STATUTORY INSTRUMENTS

2026 No. 419

INFRASTRUCTURE PLANNING

The Springwell Solar Farm Order 2026

Made - - - -	*8th April 2026*
Coming into force - -	*30th April 2026*

An application has been made to the Secretary of State under section 37 of the Planning Act 2008 ("the 2008 Act")(**1**) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(**2**) for an order granting development consent.

The application has been examined by the Examining Authority appointed by the Secretary of State pursuant to chapter 2 of Part 6 of the 2008 Act and carried out in accordance with chapter 4 of Part 6 of the Infrastructure Planning (Examination Procedure) Rules 2010(**3**).

The Examining Authority, having considered the application together with the documents that accompanied it, and the representations made and not withdrawn, has, in accordance with section 74(2)(**4**) of the 2008 Act made a report and recommendation to the Secretary of State.

The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(**5**) and has had regard to the documents and matters referred to in section 104(2)(**6**) of the 2008 Act.

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

The Secretary of State, in exercise of the powers conferred by sections 114(**7**), 115(**8**), 117(**9**), 120(**10**), 122(**11**), 123(**12**) and 140 of the 2008 Act, makes the following Order.

(**1**) 2008 c. 29. Section 37 was amended by section 137(5) of, and paragraph 5 of Schedule 13 to, the Localism Act 2011 (c. 20).
(**2**) S.I. 2009/2264.
(**3**) S.I. 2010/103.
(**4**) As amended by paragraph 29(1) and (3) of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20).
(**5**) S.I. 2017/572.
(**6**) Section 104 was amended by section 58(5) of the Marine and Coastal Access Act 2009 (c. 23) and by paragraph 49 of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20).
(**7**) As amended by paragraph 55 of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20).
(**8**) As amended by section 160 of the Housing and Planning Act 2016 (c. 22) and section 43 of the Wales Act 2017 (c. 4).
(**9**) As amended by paragraph 58 of Part 1 of Schedule 13 and paragraph 1 of Part 20 of Schedule 25 to the Localism Act 2011 (c. 20).
(**10**) As amended by section 140 of, and paragraph 60 of Part 1 of Schedule 13 to, the Localism Act 2011 (c. 20).
(**11**) As amended by paragraph 62 of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20).
(**12**) Ibid.

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Springwell Solar Farm Order 2026 and comes into force on 30th April 2026.

Interpretation

2.—(1) In this Order—

"the 1961 Act" means the Land Compensation Act 1961(**13**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**14**);

"the 1980 Act" means the Highways Act 1980(**15**);

"the 1981 Act" means the Compulsory Purchase (Vesting Declarations) Act 1981(**16**);

"the 1984 Act" means the Road Traffic Regulation Act 1984(**17**);

"the 1989 Act" means the Electricity Act 1989(**18**);

"the 1990 Act" means the Town and Country Planning Act 1990(**19**);

"the 1991 Act" means the New Roads and Street Works Act 1991(**20**);

"the 2008 Act" means the Planning Act 2008(**21**);

"address" includes any number or address used 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 protection test posts, field boundary markers, transformer rectifier kiosks, electricity 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 (meaning of "development") of the 2008 Act;

"book of reference" means the document of that name identified in the table at Schedule 13 (documents and plans to be certified) and which is certified by the Secretary of State as the book of reference for the purposes of this Order;

"bridleway" has the same meaning as in the 1980 Act;

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

"carriageway" has the same meaning as in the 1980 Act;

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

(**13**) 1961 c. 33.
(**14**) 1965 c. 56.
(**15**) 1980 c. 66.
(**16**) 1981 c. 66.
(**17**) 1984 c. 27.
(**18**) 1989 c. 29.
(**19**) 1990 c. 8.
(**20**) 1991 c. 22.
(**21**) 2008 c. 29.

"crown land plans" means the plans of that name identified in the table in Schedule 13 and which are certified by the Secretary of State as the crown land plans for the purposes of this Order;

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

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

"design commitments" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the design commitments for the purposes of this Order;

"draft archaeological mitigation strategy" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the draft archaeological mitigation strategy for the purposes of this Order;

"electronic transmission" means a communication transmitted—

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

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

"environmental statement" means the document of that name identified in the table in Schedule 13 and which is certified by the Secretary of State as the environmental statement for the purposes of this Order;

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

"grid connection works" means that part of the authorised development identified in work numbers 5, 7, 8 and 9 (to the extent work numbers 7, 8 and 9 are necessary in connection with work number 5);

"highway" and "highway authority" have the same meaning as in the 1980 Act(**22**);

"holding company" has the same meaning as in section 1159 of the Companies Act 2006;

"land plans" means sheets 1 - 15 of the plans of that name identified in the table in Schedule 13 and which are certified by the Secretary of State as the land plans for the purposes of this Order;

"maintain" includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of, but not remove, reconstruct or replace the whole of, the authorised development and "maintenance" and "maintaining" are to be construed accordingly;

"National Grid Navenby Substation" means the proposed substation at Heath Lane, Navenby, LN5 0AY, owned and operated by NGET;

"Navenby Substation area plan" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the book of reference for the purposes of this Order;

"NGET" means National Grid Electricity Transmission Plc (company number 2366977) whose registered office is at 1 to 3 Strand, London WC2N 5EH or any successor as a licence holder within the meaning of Part 1 of the 1989 Act;

"Order land" means the land shown coloured pink, blue or green 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;

(**22**) "highway" is defined in section 328(1). For "highway authority" see section 1.

