters related to its functions.

(2) The details submitted under sub-paragraph (1) must be in accordance with and include the plans and strategies referred to in the flood risk assessment and the surface water drainage strategy.

(3) The surface and foul water drainage system for the relevant part of the authorised development must be implemented in accordance with the approved details and maintained throughout the operation of the relevant part of the authorised development to which the plan relates.

Archaeology

19.—(1) No phase of the authorised development, and no part of the site preparation works for that phase, can commence until—

(a) a scheme for additional trial trenching for that phase has been submitted to and approved by the local planning authority in consultation with the county archaeologist;

(b) additional trial trenching has been carried out in accordance with the scheme approved pursuant to sub-paragraph (1)(a); and

(c) an archaeological written scheme of investigation (WSI) for that phase, taking into account the results of the additional trial trenching pursuant to sub-paragraph (1)(b), has been submitted to and approved by the local planning authority in consultation with the county archaeologist.

(2) Any archaeological works or programme of archaeological investigation carried out under an approved WSI must be carried out by an organisation registered within the Chartered Institute for Archaeologists or by a member of that Institute, and the nominated organisation and its relevant specialists will be identified and agreed within the WSI.

(3) Any WSI prepared pursuant to this paragraph must—

(a) include a scheme for each phase or mitigation work setting out where archaeological work is required and to ensure appropriate measures from protection, preservation and recording of archaeological remains;

(b) include measures for post-excavation analysis, reporting, publication and archiving for appropriate archaeological remains; and

(c) be in substantial accordance with the outline WSI.

(4) Any archaeological works must be carried out in accordance with the approved WSI, including post-excavation analysis, reporting, publication and archiving.

(5) For the purposes of this paragraph only, any works undertaken in pursuance of sub-paragraph (1)(b) are excluded from the definition of "commence" in article 2 of this Order.

Permissive path

20.—(1) Where a phase of the authorised development includes a permissive path the permissive path must be provided and open to the public within 12 months of the date of final commissioning in respect of that phase.

(2) No phase of the authorised development which includes a permissive path can commence until written details of the route and maintenance provisions have been submitted to and approved by the local planning authority as part of the detailed design approval required by requirement 3(1) of this Schedule.

(3) The permissive path must be maintained and access by the public permitted for 364 days a year, except where the undertaker determines that closure is required for maintenance or an emergency, until commencement of decommissioning of the authorised development pursuant to requirement 23 (decommissioning and restoration) of this Part of this Schedule.

Construction hours

21.—(1) Subject to sub-paragraph (2), no construction works are to take place except between the hours of—

(a) 07:00 to 18:00 Monday to Friday; and

(b) 08:00 to 13:30 on Saturday.

(2) The following works are permitted outside the hours referred to in sub-paragraph (1)—

(a) Delivery of abnormal loads;

(b) Cable works where situated within a public highway;

(c) Trenchless cable construction works, including horizontal directional drilling activities;

(d) emergency works; and

(e) works which do not cause noise that is audible at the boundary of the Order limits.

(3) Any emergency works carried out under sub-paragraph (2)(a) must be notified to the local planning authority within 72 hours of their commencement.

Protected species

22.—(1) No phase of the authorised development can commence until protected species surveys have been carried out by a suitably qualified person. The surveys will inform the mitigation measures required for the protection of such species, which will be incorporated into a species protection plan that will include a scheme of protection and mitigation.

(2) The species protection plan must be agreed with the local planning authority in consultation with Natural England and implemented as approved.

(3) In this paragraph, "protected species" refers to any species defined as a European Protected species in regulations 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017(**a**) or any species to which Part I (wildlife) and Schedule 5 (animals which are protected) of the Wildlife and Countryside Act 1981(**b**) applies.

Decommissioning and restoration

23.—(1) Within 3 months of the date that the undertaker decides to decommission any part of the solar farm works and grid connection works, or no later than 6 months before the 40th anniversary of the date of final commissioning of the first phase of Work No. 1 as notified by the undertaker pursuant to requirement 2 (phasing of the authorised development and date of final commissioning) of this Schedule the undertaker must submit to the local planning authority for that part (or both local planning authorities where that part falls within the administrative areas of Bassetlaw District Council and Nottinghamshire County Council) for approval a decommissioning plan and a decommissioning traffic management plan for that part.

(2) Decommissioning must commence no later than 40 years following the date of final commissioning of the first phase of Work No. 1.

(3) The plans submitted and approved must be substantially in accordance with the relevant part of the outline decommissioning plan.

(4) The decommissioning plan submitted and approved must include—

(a) a resource management plan that includes details of proposals to minimise the use of natural resources and unnecessary materials;

(b) a waste management strategy;

(**a**) S.I. 2017/1012.
(**b**) 1981 c. 69.

(c) details of measures to be adopted including pre-decommissioning surveys to protect species defined as a European Protected Species in regulation 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017(**a**) or any species to which Part I (wildlife) and Schedule 5 (animals which are protected) of the Wildlife and Countryside Act 1981(**b**) applies; and

(d) details of the method of species protection during the decommissioning stage of the authorised development.

(5) Decommissioning works must not be carried out until the local planning authority or both relevant local planning authorities (as applicable) has/have approved the plans submitted in relation to such works in consultation with the Environment Agency and Natural England.

(6) The plans must be implemented as approved, and decommissioning of that part of the authorised development to which a plan relates must be completed within 2 years of such approval, or such other time period as is agreed in writing between the undertaker and the local planning authority.

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

Supply chain, employment and skills

24.—(1) No phase of the authorised development can commence until a supply chain, employment and skills plan in relation to that part has been submitted to and approved by the local planning authority.

(2) The supply chain, employment and skills plan must be substantially in accordance with the outline supply chain, employment and skills plan.

(3) Any plan under this paragraph must identify opportunities for individuals and businesses to access employment and supply chain opportunities associated with that part of the authorised development and the means for publicising such opportunities.

(4) The supply chain, employment and skills plan must be implemented in accordance with the scheme as approved under sub-paragraph (1) and the implemented measures thereafter maintained throughout the operation of the relevant part of the authorised development to which the plan relates.

Requirement for written approval

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

Amendments to approved details

26.—(1) With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved by the local planning authority, the approved details must be carried out as approved unless an amendment or variation has previously been approved in writing by the local planning authority in accordance with sub-paragraph (2).

(2) Any amendments to or variations from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the local planning authority that the subject matter of the agreement sought is unlikely to give rise to any materially new or materially different environmental effects compared to those identified in the environmental statement.

(**a**) S.I. 2017/1012.
(**b**) 1981 c. 69.

(3) The approved details must be taken to include any amendments that may be subsequently approved in writing by the local planning authority.

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Interpretation

27. In this Part of this Schedule, "relevant authority" means—

(a) any body, other than the Secretary of State, responsible for giving any consent, agreement or approval required by a requirement included in Part 2 of this Schedule, or for giving any consent, agreement or approval further to any document referred to in any such requirement; or

(b) the local authority in the exercise of its functions set out in sections 60 (control of noise on construction sites) and 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974 subsequently referred to as "the 1974 Act"(**a**).

Consultation

28. Where the local planning authority is required by this Order or other statute to consult with another person or body prior to discharging a requirement, the undertaker must consult with such person or body prior to making an application to discharge the requirement.

Details of Consultation

29.—(1) Where any paragraph in this Schedule requires the undertaker to consult with any person or body, the undertaker must—

(a) notify the person or body of the effect of paragraph 28(3) (applications made under requirements) of this Schedule;

(b) subject to sub-paragraph (2), provide that person or body with not less than 28 days from the provision of any documents being consulted upon for any response to the consultation;

(c) give due consideration to any representations made by that person or body about the proposed application; and

(d) include with its application to the local planning authority copies of any representations made by that person or body about the proposed application, and a written account of how any such representations have been taken into account in the submitted application.

(2) The undertaker may consent, such consent not to be unreasonably withheld, to an extension of period in sub-paragraph (1)(b) so that a person or body has not less than 42 days from provision of any documents being consulted upon to provide a response to the consultation following a request made by a person or body no later than 21 days from receipt of any documents being consulted upon.

(3) Where sub-paragraph (2) applies a person or body must provide a response to the consultation as soon as reasonably practicable.

Applications made under requirements

30.—(1) Where an application has been made to the relevant authority for any consent, agreement or approval required by a requirement (including consent, agreement, or approval in

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(**a**) 1974 c. 40. Section 61 was amended by Schedule 7 to the Building Act 1984 (c. 55), Schedule 15 to the Environmental Protection Act 1990 (c. 43) and Schedule 24 to the Environment Act 1995 (c. 25).

respect of part of a requirement) included in this Order, the relevant authority must give notice to the undertaker of its decision on the application within a period of eight weeks or such longer period as may be agreed in writing by the undertaker and the relevant authority, beginning with the later of—

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

(b) where further information is requested under paragraph 31 (further information regarding requirements), the day immediately following that on which the further information has been supplied by the undertaker.

(2) In determining any application made to the relevant authority for any consent, agreement or approval required by a requirement contained in Part 1 of this Schedule, the relevant 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 relevant authority must provide its reasons for that decision with the notice of the decision.

(3) An application made pursuant to paragraph (1) must include a statement to confirm whether it is likely that the subject matter of the application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement and if it will then it must be accompanied by information setting out what those effects are.

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

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

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

Further information regarding requirements

31.—(1) In relation to any application referred to in paragraph 30 (applications made under requirements), the relevant authority may request such further information from the undertaker as it considers necessary to enable it to consider the application.

(2) If the relevant authority considers that further information is necessary and the requirement concerned contained in Part 1 of this Schedule does not specify that consultation with a consultee is required, the relevant authority must, within ten working days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement concerned contained in Part 1 of this Schedule specifies that consultation with a consultee is required, the relevant 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.

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

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

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

Appeals

32.—(1) Where a person ("the applicant") makes an application to a relevant authority, the applicant may appeal to the Secretary of State in the event that—

(a) the relevant authority refuses an application for any consent, agreement or approval required by—

(i) a requirement contained in Part 1 of this Schedule; or

(ii) a document referred to in any requirement contained in Part 1 of this Schedule;

(b) the relevant authority grants such an application subject to conditions;

(c) the relevant authority 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;

(d) on receipt of a request for further information pursuant to paragraph 29 of this Schedule, the applicant considers that either the whole or part of the specified information requested by the relevant authority is not necessary for consideration of the application; or

(e) on receipt of any further information requested, the relevant authority notifies the applicant that the information provided is inadequate and requests additional information which the applicant considers is not necessary for consideration of the application.

(2) The appeal process is as follows—

(a) any appeal by the applicant must be made within 42 days of the date of the notice of the decision or determination, or (where no determination has been made) the expiry of the time period set out in paragraph 30(1), giving rise to the appeal referred to in sub-paragraph (1);

(b) the applicant must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the relevant authority and any consultee specified under the relevant requirement contained in Part 2 of this Schedule;

(c) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person to consider the appeal ("the appointed person") and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the attention of the appointed person should be sent;

(d) the relevant authority and any consultee (if applicable) must submit their written representations together with any other representations to the appointed person in respect of the appeal within ten working days of the start date specified by the appointed person 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 applicant 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 working days of receipt of written representations pursuant to sub-paragraph (d) above; and

(f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable after the end of the ten day period for counter-submissions under sub-paragraph (e).

(3) The appointment of the appointed person pursuant to 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 pursuant to 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. The appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within ten working days of the date specified by the appointed person, but must otherwise be in accordance with the process and time limits set out in sub-paragraphs (2)(c) to (e).

(6) 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 relevant 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.

(7) 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.

(8) 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.

(9) 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.

(10) If an approval is given by the appointed person pursuant to this Part of this Schedule, it is deemed to be an approval for the purpose of Part 1 of this Schedule as if it had been given by the relevant authority. The relevant authority may confirm any determination given by the appointed person in identical form in writing, but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person's determination.

(11) Save where a direction is given pursuant to sub-paragraph (12) requiring the costs of the appointed person to be paid by the relevant authority, the reasonable costs of the appointed person are to be met by the applicant.

(12) On application by the relevant authority or the applicant, the appointed person may give directions as to the costs of the appeal and as to the parties by whom the costs of the appeal are to be paid. 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 the Planning Practice Guidance website or any official circular or guidance which may from time to time replace it.

Fees

33.—(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 ten weeks from the relevant date in paragraph 30(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

(**a**) S.I. 2012/2920 amended by S.I. 2013/2153, S.I. 2014/357, S.I. 2014/643, S.I. 2017/1314, S.I. 2019/1154, S.I. 2023/1197 and S.I. 2025/342.

(ii) a longer period of time for determining the application has been agreed pursuant to paragraph 30(1) of this Schedule.

SCHEDULE 3

Article 8

STREETS SUBJECT TO STREET WORKS

(1) Area	*(2) Street subject to street works*	*(3) Description of works*
Nottinghamshire	Gainsborough Road – Station Road – Wheatley Road	Cable works between points SW1 and SW17 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Sturton le Steeple FP17	Cable works between points SW2 and SW3 on sheet 3 of the streets, access and rights of way plan
Nottinghamshire	Common Lane – Cross Common Lane	Cable works between points SW5 and SW11 on sheet 3 of the streets, access and rights of way plan
Nottinghamshire	Cross Common Lane – Upper Ings Lane	Cable works between points SW11 and SW8 on sheet 6 of the streets, access and rights of way plan
Nottinghamshire	Upper Ings Lane	Works to reinforce the existing track, if necessary, to accommodate crossing development traffic at point SW7 on sheet 6 of the streets, access and rights of way plan
Nottinghamshire	Littleborough Road	Cable works between points SW9 and SW12 on sheet 6 of the streets, access and rights of way plan
Nottinghamshire	Littleborough Road	Works to reinforce the existing track, if necessary, to accommodate crossing development traffic at point SW10 on sheet 6 of the streets, access and rights of way plan
Nottinghamshire	Fenton Lane	Cable works between points SW13 and SW16 on sheet 6 of the streets, access and rights of way plan
Nottinghamshire	Sturton le Steeple FP19	Cable works between points SW24 and SW20 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Sturton le Steeple FP20	Cable works across a length of 10m centred at point SW40 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Wood Lane	Cable works between points SW18 and SW26 on sheet 2 of

		the streets, access and rights of way plan
Nottinghamshire	Sturton le Steeple FP21	Cable works between points SW25 and SW26 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Sturton le Steeple FP22	Cable works between points SW21 and SW22 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Freemans Lane	Cable works between points SW27 and SW29 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Freemans Lane	Works to reinforce the existing track, if necessary, to accommodate crossing development traffic at point SW28 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Wood Lane	Cable works between points SW31 and SW32 on sheet 5 of the streets, access and rights of way plan
Nottinghamshire	High House Road – Springs Lane	Cable works between points SW30 and SW34 on sheet 5 of the streets, access and rights of way plan
Nottinghamshire	High House Road – Dog Holes Lane	Cable works between points SW35 and SW37 on sheet 5 of the streets, access and rights of way plan
Nottinghamshire	Dog Holes Lane	Works to reinforce the existing track, if necessary, to accommodate crossing development traffic at point SW36 on sheet 5 of the streets, access and rights of way plan
Nottinghamshire	Leverton Road	Cable works between points SW38 and SW39 on sheet 5 of the streets, access and rights of way plan
Nottinghamshire	Sturton le Steeple FP38	Cable works between points SW41 and SW42 on sheet 3 of the streets, access and rights of way plan.
Nottinghamshire	Sturton le Steeple FP37	Cable works between points SW43 and SW44 on sheet 6 of the streets, access and rights of way plan.
Nottinghamshire	Common Lane – Common Cross Lane	Works to reinforce the existing track or highway structure, if necessary, to accommodate crossing development traffic between points SW4 and SW6 on sheet 3 of the streets, access

		and rights of way plan
Nottinghamshire	Fenton Lane	Works to reinforce the existing track, if necessary, to accommodate crossing development traffic between points SW14 and SW15 on sheet 6 of the streets, access and rights of way plan
Nottinghamshire	Wood Lane	Works to reinforce the existing track, if necessary, to accommodate crossing development traffic between points SW18 and SW23 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	High House Road – Springs Lane	Works to reinforce the existing track, if necessary, to accommodate crossing development traffic between points SW30 and SW33 on sheet 2 of the streets, access and rights of way plan

SCHEDULE 4

Article 10

ALTERATION OF STREETS

PART 1

PERMANENT ALTERATION TO LAYOUT

(1) Area	*(2) Street subject to street works*	*(3) Extent of alterations*
Nottinghamshire	Sturton le Steeple FP17	Works for the provision of a permanent means of crossing at point AS2 on sheet 3 of the streets, access and rights of way plan
Nottinghamshire	Common Lane	Works for the provision of a permanent means of access between points AS4 and AS5 on sheet 3 of the streets, access and rights of way plan
Nottinghamshire	Common Lane	Works for the provision of a permanent means of access between points AS6 and AS7 on sheet 3 of the streets, access and rights of way plan
Nottinghamshire	Common Lane	Works for the provision of a permanent means of access between points AS8 and AS9 on sheet 3 of the streets, access and rights of way plan
Nottinghamshire	Cross Common Lane	Works for the provision of a permanent means of access on

		both sides of the street between points AS10 and AS12 on sheet 3 of the streets, access and rights of way plan
Nottinghamshire	Upper Ings Lane	Works for the provision of a permanent means of access on both sides of the street between points AS13 and AS14 on sheet 3 of the streets, access and rights of way plan
Nottinghamshire	Littleborough Road	Works for the provision of a permanent means of access on both sides of the street between points AS15 and AS16 on sheet 6 of the streets, access and rights of way plan
Nottinghamshire	Fenton Lane	Works for the provision of a permanent means of access between points AS19 and AS21 on sheet 6 of the streets, access and rights of way plan
Nottinghamshire	Wheatley Road	Works for the provision of two permanent means of access between points AS23 and AS25 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Station Road	Works for the provision of a permanent means of access between points AS26 and AS27 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Sturton le Steeple FP20	Works for the provision of a permanent means of crossing at point AS28 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Sturton le Steeple FP19	Works for the provision of a permanent means of crossing at point AS30 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Sturton le Steeple FP19	Works for the provision of a permanent means of watercourse crossing at point AS29 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Wood Lane	Works for the provision of a permanent means of access between points AS31 and AS32 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Wood Lane	Works for the provision of a permanent means of access between points AS33 and AS35 on sheet 2 of the streets, access and rights of way plan

Nottinghamshire	Freemans Lane	Works for the provision of a permanent means of access on both sides of the street between points AS36 and AS37 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Springs Lane	Works for the provision of a permanent means of access on both sides of the street between points AS41 and AS43 on sheet 5 of the streets, access and rights of way plan
Nottinghamshire	High House Road	Works for the provision of a permanent means of access between points AS38 and AS40 on sheet 5 of the streets, access and rights of way plan
Nottinghamshire	Dog Holes Lane	Works for the provision of a permanent means of access on both sides of the street between points AS45 and AS46 on sheet 5 of the streets, access and rights of way plan
Nottinghamshire	Common Lane – Cross Common Lane	Works to widen the existing track, if necessary, to accommodate development traffic between points AS3 and AS11 on sheet 3 of the streets, access and rights of way plan
Nottinghamshire	Fenton Lane	Works to widen the existing track, if necessary, to accommodate development traffic between points AS18 and AS20 on sheet 6 of the streets, access and rights of way plan
Nottinghamshire	Wood Lane	Works to widen the existing track, if necessary, to accommodate development traffic between points AS24 and AS34 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	High House Road – Springs Lane	Works to widen the existing track, if necessary, to accommodate development traffic between points AS39 and AS42 on sheet 5 of the streets, access and rights of way plan