"outline battery safety management plan" means the plan of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline battery safety management plan for the purposes of this Order;

"outline construction environmental management plan" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline construction environmental management plan for the purposes of this Order;

"outline construction traffic management plan" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline construction traffic management plan for the purposes of this Order;

"outline decommissioning environmental management plan" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline decommissioning environmental management plan for the purposes of this Order;

"outline drainage strategy" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline drainage strategy for the purposes of this Order;

"outline employment, skills and supply chain plan" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline employment, skills and supply chain plan for the purposes of this Order;

"outline landscape and ecology management plan" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline landscape and ecology management plan for the purposes of this Order;

"outline operational environmental management plan" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline operational environmental management plan for the purposes of this Order;

"outline public right of way and permissive path management plan" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline public right of way and permissive path management plan for the purposes of this Order;

"outline soil management plan" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline soil management plan for the purposes of this Order;

"outline written scheme of investigation" means the document of that name identified in the table at Schedule 13 and which is certified by the Secretary of State as the outline written scheme of investigation for the purposes of this Order;

"owner", in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(**23**);

"the permit scheme" means the Lincolnshire Permit Scheme for Road Works and Street Works Order 2016, which scheme is made under Part 3 of the Traffic Management Act 2004;

"permitted preliminary 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) 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 of existing services and the laying of temporary services;

(**23**) 1981 c. 67.

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

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

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

(i) Work No. 8 (works to facilitate access to Work Nos. 1 to 7 and 9);

"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;

"project parameters" means the document of that name identified in the table at Schedule 13 (documents and plans to be certified) and which is certified by the Secretary of State as the project parameters for the purposes of this Order;

"relevant planning authority" means the local planning authority for the area in which the land to which the provisions of this Order apply is situated and as more particularly described for the purposes of the requirements in Schedule 2 (requirements);

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

"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(**24**);

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

"street authority", in relation to a street, has the same meaning as in Part 3 of the 1991 Act(**25**);

"street works" means the works listed in article 8(1) (street works);

"streets, rights of way and access plans" means the plans of that name identified in the table at Schedule 13 and which are certified by the Secretary of State as the streets, rights of way and access plans for the purposes of this Order;

"subsidiary" has the same meaning as in section 1159 of the Companies Act 2006(**26**);

"traffic authority" has the same meaning as in section 121A (traffic authorities) of the 1984 Act(**27**);

"traffic regulations plans" means the plans of that name identified in the table at Schedule 13 and which are certified by the Secretary of State as the traffic regulations plans;

"undertaker" means Springwell Energyfarm Limited (company number 13484004) and any other person who for the time being has the benefit of this Order in accordance with article 35 (benefit of the Order) or article 36 (consent to transfer the benefit of the Order);

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

"vegetation removal parameters" means the plans of that name identified in the table at Schedule 13 and which are certified by the Secretary of State as the vegetation removal parameters for the purposes of this Order;

"watercourse" includes every river, stream, creek, ditch, drain, canal, cut, culvert, dyke, sluice, sewer and passage through which water flows except a public sewer or drain;

(**24**) 2003 c. 21.

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

(**26**) 2006 c. 46.

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

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

"works plans" means the plans of that name identified in the table at Schedule 13 and which are certified by the Secretary of State as the works plans for the purposes of this Order.

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

(3) 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, rights of way and access plans and traffic regulations plans are to be taken to be measured along that work.

(4) References in this Order to numbered works are references to the works comprising the authorised development as numbered in Schedule 1 and shown on the works plans and a reference in this Order to a work designated by a number, or by a combination of letters and numbers, is a reference to the work so designated in that Schedule and a reference to "Work No. 2" or "numbered work 2" means numbered works 2A and 2B inclusive and the same principle applies to such numbered works that contain letters.

(5) In this Order, the expression "includes" is to be construed without limitation.

(6) In this Order, references to any statutory body include that body's successor bodies.

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

(8) In this Order, references to materially new or materially different environmental effects in comparison with those reported in the environmental statement are not to be construed so as to include the avoidance, removal or reduction of an assessed adverse environmental effect or a positive environmental effect, or the increase of an assessed positive environmental effect or creation of a new positive environmental effect. A matter will be within scope of the environmental statement if it does not give rise to materially new or materially different environmental effects to those reported in the environmental statement.

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.

Operation of generating station

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

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

Power to maintain authorised development

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

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

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

Disapplication and modification of statutory 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 purposes of, or in connection with, the construction, operation, maintenance or decommissioning of any part of the authorised development—

(a) section 23 (prohibition of obstructions, etc. in watercourses) of the Land Drainage Act 1991(**28**);

(b) section 32 (variation of awards)(**29**) of the Land Drainage Act 1991;

(c) the provisions of any byelaws made under section 66(**30**) (powers to make byelaws) of the Land Drainage Act 1991;

(d) section 118 (consent request for discharge of trade effluent into public sewer) of the Water Industry Act 1991;

(e) the legislation listed in Schedule 3 (legislation to be disapplied) in so far as the provisions still in force are incompatible with the powers contained within this Order; and

(f) the provisions of the Neighbourhood Planning Act 2017(**31**) insofar as they relate to the temporary possession of land under articles 30 (temporary use of land for constructing the authorised development) and 31 (temporary use of land for maintaining the authorised development) of this Order.

(2) For the purposes of section 9 (requirement of licence for felling) of the Forestry Act 1967(**32**) any felling comprised in the carrying out of any work or operation required for the purposes of, or in connection with, the construction of the authorised development is deemed to be immediately required for the purpose of carrying out development authorised by planning permission granted under the 1990 Act.

(3) Regulation 6(1) of the Hedgerows Regulations 1997 has effect as though after sub-paragraph (e) there were added—

"(ea) for carrying out any development or in the exercise of any functions that are authorised by the Springwell Solar Farm Order 2026;".

(**28**) 1991 c. 59. Section 23 was amended by paragraph 192(2) of Schedule 22 to 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.
(**29**) Section 32 was amended by S.I. 2013/755.
(**30**) 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).
(**31**) 2017 c. 20.
(**32**) Section 9 was amended by section 4 of, and paragraph 141 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2013/755. There are other amendments to section 9 that are not relevant to this Order.

(4) Notwithstanding the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 (meaning of "development") of the Community Infrastructure Levy Regulations 2010(**33**) any building comprised in the authorised development is deemed to be—

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

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

(5) If planning permission is granted under the powers conferred by the 1990 Act for development any part of which is within the Order limits following the coming into force of this Order that is—

(a) not itself a development for which development consent is required under the 2008 Act or part of such a development;

(b) not for development authorised by Schedule 1 of this Order; or

(c) not required to complete or enable the maintenance, use or operation of any part of the development authorised by this Order (and which is not itself development authorised by this Order),

then the construction, maintenance, use or operation of that development under the terms of the planning permission does not constitute a breach of the terms of this Order so long as the carrying out, use or operation of such development does not prevent the undertaker from complying with this Order.

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(**34**) in relation to a nuisance falling within sub-paragraph (g) of section 79(1) (noise emitted from premises so as to be prejudicial to health or a nuisance) of that Act no order may be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance—

(a) relates to premises used by the undertaker for the purposes of or in connection with the authorised development and that the nuisance is attributable to the construction, maintenance or decommissioning of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974, or any document approved under the provisions of Schedule 2 of the Order; or

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

(c) the nuisance is a consequence of the use of the authorised development and that it cannot be reasonably 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 the premises by the undertaker for purposes of, or in connection with, the construction, maintenance or decommissioning of the authorised development.

(**33**) S.I. 2010/948, amended by S.I. 2011/987; there are other amending instruments but none are relevant to this Order.
(**34**) 1990 c. 43.

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 4 (streets subject to street works) and may—

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

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

(c) place and keep apparatus under the street;

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

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

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

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

(3) 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).

(4) In this article "apparatus" has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act.

Application of the permit scheme

9.—(1) The 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 moratoria; and

(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.

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

(4) Without restricting the undertaker's recourse to any alternative appeal mechanism which may be available under the permit scheme 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 Schedule 16 (procedure for discharge of requirements) of this Order.

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 in the case of the streets specified in column 2 of the table

in Schedule 5 (alteration of streets) permanently 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 or verge; and

(b) make and maintain passing places.

(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) may not be exercised without the consent of the street authority, such consent to be in a form reasonably required by the street authority.

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

Status of public rights of way constructed or improved

11. With effect from the date on which the highway authority has confirmed that the public rights of way specified in column 2 of Part 1 (status of public rights of way created or improved) of Schedule 6 (streets and public rights of way) have been created or improved in accordance with details approved pursuant to requirement 17 (public right of way and permissive path management plan) in Schedule 2 (requirements), the public rights of way in question will be deemed to have the status specified in column 3 of that Part of that Schedule.

Construction and maintenance of new and altered streets

12.—(1) Each of the streets constructed, improved or altered by the undertaker under the powers conferred by article 10 (power to alter layout, etc., of streets) and article 11 (status of public rights of way constructed or improved) of this Order must—

(a) be completed to the reasonable satisfaction of the highway or street authority (as relevant); and

(b) unless otherwise agreed with the highway authority, be maintained by and at the expense of—

(i) the undertaker, for a period of 12 months from the date the construction, improvement or alteration of that street is completed; and

(ii) by the highway authority, from the expiry of that 12 month period.

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

(3) For the purposes of a defence under paragraph (2), a court must in particular have regard to the following matters—

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

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

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

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

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

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

Temporary prohibition or restriction on use of streets and public rights of way

13.—(1) The undertaker, during and for the purposes of constructing or maintaining the authorised development, may temporarily close, prohibit the use of, restrict the use of, authorise the use of, alter or divert any street or public right of way and may for any reasonable time—

(a) divert the traffic or a class of traffic from the street or public right of way;

(b) authorise the use of motor vehicles on classes of public rights of way where, notwithstanding the provisions of this article, there is otherwise no public right to use motor vehicles; and

(c) subject to paragraph (2), prevent all persons from passing along the street or public right of way.

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

(3) Without prejudice to the generality of paragraph (1), the undertaker may temporarily close, prohibit the use of, authorise the use of, restrict the use of, alter or divert—

(a) the streets specified in column 2 of the table in Part 2 (temporary prohibition or restriction of the use of streets) of Schedule 6 (streets and public rights of way);

(b) the public rights of way specified in column 2 of the table in Part 3 (temporary prohibition or restriction of the use of public rights of way) of Schedule 6 to the extent specified in column 3 of that table; and

(c) the public rights of way specified in column 2 of the table in Part 4 (temporary management of public rights of way) of Schedule 6 to the extent specified in column 3 of that table.

(4) The undertaker must not temporarily close, prohibit the use of, authorise the use of, restrict the use of, alter or divert—

(a) any public right of way specified in paragraph (3) without first consulting the street authority; and

(b) any other public right of way without the consent of the street authority, and the street authority may attach reasonable conditions to any such consent.

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

(6) Without prejudice to the scope of paragraph (1), the undertaker may use any public right of way which has been temporarily closed under the powers conferred by this article and within the Order limits as a temporary working site.