PART 2

TEMPORARY ALTERATION TO LAYOUT

(1) Area	*(2) Street subject to street*	*(3) Extent of alterations*

	works	
Nottinghamshire	Gainsborough Road	Temporary removal of street furniture at point AS1 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Littleborough Road	Works for the provision of a temporary means of access at point AS17 on sheet 6 of the streets, access and rights of way plan
Nottinghamshire	Fenton Lane	Works for the provision of a temporary means of access at point AS22 on sheet 6 of the streets, access and rights of way plan
Nottinghamshire	Dog Holes Lane	Works for the provision of a temporary means of access at point AS44 on sheet 5 of the streets, access and rights of way plan
Nottinghamshire	North Leverton – Habblesthorpe FP24	Works for the provision of a temporary means of access at point AS49 on sheet 5 of the streets, access and rights of way plan
Nottinghamshire	Leverton Road	Works for the provision of a temporary means of crossing between points AS47 and AS48 on sheet 5 of the streets, access and rights of way plan

SCHEDULE 5

Article 11

ACCESS TO WORKS

PART 1

PERMANENT PRIVATE MEANS OF ACCESS TO WORKS

(1) Area	*(2) Reference as shown on the streets, access and rights of way plans*	*(3) Description of access*
Nottinghamshire	AC1	Improved permanent access, as shown on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	AC2	New permanent access, as shown on sheet 3 of the streets, access and rights of way plan
Nottinghamshire	AC3	New permanent access, as shown on sheet 3 of the streets, access and rights of way plan
Nottinghamshire	AC4	New permanent access, as

		shown on sheet 3 of the streets, access and rights of way plan
Nottinghamshire	AC5	New and improved permanent access, as shown on sheet 3 of the streets, access and rights of way plan
Nottinghamshire	AC6	New and improved permanent access, as shown on sheet 3 of the streets, access and rights of way plan
Nottinghamshire	AC7	New and improved permanent access, as shown on sheet 3 of the streets, access and rights of way plan
Nottinghamshire	AC8	Improved permanent access, as shown on sheet 6 of the streets, access and rights of way plan
Nottinghamshire	AC9	Improved permanent access, as shown on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	AC10	Improved permanent access, as shown on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	AC11	New permanent access, as shown on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	AC12	Improved permanent access, as shown on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	AC13	New permanent access, as shown on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	AC14	New permanent access, as shown on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	AC15	Improved permanent access, as shown on sheet 5 of the streets, access and rights of way plan
Nottinghamshire	AC16	New permanent access, as shown on sheet 5 of the streets, access and rights of way plan
Nottinghamshire	AC17	New permanent access, as shown on sheet 5 of the streets, access and rights of way plan

PART 2

TEMPORARY PRIVATE MEANS OF ACCESS TO WORKS

(1) Area	*(2) Reference as shown on the streets, access and rights of way plans*	*(3) Description of access*
Nottinghamshire	AC18	New temporary construction and decommissioning access, as shown on sheet 5 of the streets, access and rights of way plan

SCHEDULE 6

Article 12

STREETS AND PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED

(1) Area	*(2) Public right of way to be temporarily closed*	*(3) Extent of temporary closure*
Nottinghamshire	Sturton le Steeple FP17	Between points TS1 and TS2 on sheet 3 of the streets, access and rights of way plan
Nottinghamshire	Common Lane – Cross Common Lane	Between points TS3 and TS5 on sheet 3 of the streets, access and rights of way plan
Nottinghamshire	Cross Common Lane – Upper Ings Lane	Between points TS4 and TS5 on sheet 6 of the streets, access and rights of way plan
Nottinghamshire	Fenton Lane	Between points TS6 and TS7 on sheet 6 of the streets, access and rights of way plan
Nottinghamshire	Sturton le Steeple FP20	Across a length of 10m centred at point TS9 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Sturton le Steeple FP19	Between points TS10 and TS13 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Wood Lane	Between points TS8 and TS15 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Sturton le Steeple FP21	Between points TS14 and TS15 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Sturton le Steeple FP22	Between points TS11 and TS12 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Freemans Lane	Between points TS16 and TS17 on sheet 2 of the streets, access and rights of way plan
Nottinghamshire	Wood Lane	Between points TS19 and TS20 on sheet 5 of the streets, access and rights of way plan
Nottinghamshire	High House Road – Springs	Between points TS18 and

	Lane	TS21 on sheet 5 of the streets, access and rights of way plan
Nottinghamshire	High House Road – Dog Holes Lane	Between points TS22 and TS23 on sheet 5 of the streets, access and rights of way plan
Nottinghamshire	Sturton le Steeple FP38	Between points TS24 and TS25 on sheet 3 of the streets, access and rights of way plan.
Nottinghamshire	Sturton le Steeple FP37	Between points TS26 and TS27 on sheet 6 of the streets, access and rights of way plan.

SCHEDULE 7

Article 20

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

1. In this Schedule—

"access rights" means any rights over land to—

(a) alter, improve, form, maintain, retain, use (with or without vehicles, plant and machinery), remove, reinstate means of access to the authorised development including visibility splays and road widening and to remove impediments (including vegetation to such access);

(b) remain, pass and repass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface or form a temporary compound) for all purposes in connection with the authorised development; and

(c) restrict and remove the erection of buildings or structures, restrict the altering of ground levels, restrict and remove vegetation and restrict the planting of trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt or interfere with the exercise of the rights or damage the authorised development;

"cable rights" means rights over land to—

(a) install, use, support, protect, inspect, alter, remove, replace, retain, renew, improve and maintain electrical underground cables, earthing cables, optical fibre cables, data cables, telecommunications cables and other services, works associated with such cables including bays, ducts, protection and safety measures and equipment, and other apparatus and structures;

(b) remain, pass and repass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface or form a temporary compound) for all purposes in connection with the authorised development; and

(c) restrict and remove the erection of buildings or structures, restrict the altering of ground levels, restrict and remove vegetation and restrict the planting of trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt or interfere with the exercise of the rights or damage the authorised development;

"habitat mitigation and enhancement rights" over land to—

(a) install, execute, implement, retain, maintain, inspect, repair, improve, renew, remove, relocate, plant and replant trees, woodlands, shrubs, hedgerows, seeding, landscaping and other ecological measures;

(b) remain, pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works;

"substation connection rights" means rights over land to—

(a) install, use, support, protect, inspect, alter, remove, replace, retain, renew, improve and maintain electrical cables, earthing cables, optical fibre cables, data cables, telecommunications cables and other services, works associated with such cables including bays, ducts, protection and safety measures and equipment, and other apparatus and structures and to connect such cables and services to the National Grid West Burton Power Station substation;

(b) remain, pass and repass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface or form a temporary compound) for all purposes in connection with the authorised development;

(c) restrict and remove the erection of buildings or structures, restrict the altering of ground levels, restrict and remove the planting of trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt or interfere with the exercise of the rights or damage the authorised development; and

(d) install, use, support, protect, inspect, alter, remove, replace, retain, renew, improve and maintain soft landscaping measures.

(1) Plot number(s)	*(2) Work No.*	*(3) Purpose for which rights may be acquired and restrictive covenants imposed*
05/03, 05/10, 05/11, 05/12, 05/14, 05/16, 05/17, 05/19	4	Cable rights
02/02, 02/08, 02/11, 02/15, 02/16, 02/19, 02/24, 02/26, 04/03, 04/04, 04/06, 05/01, 05/03, 05/04, 05/05, 05/06, 05/07, 05/13, 05/14, 05/29, 05/30, 05/33, 06/03, 06/05, 06/10, 06/16, 06/19, 06/20, 06/21	6	Cable rights
02/22, 03/09	6a	Cable rights
05/03, 05/14, 05/27, 05/28, 05/32	6	Access rights
01/01, 01/02, 01/03, 03/01, 03/02, 03/04, 06/24, 07/01, 07/02, 07/03, 07/04, 07/05, 07/06, 07/07, 07/08, 07/09, 07/10, 07/11	8	Habitat mitigation and enhancement rights
05/03, 05/10, 05/11, 05/12, 05/14, 05/16, 05/17, 05/19	4, 5	Substation connection rights
03/11	7	Cable rights, access rights
05/22	7	Cable rights

SCHEDULE 8

Article 20

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

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land 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 or imposed on"; 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 of paragraph 1, the 1961 Act has effect subject to the modifications set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act, substitute—

"(5A) If—

(a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 8 of Schedule 8 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants) to the Steeple Renewables Project 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 11 of Schedule 8 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants) to the Steeple Renewables Project 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 Part 1 of the 1965 Act

4. Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act to the acquisition of land under article 18 (compulsory acquisition of land) and as modified by article 25 (modification of Part 1 of the Compulsory Purchase Act 1965), applies to the compulsory acquisition of a right by the creation of a new right under article 20 (compulsory acquisition of rights)—

(a) with the modifications specified in paragraph 5; and

(b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows—

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

(a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or

(b) the land over which the right is or is to be exercisable, or the restriction is to be enforceable.

6. For section 7 of the 1965 Act (measure of compensation in the case of severance) 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

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

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.".

7. 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 so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

8. Section 11 (powers of entry)(**a**) of the 1965 Act is so modified 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 18 (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)(**b**), 11B (counter-notice requiring possession to be taken on specified date)(**c**), 12 (penalty for unauthorised entry)(**d**) and 13 (refusal to give possession to acquiring authority)(**e**) of the 1965 Act is modified correspondingly.

9. Section 20 (tenants at will, etc.)(**f**) 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.

10. Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 25(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.

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

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

(**b**) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016.

(**c**) Section 11B was inserted by section 187(3) of the Housing and Planning Act 2016.

(**d**) Section 12 was amended by paragraph (4) of Schedule 16 to the Housing and Planning Act 2016 (c. 22).

(**e**) 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).

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

“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 have not executed a general vesting declaration under section 4 of the 1981 Act as applied by article 22 (application of the 1981 Act) of the Steeple Renewables Project Order 2026 in respect of the land to which the notice to treat relates.

(2) But see article 23(3) (acquisition of subsoil only) of the Steeple Renewables Project 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 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 authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the authority decides to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

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

9. If the authority 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 the 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 authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.".

SCHEDULE 9

Article 34

HEDGEROWS

PART 1

REMOVAL OF IMPORTANT HEDGEROWS

(1) Plan	*(2) Important Hedgerow*	*(3) Work*
Tree retention and removal plan	H342	Removal of 25m of hedgerow H342 for the construction of an access track
Tree retention and removal plan	H152	Removal of 6m of hedgerow H152 for the construction of an access track
Tree retention and removal plan	H154	Removal of 4m of hedgerow H154 for the construction of a watercourse crossing over a public right of way
Tree retention and removal plan	H343	Removal of 4m of hedgerow H343 for the laying of cables
Tree retention and removal plan	H347	Removal of 2m of hedgerow H347 for the laying of cables
Tree retention and removal plan	H152	Removal of 2m of hedgerow H152 for the laying of cables
Tree retention and removal plan	H153	Removal of 4m of hedgerow H153 for the erection of fencing

PART 2

REMOVAL OF HEDGEROWS

(1) Plan	*(2) Hedgerow*	*(3) Work*
Tree retention and removal plan	H102	Removal of 16m of hedgerow H102 for the construction of an access track
Tree retention and removal plan	H98	Removal of 10m of hedgerow H98 for the construction of an access track
Tree retention and removal plan	H39	Removal of 9m of hedgerow H39 for the construction of an access track
Tree retention and removal plan	H40	Removal of 9m of hedgerow H40 for the construction of an access track
Tree retention and removal plan	H121	Removal of 4m of hedgerow H121 for the construction of an access track
Tree retention and removal plan	H122	Removal of 11m of hedgerow H112 for the construction of an access track
Tree retention and removal plan	H124	Removal of 6m of hedgerow H124 for the construction of an access track
Tree retention and removal plan	H123	Removal of 9m of hedgerow H123 for the construction of an access track
Tree retention and removal plan	H72	Removal of 3m of hedgerow H72 for the construction of an access track
Tree retention and removal plan	H71	Removal of 12m of hedgerow H71 for the construction of an access track
Tree retention and removal plan	H74	Removal of 11m of hedgerow H74 for the construction of an access track
Tree retention and removal plan	H75	Removal of 8m of hedgerow H75 for the construction of an access track
Tree retention and removal plan	H70	Removal of 18m of hedgerow H70 for the construction of an access track
Tree retention and removal plan	H67	Removal of 10m of hedgerow H67 for the construction of an access track
Tree retention and removal plan	H66	Removal of 13m of hedgerow H66 for the construction of an access track
Tree retention and removal plan	H50	Removal of 8m of hedgerow H50 for the construction of an access track
Tree retention and removal plan	H113	Removal of 5m of hedgerow H113 for the construction of an access track

Tree retention and removal plan	H442	Removal of 4m of hedgerow H442 for the construction of an access track
Tree retention and removal plan	H137	Removal of 4m of hedgerow H137 for the construction of an access track
Tree retention and removal plan	H263	Removal of 4m of hedgerow H263 for the construction of an access track
Tree retention and removal plan	H262	Removal of 4m of hedgerow H262 for the construction of an access track
Tree retention and removal plan	H191	Removal of 2m of hedgerow H191 for the construction of an access track
Tree retention and removal plan	H258	Removal of 15m of hedgerow H258 for the construction of an access track
Tree retention and removal plan	H253	Removal of 7m of hedgerow H253 for the construction of an access track
Tree retention and removal plan	H265	Removal of 8m of hedgerow H265 for the construction of an access track
Tree retention and removal plan	H264	Removal of 10m of hedgerow H264 for the construction of an access track
Tree retention and removal plan	H292	Removal of 8m of hedgerow H292 for the construction of an access track
Tree retention and removal plan	H290	Removal of 9m of hedgerow H290 for the construction of an access track
Tree retention and removal plan	H288	Removal of 16m of hedgerow H288 for the construction of an access track
Tree retention and removal plan	H277	Removal of 3m of hedgerow H277 for the construction of an access track
Tree retention and removal plan	H290	Removal of 17m of hedgerow H290 for the construction of an access track
Tree retention and removal plan	H364	Removal of 22.5m of hedgerow H364 for the construction of an access track
Tree retention and removal plan	H374	Removal of 5m of hedgerow H374 for the construction of an access track
Tree retention and removal plan	H332	Removal of 10m of hedgerow H332 for the construction of an access track
Tree retention and removal plan	H331	Removal of 5m of hedgerow H331 for the construction of an access track
Tree retention and removal	H372	Removal of 11m of hedgerow

plan		H372 for the construction of an access track
Tree retention and removal plan	H312	Removal of 3.5m of hedgerow H312 for the construction of an access track
Tree retention and removal plan	H317	Removal of 4m of hedgerow H317 for the construction of an access track
Tree retention and removal plan	H318	Removal of 6m of hedgerow H318 for the construction of an access track
Tree retention and removal plan	H45	Removal of 63m of hedgerow H45 for the construction of an access track
Tree retention and removal plan	H441	Removal of 63m of hedgerow H441 for the construction of an access track
Tree retention and removal plan	H98	Removal of 3m of hedgerow H98 for works to public rights of way including the creation of watercourse crossings and permissive paths
Tree retention and removal plan	H86	Removal of 3m of hedgerow H86 for works to public rights of way including the creation of watercourse crossings and permissive paths
Tree retention and removal plan	H86	Removal of 11m of hedgerow H86 for the laying of cables
Tree retention and removal plan	H130	Removal of 15m of hedgerow H130 for the laying of cables
Tree retention and removal plan	H129	Removal of 15m of hedgerow H129 for the laying of cables
Tree retention and removal plan	H126	Removal of 5m of hedgerow H126 for the laying of cables
Tree retention and removal plan	H128	Removal of 2m of hedgerow H128 for the laying of cables
Tree retention and removal plan	H73	Removal of 5m of hedgerow H73 for the laying of cables
Tree retention and removal plan	H127	Removal of 15m of hedgerow H127 for the laying of cables
Tree retention and removal plan	H68	Removal of 15m of hedgerow H68 for the laying of cables
Tree retention and removal plan	H70	Removal of 3m of hedgerow H70 for the laying of cables
Tree retention and removal plan	H67	Removal of 18m of hedgerow H67 for the laying of cables
Tree retention and removal plan	H66	Removal of 18m of hedgerow H66 for the laying of cables
Tree retention and removal plan	H64	Removal of 60m of hedgerow H64 for the laying of cables
Tree retention and removal plan	H63	Removal of 28m of hedgerow H63 for the laying of cables
Tree retention and removal plan	H61	Removal of 28m of hedgerow H61 for the laying of cables

Tree retention and removal plan	H60	Removal of 70m of hedgerow H60 for the laying of cables
Tree retention and removal plan	H120	Removal of 6m of hedgerow H120 for the laying of cables
Tree retention and removal plan	H432	Removal of 11m of hedgerow H432 for the laying of cables
Tree retention and removal plan	H433	Removal of 11m of hedgerow H433 for the laying of cables
Tree retention and removal plan	H274	Removal of 6m of hedgerow H274 for the laying of cables
Tree retention and removal plan	H275	Removal of 6m of hedgerow H275 for the laying of cables
Tree retention and removal plan	H265	Removal of 5m of hedgerow H265 for the laying of cables
Tree retention and removal plan	H291	Removal of 5m of hedgerow H291 for the laying of cables
Tree retention and removal plan	H289	Removal of 5m of hedgerow H289 for the laying of cables
Tree retention and removal plan	H106	Removal of 2m of hedgerow H106 for the laying of cables
Tree retention and removal plan	H122	Removal of 2m of hedgerow H122 for the laying of cables
Tree retention and removal plan	H71	Removal of 2m of hedgerow H71 for the laying of cables
Tree retention and removal plan	H69	Removal of 4m of hedgerow H69 for the laying of cables
Tree retention and removal plan	H260	Removal of 2m of hedgerow H260 for the laying of cables
Tree retention and removal plan	H297	Removal of 2m of hedgerow H297 for the laying of cables
Tree retention and removal plan	H299	Removal of 2m of hedgerow H299 for the laying of cables
Tree retention and removal plan	H376	Removal of 2m of hedgerow H376 for the laying of cables
Tree retention and removal plan	H317	Removal of 2m of hedgerow H317 for the laying of cables
Tree retention and removal plan	H314	Removal of 2m of hedgerow H314 for the laying of cables
Tree retention and removal plan	H102	Removal of 4m of hedgerow H102 for the erection of fencing
Tree retention and removal plan	H94	Removal of 5m of hedgerow H94 for the erection of fencing
Tree retention and removal plan	H38	Removal of 8m of hedgerow H38 for the erection of fencing
Tree retention and removal plan	H77	Removal of 8m of hedgerow H77 for the erection of fencing
Tree retention and removal plan	H79	Removal of 9m of hedgerow H79 for the erection of fencing
Tree retention and removal plan	H134	Removal of 4m of hedgerow H134 for the erection of fencing
Tree retention and removal plan	H122	Removal of 4m of hedgerow H122 for the erection of

		fencing
Tree retention and removal plan	H128	Removal of 4m of hedgerow H128 for the erection of fencing
Tree retention and removal plan	H121	Removal of 4m of hedgerow H121 for the erection of fencing
Tree retention and removal plan	H125	Removal of 4m of hedgerow H125 for the erection of fencing
Tree retention and removal plan	H73	Removal of 4m of hedgerow H73 for the erection of fencing
Tree retention and removal plan	H71	Removal of 8m of hedgerow H71 for the erection of fencing
Tree retention and removal plan	H69	Removal of 4m of hedgerow H69 for the erection of fencing
Tree retention and removal plan	H277	Removal of 4m of hedgerow H277 for the erection of fencing
Tree retention and removal plan	H264	Removal of 4m of hedgerow H264 for the erection of fencing
Tree retention and removal plan	H193	Removal of 4m of hedgerow H193 for the erection of fencing
Tree retention and removal plan	H253	Removal of 6m of hedgerow H253 for the erection of fencing
Tree retention and removal plan	H260	Removal of 4m of hedgerow H260 for the erection of fencing
Tree retention and removal plan	H287	Removal of 2m of hedgerow H287 for the erection of fencing
Tree retention and removal plan	H292	Removal of 2m of hedgerow H292 for the erection of fencing
Tree retention and removal plan	H277	Removal of 4m of hedgerow H277 for the erection of fencing
Tree retention and removal plan	H272	Removal of 4m of hedgerow H272 for the erection of fencing
Tree retention and removal plan	H360	Removal of 4m of hedgerow H360 for the erection of fencing
Tree retention and removal plan	H355	Removal of 4m of hedgerow H355 for the erection of fencing
Tree retention and removal plan	H340	Removal of 4m of hedgerow H340 for the erection of fencing
Tree retention and removal plan	H332	Removal of 4m of hedgerow H332 for the erection of fencing

Tree retention and removal plan	H331	Removal of 4m of hedgerow H331 for the erection of fencing
Tree retention and removal plan	H315	Removal of 4m of hedgerow H315 for the erection of fencing

SCHEDULE 10

Article 41

PROTECTIVE PROVISIONS

PART 1

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

1. For the protection of the utility undertakers referred to in this Part of this Schedule, the following provisions have effect, unless specific provision to the contrary is made in this Schedule 10 or otherwise agreed in writing between the undertaker and the utility undertakers 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 not less efficient than previously;

"apparatus" means—

(a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the 1989 Act), 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 for the purposes of gas supply;

(c) in the case of a water undertaker—

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

(ii) any water mains or service pipes (or part of a water main or service pipe) that is the subject of an agreement to adopt made under section 51A of the Water Industry Act 1991;

(d) in the case of a sewerage undertaker—

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

(ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4)(**b**) of that Act or an agreement to adopt made under section 104 of that Act(**c**),

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

(**a**) 1991 c. 56.

(**b**) Section 102(4) was amended by section 96(1)(c) of the Water Act 2003 (c. 37) and by paragraph 90 of Schedule 7 to the Water Act 2014 (c. 21).

(**c**) Section 104 was amended by sections 11(2), 96(4) and 101(2) of, and Part 3 of Schedule 9 to, the Water Act 2003 and section 42(3) of the Flood and Water Management Act 2010 (c. 29).

"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; and

"utility undertaker" means—

(a) any licence holder within the meaning of Part 1 (electricity supply) of the 1989 Act;

(b) a gas transporter within the meaning of Part 1 (gas supply) of the Gas Act 1986(**a**);

(c) a water undertaker within the meaning of the Water Industry Act 1991(**b**); or

(d) a sewerage undertaker within the meaning of Part 1 (preliminary) 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.

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 of the 1991 Act.

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

5.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus may 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 may 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 (7).

(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 written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use 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 38 (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 38 (arbitration) and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-

(**a**) 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).
(**b**) 1991 c. 56.

paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part 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 it 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.

6.—(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 must 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 38 (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.

7.—(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 5(2), the undertaker must submit to the utility undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of 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, section and description under sub-paragraph (1) are submitted to it.

(4) If a utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 6 apply as if the removal of the apparatus had been required by the undertaker under paragraph 5(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable

subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

8.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to an affected undertaker the reasonable expenses 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 5(2).

(2) There is to be deducted from any sum payable under sub-paragraph (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,

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 38 (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) is to 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 where such extension is required in consequence of the execution of any such works as are referred to in paragraph 5(2); and

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1), 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.

9.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the works referred to in paragraph 5(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or 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 which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

10. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaking 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

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

12. In this Part of this Schedule—

"conduit system" has the same meaning as in the electronic communications code and references to providing a conduit system is construed in accordance with paragraph 1(3A) of that code;

"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 communications code)(**a**) of the 2003 Act;

"electronic communications code network" means—

(a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide;

"electronic communications code operator" means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

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

13. The exercise of the powers of article 29 (statutory undertakers) are subject to Part 10 of Schedule 3A (undertaker's works affecting electronic communications apparatus) of the electronic communications code.

14.—(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

(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.

(**a**) Section 106 was amended by section of the Digital Economy Act 2017 (c. 30).

(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 which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this paragraph must be referred to and settled by arbitration under article 38 (arbitration).

15. 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 damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

16. 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 THE LEAD LOCAL FLOOD AUTHORITY

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

18. In this Part—

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

"drainage authority" means Nottinghamshire County Council in their role as lead local flood authority, being a drainage board concerned within the meaning of section 23 of the Land Drainage Act 1991;

"drainage work" means any watercourse including any land that provides or is expected to provide flood storage capacity for any watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence, sea defence or tidal monitoring excluding the existing flood defence;

"ordinary watercourse" has the meaning given in the Land Drainage Act 1991(**a**);

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

"specified work" means—

(a) in the case of apparatus owned and operated by a lead local flood authority, so much of any work or operation authorised by this Order as is in, on, under, over or within 5 metres of a drainage work or is otherwise likely to—

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

(ii) affect the flow, purity, or quality of water in any watercourse; or

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

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

19.—(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) 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 paragraph 21.

(3) 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)) or, in the case of a refusal, if it is not accompanied by a statement of the grounds of refusal; and

(c) may be given subject to such reasonable requirements as the drainage authority may make for the protection of any drainage work.

(4) The drainage authority must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

20. Without limiting paragraph 19, 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.

21.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 20, 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 on which it is brought into use.

(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 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.

22.—(1) Subject to sub-paragraph (5) the undertaker must from the commencement of the construction of any specified work maintain in good repair and condition and free from obstruction any drainage work that is situated within the order limits held by the undertaker for the purposes of or in connection with the specified work, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any drainage work that the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the drainage authority, the drainage authority may by notice in writing require the undertaker to repair and restore the work, or any part of such work, or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the drainage authority reasonably requires.

(3) If, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the drainage authority may do what is necessary for such compliance and may recover any expenditure reasonably incurred by it in so doing from the undertaker.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the drainage authority must not except in a case of emergency exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined.

(5) This paragraph does not apply to—

(a) drainage works that are vested in the drainage authority or that the drainage authority or another person is liable to maintain and is not prevented by this Order from so doing; and

(b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part.

23. If by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage works for flood defence purpose 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.

24. The undertaker must indemnify the drainage authority in respect of all 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.

25.—(1) Without limiting the other provisions of this Part, the undertaker must indemnify 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;

(b) any raising or lowering of the water table in land adjoining the authorised development or any sewers, drains and watercourses; or

(c) 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).

26. 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.

27. Any dispute between the undertaker and the drainage authority under this Part, if the parties agree, must be determined by arbitration under article 38 (arbitration).

PART 4

FOR THE PROTECTION OF THE TRENT VALLEY INTERNAL DRAINAGE BOARD

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

29. In this Part—

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

"drainage authority" means the Trent Valley Internal Drainage Board (or a successor board) being a drainage board within the meaning of section 23 of the Land Drainage Act 1991;

"drainage work" means any ordinary watercourse including any land that provides or is expected to provide flood storage capacity for any ordinary watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence, sea defence or tidal monitoring excluding the existing flood defence;

"ordinary watercourse" has the meaning given in the Land Drainage Act 1991;

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

"specified work" means so much of any work or operation authorised by this Order as is in, on, under, over or within 9 metres of a drainage work or is otherwise likely to—

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

(b) affect the flow, purity, or quality of water in any watercourse; or

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

30.—(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 56 days of the submission of the plans reasonably require.

(2) 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 paragraph 32.

(3) 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)) or, in the case of a refusal, if it is not accompanied by a statement of the grounds of refusal; 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 prevention of flooding or pollution, or for the discharge of its environmental functions as set out in Section 61A of the Land Drainage Act 1991(**a**).

31. Without limiting paragraph 30, 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 the efficiency of any drainage work for flood defence purposes and land drainage purposes is not impaired and that the risk of flooding is not otherwise increased beyond the level of flood risk that was assessed in the environmental statement, by reason of any specified work

32.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 31, 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 on which it is brought into use.

(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 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

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(**a**) Section 61A was amended by article 4(1) of S.I. 2013/755.

emergency exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined.

33.—(1) Subject to sub-paragraph (5) the undertaker must from the commencement of the construction of any specified work or protective work maintain in good repair and condition and free from obstruction any drainage work that is situated within the order limits held by the undertaker for the purposes of or in connection with the specified work and any protective work, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any specified work or protective work that the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the drainage authority, the drainage authority may by notice in writing require the undertaker to repair and restore the work, or any part of such work, or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed), to remove the specified work or protective work and restore the site to its former condition, to such extent and within such limits as the drainage authority reasonably requires.

(3) If, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any specified work or protective work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the drainage authority may do what is necessary for such compliance and may recover any expenditure reasonably incurred by it in so doing from the undertaker.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the drainage authority must not except in a case of emergency exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined.

(5) This paragraph does not apply to—

(a) drainage works that are vested in the drainage authority or that the drainage authority or another person is liable to maintain and is not prevented by this Order from so doing; and

(b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part.

34. If by reason of the construction of any specified work or protective work or of the failure of any such specified work or protective work the efficiency of any drainage works for flood defence purpose is impaired, or the drainage work is otherwise damaged, the impairment or damage must be made good by the undertaker as soon as reasonably practicable 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.

35. If by reason of construction of the specified works the drainage authority's access to land drainage infrastructure, flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must provide such alternative means of access that will allow the drainage authority to maintain the land drainage infrastructure, flood defence or use the equipment no less effectively than was possible before the obstruction—

(a) in the case of unplanned, responsive and emergency works to be carried out by the drainage authority within 24 hours of or as soon as reasonably practicable after the undertaker becoming aware of such obstruction; or

(b) in the case of scheduled, planned routine maintenance, within 5 working days of receipt of notice from the internal drainage authority that such access is required;

and for the avoidance of doubt, where access to land drainage infrastructure, flood defences, or equipment maintain for flood defences is not materially obstructed by the undertaker for the purpose of construction of the specified works then the drainage authority shall be able to access their infrastructure freely, at all times without notice.

36. The undertaker must indemnify the drainage authority in respect of all 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 or protective work.

37.—(1) Without limiting the other provisions of this Part, the undertaker must indemnify 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;

(b) any raising or lowering of the water table in land adjoining the authorised development or any sewers, drains and watercourses; or

(c) 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) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage the extent to which 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.

(3) 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).

38. 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.

39. Any dispute between the undertaker and the drainage authority under this Part, if the parties agree, must be determined by arbitration under article 38 (arbitration).

PART 5

FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY DISTRIBUTION (EAST MIDLANDS) PLC

Application

40. For the protection of National Grid Electricity Distribution (East Midlands) plc the following provisions, unless otherwise agreed in writing between the undertaker and National Grid Electricity Distribution (East Midlands) plc, have effect.

Interpretation

41. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable NGED to fulfil its statutory functions in a manner not less efficient than previously and where the context requires includes any part of such alternative apparatus;

"alternative rights" means all and any necessary legal easements, leases, consents, or permissions required by NGED in order to permit or authorise a diversion and to permit or

authorise NGED to lay, keep, operate, maintain, adjust, repair, alter, relay, renew, supplement, inspect, examine, test and remove the alternative apparatus;

"apparatus" means electric lines or electrical plant as defined in the 1989 Act, belonging to or maintained by NGED;

"diversion" means an alteration to the NGED Network in order to enable or facilitate the authorised development;

"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;

"NGED" means National Grid Electricity Distribution (East Midlands) plc (Company No. 02366923) whose registered office is at Avonbank, Feeder Road, Bristol, BS2 0TB;

"NGED Network" means NGED's distribution network operated pursuant to its distribution licence issued pursuant to section 6 of the 1989 Act;

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

"specified work" means so much of any of the authorised development that is carried out within 6 metres of any apparatus; and

other terms have the meaning given in article 2 (interpretation).

Precedence of 1991 Act in respect of apparatus in streets

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

No acquisition except by agreement

43. Regardless of any provision in this Order, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

44.—(1) If, in the exercise of the powers conferred by this Order, the undertaker requires that apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule and any right of NGED to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, alternative rights acquired or granted for the alternative apparatus and the alternative apparatus is in operation and access to it has been provided if necessary to the reasonable satisfaction of NGED in accordance with sub-paragraphs (2) to (10) or with such alternative or supplementary provisions as the undertaker and NGED may agree between them.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to NGED 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.

(3) If as a direct consequence of the exercise of any of the powers conferred by this Order NGED reasonably needs to remove or divert any of its apparatus and the removal of that apparatus has not been required by the undertaker under sub-paragraph (2) then NGED must give to the undertaker 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 this Part has effect as if the removal or diversion of such apparatus had been required by the undertaker under sub-paragraph (2).

(4) If as a direct consequence of the removal or diversion of apparatus under sub-paragraph (2) or (3) alternative apparatus is to be constructed in land owned or controlled by the undertaker then the undertaker must afford to NGED the necessary facilities alternative rights and any necessary third party consent or approvals for the construction of alternative apparatus in the other land owned or controlled by the undertaker.

(5) If the undertaker or NGED requires to remove or divert any apparatus placed within the Order land and alternative apparatus is to be constructed in land not owned or controlled by the undertaker as a consequence of the removal or diversion of apparatus then NGED shall use its reasonable endeavours to obtain alternative rights in the land in which the alternative apparatus is to be constructed.

(6) If alternative apparatus is to be constructed in land not owned or controlled by the undertaker and NGED is unable to obtain such alternative rights as are mentioned in sub-paragraph (5), the undertaker and NGED shall consider whether there is an alternative engineering solution that can achieve the diversion without the need for the use of compulsory powers. Should such an alternative engineering solution not be practicable and deliverable in a reasonable timescale and at a reasonable cost (which shall be determined by the undertaker acting reasonably), NGED may but shall not be compelled to use the powers of compulsory acquisition set out in this Order or the 1989 Act to obtain the necessary facilities and rights in the land outside the Order limits in which the alternative apparatus is to be constructed in accordance with a timetable agreed between NGED and the undertaker.

(7) Any alternative apparatus required pursuant to sub-paragraphs (2) or (3) must be constructed in such manner and in such line or situation as may be agreed between NGED and the undertaker or in default of agreement settled in accordance with paragraph 49 (expert determination).

(8) NGED must, after the alternative apparatus to be provided or constructed has been agreed or settled pursuant to paragraph 49 (expert determination) and after the acquisition by or grant to NGED of any such facilities and alternative rights as are referred to in sub-paragraphs (2) to (6), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required to be removed under the provisions of this Part of this Schedule.

(9) Regardless of anything in sub-paragraph (8), if the undertaker gives notice in writing to NGED that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by NGED, must be executed by the undertaker—

(a) in accordance with plans and specifications and in such line or situation agreed between the undertaker and NGED, or, in default of agreement, determined in accordance with article 38 (arbitration); and

(b) without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of NGED.

(10) Nothing in sub-paragraph (9) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus or alternative apparatus, or execute any filling around the apparatus or alternative apparatus (where the apparatus or alternative apparatus is laid in a trench) within 600 millimetres of the point of connection or disconnection of such apparatus or alternative apparatus.

Facilities and rights for alternative apparatus

45.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to NGED facilities and alternative rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and alternative rights must be granted upon such terms and conditions as shall be agreed between the undertaker and NGED or in default of agreement settled in accordance with paragraph 49 (expert determination).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in the land of the undertaker, the expert must—

(a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the undertaker;

(b) have regard to the terms and conditions, if any, applicable to the apparatus for which the alternative apparatus is to be substituted;

(c) have regard to NGED's ability to fulfil its service obligations and comply with its licence conditions; and

(d) have regard to the standard form rights NGED ordinarily secures for the type of alternative apparatus to be constructed in the circumstances similar to the authorised development.

(3) If the facilities and alternative rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and alternative rights are to be granted, are in the opinion of the expert less favourable on the whole to NGED 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 expert must make such provision for the payment of compensation by the undertaker to NGED as appears to the expert to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

46.—(1) Not less than 60 days before the undertaker intends to start the execution of any specified work where the removal of the apparatus in question has not been required under paragraph 44 (removal of apparatus), the undertaker shall submit to NGED a plan of the specified works to be executed. Any submission must note the time limits imposed on NGED under sub-paragraph (3) below.

(2) Subject to sub-paragraph (3) below the undertaker shall not commence any works to which sub-paragraph (1) applies until NGED has identified any reasonable requirements it has for the alteration or protection of the apparatus, or for securing access to it.

(3) If by the expiry of 60 days beginning with the date on which a plan under sub-paragraph (1) is submitted NGED has not advised the undertaker in writing of any reasonable requirements for the alteration or protection of the apparatus, or for securing access to it, it shall be deemed not to have any such requirements and the undertaker shall be at liberty to proceed with the specified works.

(4) The specified works referred to in sub-paragraph (1) must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with any reasonable requirements as may be notified in accordance with sub-paragraph (2) by NGED and NGED shall be entitled to watch and inspect the execution of those works.

(5) At all times when carrying out the authorised development the undertaker shall comply with NGED's Avoidance of Danger from Electricity Overhead Lines and Underground Cables (2014), the Energy Network Association's A Guide to the Safe Use of Mechanical Plant in the Vicinity of Electricity Overhead Lines (undated), the Health and Safety Executive's GS6 Avoiding Danger from Overhead Power Lines and the Health and Safety Executive's HSG47 Avoiding Danger from Underground Services (Third Edition) (2014) as the same may be replaced from time to time.

(6) If NGED, in accordance with sub-paragraph (2) and in consequence of the specified works proposed by the undertaker, reasonably requires the removal or diversion of any apparatus and gives written notice to the undertaker of that requirement, this Part of this Schedule applies as if the removal or diversion of the apparatus had been required by the undertaker under paragraph 44(2).

(7) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 60 days before commencing the execution of any specified works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(8) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to NGED notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with any reasonable requirements stipulated by NGED under sub-paragraph (2) and with sub-paragraphs (4) and (5) in so far as is reasonably practicable in the circumstances. Nothing in this sub-paragraph prevents NGED from exercising its rights under sub-paragraph (6).

Expenses and costs

47.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to NGED the proper and reasonable expenses reasonably incurred by NGED in, or in connection with, the inspection, removal, diversion, alteration or protection of any apparatus, the construction of any alternative apparatus and the acquisition or grant of alternative rights for the alternative apparatus, arising as a result of the powers conferred upon the undertaker pursuant to this Order.

(2) The value of any apparatus removed under the provisions of this Part of this Schedule must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule NGED requires that alternative apparatus of better type, of greater capacity, of greater dimensions or at a greater depth is necessary in substitution for existing apparatus which for NGED's network requirements is over and above what is necessary as a consequence of and for the purpose of the authorised development, NGED shall reduce the cost of such additional requirements from the amount payable by the undertaker pursuant to sub-paragraph (1).

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1) 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.

Liability

48.—(1) Subject to sub-paragraph (2), if by reason or in consequence of the construction of any specified work or any subsidence resulting from any of those 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 NGED the undertaker is to—

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

(b) reimburse NGED for any other expenses, loss, damages, penalty or costs reasonably and properly incurred by NGED, 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 to the extent that it is attributable to the act, neglect or default of NGED, its officers, servants, contractors or agents.

(3) NGED must give the undertaker reasonable notice of any third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection

with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(4) NGED must act reasonably in relation to any claim or demand served under sub-paragraph (1) and use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands and penalties to which a claim or demand under sub-paragraph (1) applies.

(5) NGED's liability to the undertaker for negligence or breach of contract, in respect of each diversion, shall be limited to the value of that diversion and NGED shall not otherwise be liable to the undertaker for any losses or costs incurred by the undertaker resulting from delays to the authorised development as a result of its failure to undertake works to deliver any alternative apparatus.

Expert determination

49.—(1) Article 38 (arbitration) shall apply to any difference as to the legal interpretation of this Part of this Schedule and as provided for in sub-paragraph (7).

(2) Save as provided for in sub-paragraph (1) or sub-paragraph (7) any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers or the President of the Institution of RICS or the President of the Institution of Engineering and Technology (as relevant and agreed between NGED and the undertaker, both acting reasonably and without delay).

(3) All parties involved in settling any difference must use best endeavours to do so within 14 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 21 days of the notification of the dispute.

(4) The costs and fees of the expert and the costs of NGED and the undertaker are payable by the parties in such proportions as the expert may determine. In the absence of such determination the costs and fees of the expert are payable equally by the parties who shall each bear their own costs.

(5) The expert must—

(a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 14 days of the expert's appointment;

(b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;

(c) issue a decision within 14 days of receipt of the submissions under sub-paragraph (b); and

(d) give reasons for the decision.