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

(8) Nothing in this article prevents the undertaker from temporarily closing, prohibiting the use of, authorising the use of, restricting the use of, altering or diverting a public right of way under this article more than once.

Claimed public right of way

14.—(1) Subject to the provisions of this article, the undertaker may for the purposes of the authorised development stop up, to an extent that does not exceed the limits of the land shown by the brown line between points PC-A1 and PC-A2 on sheets 12 and 13 of the streets, rights of way and access plans, any street situated in whole or in part on the land shown by the brown line on the streets, rights of way and access plans whether or not that street was in existence or recognised on the definitive map on the date this Order is made.

(2) Where a street is stopped up under paragraph (1)—

(a) subject to paragraph (3), all public rights of way over or along a street so stopped up are extinguished;

(b) subject to paragraph (4), private rights over or along a street so stopped up are extinguished or cease to have effect; and

(c) the undertaker may appropriate and use for the purposes of the authorised development so much of the street as is bounded on both sides by land owned by the undertaker.

(3) The extinguishment of public rights of way referred to in paragraph (2)(a) will come into effect seven working days after the undertaker serves a notice on the surveying authority giving details of the extent of the stopping up and including a plan showing the extent by which a street referred to in paragraph (1) has been stopped up.

(4) The power conferred by paragraph (1) must not be exercised by the undertaker earlier than the date on which the undertaker has acquired an interest in the land comprised in the extent of the street to be stopped up and the provisions of article 24 (private rights) apply to the extinguishment or cessation of any such private rights.

(5) A notice referred to in paragraph (3) is deemed to be a legal event for the purposes of section 53(3)(a)(i) of the Wildlife and Countryside Act 1981.

(6) This article is subject to article 33 (apparatus and rights of statutory undertakers in closed or restricted streets).

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

(8) In this article—

(a) "definitive map" has the meaning given to it by section 53(1) of the Wildlife and Countryside Act 1981;

(b) "surveying authority" has the meaning given to it by section 66(1)(b) (interpretation of Part III) of the Wildlife and Countryside Act 1981; and

(c) section 159 of the 2008 Act applies to this article.

Access to works

15.—(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 Schedule 7 (access to works); and

(b) with the prior approval of the relevant 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.

Agreements with street authorities

16.—(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, prohibition, restriction, alteration or diversion of a street authorised by this Order;

(c) the undertaking in the street of any of the works referred to in article 8 (street works) and article 12 (construction and maintenance of new and altered streets); 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 an 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

17.—(1) Subject to the provisions of this article the undertaker may at any time, for the purposes of, or in connection with, the authorised development—

(a) make provision in respect of those lengths of road specified in column 2 of Part 1 (temporary speed limits) of Schedule 8 (traffic regulation measures) imposing the temporary speed limit mentioned in column 3 of that Part of that Schedule;

(b) make provision in respect of those lengths of road specified in column 2 of Part 2 (temporary road closures) of Schedule 8 temporarily closing that road to the classes of road user specified in column 3 of that Part of that Schedule;

(c) temporarily place traffic signs and signals in the extents of the road specified in column 2 of Part 3 (temporary traffic signals) of Schedule 8 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(**35**); and

(d) make provision in respect of those lengths of road specified in column 2 of Part 4 (permanent speed limits) of Schedule 8 imposing the permanent speed limit mentioned in column 3 of that Part of that Schedule.

(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—

(**35**) S.I. 2016/362.

(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 order made, or having effect as if made, under the 1984 Act.

(3) 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 or decommissioning of the authorised development, temporarily place traffic signs and signals in the extents of road over which temporary provision has been made under paragraph (2) 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.

(4) 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 Amendment) Regulations 2011(**36**) when in accordance with regulation 3(5) of those regulations.

(5) 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.

(6) The undertaker must not exercise the powers in paragraphs (1), (2) or (3) 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; and

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

(7) 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 by paragraph (1) or (2).

(8) Any provision made by the undertaker under paragraphs (1), (2) or (3)—

(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(**37**) (road traffic contraventions subject to civil enforcement).

(**36**) S.I. 2011/935.
(**37**) 2004 c. 18.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

18.—(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 construction, maintenance or decommissioning of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(**38**).

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

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

(a) in accordance with plans approved by the person to whom the sewer or drain belongs; 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 3 of Schedule 15 (protective provisions)), the provisions of Part 3 of Schedule 15 apply in substitution for the provisions of paragraphs (3) and (4).

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

(7) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters requires a licence pursuant to the Environmental Permitting (England and Wales) Regulations 2016(**39**).

(8) 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 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(**40**) have the same meaning as in that Act.

Protective works to buildings

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

(2) Protective works may be carried out—

(**38**) 1991 c. 56.
(**39**) S.I. 2016/1154.
(**40**) 1991 c. 57.

(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.

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

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

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

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

(5) Before exercising—

(a) a right under paragraph (1) to carry out protective works to a building;

(b) a right under paragraph (3) to enter a building and land within its curtilage;

(c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or

(d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a), (c) or (d), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (5)(c) or (5)(d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question 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 42 (arbitration).

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

(8) Where—

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

(b) within the period of five years beginning with the date of final commissioning of the relevant part of the authorised development it appears protective works are inadequate to protect the building against damage caused by the construction or use 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, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) 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.

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

(a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, maintenance or use of the authorised development; and

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

Authority to survey and investigate the land

20.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order land or enter on any land which may be affected by the authorised development or enter on any land upon which entry is required in order to carry out monitoring or surveys in respect 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, including the digging of trenches; 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, pull out tests or trenches.