(6) The expert must consider where relevant—

(a) the development outcome sought by the undertaker;

(b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;

(c) the nature of the power sought to be exercised by the undertaker;

(d) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party;

(e) NGED's service obligations and licence conditions; and

(f) any other important and relevant consideration.

(7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 38 (arbitration).

Access

50. If in consequence of the agreement reached under paragraph 43 or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable NGED to maintain or use the apparatus no less effectively than was possible before such obstruction.

PART 6

FOR THE PROTECTION OF CADENT GAS LIMITED

Application

51. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

Interpretation

52. In this Part of this Schedule—

"alternative apparatus" means appropriate alternative apparatus to the reasonable satisfaction of Cadent to enable Cadent to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means any gas mains, pipelines, pipes, pressure governors, ventilators, cathodic protection (including transformed rectifiers and any associated groundbeds or cables), cables, marker posts, block valves, hydrogen above ground installations or other apparatus belonging to, or maintained by, Cadent for the purposes of Cadent's undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of Cadent for the purposes of Cadent's undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus provided that "apparatus" shall exclude any apparatus that has been decommissioned by Cadent within the Order Limits where any such decommissioned assets have been decommissioned prior to or not as a result of the authorised works or the Order;

"authorised works" has the same meaning as is given to the term "authorised development" in article 2 of the Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

"Cadent" means Cadent Gas Limited and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986(**a**);

"Cadent's undertaking" means the rights, duties and obligations of Cadent Gas Limited as a public gas transporter within the meaning of Section 7 of the Gas Act 1986 (as amended by the Gas Act 1995);

"commence" and "commencement" has the same meaning as in article 2 of the Order and for the purposes of this Part of this Schedule includes any below ground surveys, monitoring, work operations, remedial work in respect of any contamination or other adverse ground condition, the receipt and erection of construction plant and equipment, and non-intrusive investigations for the purpose of assessing ground conditions;

"deed of consent" means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

(**a**) 1986, c. 44.

"facilities and rights" for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance, and any necessary rights of access;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by Cadent (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

"ground monitoring scheme" means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, must require the undertaker to submit for Cadent's approval a ground mitigation scheme;

"ground subsidence event" means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

"maintain" and "maintenance" will include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Cadent including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus;

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

"rights" includes rights and restrictive covenants and, in relation to decommissioned apparatus, the surrender of rights, release of liabilities and transfer of decommissioned apparatus; and

"specified works" means any of the authorised works or activities (including maintenance) undertaken in association with the authorised works which—

(a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 57(2) or otherwise;

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 57(2) or otherwise; or

(c) include any of the activities that are referred to in CD/SP/SSW/22 (Specification for safe working in the vicinity of Cadent Assets).

On Street apparatus

53.—(1) This Schedule does not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act, except for—

(a) paragraphs 54, 59, 60 and 61; and

(b) where sub-paragraph (2) applies, paragraphs 56 and 57.

(2) This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within the existing public highway, notwithstanding that any diversion may be carried out under the provisions of Part 3 of the 1991 Act.

Apparatus of Cadent in temporarily closed streets

54.—(1) Notwithstanding the temporary alteration, diversion or restriction of use of any highway under the powers of article 12 (temporary closure of streets and public rights of way),

Cadent will be at liberty at all times and at Cadent's own risk to take all necessary access across any such highway and to execute and do all such works and actions in, upon or under any such highway as it would have been entitled to do immediately before such temporary alteration, diversion or restriction in respect of any apparatus which at the time of the closure or diversion was in that highway.

(2) In taking access pursuant to sub-paragraph (1) above, and subject to sub-paragraph (3) below, Cadent must—

(a) comply with any plans produced by the undertaker pursuant to its obligations under the Construction (Design and Management) Regulations 2015; and

(b) comply with all relevant health and safety legislation, guidance, protocols and procedures.

(3) In taking access pursuant to sub-paragraph (1) above in a gas leak or gas safety situation, Cadent must comply with the Gas Safety (Installation and Use) Regulations 1998.

Protective works to buildings

55.—(1) The undertaker, in the case of the powers conferred by article 16 (protective works to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent and, if by reason of any unreasonable exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of Cadent or any interruption in the supply of gas by Cadent, as the case may be, is caused, the undertaker must bear and pay on demand the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and, subject to sub-paragraph (2), will—

(a) pay compensation to Cadent for any loss sustained by it; and

(b) indemnify Cadent against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by Cadent, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of Cadent or its contractors or workmen; and Cadent will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made by Cadent, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand and any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage of interruption, which is not reasonably foreseeable at the commencement of the relevant works referred to in sub-paragraph (1) that is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents.

Acquisition of land

56.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any interest in land or appropriate, acquire, extinguish, interfere with or override any easement or other interest in land of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out or maintenance of any part of the authorised works (or in such other timeframe as may be agreed between Cadent and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of Cadent or affects the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed

between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to procure or secure the consent to and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent and other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Part of this Schedule will prevail.

(4) Any agreement or consent granted by Cadent under paragraph 58 or any other paragraph of this Part of this Schedule, will be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement under sub-paragraph (1) that involves decommissioned apparatus being left in situ Cadent must use reasonable endeavours to surrender its easement or other interest in respect of such decommissioned apparatus to the reversionary landowner. If the undertaker is or becomes the reversionary landowner the undertaker must accept a surrender of any existing easement or other interest of Cadent in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release Cadent from all liabilities in respect of such de-commissioned apparatus from the date of such surrender. If Cadent is not released by the reversionary landowner from all liabilities in respect of such de-commissioned apparatus, the undertaker shall take on such liabilities in respect of such de-commissioned apparatus from the date of such surrender and Cadent shall consent to the acquisition by the undertaker of any such apparatus pursuant to the powers contained in this Order

(6) Where the undertaker acquires the freehold of any land which is subject to any Cadent right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 57 do not apply, the undertaker must—

(a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and

(b) (where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of Cadent's easement, right or other interest in relation to such acquired land.

Removal of apparatus

57.—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 56, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of Cadent to maintain that apparatus in that land must not be extinguished or interfered with until alternative apparatus has been constructed, is in operation, and the facilities and rights referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of Cadent and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over 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 Cadent 28 days' written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its satisfaction (taking into account paragraph 58(1)) the necessary facilities and rights—

(a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus);

(b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); and

(c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus).

(3) If 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, Cadent may, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do and that nothing in this paragraph requires Cadent from acting contrary to its statutory and regulatory duties to act economically and efficiently.

(4) Any alternative apparatus to be constructed in land of or land secured by 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 Cadent and the undertaker or settled in accordance with article 38 (arbitration).

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed or settled, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3) have been afforded to Cadent to its reasonable satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

58.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent (in Cadent's opinion) than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed, then the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with article 38 (arbitration).

Retained apparatus: protection of Cadent

59.—(1) Not less than 56 days before the starting commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent under sub-paragraph (1) must include a method statement and describe—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;

(d) the position of all apparatus;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and

(f) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until Cadent has given written approval of the plan so submitted (and the ground monitoring scheme if required) subject to sub-paragraph (4) of this Part of this Schedule.

(4) Any approval of Cadent given under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5); and

(b) must not be unreasonably withheld or delayed.

(5) For the purposes of sub-paragraph (4)(b) it will be deemed to be reasonable for any approval to be refused if Cadent considers that the specified works would—

(a) cause interference with or risk of damage to its apparatus; or

(b) prevent access to its apparatus at any time.

(6) In relation to any work to which sub-paragraphs (1) or (2) apply Cadent may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Specified works must only be executed in accordance with—

(a) the plan submitted under sub-paragraph (1) (and ground monitoring scheme if required), as approved or as amended from time to time by agreement between the undertaker and Cadent; and

(b) all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works where reasonably practicable to do so and in accordance with any relevant health and safety legislation.

(8) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(9) If Cadent, 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, sub-paragraphs (1) to (3) and (7) to (9) apply as if the removal of the apparatus had been required by the undertaker under paragraph 57(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(11) As soon as reasonably practicable after any ground subsidence event attributable to the authorised works (including such an event attributable to its maintenance)—

(a) the undertaker must implement an appropriate ground mitigation scheme; and

(b) Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 60.

(12) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with—

(a) the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances; and

(b) sub-paragraph (14) at all times.

(13) In this paragraph, "emergency works" means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

(14) At all times when carrying out any works authorised under the Order the undertaker must comply with the Cadent's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of Cadent Assets CAD//SP/SSW/22" and HSE's "HS(~G)47 Avoiding Danger from underground services".

Expenses

60.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent on demand all charges, costs and expenses reasonably anticipated or reasonably incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent—

(i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 57(3) if it elects to do so; or

(ii) exercising any compulsory purchase powers under this Order transferred to or benefitting Cadent;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;

(c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

(d) the approval of plans;

(e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;

(f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;

(g) any watching brief pursuant to sub-paragraph 59(7).

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, 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 38 (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 Cadent by virtue of sub-paragraph (1) will 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 will not 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 a manhole will 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 Cadent in respect of works by virtue of sub-paragraph (1) will, 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 Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

61.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by the undertaker) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these 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 the authorised development) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will—

(a) bear and pay on demand accompanied by an invoice or claim from Cadent, the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and

(b) indemnify Cadent for any other expenses, loss, demands, proceedings, damages, claims, penalty, compensation or costs properly incurred by, paid by or recovered from Cadent, by reason or in consequence of any such damage or interruption or Cadent becoming liable to any third party as aforesaid other than arising from any default of Cadent.

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless Cadent fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of—

(a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents;

(b) any part of the authorised works carried out by Cadent in the exercise of any functions conferred by this Order pursuant to a grant or transfer under article 5 (consent to transfer benefit of Order) of the Order; and

(c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage of interruption, which is not reasonably

foreseeable at the commencement of the relevant works referred to in sub-paragraph (1) that is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents.

(4) Cadent must give the undertaker reasonable notice of any such third party claims or demands and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) Cadent must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) Cadent must use its reasonable endeavours to mitigate and the minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within Cadent's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of Cadent's control and if reasonably requested to do so by the undertaker Cadent must provide an explanation of how the claim has been minimised, where relevant.

Enactments and agreements

62. Except where this Part of this Schedule provides otherwise, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

63.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or Cadent requires the removal of apparatus under paragraph 57(2) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 59, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of Cadent's undertaking and Cadent must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, Cadent's consent must not be unreasonably withheld or delayed.

Access

64. If in consequence of any agreement reached in accordance with paragraph 56(1) or the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

Notices

65. Notwithstanding article 37 (service of notices) any plans submitted to Cadent by the undertaker pursuant to paragraph 59(1) must be sent via email to Cadent Gas Limited Plant Protection at plantprotection@cadentgas.com copied by e-mail to toby.feirn@cadentgas.com and sent to the General Counsel Department at Cadent's registered office or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 7

FOR THE PROTECTION OF EXOLUM PIPELINE SYSTEM LTD

Application

66. For the protection of Exolum the following provisions, unless otherwise agreed in writing at any time between the undertaker and Exolum, have effect.

Interpretation

67. In this Part of this Schedule, the following terms shall have the following meanings—

"additional rights" means rights for the construction and for access to and for the use, protection, inspection, maintenance, repair and renewal of retained apparatus including any restrictions on the landowner and occupiers for the protection of the retained apparatus and to allow Exolum to perform its functions;

"alternative apparatus" means alternative apparatus adequate to enable Exolum to fulfil its functions as a pipeline operator in a manner not less efficient than previously;

"alternative rights" means rights for the construction and for access to and for the use, protection, inspection, maintenance, repair and renewal of alternative apparatus including any restrictions on the landowner and occupiers for the protection of the alternative apparatus and to allow Exolum to perform its functions;

"apparatus" means the pipeline and storage system and any ancillary apparatus owned or operated by Exolum and includes—

(a) any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

(b) any ancillary works, all protective wrappings, valves, sleeves and slabs, cathodic protection units, together with ancillary cables and markers;

(c) such legal interest, and benefit of property rights and covenants as are vested in respect of these items;

and, where the context allows, includes alternative apparatus;

"emergency" means any circumstances in which the safety or operation of the pipeline is at risk.

"Exolum" means Exolum Pipeline System Ltd (company registration number 09497223 whose registered office is at 1st Floor 55 King William Street London EC4R 9AD) and for the purpose of enforcing the benefit of any provisions in this Part of this Schedule, any group company of Exolum Pipeline System Ltd and in all cases any successor in title;

"functions" includes powers, duties and commercial undertaking;

"in" in a context referring to apparatus in land includes a reference to apparatus under, over or upon land;

"parties" means the undertaker and Exolum and "party" shall be construed accordingly;

"plan" includes all designs, drawings, sections, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary to allow Exolum to assess the relevant works to be executed properly and sufficiently and in particular must describe—

(a) the exact position of the works;

(b) the level at which the works are proposed to be constructed or renewed;

(c) the manner of the works' construction or renewal including details of excavation, positioning of plant etc.;

(d) the position of the affected apparatus and/or premises and any other apparatus belonging to another undertaker;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;

(f) any intended maintenance regime;

(g) details of the proposed method of working and timing of execution of works; and

(h) details of vehicle access routes for construction and operational traffic.

"premises" means land that Exolum owns, occupies or otherwise has rights to use including but not limited to storage facilities, administrative buildings and jetties;

"protective works" means works for the inspection and protection of apparatus;

"restricted works" means any works that will or may affect any apparatus or premises including—

(a) all works within 15 metres measured in any direction of any apparatus including embankment works and those that involve a physical connection or attachment to any apparatus;

(b) the crossing of apparatus by other utilities;

(c) the use of explosives within 400 metres of any apparatus or premises;

(d) piling, undertaking of a 3D seismic survey or the sinking boreholes within 30 metres of any apparatus or premises;

(e) all works that impose a load directly upon the apparatus, wherever situated

whether carried out by the undertaker or any third party in connection with the authorised development.

Acquisition of apparatus

68.—(1) Regardless of any other provision in the Order or anything shown on the land plans—

(a) the undertaker must not, otherwise than by agreement with Exolum, acquire any apparatus, Exolum's rights in respect of apparatus, any premises or any of Exolum's interests in the Order land;

(b) the undertaker must not, otherwise than by agreement with Exolum, acquire or create new rights in any of the land affected by the Order which is subject to any rights or interests of Exolum;

(c) the undertaker must not, otherwise than in accordance with this Part of this Schedule—

(i) obstruct or render less convenient the access to any apparatus or premises;

(ii) interfere with or affect Exolum's ability to carry out its functions as an oil pipeline operator;

(iii) require that apparatus is relocated or diverted; or

(iv) remove or required to be removed any apparatus;

(d) any right of Exolum to maintain, repair, renew, adjust, alter or inspect apparatus must not be extinguished until any necessary alternative apparatus has been constructed, it is in operation and the alternative rights have been granted, all to the reasonable satisfaction of Exolum; and

(e) any right of Exolum to access the Exolum operations must not be extinguished until necessary alternative access has been provided to Exolum's reasonable satisfaction.

(2) Prior to the carrying out of any restricted works or any works authorised by this Order that will affect the apparatus, and if required by Exolum, the parties must use all reasonable endeavours to negotiate and enter into such deeds of consent (crossing consent) and (if considered necessary) variations to the existing rights upon such terms and conditions as may be agreed between Exolum and the undertaker acting reasonably and which must be no less favourable on the whole to Exolum than this Part of this Schedule, and the undertaker will use all reasonable endeavours to procure and secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such works.

(3) Where the undertaker acquires land which is subject to any existing rights and the provisions of paragraph 69 do not apply, the undertaker must—

(a) retain any notice of the existing rights of Exolum on the title to the relevant land when registering the undertaker's title to such acquired land; and

(b) (where no such notice of the existing rights or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of the existing rights or other interest in relation to such acquired land; and

(c) provide up to date official entry copies to Exolum within 20 working days of receipt of such up to date official entry copies.

(4) Where the undertaker takes temporary possession of any land or carries out survey works on land in respect of which Exolum has apparatus or premises—

(a) where reasonably necessary, Exolum may exercise its rights to access such land—

(i) in an Emergency, without notice; and

(ii) in non-emergency circumstances, having first given not less than 14 days' written notice to the undertaker in order to allow the parties to agree the timing of their respective works during the period of temporary possession; and

(b) the undertaker must not remove or in any way alter Exolum's rights in such land, unless in accordance with the provisions of this Order.

Removal of apparatus and rights for alternative apparatus

69.—(1) If, having used all reasonable endeavours to implement the authorised development without the removal of any apparatus—

(a) the undertaker reasonably requires the removal of any apparatus; or

(b) Exolum reasonably requires the removal of any apparatus;

then the relevant party must give written notice of that requirement to the other.

(2) The parties must use their reasonable endeavours to produce a plan of the work proposed and a plan of the proposed position of the alternative apparatus to be provided or constructed.

(3) The undertaker must afford to Exolum the necessary facilities and rights for the construction of alternative apparatus and subsequently the grant of alternative rights in accordance with paragraph 70.

(4) Any alternative apparatus is to be constructed in land owned by the undertaker or in land in respect of which alternative rights have been or are guaranteed to be granted to Exolum. The alternative apparatus must be constructed in such manner and in such line or situation as may be agreed between Exolum and the undertaker or in default of agreement settled by expert determination in accordance with article 38 (arbitration).

(5) After the details for the works for alternative apparatus to be provided or constructed have been agreed or settled in accordance with article 38 (arbitration), and after the grant to Exolum of any such facilities and rights as are referred to in paragraph 70, Exolum must proceed as soon as reasonably practicable using all reasonable endeavours to construct and bring into operation the alternative apparatus and subsequently to remove (or if agreed between the parties to allow the undertaker to remove) any redundant apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) The following paragraphs (7) and (8) shall only apply if—

(a) Exolum fails to comply with its obligations under sub-paragraph (5) to remove any redundant apparatus; and

(b) the undertaker has served notice on Exolum specifying the default; and

(c) Exolum has failed to remedy the default within 28 days.

(7) In the circumstances set out in sub-paragraph (6), if the undertaker then gives notice in writing to Exolum that it desires itself to remove the redundant apparatus, that work, instead of being executed by Exolum, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Exolum.

(8) Nothing in sub-paragraph (7) shall authorise 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 3000 millimetres of the apparatus unless that apparatus is redundant and disconnected from Exolum's remaining system.

Facilities and rights for alternative apparatus

70.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Exolum facilities and rights for the construction of alternative apparatus and the grant of alternative rights, in substitution for Apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Exolum acting reasonably in accordance with this Part of this Schedule or in default of agreement settled in accordance with article 38 (arbitration).

(2) Alternative rights must be granted before any alternative apparatus is brought into use.

(3) The Parties agree that the alternative rights shall be granted by way of a 999-year subsoil lease, substantially in the form of Exolum's precedent from time to time as amended by written agreement between the parties acting reasonably, or such other form of agreement as the parties otherwise agree acting reasonably.

(4) Nothing in this Part of this Part of this Schedule or contained in the alternative rights shall require Exolum to divert or remove any alternative apparatus.

(5) 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 Exolum acting reasonably less favourable on the whole to Exolum 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, Exolum may refer the matter to arbitration in accordance with article 38 (arbitration).

Retained apparatus and alternative apparatus: protection

71.—(1) Before commencing the execution of any restricted works, the undertaker must submit to Exolum a plan of the works to be executed and any other information that Exolum may reasonably require to allow Exolum to assess the works.

(2) No restricted works are to be commenced until the plan to be submitted to Exolum under sub-paragraph (1) has been approved by Exolum in writing (acting reasonably) and Exolum shall provide confirmation as to whether or not the plan is approved within 56 days from the date the plan was received by Exolum and are to be carried out only in accordance with the details submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be notified to the undertaker in writing in accordance with sub-paragraph (3) by Exolum.

(3) Any approval of Exolum in respect of restricted works may be given subject to such reasonable requirements as Exolum may require to be made for—

(a) the continuing safety and operational viability of any apparatus and premises;

(b) the requirement for Exolum to have reasonable access with or without vehicles to inspect, repair, replace, maintain and ensure the continuing safety and operation or viability of any apparatus and/or premises; and

(c) the requirement for Exolum to be entitled to watch and inspect the execution of restricted works to ensure the continuing safety and operational viability of any apparatus and ensure compliance with the agreed plan, providing such reasonable requirements shall be notified to the undertaker in writing.

(4) Where reasonably required by either party, in view of the complexity of any proposed works, timescales, phasing or costs, the parties must with due diligence and good faith negotiate a works agreement for the carrying out of protective works or the installation of alternative apparatus.

(5) If in consequence of the works notified to Exolum by the undertaker under sub-paragraph (1), the circumstances in paragraph 69 apply, then the parties must follow the procedure in paragraph 69 onwards.

(6) Nothing in sub-paragraphs (1) to (5) precludes the undertaker from submitting prior to the commencement of works to protect retained apparatus or to construct alternative apparatus (unless otherwise agreed in writing between the undertaker and Exolum) a new plan, instead of the plan previously submitted, in which case the parties must re-run the procedure from sub-paragraph (1) onwards.

(7) Where Exolum reasonably requires protective works, the parties must use their reasonable endeavours to produce a plan of the work proposed and a plan of the proposed position of any physical features to be provided or constructed.

(8) The undertaker must afford to Exolum the necessary facilities and rights for the construction of protective works and subsequently the grant of additional rights in accordance with paragraph 70.

(9) Any protective works are to be constructed in land owned by the undertaker or in land in respect of which additional rights have been or are guaranteed to be granted to Exolum. The protective works must be constructed in such manner and in such line or situation as may be agreed between Exolum and the undertaker or in default of agreement settled by arbitration in accordance with article 38 (arbitration).

(10) After the details for the protective works to be provided or constructed have been agreed or settled in accordance with article 38 (arbitration), and after the grant to Exolum of any such facilities and rights as are referred to in paragraph 69(3), Exolum must proceed as soon as reasonably practicable using all reasonable endeavours to construct and bring into operation the protective works.

Cathodic protection testing

72.—(1) Where in the reasonable opinion of Exolum or the undertaker—

(a) the authorised development might interfere with the cathodic protection forming part of apparatus; or

(b) any apparatus might interfere with the proposed or existing cathodic protection forming part of the authorised development;

Exolum and the undertaker must co-operate in undertaking the tests which they consider reasonably necessary for ascertaining the nature and extent of such interference and measures for providing or preserving cathodic protection.

(2) The parties must carry out the works and enter into such agreements as are necessary to implement the measures for providing or preserving cathodic protection.

Expenses

73.—(1) Subject to the following provisions of this paragraph 73, the undertaker must pay to Exolum the reasonable and properly incurred costs and expenses (including reasonable staffing costs if work is carried out in-house) incurred by Exolum in, or in connection with—

(a) undertaking its obligations under this Part of this Schedule including—

(i) the installation, inspection, removal, alteration, testing or protection of any apparatus, alternative apparatus and/or protective works;

(ii) the execution of any other works under this Part of this Schedule;

(iii) imposing reasonable requirements for the protection or alteration of apparatus affected by the authorised development or works as a consequence of the authorised development in accordance with paragraph 71(3); and

(iv) the review and assessment of plans;

(b) the watching of and inspecting the execution of the authorised development, any restricted works and any works undertaken by third parties as a result of authorised development (including the assessment of plans); and

(c) together with any administrative costs properly and reasonably incurred by Exolum.

(2) There will be no deduction from any sum payable under sub-paragraph (1) as a result of—

(a) the placing of apparatus of a better type, greater capacity or of greater dimensions, or at a greater depth than the existing apparatus, to the extent Exolum has acted reasonably in procuring such apparatus;

(b) the placing of apparatus in substitution of the existing apparatus that may defer the time for renewal of the existing apparatus in the ordinary course; or

(c) the scrap value (if any) of any apparatus removed.

(3) Where Exolum demands payment for those expenses pursuant to sub-paragraph (1), Exolum must provide an itemised invoice or claim detailing all expenses reasonably and properly incurred or estimated to be incurred to the undertaker for the undertaker's review and approval (not to be unreasonably withheld or delayed) and payment must be made by the undertaker to Exolum within 3 months of receipt of such invoice or claim.

Damage to property and other losses

74.—(1) Subject to sub-paragraphs (2) to (6), the undertaker must—

(a) indemnify Exolum for all reasonably incurred loss, damage, liability, costs and expenses suffered or incurred by Exolum arising out of—

(i) the carrying out of works under this Part of this Schedule;

(ii) the carrying out of the authorised development;

(iii) the use or occupation of land over or in the vicinity of any apparatus or in the vicinity of any premises in connection with the carrying out of the authorised development;

(iv) any injury or damage whatsoever to any property, real or personal, including the property of Exolum; and

(v) any matters arising out of or in connection with this Order;

(b) indemnify Exolum against any claim made against, or loss suffered by, Exolum as a result of any act or omission committed by the undertaker's officers, employees, contractors or agents whilst on or in the vicinity of any apparatus or premises;

(c) pay to Exolum, in accordance with the terms of the provisions of this Part of this Schedule, the cost reasonably incurred by Exolum in making good any damage to the Apparatus (other than Apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) arising out of the carrying out of works under this Part of this Schedule and arising out of the carrying out of the authorised development;

(d) pay to Exolum the cost reasonably incurred by Exolum in stopping, suspending and restoring the supply though its apparatus in consequence of the carrying out of works under this Part of this Schedule or the carrying out of the authorised development; and

(e) make reasonable compensation to Exolum for any other expenses, losses, damages, penalty or costs incurred by Exolum by reason or in consequence of any such damage or interruption including all claims by third parties.

(2) The fact that any act or thing may have been done by Exolum on behalf of the undertaker or in accordance with a plan approved by Exolum or in accordance with any requirement of Exolum or under its supervision shall not, subject to sub-paragraph (4), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Exolum fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with an approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any interruption, claims, expenses, losses, damages, penalty or costs incurred by Exolum to the extent that it is attributable to the unlawful or unreasonable act, neglect or default of Exolum, its officers, servants, contractors or agents.

(4) The undertaker and Exolum shall at all times take reasonable steps to prevent and mitigate any loss, damage, liability, claim, cost or expense (whether indemnified or not) which either suffers in connection with this Part of this Schedule.

(5) The undertaker warrants that—

(a) the information it or any of its employees, agents or contractors provide to Exolum about the plans or the authorised development and on which Exolum relies in the design of and carrying out of any works is accurate; and

(b) the undertaker or any of its employees, agents or contractors have exercised all the reasonable skill, care and diligence to be expected of a qualified and experienced member of their respective profession.

(6) Exolum must give to the undertaker reasonable notice of any claim or demand to which sub-paragraph (1) applies.

Insurance

75.—(1) The undertaker must not carry out any restricted works unless and until Exolum has confirmed to the undertaker in writing that it is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker (or its contractor) has procured acceptable professional indemnity insurance and public liability insurance with minimum cover of £25 million per event, with respect to the carrying out of the works.

(2) The undertaker must maintain such insurance for the construction period of the authorised development from the proposed date of commencement of the authorised development unless otherwise agreed in writing with Exolum.

Co-operation and reasonableness

76.—(1) Where apparatus is required to be protected, altered, diverted or removed under this Part of this Schedule, the undertaker must use all reasonable endeavours to co-ordinate the execution of any works under this Part of this Schedule—

(a) in the interests of safety;

(b) in the interest of the efficient and economic execution of both Exolum's works and the authorised development; and

(c) taking into account the need to ensure the safe and efficient operation of apparatus and carrying out of Exolum's functions.

(2) Exolum must use all reasonable endeavours to co-operate with the undertaker for the purposes outlined in sub-paragraph (1).

(3) The undertaker and Exolum must act reasonably in respect of any given term of this Part of this Schedule and, in particular, (without prejudice to generality) where any approval, consent or expression of satisfaction is required by this Part of this Schedule it must not be unreasonably withheld or delayed.

Emergency circumstances

77.—(1) The undertaker acknowledges that Exolum provides services to His Majesty's Government, using the apparatus, which may affect any works to be carried under this Part of this Schedule and the authorised development.

(2) In the following circumstances, Exolum may on written notice to the undertaker immediately suspend all works that necessitate the stopping or suspending of the supply of product through any

apparatus under this Part of this Schedule and Exolum shall not be in breach of its obligations under this Part of this Schedule—

(a) circumstances in which, in the determination of the Government, there subsists a material threat to national security, or a threat or state of hostility or war or other crisis or national emergency (whether or not involving hostility or war); or

(b) circumstances in which a request has been received, and a decision to act upon such request has been taken, by the Government for assistance in relation to the occurrence or anticipated occurrence of a major accident, crisis or natural disaster; or

(c) circumstances in which a request has been received from or on behalf of NATO, the EU, the UN, the International Energy Agency (or any successor agency thereof) or the government of any other state for support or assistance pursuant to the United Kingdom's international obligations and a decision to act upon such request has been taken by the Government; or

(d) any circumstances identified as such by the COBRA committee of the Government (or any successor committee thereof); or

(e) any situation in connection with which the Government requires fuel capacity, including where the United Kingdom is engaged in any planned or unplanned military operations within the United Kingdom or overseas.

(3) The parties agree to act in good faith and in all reasonableness to agree any revisions to any schedule, programme or costs estimate (which shall include costs of demobilising and remobilising any workforce, and any costs to protect the apparatus "mid-works") to account for the suspension.

(4) Exolum shall not be liable for any costs, expenses, losses or liabilities the undertaker incurs as a result of the suspension of any activities under sub-paragraphs (1) to (3) or delays caused by it.

Dispute resolution

78.—(1) The undertaker and Exolum must use their reasonable endeavours to secure the amicable resolution of any dispute or difference arising between them out of or in connection with this Part of this Schedule in accordance with the following provisions.

(2) The undertaker and Exolum must each nominate a representative who must meet to try to resolve the matter. If the matter is not resolved at that level within 1 month of either the undertaker or Exolum requesting such a meeting (or such longer period as may be agreed between the undertaker and Exolum) the matter may at the request of either the undertaker or Exolum be referred for discussion at a meeting to be attended by a senior executive from each party.

(3) If the meeting between senior executives fails to result in a settlement within 20 working days of the date of the request for such a meeting (or if it is not possible to convene a meeting within this period) then, unless otherwise agreed in writing between the undertaker and Exolum, the dispute will be determined by arbitration in accordance with article 38 (arbitration).

Miscellaneous

79. No failure or delay by a party to exercise any right or remedy provided under this Part of this Schedule or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

PART 8

FOR THE PROTECTION OF ANGLIAN WATER SERVICES LIMITED

Application

80. For the protection of Anglian Water the following provisions have effect, unless otherwise agreed in writing between the undertaker and Anglian Water.

Interpretation

81. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in a manner no less efficient than previously;

"Anglian Water" means Anglian Water Services Limited (company registration number 02366656) whose registered office is at Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon, Cambridgeshire, PE29 6XU;

"apparatus" means—

(a) works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;

(b) any drain or works vested in Anglian Water under the Water Industry Act 1991;

(c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act;

(d) any drainage system constructed for the purpose of reducing the volume of surface water entering any public sewer belonging to Anglian Water; and

(e) includes a sludge main, disposal main or sewer outfall and any manholes, 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;

and for the purpose of this definition, where words are defined by section 219 of that Act, they shall be taken to have the same meaning provided that "apparatus" shall exclude any apparatus that has been decommissioned by Anglian Water within the Order Limits;

"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;

On street apparatus

82. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Anglian Water are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in closed streets

83. Regardless of the temporary closure or diversion of any highway under the powers conferred by article 12 (temporary closure of streets and public rights of way), Anglian Water is at liberty at all times to take all necessary access across any such closed highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the closure or diversion was in that highway.

Protective works to buildings

84. The undertaker, in the case of the powers conferred by article 16 (protective works to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

Acquisition of land

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

Removal of apparatus

86.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that Anglian Water's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Anglian Water to maintain that apparatus in that land must not be extinguished, until—

(a) alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Anglian Water in accordance with sub-paragraphs (2) to (8); and

(b) facilities and rights have been secured for that alternative apparatus in accordance with paragraph 87.

(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 Anglian Water 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 an undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Anglian Water 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 Anglian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) 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 Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article 38 (arbitration).

(5) Anglian Water must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 38 (arbitration), and after the grant to Anglian Water 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 Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, or to the extent that Anglian Water fails to proceed with that work in accordance with sub-paragraph (5) or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water.

(7) If Anglian Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed

details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such "deemed consent" does not extend to the actual undertaking of the removal works, which shall remain the sole responsibility of Anglian Water or its contractors and shall be carried out without unnecessary delay in accordance with the details benefitting from such deemed consent under the superintendence, if given, and to the reasonable satisfaction of Anglian Water.

(8) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker shall, before taking or requiring any further step in such substitution works, use best endeavours to comply with Anglian Water's reasonable requests for a reasonable period of time to enable Anglian Water to—

(a) make network contingency arrangements; or

(b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question;

and in any event, where Anglian Water consider that such a reasonable period may exceed 28 days Anglian Water must inform the undertaker at the earliest practical opportunity.

Facilities and rights for alternative apparatus

87.—(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 Anglian Water and where no such agreement is reached within 28 days of the undertaker proposing terms and conditions to Anglian Water either party may refer the matter to be settled by arbitration in accordance with article 38 (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 Anglian Water 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 Anglian Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

(3) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under the Environmental Permitting Regulations 2016 or other legislation.

Retained apparatus

88.—(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 (or any means of access to it) the removal of which has not been required by the undertaker under paragraph 86(2), the undertaker must submit to Anglian Water a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Anglian Water 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 Anglian Water 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, sub-paragraphs (1) to (3) and (6) to (8) apply as if the removal of the apparatus had been required by the undertaker under paragraph 86(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 between the undertaker and Anglian Water, a new plan 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 Anglian Water notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances, using its best endeavours to keep the impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum.

(7) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph, works are deemed to be in land near to Anglian Water's apparatus (where it is a pipe) if those works fall within the following distances measured from the medial line of such apparatus—

(a) 4 metres where the diameter of the pipe is less than 250 millimetres;

(b) 5 metres where the diameter of the pipe is between 250 and 400 millimetres, and

(c) a distance to be agreed on a case by case basis and before the submission of the Plan under sub-paragraph (1) is submitted where the diameter of the pipe exceeds 400 millimetres;

(d) subject to (8), a distance of 7.5m measured from medial line of the active apparatus where any decommissioned apparatus of Anglian Water lies within 7.5m of the active apparatus, as measured from the medial line.

(8) Where the undertaker seeks to install its own surface works within 7.5 metres from the medial line of active apparatus where any decommissioned apparatus of Anglian Water lies within 7.5 metres from the medial line of any active apparatus, Anglian Water accepts that the undertaker shall be permitted, for the avoidance of doubt, to install such surface works from 5 metres from the medial line of the active apparatus provided that Anglian Water may (acting reasonably) request temporary removal of said surface works within the boundary starting from 5 metres to 7.5 metres where said surface works presents a material obstruction to the active apparatus of Anglian Water for the purpose of carrying out maintenance.

Expenses and costs

89.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably and properly incurred by Anglian Water 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 this Part of this Schedule.

(2) There must be deducted from any sum payable under sub-paragraph (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 38 (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 Anglian Water 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 a manhole is to be treated as if it also had been agreed or had been so determined.

(5) Where Anglian Water demand payment for those expenses pursuant to sub-paragraph (1), Anglian Water must provide an itemised invoice or claim detailing all expenses reasonably and properly incurred to the undertaker for the undertaker's review prior to payment being made by the undertaker to Anglian Water.

90.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 84 or 86(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 Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

(a) bear and pay the cost reasonably and properly incurred by Anglian Water in making good such damage or restoring the supply; and

(b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs incurred by the undertaker,

by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by Anglian Water on behalf of the undertaker or in accordance with a plan approved by Anglian Water or in accordance with any requirement of Anglian Water or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Anglian Water fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the unlawful or unreasonable act, neglect or default of Anglian Water, its officers, servants, contractors or agents.

(4) Anglian Water 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 (such consent not to be unreasonably withheld or delayed) 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.

(5) Anglian Water must use its reasonable endeavours to mitigate in whole or in part and to minimise any claims, demands, proceedings, damages, expenses, loss, damages, penalties or costs which the undertaker must bear and pay the costs for.

Cooperation

91. Where in consequence of the proposed construction of any of the authorised development, the undertaker or Anglian Water requires the removal of apparatus under paragraph 86(2) or Anglian Water makes requirements for the protection or alteration of apparatus under paragraph 88, the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in

the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Anglian Water's undertaking, using existing processes where requested by Anglian Water, provided it is appropriate to do so, and Anglian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

92. Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it shall inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

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

94. The undertaker and Anglian Water may by written agreement substitute any period of time for those periods set out in this Part of this Schedule.

PART 9

FOR THE PROTECTION OF WEST BURTON SOLAR PROJECT LIMITED

95. The provisions of this Part apply for the protection of West Burton unless otherwise agreed in writing between the undertaker and West Burton.

96. In this Part of this Schedule—

"apparatus" means the cables, structures or other infrastructure owned, occupied or maintained by West Burton or its successor in title within the West Burton Work Area;

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

"plans" includes sections, drawings, specifications, designs, design data, software, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of the West Burton Work Area;

"specified works" means so much of any works of operations authorised by this Order (or authorised by any planning permission intended to operate in conjunction with this Order) as is—

(a) within the West Burton Work Area;

(b) in, on, under, over or within 25 metres of the proposed West Burton Work Area or any apparatus; or

(c) may in any way adversely affect any apparatus.

"West Burton" means an undertaker with the benefit of all or part of the West Burton Solar Project Order 2025(**a**) for the time being; and

"West Burton Work Area" means the area for Work Nos. 4, 5A and 8A authorised in the West Burton Solar Project Order 2025.

97. The consent of West Burton under this Part is not required where the West Burton Solar Project Order has expired without the authorised development having been commenced pursuant to the West Burton Solar Project Order 2025.

(**a**) S.I. 2025/647.

98. Where conditions are included in any consent granted by West Burton pursuant to this Part, the undertaker must comply with the conditions if it chooses to implement or rely on the consent, unless the conditions are waived or varied in writing by West Burton.

99. The undertaker may not under the powers of this Order acquire, extinguish, suspend, override or interfere with any rights that West Burton has in respect of any apparatus or has in respect of the West Burton Work Area without the consent of West Burton, which may not be unreasonably withheld or delayed but which may be made subject to reasonable conditions.

100.—(1) The undertaker may not under the powers of this Order carry out any specified works without the consent of West Burton, which may not be unreasonably withheld or delayed but which may be made subject to reasonable conditions and if West Burton does not respond within 28 days of the undertaker's request for consent, then consent is deemed to be given.

(2) Subject to obtaining consent pursuant to sub-paragraph (1) and before beginning to construct any specified works, the undertaker must submit plans of the specified works to West Burton and must submit any such further particulars available to it that West Burton may reasonably require.

(3) Any specified works must be constructed without unreasonable delay in accordance with the plans approved in writing by West Burton.

(4) Any approval of West Burton required under this paragraph may be made subject to such reasonable conditions as may be required for the protection or alteration of any apparatus (including proposed apparatus) in the West Burton Work Area or for securing access to such apparatus or the West Burton Work Area.

(5) Where West Burton requires any protective works to be carried out either by themselves or by the undertaker (whether of a temporary or permanent nature) such protective works must be carried out to West Burton's reasonable satisfaction.

(6) 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 specified works, new plans instead of the plans previously submitted, and the provisions of this paragraph apply to and in respect of the new plans.

101.—(1) The undertaker must give to West Burton not less than 28 days' written notice of its intention to commence the construction of the specified works and, not more than 14 days after completion of their construction, must give West Burton written notice of the completion.

(2) The undertaker is not required to comply with paragraph 103 or sub-paragraph (1) in a case of emergency, but in that case it must give to West Burton notice as soon as is reasonably practicable, and in addition to that notice a plan, section and description of those works as soon as reasonably practicable subsequently, and must comply with paragraph 103 in so far as is reasonably practicable in the circumstances.