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

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

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

(b) may take 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.

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

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

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

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

(2) This article is subject to article 22 (time limit for exercise of authority to possess land temporarily or to acquire land compulsorily), article 23(2) (compulsory acquisition of rights), article 24 (private rights), article 26 (acquisition of subsoil only), article 30 (temporary use of land for constructing the authorised development), article 32 (statutory undertakers) and article 48 (crown rights).

Time limit for exercise of authority to possess land temporarily or to acquire land compulsorily

22.—(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 1981) of the 1965 Act and no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 25 (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 30 (temporary use of land for constructing the authorised development) must not be used after the end of the applicable period referred to in paragraph (1), save that if an application is made under section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent) the applicable period is to be extended by—

(a) a period equivalent to the period beginning on the day the application is made and ending on the day it is withdrawn or finally determined; or

(b) if shorter, one year.

(4) An application is not finally determined for the purposes of paragraph (3)(a) if an appeal in respect of the application—

(a) could be brought (ignoring any possibility of an appeal out of time with permission); or

(b) has been made and not withdrawn or finally determined.

(5) Nothing in paragraph (3) 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

23.—(1) Subject to paragraph (2) and article 30 (temporary use of land for constructing the authorised development), 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 21 (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 24 (private rights) and article 32 (statutory undertakers), in the case of the Order land specified in column 1 of the table in Schedule 9 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of existing rights and benefit of restrictive covenants over that land and

the creation and acquisition of such new rights and the imposition of restrictive covenants for the purpose specified in relation to that land in column 2 of the table in 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 5(8) of Schedule 10 (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 10 (modification of compensation and compulsory purchase enactments for the 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.

(7) Nothing in this article prevents the undertaker from acquiring rights more than once in relation to any land that the undertaker acquires rights in under this article.

(8) This article is subject to article 48 (crown rights).

Private rights

24.—(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 on the earliest of—

(a) the date of acquisition of the land or of the right or of the benefit of the restrictive covenant by the undertaker, whether compulsorily or by agreement or through the grant of a lease of the land by agreement; or

(b) the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act.

(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 23 (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 on the earliest of—

(a) 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

(b) 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.

(3) Subject to the provisions of this article, all private rights or restrictive covenants over land of which the undertaker takes temporary possession under article 30 (temporary use of land for constructing the authorised development) or article 31 (temporary use of land for maintaining the authorised development) 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) of the 2008 Act to be determined, in case of dispute, under Part 1 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.) of the 2008 Act or article 32 (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

25.—(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.

(5) In section 5B(1) (extension of time limit during challenge) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)" substitute "section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent)".

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

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

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

"(2) But see article 26(3) (acquisition of subsoil only) of the Springwell Solar Farm Order 2026, which excludes the acquisition of subsoil only from this Schedule.".

(9) References to the 1965 Act in the 1981 Act must be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 28 (modification of Part 1 of the Compulsory Purchase Act 1965)) to the compulsory acquisition of land under this Order.

Acquisition of subsoil only

26.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph 21(1) of article 21 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(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;

(b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and

(c) section 153(4A)(**41**) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

(4) Paragraphs (2) and (3) do not apply 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

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

(a) an interference with an interest or right to which this article applies; or

(b) a breach of a restriction as to the user of land arising by virtue of a contract.

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

(3) 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 section 10 (further provision as to compensation for injurious affection) of the 1965 Act; and

(b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—

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

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

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

(4) Where a person deriving title under the undertaker or any contractors, servants or agents of the undertaker by whom the land in question was acquired—

(a) is liable to pay compensation by virtue of paragraph (3); and

(b) fails to discharge that liability,

the liability is enforceable against the undertaker.

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

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

(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 land (including the temporary use of land).

Modification of Part 1 of the Compulsory Purchase Act 1965

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

(2) In section 4A(1) (extension of time limit during challenge) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)" substitute "section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008".

(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 26 (acquisition of subsoil only) of the Springwell Solar Farm Order 2026, which excludes the acquisition of subsoil only from this Schedule"; and

(b) after paragraph 29 insert—

"PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 19 (protective works to buildings), article 30 (temporary use of land for constructing the authorised development) or article 31 (temporary use of land for maintaining the authorised development) of the Springwell Solar Farm Order 2026.".

Rights under or over streets

29.—(1) The undertaker may enter on, appropriate and use so much of the subsoil of or airspace over any street within the Order land as may be required for the purposes of the authorised

development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

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

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

(a) any subway or underground building; or

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

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

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

Temporary use of land for constructing the authorised development

30.—(1) The undertaker may, in connection with the construction of the authorised development but subject to article 22 (time limit for exercise of authority to possess land temporarily or to acquire land compulsorily)—

(a) enter on and take temporary possession of—

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

(ii) any other Order land in respect of which no notice of entry has been served under section 11(**42**) of the 1965 Act (powers of entry) and no declaration has been made under section 4(**43**) of the 1981 Act (execution of declaration);

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

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

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

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

(f) carry out mitigation works on that land required under 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.

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

(**43**) Section 4 as amended by section 184 and 185 of, and paragraphs 1 and 2 of Schedule 18 to, the Housing and Planning Act 2016.