102. The undertaker must at all reasonable times during construction of the specified works allow West Burton and its servants and agents access to the specified works and all reasonable facilities for inspection of the specified works.

103.—(1) After the purpose of any temporary works has been accomplished, the undertaker must with all reasonable dispatch, or after a reasonable period agreed in writing from West Burton, remove the temporary works in, on, under, over or within the West Burton Work Area.

(2) If the undertaker fails to remove the temporary works within a reasonable period pursuant to sub-paragraph (1), West Burton may remove the temporary works and may recover the reasonable costs of doing so from the undertaker.

104. If in consequence of the exercise of the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable West Burton to maintain or use the apparatus no less effectively than was possible before the obstruction.

105. The undertaker may not exercise the powers conferred by this Order to prevent or interfere with the access by West Burton to the proposed West Burton Work Area.

106. To ensure its compliance with this Part, the undertaker must before carrying out any works or operations pursuant to this Order within West Burton Work Area request up-to-date written confirmation from West Burton of the location of any apparatus or proposed apparatus.

107. The undertaker and West Burton must each act in good faith and use reasonable endeavours to co-operate with and provide assistance to each other as may be required to give effect to the provisions of this Part.

108.—(1) West Burton must give the undertaker reasonable notice of not less than 3 months of any such claim or demand from the date of such claim or demand arising and no settlement or compromise shall be made, unless payment is required in connection with a statutory compensation scheme, without first consulting the undertaker and considering its representations.

(2) West Burton must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies. If requested to do so by the undertaker, West Burton must provide an explanation of how the claim has been minimised. The undertaker is only liable under this paragraph for claims reasonably incurred by West Burton.

(3) The fact that any work or thing has been executed or done with the consent of West Burton and in accordance with any conditions or restrictions prescribed by West Burton or in accordance with any plans approved by West Burton or to its satisfaction or in accordance with any directions or award of any arbitrator does not relieve the undertaker from any liability under this Part.

109. Any dispute arising between the undertaker and West Burton under this Part must be determined by arbitration under article 38 (arbitration).

PART 10

FOR THE PROTECTION OF EDF ENERGY (THERMAL GENERATION) LIMITED

Application

110.—(1) For the protection of EDF as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and EDF.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and EDF, where the benefit of this Order is transferred or granted to another person under article 5 (consent to transfer benefit of Order)—

(a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between EDF and the transferee or grantee (as the case may be); and

(b) written notice of the transfer or grant must be given to EDF on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to EDF (but without prejudice to 120(3)(b).

Interpretation

111. In this Part of this Schedule—

"acceptable credit provider" means a bank or financial institution with a credit rating that is not lower than—

(a) "A-" if the rating is assigned by Standard & Poor's Ratings Group or Fitch Ratings; and

(b) "A3" if the rating is assigned by Moody's Investors Services Inc;

"acceptable insurance" means a third party liability insurance policy effected and maintained by the undertaker or its contractor with a combined property damage and bodily injury limit of indemnity of not less than £50,000,000 (fifty million pounds) per occurrence or series of

occurrences arising out of one event or such lower amount as may be approved by EDF. Such insurance shall be maintained—

(a) during the construction period of the authorised development; and

(b) after the construction period of the authorised development in respect of any maintenance works to the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an "acceptable credit provider", such insurance must include (without limitation)—

(i) a waiver of subrogation and an indemnity to principal clause in favour of EDF; and

(ii) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000 (twenty million pounds) in aggregate;

"acceptable security" means either—

(a) a parent company guarantee from a parent company in favour of EDF to cover the undertaker's liability to EDF to a total liability cap of £50,000,000 (fifty million pounds) or such lower amount as may be approved by EDF (granted by an entity and in a form reasonably satisfactory to EDF and where required by EDF, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or

(b) a bank bond or letter of credit from an acceptable credit provider in favour of EDF to cover the undertaker's liability to EDF for an amount of not less than £10,000,000 (ten million pounds) per asset per event up to a total liability cap of £50,000,000 (fifty million pounds) or such lower amount as may be approved by EDF (in a form reasonably satisfactory to EDF);

"alternative apparatus" means appropriate alternative apparatus to the satisfaction of EDF to enable EDF to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means any electric lines or electrical plant as defined in the 1989 Act, or other apparatus as defined in article 2(1) of this Order, belonging to or maintained by EDF together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of EDF and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"authorised development" has the same meaning in article 2(1) of this Order and for the purposes of this Part of this Schedule includes the use, maintenance and decommissioning of the authorised development and construction of any works authorised by this Schedule;

"commence" and "commencement" has the same meaning as in article 2(1) of this Order, except in this Part of this Schedule it includes any below ground surveys, below ground monitoring, ground work operations or the receipt and erection of construction plant and equipment;

"deed of consent" means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

"EDF" means EDF Energy (Thermal Generation) Limited (company number 04267569) whose registered office is at Nova North, 11 Bressenden Place, London, England, SW1E 5BY or any successor as a licence holder within the meaning of Part 1 of the 1989 Act;

"EDF land" means the rights and interests held by EDF in plots 05/05, 05/06, 05/07, 05/10, 05/11, 05/12, 05/16, 05/17 and 05/19 as shown on the land plans;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by EDF (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

"ground monitoring scheme" means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, is to require the undertaker to submit for EDF's approval a ground mitigation scheme;

"ground subsidence event" means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

"maintain" and "maintenance" include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of EDF: construct, use, repair, alter, inspect, renew or remove (including decommission) the apparatus;

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

"parent company" means a parent company of the undertaker acceptable to and which shall have been approved by EDF acting reasonably; and

"specified works" means any of the authorised development or activities undertaken in association with the authorised development which—

(a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 116(2) or otherwise; or

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 116(2) or otherwise.

On street apparatus

112. This Schedule does not apply to apparatus in respect of which the relations between the undertaker and EDF are regulated by the provisions of Part 3 of the 1991 Act, except for paragraphs 113 (apparatus of EDF in closed streets), 118 (retained apparatus: protection), 119 (expenses) and 120 (indemnity) of this Part of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of EDF.

Apparatus of EDF in closed streets

113. Notwithstanding the temporary prohibition or restriction of any street or public right of way under the powers of article 12 (temporary closure of streets and public rights of way), EDF is at liberty at all times to take all necessary access across any such street or public right of way and to execute and do all such works and actions in, upon or under any such street or public right of way as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the temporary prohibition or restriction was in that street or public right of way.

Protective works to buildings

114. The undertaker, in the case of the powers conferred by article 16 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of EDF.

Acquisition of land

115.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not, otherwise than by agreement, such agreement may not be unreasonably withheld—

(a) appropriate or acquire or take temporary possession of or entry to any land or apparatus of EDF; or

(b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right or apparatus of EDF.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such other timeframe as may be agreed between EDF and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of EDF or affect the provisions of any enactment or agreement regulating the relations between EDF and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as EDF reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between EDF and the undertaker acting reasonably and which must be no less favourable on the whole to EDF unless otherwise agreed by EDF, and the undertaker will use reasonable endeavours to procure or secure (or both) the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development.

(3) Save where otherwise agreed in writing between EDF and the undertaker, the undertaker and EDF agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by EDF or other enactments relied upon by EDF as of right or other use in relation to the apparatus, then the provisions in this Part of this Schedule will prevail.

(4) As a condition of an agreement between the parties in sub-paragraph (1) which relates to taking temporary access rights during construction over EDF's land, EDF may ensure that it retains flexibility to provide notice to the undertaker to require amendments to any construction routes over EDF land or to limit access to EDF apparatus and may require the undertaker to pay any reasonable costs involved in the grant of any such rights. Any notice provided to the undertaker must provide the undertaker 36 days to ensure any construction works are made safe and where possible completed. Where EDF wish to limit access as a result of an emergency they may do so without notice, the undertaker will use all reasonable endeavours to ensure any construction works are made safe. Where EDF limit access to EDF land, then EDF must seek to minimise any period of limitation and use all reasonable endeavours to restore access to the undertaker without delay.

(5) Any agreement or consent granted by EDF under paragraph 118 or any other paragraph of this Part of this Schedule, are not to be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

116.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of EDF to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of EDF in accordance with sub-paragraphs (2) to (5) inclusive, except where otherwise agreed between EDF and the undertaker.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to EDF advance 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 EDF reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to EDF to its satisfaction (taking into account paragraph 117(1)) the necessary facilities and rights—

(a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and

(b) subsequently for the maintenance, operation and decommissioning of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by 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, EDF may in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation does not extend to the requirement for EDF to use its compulsory purchase powers to this end unless it elects to so do and that nothing in this paragraph requires EDF to act contrary to its statutory and regulatory duties.

(4) Any alternative apparatus to be constructed in land of or land secured by 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 EDF and the undertaker.

(5) EDF must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to EDF of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

117.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for EDF facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and EDF (both parties acting reasonably) within 28 working days of the undertaker proposing terms and conditions to EDF and must be no less favourable on the whole to EDF than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by EDF.

(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 less favourable on the whole to EDF 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 matter may be referred to arbitration in accordance with paragraph 124 (arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to EDF as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection

118.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to EDF a plan of the works to be executed and request from EDF details of the underground extent of their assets which EDF must provide to the undertaker as soon as reasonably practicable and within 36 days of the submission of such request.

(2) In relation to specified works the plan to be submitted to EDF under sub-paragraph (1) must include a method statement and describe—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation, positioning of plant;

(d) the position of all apparatus;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;

(f) any intended maintenance regimes; and

(g) a ground monitoring scheme, where required.

(3) The undertaker must not commence any works to which sub-paragraph (2) applies until EDF has given written approval of the plan so submitted.

(4) Any approval of EDF required under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and

(b) must not be unreasonably withheld or denied and must be provided within 28 working days of the date of submission of the plan under sub-paragraph (1).

(5) In relation to any work to which sub-paragraph (2) applies, EDF may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works executed under sub-paragraph (2) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (5), as approved or as amended from time to time by agreement between the undertaker and EDF and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) or (7) by EDF for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and EDF will be entitled to watch and inspect the execution of those works.

(7) Where EDF requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to EDF's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required and EDF must give notice of its requirement for such works within 28 working days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If EDF in accordance with sub-paragraphs (5) or (7) 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 within 28 working days of the date of submission of a plan pursuant to this paragraph, paragraphs 110 to 112 and 115 to 117 apply as if the removal of the apparatus had been required by the undertaker under paragraph 116(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(10) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to EDF notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order, the undertaker must comply with EDF's HSEQ Requirement for Contractors and any document that replaces or supersedes it, to be provided to the undertaker when required.

Expenses

119.—(1) Save where otherwise agreed in writing between EDF and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to EDF within 30 days of receipt of an itemised invoice or claim from EDF all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by EDF in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised development including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by EDF in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by EDF as a consequence of EDF;

(b) using its own compulsory purchase powers to acquire any necessary rights under paragraph 116(3); or

(c) exercising any compulsory purchase powers in the Order transferred to or benefitting EDF;

(d) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;

(e) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

(f) the approval of plans;

(g) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;

(h) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, 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 paragraph 124 (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 EDF by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus will not 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 a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to EDF in respect of works by virtue of sub-paragraph (1) will, 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 EDF any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(6) Any sums paid by the undertaker to EDF under sub-paragraph (1) relating to anticipated costs and expenses will be returned on demand (in whole or in part as applicable) by EDF to the undertaker if not incurred.

Indemnity

120.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by them) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these 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 the authorised development) or property of EDF, or there is any interruption in any service provided, or in the supply of any goods, by EDF, or EDF becomes liable to pay any amount to any third party, the undertaker will—

(a) bear and pay on demand accompanied by an invoice or claim from EDF the cost reasonably and properly incurred by EDF in making good such damage or restoring the supply as evidenced by EDF to the undertaker no less than 28 days prior to issuing any invoice or claim from EDF to the undertaker; and

(b) indemnify EDF for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from EDF, by reason or in consequence of any such damage or interruption or EDF becoming liable to any third party other than arising from any default or negligence of EDF.

(2) The fact that any act or thing may have been done by EDF on behalf of the undertaker or in accordance with a plan approved by EDF or in accordance with any requirement of EDF or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless EDF fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan or as otherwise agreed between the undertaker and EDF.

(3) Nothing in sub-paragraph (1) is to impose any liability on the undertaker in respect of—

(a) any damage or interruption to the extent that it is attributable to the neglect or default of EDF, its officers, servants, contractors or agents; or

(b) any authorised development or any other works authorised by this Part of this Schedule carried out by EDF as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the 2008 Act or article 5 (consent to transfer benefit of Order) subject to the proviso that once such works become apparatus ("new apparatus"), any authorised development yet to be executed and not falling within this paragraph (b) will be subject to the full terms of this Part of this Schedule including this paragraph 120; or

(c) any consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) EDF must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) EDF must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) EDF must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within EDF's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of EDF's control and if reasonably requested to do so by the undertaker EDF must provide an explanation of how the claim has been minimised, where relevant.

(7) The undertaker must not commence construction (and not to permit the commencement of such construction) of the authorised development on any land owned by EDF or in respect of which EDF has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of EDF's apparatus until the following conditions are satisfied provided that the following conditions do not apply in relation to any specified works that are undertaken by EDF—

(a) unless and until EDF is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and unless otherwise agreed with EDF (acting reasonably) provided evidence that it shall maintain such acceptable security for the construction period of the authorised development from the proposed date of commencement of construction of the authorised development) and EDF has confirmed the same to the undertaker in writing; and

(b) unless and until EDF is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and unless otherwise agreed with EDF (acting reasonably) provided evidence to EDF that it shall maintain such acceptable insurance for the construction period of the authorised development from the proposed date of commencement of construction of the authorised development) and EDF has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with sub-paragraph (7), nothing in this Part of this Schedule will prevent EDF from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

121. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between EDF and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and EDF in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

122.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or EDF requires the removal of apparatus under paragraph 116(2) or EDF makes requirements for the protection or alteration of apparatus under paragraph 118, the undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of EDF's undertaking and EDF shall use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever EDF's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

123. If in consequence of an agreement or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable EDF to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

124. Any difference or dispute arising between the undertaker and EDF under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and EDF, be determined by arbitration in accordance with article 38 (arbitration).

Notices

125. Notwithstanding article 37 (service of notices), any plans submitted to EDF by the undertaker pursuant to paragraph 118 must be submitted to EDF addressed to the company secretary and copied to the land and estates team and sent to Nova North, 11 Bressenden Place, London, England, SW1E 5BY or to such other address as EDF may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 11

FOR THE PROTECTION OF RAILWAY INTERESTS

126. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 140 of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

127. In this Part of this Schedule—

"asset protection agreement" means an agreement to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail;

"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"the engineer" means an engineer appointed by Network Rail for the purposes of this Order;

"network licence" means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993(**a**);

"Network Rail" means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at Waterloo General Office, London SE1 8SW) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition "associated company" means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited's railway undertaking;

"plans" includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

"railway operational procedures" means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

(**a**) 1993 c. 43.

"railway property" means any railway belonging to Network Rail and—

(a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and

(b) any easement or other property interest held or used by Network Rail or a tenant or licencee of Network Rail for the purposes of such railway or works, apparatus or equipment;

"regulatory consents" means any consent or approval required under—

(a) the Railways Act 1993;

(b) the network licence; and/or

(c) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development; and

"specified work" means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 4 (power to maintain the authorised development) in respect of such works.

128.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

(a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and

(b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

129.—(1) The undertaker must not exercise the powers conferred by—

(a) article 3 (development consent granted by the Order);

(b) article 4 (power to maintain the authorised development);

(c) article 15 (discharge of water);

(d) article 17 (authority to survey and investigate the land);

(e) article 18 (compulsory acquisition of land);

(f) article 20 (compulsory acquisition of rights);

(g) article 21 (private rights);

(h) article 23 (acquisition of subsoil only);

(i) article 24 (power to override easements and other rights);

(j) article 27 (temporary use of land for constructing the authorised development);

(k) article 28 (temporary use of land for maintaining the authorised development);

(l) article 29 (statutory undertakers);

(m) article 34 (felling or lopping of trees and removal of hedgerows);

(n) the powers conferred by section 11(3) (power of entry) of the 1965 Act;

(o) the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016;

(p) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016;

(q) any powers under in respect of the temporary possession of land under the Neighbourhood Planning Act 2017;

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 29 (statutory undertakers), article 24 (power to override easements and other rights) or article 21 (private rights), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

(5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.

(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions but it shall never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion).

(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.

130.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration under article 38 (arbitration).

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying their approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and

safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.

131.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 130(4) must, when commenced, be constructed—

(a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 130;

(b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;

(c) in such manner as to cause as little damage as is possible to railway property; and

(d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of the construction of, or in consequence of, a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its employees, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

132. The undertaker must—

(a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and

(b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.

133. Network Rail must at all times afford reasonable facilities to the undertaker and its employees, contractors or agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

134.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction or completion of a specified work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations or additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified

work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 130(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work provided that at all times Network Rail will be under an obligation to take reasonable steps to mitigate its loss.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 135(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

135. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

(a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 130(3) or in constructing any protective works under the provisions of paragraph 130(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;

(b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;

(c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;

(d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and

(e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

136.—(1) In this paragraph—

"EMI" means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail's apparatus; and

"Network Rail's apparatus" means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail's apparatus carried out after approval of plans under paragraph 130(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker's compliance with sub-paragraph (3)—

(a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail's apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans

under paragraph 130(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;

(b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail's apparatus identified pursuant to sub-paragraph (a); and

(c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail's apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 130(1) has effect subject to the sub-paragraph.

(6) Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

(a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;

(b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI;

(c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI; and

(d) the undertaker shall not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

(a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;

(b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 131.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 140(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) (For the purpose of paragraph 135(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 38 (arbitration) to the Institution of Civil Engineers shall be read as a reference to the Institution of Engineering and Technology.

137. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

138. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

139. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

140.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to article 44 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—

(a) by reason of the construction, maintenance or operation of a specified work or the failure thereof; or

(b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;

(c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development;

(d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;

(e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development;

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission, provided Network Rail will be under an obligation to take reasonable steps to mitigate its loss and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must—

(a) give the undertaker reasonable written notice of any such claims or demands;

(b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker;

(c) take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands.

(3) The sums payable by the undertaker under sub-paragraph (1) shall if relevant include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

"the relevant costs" means the costs, losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

"train operator" means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

141. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 140) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

142. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

143. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

(a) any railway property shown on the works and land plans and described in the book of reference;

(b) any lands, works or other property held in connection with any such railway property; and

(c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

144. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

145. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 5 (consent to transfer of benefit of the Order) of this Order and any such notice must be given no later than 7 days before any such application is made and must describe or give (as appropriate)—

(a) the nature of the application to be made;

(b) the extent of the geographical area to which the application relates; and

(c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

146. The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 36 (certification of plans and documents etc.) are certified by the Secretary of State, provide a set of those plans to Network Rail in a format specified by Network Rail.

147. In relation to any dispute arising under this part of this Part of this Schedule (except for those disputes referred to in paragraph 136(11)) the provisions of article 38 (Arbitration) shall not apply and any such dispute, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institution of Civil Engineers.

PART 12

FOR THE PROTECTION OF THE UK ATOMIC ENERGY AUTHORITY AND UK FUSION ENERGY LTD

Application

148.—(1) Subject to sub-paragraph (2) for the protection of UKAEA and UKFE as referred to in this Part of this Schedule the following provisions have effect unless otherwise agreed in writing between the undertaker and UKAEA or UKFE.

(2) Unless otherwise agreed in writing between the undertaker and UKAEA paragraphs 153 and 154 will only apply for the protection of UKAEA and UKFE from the point that UKAEA is the owner of the UKAEA land.

Interpretation

149. In this Part of this Schedule—

"acceptable credit provider" means a bank or financial institution with a credit rating that is not lower than—

(a) "A-" if the rating is assigned by Standard & Poor's Ratings Group or Fitch Ratings; and

(b) "A3" if the rating is assigned by Moody' s Investors Services Inc.