(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, without the agreement of the owners of the land, remain in possession of any land under this article—

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

(b) in the case of land referred to in paragraph (1)(a)(ii) after the end of the period of one year beginning with the date of final commissioning of the part of the authorised development for which temporary possession of the land was taken unless the undertaker has, before the end of that period, served 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 temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

(a) replace any building, structure, agricultural plant or apparatus, electric line, debris, drain or vegetation 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 4 (streets subject to street works), Schedule 5 (alteration of streets) or Schedule 7 (access to works);

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

(e) restore the land on which any works have been carried out under 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;

(f) remove any protective works which have been placed on the land under article 19 (protective work to buildings); or

(g) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.

(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 under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) Subject to article 49 (no double recovery), nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

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

(11) Nothing in this article prevents the undertaker from—

(a) creating and acquiring new rights or imposing restrictions over any part of the Order land identified in Schedule 9 (land in which only new rights etc. may be acquired); or

(b) acquiring any part of the subsoil of (or rights in the subsoil of) that land under article 26 (acquisition of subsoil only) or any part of the subsoil of or airspace over that land under article 29 (rights under or over streets).

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

(13) 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 the authorised development

31.—(1) The undertaker may, at any time during the maintenance period relating to any part of the authorised development—

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

(8) Subject to article 49 (no double recovery), nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

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

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

(11) In this article "the maintenance period" means—

(a) the period of five years beginning with the date of final commissioning of the part of the authorised development for which temporary possession is required under this article; or

(b) except where maintenance relates to landscaping, such period as is set out in the landscape and ecology management plan which is approved by the relevant planning authority pursuant to requirement 8 (landscape and ecology management plan) in Schedule 2 (requirements), beginning with the date on which that part of the landscaping is completed.

Statutory undertakers

32. Subject to the provisions of Schedule 15 (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 or restricted streets

33. Where a street is closed, 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), article 12 (construction and maintenance of new and altered streets) or article 13 (temporary prohibition or restriction on use 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 15 (protective provisions), as if this Order had not been made.

Recovery of costs of new connections

34.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 32 (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 32, 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(**44**); and

"public utility undertaker" has the same meaning as in the 1980 Act.

PART 6

MISCELLANEOUS AND GENERAL

Benefit of the Order

35. Subject to article 36 (consent to transfer the benefit of the Order), the provisions of this Order have effect solely for the benefit of the undertaker save for the grid connection works in relation to which the provisions of this Order have effect for the benefit of the undertaker and NGET.

Consent to transfer the benefit of the Order

36.—(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 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 NGET;

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

(c) 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, the relevant 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;

(**44**) 2003 c. 21.

(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 14 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.

Application of landlord and tenant law

37.—(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 applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement, so as to—

(a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;

(b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or

(c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for purposes of the 1990 Act

38. 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 operational land) of the 1990 Act.

Felling or lopping of trees and removal of hedgerows

39.—(1) Subject to paragraph (2) and article 40 (trees subject to tree preservation orders) the undertaker may fell or lop any tree or shrub within or overhanging land within the Order limits or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from—

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

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

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

(2) In carrying out any activity authorised by paragraph (1) the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

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

(4) The undertaker may, for the purposes of the authorised development or in connection with the authorised development and subject to paragraph (2) remove the hedgerows specified in column 2 of the table in Part 1 (removal of hedgerows) and column 2 of the table in Part 2 (removal of important hedgerows) of Schedule 12 (hedgerows to be removed) to the extent set out in the landscape and ecology management plan approved pursuant to requirement 8 (landscape and ecology management plan) in Schedule 2 (requirements).

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

(6) In this article "hedgerow" has the same meaning as in the Hedgerows Regulations 1997(**45**).

Trees subject to tree preservation orders

40.—(1) The undertaker may, if it reasonably believes it to be necessary to do so in order to prevent the tree from obstructing or interfering with the construction, maintenance, operation or decommissioning of the authorised development or any apparatus used in connection with the authorised development, fell or lop or cut back the roots of any tree that is subject to a tree preservation order that is within or overhanging land within the Order limits and the relevant tree preservation order was made after November 2024.

(2) In carrying out any activity authorised by paragraph (1)—

(a) the undertaker must do no unnecessary damage to any tree and must pay compensation to any person for any loss or damage arising from such activity; and

(b) the duty contained in section 206(1) (replacement of trees) of the 1990 Act does not apply.

(3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

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

(5) In this article "tree preservation order" has the same meaning as in section 198 (power to make tree preservation orders) of the 1990 Act.

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

Certification of plans and documents, etc.

41.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of all documents and plans listed in the table at Schedule 13 (documents and plans to be certified) for certification that they are true copies of the 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.

Arbitration

42.—(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 set out in Schedule 14 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

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

Protective Provisions

43. Schedule 15 (protective provisions) has effect.

Service of notices

44.—(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(**46**) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address and otherwise—

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

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

(4) Where for the purpose of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to that person by the description of "owner", or as the case may be "occupier" of the land (describing it); and

(**46**) 1978 c. 30.

(b) either leaving it in the hands of the person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

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

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

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

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

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

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy of all or any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

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

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

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

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

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

Procedure in relation to certain approvals etc.

45.—(1) Where an application is made to or request is made of, a consenting authority for any consent, agreement or approval required or contemplated by any of the provisions of the Order (not including the requirements), such consent, agreement or approval to be validly given, must be given in writing.

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

(3) Schedule 16 (procedure for discharge of requirements) has effect in relation to all consents, agreements or approvals required, granted, refused or withheld in relation to the requirements.

(4) Save for applications made pursuant to Schedule 16 and where stated to the contrary if, within ten weeks (or such longer period as may be agreed between the undertaker and the relevant consenting authority in writing) after the application or request has been submitted to a consenting authority it has not notified the undertaker of its disapproval and the grounds of disapproval, it is deemed to have approved the application or request.

(5) Where any application is made as described in paragraph (1), the undertaker must include a statement in such application that refers to the timeframe for consideration of the application and the consequences of failure to meet that timeframe as prescribed by paragraph (4).

(6) Schedule 16 does not apply in respect of any consents, agreements or approvals contemplated by the provisions of Schedule 15 (protective provisions) or any dispute under article 19(6) (protective works to buildings) to which paragraph (4) applies.

(7) In this article "consenting authority" means the relevant planning authority, highway authority, traffic authority, street authority, the owner of a watercourse, sewer or drain or the beneficiary of any of the protective provisions contained in Schedule 15.

Guarantees in respect of payment of compensation

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

(a) a guarantee, the form and 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) in respect of the exercise of the relevant provision in relation to that part of the Order limits; or

(b) an alternative form of security, the form and 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) in respect of the exercise of the relevant provision in relation to that part of the Order limits.

(2) The provisions are—

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

(b) article 23 (compulsory acquisition of rights);

(c) article 24 (private rights);

(d) article 29 (rights under or over streets);

(e) article 30 (temporary use of land for constructing the authorised development);

(f) article 31 (temporary use of land for maintaining the authorised development); and

(g) article 32 (statutory undertakers).

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

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

Compulsory acquisition of land - incorporation of the mineral code

47. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981(**47**) 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.

Crown rights

48.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any transferee, lessee or licensee to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

(**47**) 1981 c. 67.

(a) belonging to His Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;

(b) belonging to His Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or

(c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

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

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions and is deemed to have been given in writing where it is sent electronically.

No double recovery

49. 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, or under two or more different provisions of this Order.

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

David Wagstaff
Deputy Director, Energy Infrastructure Planning
Department for Energy Security and Net Zero

8th April 2026

SCHEDULES

SCHEDULE 1 Article 3

AUTHORISED DEVELOPMENT

1. In this Schedule—

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

(a) centralised inverters, transformers and switch gear placed on adjustable legs or metal skids with each component either—

(i) "independent outdoor equipment" located outside, on concrete pads, concrete columns or foundation slab, or compacted hardcore material for each of the inverters and transformers and switch gear; or

(ii) "inverter transformer station" housed together within a container sitting on a concrete foundation slab or compacted hardcore material; or

(b) string inverters and combiner boxes attached either to mounting structures or a ground mounted frame, wired to or connected to switch gear and transformers on a concrete foundation slab or compacted hardcore material;

"community growing area" means an area providing restricted public access within the Order limits as shown in the outline landscape and ecology management plan;

"electrical cables" means—

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

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

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

"inverter" means electrical equipment required to convert direct current power to alternating current;

"main collector compound" connects Work Nos. 1, 3 and 4 to Work No. 2 to enable collection of electricity and transmission of electricity from and to Work No. 2, and comprises switch gear and transformers in either indoor units or outdoor fenced area and control buildings housing monitoring equipment, storage, security and welfare facilities;

"mounting structure" means a frame or rack made of galvanised steel, anodised aluminium or other material designed to support the solar panels and mounted on piles driven into the ground, helical piles or pillars fixed to a concrete foundation;

"permissive paths" means new paths providing restricted public access within the Order limits along the approximate routes shown on the outline landscape and ecology management plan;

"satellite collector compound" means a compound with electrical equipment required to collect electricity from the balance of solar system (BoSS) plant in Work No. 1 and transmits it to Work No. 2, sitting on concrete pads or concrete columns;

"solar PV module" means a solar photovoltaic panel or module designed to convert solar irradiance to electrical energy;

"substation" means a substation containing electrical equipment required to switch, transform, convert electricity and provide reactive power compensation;

"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 serving to transform electricity to a different voltage.

Authorised development

2. In the District of North Kesteven and in the County of Lincolnshire 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 comprises one generating station with a gross electrical output capacity of over 50 megawatts comprising all or 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 with a gross electrical output capacity of over 50 megawatts, including—

(a) Solar PV modules fitted to mounting structures;

(b) balance of solar system (BoSS) plant.

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

Work No. 2 – works in connection with an onsite substation compound including—

(a) **Work No. 2A** – substation works comprising—

(i) substation (excluding the transformers forming part of the substation), switch room buildings and ancillary equipment including harmonic filters and reactive power units;

(ii) main collector compound;

(iii) control building housing offices, storage, welfare facilities, parking areas and access;

(iv) workshop, store and ancillary structures; and

(v) monitoring and control systems for this Work No. 2 and Work No. 1 housed within the control building in Work No. 2A(iii) or located separately in their own containers or control rooms.

(b) **Work No. 2B** – up to seven transformers that form part of the substation for Work No. 2A and associated barriers required for fire safety and noise mitigation.

Work No. 3 – works in connection with satellite collector compounds, including—

(a) switch gear;

(b) transformers; and

(c) control buildings housing monitoring equipment, storage, securing and welfare facilities.