"acceptable insurance" means a third party liability insurance policy effected and maintained by the undertaker or its contractor with a combined property damage and bodily injury limit of not less than £20,000,000 (twenty million pounds) per occurrence or series of occurrences arising out of one event or such lower amount as may be approved by UKAEA. Such insurance shall be maintained during the construction period of the authorised development and arranged with an insurer whose security/credit rating meets the same requirements as an acceptable credit provider such insurance shall include (without limitation)—

(a) a waiver of subrogation and an indemnity to principal clause in favour of UKAEA; and

(b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate.

"authorised development" has the same meaning in article 2(1) of this Order and for the purposes of this Part of this Schedule includes the use, maintenance and decommissioning of the authorised development and construction of any works authorised by this Part of this Schedule;

"commence" and "commencement" has the same meaning as in article 2(1) of this Order, except in this Part of this Schedule it includes any below ground surveys, below ground monitoring and ground work operations;

"functions" includes powers and duties;

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

"specified works" means any of the authorised development or activities undertaken in association with the authorised development within the West Burton Power Station;

"STEP project" means the project to construct a Spherical Tokamak for Energy Production at the West Burton Power Station;

"UKAEA" means the United Kingdom Atomic Energy Authority, or any successor in its functions, and shall include UKFE which may give consent, agreement or approval on behalf of UKAEA for the purposes of paragraphs 150 to 160;

"UKAEA land" means the land within plots 05/04, 05/05, 05/06, 05/07 and 05/10 as shown on the land plan and described in the book of reference;

"UKFE" means UK Fusion Energy Limited (company number 14620804) whose registered office is at C7 Culham Campus, Abingdon, Oxfordshire, United Kingdom, OX14 3DB or any successor to UKFE's function to deliver the STEP project; and

"West Burton Power Station" means land shown edged red on the plan named "the West Burton Power Station plan" identified in the table at Schedule 12 (documents to be certified) and which is certified by the Secretary of State as the West Burton Power Station plan for the purposes of this Order.

Streets subject to temporary prohibition or restriction of use and public rights of way

150. Notwithstanding the temporary prohibition or restriction of use or diversion of a street or public right of way under the powers of article 12 (temporary closure of streets and public rights of way), UKAEA is at liberty at all times to take all necessary access across any such street or public right of way and to execute and do all such works and things in, upon or under any such street or public right of way as may be reasonably necessary or desirable to enable it to access the West Burton Power Station in the same way as it was able to prior to the prohibition or restriction of use or diversion of that street or public right of way.

Protective works to buildings

151. The undertaker, in the case of the powers conferred by article 16 (protective works to buildings), must not exercise those powers so as to obstruct or render less convenient the access to any buildings without the written consent of UKAEA.

Acquisition of land

152. Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not—

(a) appropriate or acquire or take temporary possession of or entry to the West Burton Power Station; or

(b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right or apparatus of UKAEA,

otherwise than by agreement.

Specified works

153.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to UKAEA a plan of the works to be executed and request from UKAEA details of the underground extent of any apparatus or assets belonging to UKAEA which UKAEA must provide to the undertaker as soon as reasonably practicable and in any event within 36 days of the submission of such request.

(2) In relation to specified works the plan to be submitted to UKAEA under sub-paragraph (1) must include a method statement and describe—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation and positioning of plant;

(d) the position of any assets and apparatus belonging to UKAEA;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus or assets; and

(f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraph (2) applies until one of the following conditions has been met—

(a) UKAEA has given written approval of the plan so submitted; or

(b) The plan has been approved by arbitration under paragraph 159.

(4) Any approval required under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in (5) or (7);

(b) must not be unreasonably withheld; and

(c) must in the case of any approval by UKAEA be provided within 42 days of submission of the plan under sub-paragraph (1);

(5) In relation to any work to which sub- paragraph (2) applies, UKAEA may within 42 days of submission of the plan under sub-paragraph (1) require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing any apparatus or assets against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to the UKAEA land and where such modifications are required UKAEA must at the same time provide reasons why the modifications are necessary.

(6) Where UKAEA fails to either—

(a) approve the plan submitted by the undertaker in accordance with the time limit set out in sub-paragraph (4)(c); or

(b) provide details of the modifications it requires to the plan under sub-paragraph (5),

within 42 days of submission of the plan under sub-paragraph (1) then the undertaker may instead submit the plans for approval by arbitration under paragraph 159 in which case the arbitrator may approve the plans, approve the plans with modifications or refuse to approve the plans, but if they refuse to approve the plans they must give reasons.

(7) Works executed under sub-paragraph (2) must be executed in accordance with the plan, approved under sub-paragraph (3), as approved or as amended from time to time by agreement between the undertaker and UKAEA or by arbitration and in accordance with such reasonable requirements as may be made in accordance with sub- paragraphs (5) or (7) by UKAEA or the arbitrator for the alteration or otherwise for the protection of any apparatus or assets, or for securing access to the UKAEA land, and UKAEA will be entitled to watch and inspect the execution of those works.

(8) Where UKAEA requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to UKAEA's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required and UKAEA must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan

(10) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to UKAEA notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (5), (7) and (8) insofar as is reasonably practicable in the circumstances.

Expenses

154. Save where otherwise agreed in writing between UKAEA and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to UKAEA within 30 days of receipt of an itemised invoice or claim from UKAEA all charges, costs and expenses reasonably and properly incurred by UKAEA in consequence of the execution of the specified works including without limitation—

(a) the approval of plans;

(b) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works where such responsibilities fall to UKAEA; or

(c) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

Indemnity

155.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any specified works or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by them) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any property of UKAEA or UKAEA becomes liable to pay any amount to any third party, the undertaker will—

(a) bear and pay on demand accompanied by an invoice or claim from UKAEA the cost reasonably and properly incurred by UKAEA in making good such damage; and

(b) indemnify UKAEA for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from UKAEA, by reason or in consequence of any such damage or interruption or UKAEA becoming liable to any third party other than arising from any default or negligence of UKAEA.

(2) The fact that any act or thing may have been done by UKAEA on behalf of the undertaker or in accordance with a plan approved by UKAEA or in accordance with any requirement of UKAEA or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless UKAEA fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan or as otherwise agreed between the undertaker and UKAEA.

(3) Nothing in sub-paragraph (1) is to impose any liability on the undertaker in respect of—

(a) any damage or interruption to the extent that it is attributable to the neglect or default of UKAEA, its officers, servants, contractors or agents; or

(b) any consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) UKAEA must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) UKAEA must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) UKAEA must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies and if reasonably requested to do so by the undertaker UKAEA must provide an explanation of how the claim has been minimised, where relevant.

(7) The undertaker will not commence construction (and not permit the commencement of such construction) of any specified works unless and until UKAEA is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and unless otherwise agreed with UKAEA (acting reasonably) provided evidence to UKAEA that it shall maintain such acceptable insurance for the construction period of specified works from the proposed date of commencement of construction of specified works) and UKAEA has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with sub-paragraph (7), nothing in this Part of this Schedule shall prevent UKAEA from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

156. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between UKAEA and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and the owner of the UKAEA land on the date on which this Order is made.

Co-operation

157.—(1) The undertaker and UKAEA must each act in good faith and use reasonable endeavours to co- operate with and provide assistance to each other as may be required to give effect to the provisions of this Part.

(2) For the avoidance of doubt whenever UKAEA's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

158.—(1) If in consequence of the powers granted under this Order the access to the West Burton Power Station is materially obstructed, the undertaker must provide such alternative means of access to the West Burton Power Station as will enable UKAEA to access the West Burton Power Station no less effectively than was possible before such obstruction.

(2) In the event that access by the undertaker to the West Burton Power Station is materially obstructed by UKAEA, UKAEA must provide such alternative means of access to the West Burton Power Station as will enable the undertaker to access the West Burton Power Station no less effectively than was possible before such obstruction.

Arbitration

159. Any difference or dispute arising between the undertaker and UKAEA under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and UKAEA, be determined by arbitration in accordance with article 38 (arbitration).

Notices and approvals

160. Notwithstanding article 37 (service of notices), any plan or notice which must be submitted to UKAEA by the undertaker pursuant to paragraph 153 and any requests for consent, agreement or approval under this Part must be submitted to UKFE addressed to the company secretary and

copied to UKFE the Land and Estates Team at C7 Culham Campus, Abingdon, Oxfordshire, OX14 3DB, or to such other address as UKAEA may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 13

PROTECTIVE PROVISIONS FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY TRANSMISSION PLC AS ELECTRICITY UNDERTAKER

Application

161.—(1) For the protection of National Grid Electricity Transmission Plc as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc, where the benefit of this Order is transferred or granted to another person under article 5 (consent to transfer benefit of Order) –

(a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Grid Electricity Transmission Plc and the transferee or grantee (as the case may be); and

(b) written notice of the transfer or grant must be given to National Grid Electricity Transmission Plc on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid Electricity Transmission Plc (but without prejudice to paragraph 171(3)(b)).

Interpretation

162. In this Part of this Schedule—

"acceptable credit provider" means a bank or financial institution with a credit rating that is not lower than: (i) "A-" if the rating is assigned by Standard & Poor's Ratings Group or Fitch Ratings; and "A3" if the rating is assigned by Moody's Investors Services Inc.;

"acceptable insurance" means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than £50,000,000.00 (fifty million pounds) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained (a) during the construction period of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an "acceptable credit provider", such insurance shall include (without limitation)—

(a) a waiver of subrogation and an indemnity to principal clause in favour of National Grid Electricity Transmission Plc

(b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate;

"acceptable security" means either—

(a) a parent company guarantee from a parent company in favour of National Grid Electricity Transmission Plc to cover the undertaker's liability to National Grid Electricity Transmission Plc to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Grid Electricity Transmission Plc and where required by National Grid Electricity Transmission Plc, accompanied with a legal opinion

confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or

(b) a bank bond or letter of credit from an acceptable credit provider in favour of National Grid Electricity Transmission Plc to cover the undertaker's liability to National Grid Electricity Transmission Plc for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Grid Electricity Transmission Plc);

"alternative apparatus" means appropriate alternative apparatus to the satisfaction of National Grid Electricity Transmission Plc to enable National Grid Electricity Transmission Plc to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means—

(a) electric lines or electrical plant as defined in the 1989 Act, belonging to or maintained by National Grid Electricity Transmission Plc together with any replacement apparatus; and

(b) such other apparatus constructed pursuant to the Order that becomes operational apparatus of the undertaker for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or must be lodged or which gives or will give access to apparatus;

"authorised works" has the same meaning as is given to the term "authorised development" in article 2(1) of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

"commence" and "commencement" in this Part of this Schedule shall include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

"deed of consent" means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by National Grid Electricity Transmission Plc (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

"ground monitoring scheme" means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for National Grid Electricity Transmission Plc's approval a ground mitigation scheme;

"ground subsidence event" means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

"incentive deduction" means any incentive deduction National Grid Electricity Transmission Plc Electricity Transmission plc receives under its electricity transmission licence which is caused by an event on its transmission system that causes electricity not to be supplied to a demand customer and which arises as a result of the authorised works;

"maintain" and "maintenance" shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid Electricity Transmission Plc: construct, use, repair, alter, inspect, renew or remove the apparatus;

"National Grid Electricity Transmission Plc" means National Grid Electricity Transmission Plc (Company Number 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH or any successor as a licence holder within the meaning of Part 1 of the 1989 Act;

"NESO" means as defined in the STC;

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

"parent company" means a parent company of the undertaker acceptable to and which shall have been approved by National Grid Electricity Transmission Plc acting reasonably;

"specified works" means any of the authorised works or activities undertaken in association with the authorised works which—

(a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 167(2) or otherwise; and/or

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 167(2) or otherwise; and/or

(c) includes any of the activities that are referred to in development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

"STC" means the System Operator Transmission Owner Code prepared by the electricity Transmission Owners and NESO as modified from time to time;

"STC Claims" means any claim made under the STC against National Grid Electricity Transmission Plc arising out of or in connection with the de-energisation (whereby no electricity can flow to or from the relevant system through the generator or interconnector's equipment) of a generator or interconnector party solely as a result of the de-energisation of plant and apparatus forming part of National Grid Electricity Transmission Plc's transmission system which arises as a result of the authorised works; and

"Transmission Owner" means as defined in the STC.

On Street Apparatus

163. Except for paragraphs 164 (apparatus of National Grid Electricity Transmission Plc in closed streets), 169 (retained apparatus: protection), 170 (expenses) and 171 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Grid Electricity Transmission Plc, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid Electricity Transmission Plc are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of National Grid Electricity Transmission Plc in closed streets

164.—(1) Where any street is closed under article 12 (temporary closure of streets and public rights of way), if National Grid Electricity Transmission Plc has any apparatus in the street or accessed via that street National Grid Electricity Transmission Plc has the same rights in respect of that apparatus as it enjoyed immediately before the closure and the undertaker must grant to National Grid Electricity Transmission Plc, or procure the granting to National Grid Electricity Transmission Plc of, legal easements reasonably satisfactory to National Grid Electricity Transmission Plc in respect of such apparatus and access to it prior to the closure of any such street or highway but nothing in this paragraph affects any right of the undertaker or National Grid Electricity Transmission Plc to require the removal of that apparatus under paragraph 167 or the power of the undertaker, subject to compliance with this sub-paragraph, to carry out works under paragraph 168.

(2) Notwithstanding the temporary closure or diversion of any highway under the powers of article 12 (temporary closure of streets and public rights of way), National Grid Electricity Transmission Plc is at liberty at all times to take all necessary access across any such closed

highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the closure or diversion was in that highway.

Protective works to buildings

165. The undertaker, in the case of the powers conferred by article 16 (protective works to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Grid Electricity Transmission Plc.

Acquisition of land

166.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not—

(a) appropriate or acquire or take temporary possession of any land or apparatus; or

(b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Grid Electricity Transmission Plc otherwise than by agreement.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid Electricity Transmission Plc and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Grid Electricity Transmission Plc or affect the provisions of any enactment or agreement regulating the relations between National Grid Electricity Transmission Plc and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid Electricity Transmission Plc reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid Electricity Transmission Plc and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid Electricity Transmission Plc unless otherwise agreed by National Grid Electricity Transmission Plc, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) Save where otherwise agreed in writing between National Grid Electricity Transmission Plc and the undertaker, the undertaker and National Grid Electricity Transmission Plc agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid Electricity Transmission Plc and/or other enactments relied upon by National Grid Electricity Transmission Plc as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(4) Any agreement or consent granted by National Grid Electricity Transmission Plc under paragraph 169 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

167.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Grid Electricity Transmission Plc to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid Electricity Transmission Plc in accordance with sub-paragraphs (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid Electricity Transmission Plc advance 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, National Grid Electricity Transmission Plc reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Grid Electricity Transmission Plc to its satisfaction (taking into account paragraph 168(1) below) the necessary facilities and rights—

(a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and

(b) 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 or land secured by 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, National Grid Electricity Transmission Plc may in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for National Grid Electricity Transmission Plc to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by 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 National Grid Electricity Transmission Plc and the undertaker.

(5) National Grid Electricity Transmission Plc must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Grid Electricity Transmission Plc of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

168.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid Electricity Transmission Plc facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National and must be no less favourable on the whole to National Grid Electricity Transmission Plc than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid Electricity Transmission Plc.

(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 less favourable on the whole to National Grid Electricity Transmission Plc 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 matter may be referred to arbitration in accordance with paragraph 175 (arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid Electricity Transmission Plc as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection

169.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid Electricity Transmission Plc a plan of the works to be executed and seek from National Grid Electricity Transmission Plc details of the underground extent of their electricity assets.

(2) In relation to specified works the plan to be submitted to National Grid Electricity Transmission Plc under sub-paragraph (1) must include a method statement and describe—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation, positioning of plant;

(d) the position of all apparatus;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;

(f) any intended maintenance regimes;

(g) an assessment of risks of rise of earth issues; and

(h) a ground monitoring scheme, where required.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing—

(a) details of any cable trench design including route, dimensions, clearance to pylon foundations;

(b) demonstration that pylon foundations will not be affected prior to, during and post construction;

(c) details of load bearing capacities of trenches;

(d) details of any cable installation methodology including access arrangements, jointing bays and backfill methodology;

(e) a written management plan for high voltage hazard during construction and ongoing maintenance of any cable route;

(f) written details of the operations and maintenance regime for any cable, including frequency and method of access;

(g) assessment of earth rise potential if reasonably required by National Grid Electricity Transmission Plc's engineers; and

(h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of up to and including 26 tonnes in weight.

(4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until National Grid Electricity Transmission Plc has given written approval of the plan so submitted.

(5) Any approval of National Grid Electricity Transmission Plc required under sub-paragraphs (4)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and

(b) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid Electricity Transmission Plc may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and National Grid Electricity Transmission Plc and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by National Grid Electricity Transmission Plc for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid Electricity Transmission Plc will be entitled to watch and inspect the execution of those works.

(8) Where National Grid Electricity Transmission Plc requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid Electricity Transmission Plc's satisfaction prior to the commencement of any authorised development (or any relevant part thereof) for which protective works are required and National Grid Electricity Transmission Plc shall give notice its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Grid Electricity Transmission Plc in accordance with sub-paragraphs (6) or (8) 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, sub-paragraphs (1) to (3) and (6) to (8) apply as if the removal of the apparatus had been required by the undertaker under paragraph 167(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised development, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(11) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid Electricity Transmission Plc notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (12) at all times.

(12) At all times when carrying out any works authorised under the Order, the undertaker must comply with National Grid Electricity Transmission Plc's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

Expenses

170.—(1) Save where otherwise agreed in writing between National Grid Electricity Transmission Plc and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid Electricity Transmission Plc within 30 days of receipt of an itemised invoice or claim from National Grid Electricity Transmission Plc all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Grid Electricity Transmission Plc in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by National Grid Electricity Transmission Plc in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid Electricity Transmission Plc as a consequence of National Grid Electricity Transmission Plc—

(i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 167(3); or

(ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid Electricity Transmission Plc;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;

(c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

(d) the approval of plans;

(e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;

(f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, 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 paragraph 175 (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 National Grid Electricity Transmission Plc by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus will not 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 a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Grid Electricity Transmission Plc in respect of works by virtue of sub-paragraph (1) will, 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 National Grid Electricity Transmission Plc any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

171.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these 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 the authorised works) or property of National Grid Electricity Transmission Plc, or there is any interruption in any service provided, or in the supply of any goods, by National Grid Electricity Transmission Plc, or National Grid Electricity Transmission Plc becomes liable to pay any amount to any third party, the undertaker will—

(a) bear and pay on demand accompanied by an invoice or claim from National Grid Electricity Transmission Plc the cost reasonably and properly incurred by National Grid Electricity Transmission Plc in making good such damage or restoring the supply; and

(b) indemnify National Grid Electricity Transmission Plc for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid Electricity Transmission Plc, by reason or in consequence of any such damage or interruption or National Grid Electricity Transmission Plc becoming liable to any third party and including STC Claims or an Incentive Deduction other than arising from any default of National Grid Electricity Transmission Plc.

(2) The fact that any act or thing may have been done by National Grid Electricity Transmission Plc on behalf of the undertaker or in accordance with a plan approved by National Grid Electricity Transmission Plc or in accordance with any requirement of National Grid Electricity Transmission Plc or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National Grid Electricity Transmission Plc fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of—

(a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid Electricity Transmission Plc, its officers, servants, contractors or agents;

(b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by National Grid Electricity Transmission Plc as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 5 consent to transfer benefit of Order) subject to the proviso that once such works become apparatus ("new apparatus"), any authorised works yet to be executed and not falling within this sub-section (3)(b) will be subject to the full terms of this Part of this Schedule including this paragraph 171; and/or

(c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable;

(4) National Grid Electricity Transmission Plc must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Grid Electricity Transmission Plc must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Grid Electricity Transmission Plc must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Grid Electricity Transmission Plc's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Grid Electricity Transmission Plc's control and if reasonably requested to do so by the undertaker National Grid Electricity Transmission Plc must provide an explanation of how the claim has been minimised, where relevant.

(7) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by National Grid Electricity Transmission Plc or in respect of which National Grid Electricity Transmission Plc has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of National Grid Electricity Transmission Plc's apparatus until the following conditions are satisfied—

(a) unless and until National Grid Electricity Transmission Plc is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it shall maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid Electricity Transmission Plc has confirmed the same to the undertaker in writing; and

(b) unless and until National Grid Electricity Transmission Plc is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Grid Electricity Transmission Plc that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid Electricity Transmission Plc has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with sub-paragraph (7) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent National Grid Electricity Transmission Plc from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

172. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Grid Electricity Transmission Plc and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid Electricity Transmission Plc in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

173.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Grid Electricity Transmission Plc requires the removal of apparatus under paragraph 167(2) or National Grid Electricity Transmission Plc makes requirements for the protection or alteration of apparatus under paragraph 169, the undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of National Grid Electricity Transmission Plc's undertaking and National Grid Electricity Transmission Plc shall use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Grid Electricity Transmission Plc's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

174. If in consequence of the agreement reached in accordance with paragraph 166(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Grid Electricity Transmission Plc to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

175. Save for differences or disputes arising under paragraph 167(2), 167(4), 168(1) and 169, any difference or dispute arising between the undertaker and National Grid Electricity Transmission Plc under this Part of this Schedule must, unless otherwise agreed in writing

between the undertaker and National Grid Electricity Transmission Plc, be determined by arbitration in accordance with article 38 (arbitration).

Notices

176. Notwithstanding article 37 (service of notices), any plans submitted to National Grid Electricity Transmission Plc by the undertaker pursuant to paragraph 169 must be submitted using the LSBUD system (https://lsbud.co.uk/) or to such other address as National Grid Electricity Transmission Plc may from time to time appoint instead for that purpose and notify to the undertaker in writing.

SCHEDULE 11

Article 38

ARBITRATION RULES

Primary objective

1.—(1) The primary objective of these arbitration rules is to achieve a fair, impartial, final and binding award on the substantive difference between the parties (save as to costs) within 4 months from the date the arbitrator is appointed pursuant to article 38 (arbitration) of this Order.

(2) 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 and/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 responding 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 element(s) of the claimant's claim, 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 objections it wishes to make to the claimant's statements, comments on the claimant's expert report(s) (if submitted by the claimant) and explanations of the objections.

(4) Within 7 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 difference(s) 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 2 days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(4) Within 7 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 expert(s) attending the hearing may be asked questions by the arbitrator.

(7) There must be no examination or cross-examination of experts, but the arbitrator may invite the parties to ask questions of the experts by way of clarification of any answers given by the expert(s) in response to the arbitrator's questions. Prior to the hearing in relation to the expert(s)—

(a) at least 28 days before a hearing, the arbitrator must provide a list of issues to be addressed by the expert(s);

(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 7 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 4 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 him/her attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure and/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 by these rules 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 and/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 and/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 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.

(**a**) 1996 c. 23.

(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.

SCHEDULE 12

Article 36

DOCUMENTS TO BE CERTIFIED

(1) Document name	*(2) Document reference*	*(3) Version*	*(4) Date*
Site location plan	1.1	2	November 2025
Land plans	2.1	4	January 2026
Works plans	2.2	3	December 2025
Access and public rights of way plan	2.3	2	July 2025
Book of reference	4.3	3	April 2026
Environmental Statement: Non Technical Summary	6.1	2	March 2026
Environmental Statement: Chapter 0 Contents	6.2.0	1	April 2025
Environmental Statement: Chapter 1 Introduction	6.2.1	1	April 2025
Environmental Statement: Chapter 2 EIA Methodology & Public Consultation	6.2.2	1	April 2025
Environmental Statement: Chapter 3 Site Description, Site Selection and Iterative Design Process	6.2.3	1	April 2025
Environmental Statement: Chapter 4 Proposed Development	6.2.4	1	April 2025
Environmental Statement: Chapter 5 Planning Policy	6.2.5	1	April 2025
Environmental Statement: Chapter 6 Landscape and Visual Impact and Residential Amenity	6.2.6	1	April 2025
Environmental Statement: Chapter 7 Ecology and Biodiversity	6.2.7	3	April 2026
Environmental Statement: Chapter 8 Hydrology, Hydrogeology, Flood Risk and Drainage	6.2.8	2	January 2026
Environmental Statement: Chapter 9 Cultural Heritage	6.2.9	1	April 2025

Environmental Statement: Chapter 10 Socio Economics	6.2.10	1	April 2025
Environmental Statement: Chapter 11 Noise and Vibration	6.2.11	1	April 2025
Environmental Statement: Chapter 12 Climate Change	6.2.12	1	April 2025
Environmental Statement: Chapter 13 Transport and Access	6.2.13	1	April 2025
Environmental Statement: Chapter 14 Air Quality	6.2.14	2	January 2026
Environmental Statement: Chapter 16 Land Use and Agriculture	6.2.15	2	March 2026
Environmental Statement: Chapter 16 Glint and Glare	6.2.16	1	April 2025
Environmental Statement: Chapter 17 Miscellaneous Issues	6.2.17	1	April 2025
Environmental Statement: Chapter 18 Summary	6.2.18	2	March 2026
Environmental Statement: Chapter 19 Glossary	6.2.19	1	April 2025
Environmental Statement: Appendix 1.1 Steeple Project Environment Impact Assessment Scoping Report	6.3.1, Appendix 1.1	1	April 2025
Environmental Statement: Appendix 1.2 EIA Scoping Opinion	6.3.1, Appendix 1.2	1	April 2025
Environmental Statement: Appendix 1.3 Environment Agency EIA Scoping Response	6.3.1, Appendix 1.3	1	April 2025
Environmental Statement: Appendix 1.4 EIA Statement of Competence	6.3.1, Appendix 1.4	1	April 2025
Environmental Statement: Appendix 2.1 Schedule 4 Requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 as amended	6.3.2 Appendix 2.1	1	April 2025

Environmental Statement: ES Appendix 2.2 Phase 1 Geoenvironmental Desk Study Report	6.3.2 Appendix 2.2	2	December 2025
Environmental Statement: Appendix 2.2 Phase 1 Geoenvironmental Desk Study Report – Appendix Historical Maps Part 1	6.3.2, Appendix 2.2 Part 1	2	December 2025
Environmental Statement: Appendix 2.2 Phase 1 Geoenvironmental Desk Study Report – Appendix Historical Maps Part 2	6.3.2, Appendix 2.2 Part 2	2	December 2025
Environmental Statement: Appendix 2.2 Phase 1 Geoenvironmental Desk Study Report – Appendix Historical Maps Part 3	6.3.2, Appendix 2.2 Part 3	2	December 2025
Environmental Statement: Appendix 2.2 Phase 1 Geoenvironmental Desk Study Report – Appendix Historical Maps Part 4	6.3.2, Appendix 2.2 Part 4	2	January 2026
Environmental Statement: Appendix 2.2 Phase 1 Geoenvironmental Desk Study Report – Appendix Historical Maps Part 5	6.3.2, Appendix 2.2 Part 5	2	January 2026
Environmental Statement: Appendix 2.3 Cumulative Sites Long List and Short List	6.3.2, Appendix 2.3	1	April 2025
Environmental Statement: Appendix 4.1 Outline construction environmental management plan	6.3.4, Appendix 4.1	3	March 2026
Environmental Statement: Appendix 4.2 Outline decommissioning plan	6.3.4, Appendix 4.2	3	March 2026
Environmental Statement: Appendix 4.3 Outline fire risk management plan	6.3.4, Appendix 4.3	3	March 2026
Environmental Statement: Appendix 4.4 Outline operational environmental	6.3.4, Appendix 4.4	3	March 2026

management plan			
Environmental Statement: Appendix 4.5 Outline design principles	6.3.4, Appendix 4.5	2	January 2026
Environmental Statement: Appendix 4.6 Crossings Schedule	6.3.4, Appendix 4.6	1	April 2025
Environmental Statement: Appendix 6.1 Viewpoint Photograph Record – Cumulative Annotations Part A and Part B	6.3.6, Appendix 6.1	1	January 2026
Environmental Statement: Appendix 6.2 Photomontages Part 1 – Summer	6.3.6, Appendix 6.2	1	April 2025
Environmental Statement: Appendix 6.2 Photomontages Part 1 – Summer with Cumulative Annotations	6.3.6, Appendix 6.2	1	January 2026
Environmental Statement: Appendix 6.2 Photomontages Part 2 – Winter	6.3.6, Appendix 6.2	1	April 2025
Environmental Statement: Appendix 6.2 Photomontages Part 2 – Winter With Cumulative Annotations	6.3.6, Appendix 6.2	1	January 2026
Environmental Statement: Appendix 6.3 Viewpoint Assessment	6.3.6, Appendix 6.3	2	March 2026
Environmental Statement: Appendix 6.4 – Residential Visual Amenity Assessment	6.3.6, Appendix 6.4	1	April 2025
Environmental Statement: Appendix 6.5 Arboricultural impact assessment	6.3.6, Appendix 6.5	1	April 2025
Environmental Statement: Appendix 6.6 Assessment of Public Rights of Way	6.3.6 Appendix 6.6	2	March 2026
Environmental Statement: Appendix 7.1 Legislation and Policy	6.3.7 Appendix 7.1	1	April 2025
Environmental Statement: Appendix 7.2 Designated Sites	6.3.7 Appendix 7.2	1	April 2025
Environmental Statement: Appendix 7.3 Habitat Report	6.3.7 Appendix 7.3	1	April 2025

Environmental Statement: Appendix 7.4 Breeding Bird Report	6.3.7 Appendix 7.4	1	April 2025
Environmental Statement: Appendix 7.5 Barn Owl Report (Confidential)	6.3.7 Appendix 7.5	1	April 2025
Environmental Statement: Appendix 7.6 Wintering Bird Report	6.3.7 Appendix 7.6	1	April 2025
Environmental Statement: Appendix 7.7 Bat Report	6.3.7 Appendix 7.7	1	April 2025
Environmental Statement: Appendix 7.8 Badger Report (Confidential)	6.3.7 Appendix 7.8	1	April 2025
Environmental Statement: Appendix 7.9 Otter and Water Vole Report	6.3.7 Appendix 7.9	1	April 2025
Environmental Statement: Appendix 7.10 Great Crested Newt Report	6.3.7 Appendix 7.10	1	April 2025
Environmental Statement: Appendix 7.11 Aquatic Invertebrates Report	6.3.7 Appendix 7.11	1	April 2025
Environmental Statement: Appendix 7.12 Biodiversity Net Gain	6.3.7 Appendix 7.12	1	April 2025
Environmental Statement: Appendix 7.13 Skylark Mitigation Strategy	6.3.7 Appendix 7.13	1	April 2025
Environmental Statement: Appendix 7.14 Outline landscape ecology management plan	6.3.7 Appendix 7.14	2	April 2026
Environmental Statement: Appendix 8.1 Flood Risk Assessment Part 1	6.3.8 Appendix 8.1 Part 1	4	March 2026
Environmental Statement: Appendix 8.1 Flood Risk Assessment Part 1 Rev 2 Appendix E update	6.3.8 Appendix 8.1 Part 1	1	January 2026
Environmental Statement: Appendix 8.1 Flood Risk Assessment Part 2	6.3.8 Appendix 8.1 Part 2	1	April 2025

Environmental Statement: Appendix 8.1 Flood Risk Assessment Part 3	6.3.8 Appendix 8.1 Part 3	2	January 2026
Environmental Statement: Appendix 8.1 Flood Risk Assessment Part 3 Appendix G update only	6.3.8 Appendix 8.1 Part 3	1	January 2026
Environmental Statement: Appendix 8.2 Surface water drainage strategy	6.3.8 Appendix 8.2	4	March 2026
Environmental Statement: Appendix 8.2 Surface Water Drainage Strategy Rev 2 Appendix B update only	6.3.8 Appendix 8.2	2	January 2026
Environmental Statement: Appendix 8.2 Surface Water Drainage Strategy Rev 3 Appendix G update only	6.3.8 Appendix 8.2	1	January 2026
Environmental Statement: Appendix 8.2 Surface Water Drainage Strategy Rev 3 Appendix H update only	6.3.8 Appendix 8.2	1	January 2026
Environmental Statement: 6.3.8 Appendix 8.2 Surface Water Drainage Strategy Rev 3 Appendix H update only	6.3.8 Appendix 8.2	1	January 2026
Environmental Statement: 6.3.8 Appendix 8.2 Surface Water Drainage Strategy Rev 3 Appendix L (New)	6.3.8 Appendix 8.2	1	January 2026
Environmental Statement: 6.3.8 Appendix 8.2 Surface Water Drainage Strategy Rev 3 Appendix M (New)	6.3.8 Appendix 8.2	1	January 2026
Environmental Statement: Appendix 8.3 Water Framework Directive Assessment	6.3.8, Appendix 8.3	2	January 2026
Environmental Statement: Appendix 9.1 Cultural Heritage Technical Baseline	6.3.9 Appendix 9.1	1	April 2025
Environmental Statement: Appendix 9.2 Magnitude Surveys	6.3.9 Appendix 9.2	2	March 2026

Geophysical Survey Report			
Environmental Statement: Appendix 9.3 Archaeological Mitigation Statement	6.3.9 Appendix 9.3	1	April 2025
Environmental Statement: Appendix 9.4 Outline written scheme of investigation for pre-determination trial trenching	6.3.9 Appendix 9.4	1	April 2025
Environmental Statement: Appendix 9.5 Outline written scheme of investigation for post consent archaeological works	6.3.9 Appendix 9.5	2	April 2026
Environmental Statement: Appendix 10.1 Outline supply chain, employment and skills plan	6.3.10 Appendix 10.1	2	January 2026
Environmental Statement: Appendix 13.1 Transport Assessment	6.3.13 Appendix 13.1	1	April 2025
Environmental Statement: Appendix 13.2 Outline construction traffic management plan	6.3.13 Appendix 13.2	2	March 2026
Environmental Statement: Appendix 14.1 Air Quality Appendices	6.3.14 Appendix 14.1	1	April 2025
Environmental Statement: Appendix 15.1 Agricultural Land Classification Report	6.3.15 Appendix 15.1	1	April 2025
Environmental Statement: Appendix 15.2 Outline soil management plan	6.3.15 Appendix 15.2	2	January 2026
Environmental Statement: Appendix 16.1 Solar	6.3.16 Appendix 16.1	1	April 2025
Environmental Statement: Appendix 17.1 Utilities Report Part 1	6.3.17 Appendix 17.1 Part 1	1	April 2025
Environmental Statement: Appendix 17.1 Utilities Report Part 2	6.3.17 Appendix 17.1 Part 2	1	April 2025
Environmental Statement: Appendix	6.3.17 Appendix 17.1 Part 3	1	April 2025

17.1 Utilities Report Part 3			
Environmental Statement: Appendix 17.1 Utilities Report Part 4	6.3.17 Appendix 17.1 Part 4	1	April 2025
Environmental Statement: Appendix 17.1 Utilities Report Part 5	6.3.17 Appendix 17.1 Part 5	1	April 2025
Environmental Statement: Appendix 17.1 Utilities Report Part 6	6.3.17 Appendix 17.1 Part 6	1	April 2025
Figure 1.1 Site Location Plan	6.4.1, Figure 1.1	2	July 2025
Figure 2.1 Indicative Site Layout	6.4.2, Figure 2.1	2	July 2025
Figure 2.2 Cumulative Schemes Plan	6.4.2, Figure 2.2	1	April 2025
Figure 3.1 Site Constraints Plan	6.4.3, Figure 3.1	1	April 2025
Figure 3.2 Topographical Survey	6.4.3. Figure 3.2	2	July 2025
Figure 3.3 Public Rights of Way Plan	6.4.3, Figure 3.3	1	April 2025
Figure 3.4 Alternative Sites	6.4.3, Figure 3.4	1	April 2025
Figure 6.1 Site Location Plan	6.4.6, Figure 6.1	1	April 2025
Figure 6.2 Landscape Designations	6.4.6, Figure 6.2	1	April 2025
Figure 6.3 Topography	6.4.6, Figure 6.3	1	April 2025
Figure 6.4 Landscape Character Areas	6.4.6, Figure 6.4	1	April 2025
Figure 6.5a Visual Receptors (Settlements, A Roads, B Roads and Long-Distance Routes) Revision D	6.4.6, Figure 6.5a	1	June 2025
Figure 6.5b Visual Receptors (Settlements, A Roads, B Roads and PROW)	6.4.6, Figure 6.5b	1	April 2025
Figure 6.5c Visual Receptors (Settlements, A Roads, B Roads and Minor Roads)	6.4.6, Figure 6.5c	1	April 2025
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Figure 6.6b SZTV and VP Locations (5km	6.4.6, Figure 6.6b	1	April 2025

radius)			
Figure 6.6c SZTV and VP Locations (2km radius)	6.4.6, Figure 6.6c	1	April 2025
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Figure 6.8b SZTV and Visual Receptors (Settlements, A Roads, B Roads and PROW)	6.4.6, Figure 6.8b	1	April 2025
Figure 6.8c SZTV and Visual Receptors (Settlements, A Roads, B Roads and Minor Roads)	6.4.6, Figure 6.8c	1	April 2025
Figure 6.9 Outline Landscape and Ecology Mitigation Strategy	6.4.6, Figure 6.9	1	April 2025
6.4.8 Figure 8.1 Watercourses	6.4.8, Figure 8.1	1	April 2025
6.4.8 Figure 8.2 Environment Agency Flood Zones	6.4.8, Figure 8.2	1	April 2025
6.4.8 Figure 8.3 Environment Agency Surface Water Flood Extents	6.4.8, Figure 8.3	1	April 2025
6.4.8 Figure 8.4 Groundwater and Surface Water Abstractions	6.4.8, Figure 8.4	1	April 2025
6.4.9 Figure 9.1 Heritage Assets Considered Within The Environmental Statement	6.4.9, Figure 9.1	1	April 2025
6.4.9 Figure 9.2 Designated Heritage Assets Within Relevant Study Area	6.4.9, Figure 9.2	1	April 2025
6.4.9 Figure 9.3 Nottinghamshire Historic Environmental Record Monuments Within Relevant Study Area	6.4.9, Figure 9.3	1	April 2025
6.4.9 Figure 9.4 Nottinghamshire Historic Environmental Record Monuments Within Relevant Study Area	6.4.9, Figure 9.4	1	April 2025
6.4.9 Figure 9.5 Nottinghamshire Historic Environmental Record	6.4.9, Figure 9.5	1	April 2025

Monuments Within Relevant Study Area			
6.4.9 Figure 9.6 Nottinghamshire Historic Environmental Record Monuments Within Relevant Study Area	6.4.9, Figure 9.6	1	April 2025
6.4.9 Figure 9.7 Nottinghamshire Historic Environmental Record Monuments Within Relevant Study Area	6.4.9, Figure 9.7	1	April 2025
6.4.9 Figure 9.8 Important Hedgerows (Heritage)	6.4.9, Figure 9.8	1	April 2025
6.4.10 Figure 10.1 Primary Impact Zone	6.4.10, Figure 10.1	1	April 2025
6.4.10 Figure 10.2 Secondary Impact Zone	6.4.10, Figure 10.2	1	April 2025
6.4.11 Figure 11.1 Assessment Locations and Daytime Specific Sound Levels	6.4.11, Figure 11.1	1	April 2025
6.4.11 Figure 11.2 Assessment Locations and Night-time Specific Sound Levels	6.4.11, Figure 11.2	1	April 2025
6.4.17 Figure 17.2 Utilities Plan	6.4.17, Figure 17.2	1	April 2025
West Burton Power Station plan	8.61	1	April 2026

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants development consent for, and authorises the construction, operation and maintenance of a solar generating station and battery energy storage facility together with associated development. This Order imposes requirements in connection with the development and authorises the compulsory purchase of land (including rights in land) and the right to use land and to override easements and other rights.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 36 (certification of plans, etc.) may be inspected free of charge during working hours at Nottinghamshire County Council, County Hall, Loughborough Road, West Bridgford, Nottingham NG2 7QP.

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