Work No. 4 – an energy storage facility comprising a battery energy storage system compound including—

(a) battery energy storage system (BESS) units each comprising an enclosure for BESS electro-chemical components and associated equipment, joined or close coupled to each other, mounted on a reinforced concrete foundation slab, compacted hardcore or concrete piles;

(b) transformers and associated bunding;

(c) inverters, switch gear, power conversion systems (PCS) and ancillary equipment;

(d) containers or enclosures housing all or any of Work Nos. 4(a), (b) and (c) and ancillary equipment;

(e) monitoring and control systems housed within the containers or enclosures comprised in Work Nos. 4(a) or (d) or located separately in its own container or enclosure;

(f) heating, ventilation and air conditioning (HVAC) systems either housed on or within each of the containers or enclosures comprised in Work Nos. 4(a), (d) and (e), attached to the side or top of each of the containers or enclosures, or located separate to but near to each of the containers or enclosures;

(g) fire safety infrastructure including water storage tanks and a shut-off valve for containment of fire water and hard standing to accommodate emergency vehicles;

(h) containers or similar structures to house spare parts and materials required for the day to day operation of the BESS facility;

(i) acoustic fencing; and

(j) ancillary buildings including control room, office, welfare, storage, workshop and metering.

Work No. 5 – works to lay high voltage electrical cables and access for the electrical cables, including—

(a) works to lay electrical cables including 400 kilovolt cables connecting Work No. 2 into the National Grid Navenby Substation; and

(b) laying down of internal access tracks, ramps, means of access, footways, including the laying and construction of drainage infrastructure, signage and information boards.

Work No. 6 – works to lay electrical cables up to 132 kilovolt connecting Work Nos. 1, 2, 3, 4 and 5.

Work No. 7 – temporary construction and decommissioning compounds in connection with Work Nos. 1 to 6 including—

(a) **Work No. 7A** – up to three primary temporary construction and decommissioning areas—

  (i) areas of hardstanding;

  (ii) car parking;

  (iii) site and welfare offices, canteens and workshops;

  (iv) area to store materials and equipment;

  (v) storage and waste skips;

  (vi) area for download and turning;

  (vii) security infrastructure, including cameras, perimeter fencing and lighting;

  (viii) site drainage and waste management infrastructure (including sewerage); and

  (ix) electricity, water, waste water and telecommunications connections.

(b) **Work No. 7B** – up to five secondary temporary construction and decommissioning areas—

(i) areas of hardstanding;

(ii) car parking;

(iii) site and welfare offices, canteens and workshops;

(iv) area to store materials and equipment;

(v) storage and waste skips;

(vi) area for download and turning;

(vii) security infrastructure, including cameras, perimeter fencing and lighting;

(viii) site drainage and waste management infrastructure (including sewerage); and

(ix) electricity, water, waste water and telecommunications connections.

Work No. 8 – works to facilitate access to Work Nos. 1 to 7 and 9 including—

(a) creation of accesses from the public highway;

(b) creation of visibility splays;

(c) works to alter the layout of any street or highway;

(d) works to widen and surface the streets; and

(e) making and maintaining passing places.

Work No. 9 – works to create, enhance and maintain green infrastructure and mitigation, including—

(a) landscape and biodiversity mitigation and enhancement areas;

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

(c) laying down of permissive paths, signage and information boards;

(d) improvements to existing and laying down of new public rights of way, signage and information boards;

(e) earth bund;

(f) screening; and

(g) community growing area.

In connection with and in addition to Work Nos. 1 to 9 further associated development within the Order limits including—

(a) fencing, gates, boundary treatment and other 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, 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) works for the provision of security and monitoring measures such as CCTV columns, security cabins, lighting columns and lighting, cameras, lightning protection masts and weather stations;

(h) improvement, maintenance, repair and use of existing streets, private tracks and access roads;

(i) laying down, maintenance and repair of new internal access tracks, ramps, means of access, footpaths, permissive paths, cycle routes and roads, crossings of drainage ditches and watercourses, including signage and information boards;

(j) temporary footpath diversions and closures;

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

(l) tunnelling, boring and drilling works;

(m) earthworks, site establishments and preparation works including site clearance (including vegetation removal, demolition of existing buildings and structures); 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;

(n) other works to mitigate any adverse effects of the construction, maintenance, operation or decommissioning of the authorised development,

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

SCHEDULE 2 Article 3

REQUIREMENTS

1. In this Schedule—

"relevant planning authority" means North Kesteven District Council, except for the following requirements where it shall mean Lincolnshire County Council—

(i) Requirement 7 (battery safety management);

(ii) Requirement 10 (drainage);

(iii) Requirement 11 (archaeology);

(iv) Requirement 14 (construction traffic management plan); and

(v) Requirement 17 (public right of way and permissive path management plan).

Commencement of the authorised development

2. The authorised development must not be commenced after the expiration of five years from the date this Order comes into force.

Phasing of the authorised development and date of final commissioning

3.—(1) The authorised development must not be commenced until a written scheme setting out the phases of construction of the authorised development has been submitted to and approved by the relevant planning authority, such approval to be in consultation with Lincolnshire County Council.

(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) Nothing shall prevent the undertaker and the relevant planning authority agreeing from time to time to amend the written scheme setting out the proposed phases of construction.

(5) The agreed written scheme may contain flexibility and optioneering for different proposed phases of construction provided that the undertaker notifies the relevant planning authority of the final intended phasing prior to commencement.

(6) Notice of the date of final commissioning with respect to each phase of Work No. 1 must be given to the relevant planning authority within 15 working days of the date of final commissioning for that phase.

Requirement for written approval

4.—(1) With respect to the documents certified under article 41 (certification of plans and documents, etc.) and any plans, details or schemes which have been approved pursuant to any requirement (together the "Approved Documents, Plans, Details or Schemes"), the undertaker may submit to the relevant planning authority for approval any amendments to any of the Approved Documents, Plans, Details or Schemes and, following approval by the relevant planning authority, such approval to be in consultation with Lincolnshire County Council (where Lincolnshire County Council was the relevant planning authority on the Approved Documents, Plans, Details or Schemes sought to be amended), the relevant Approved Documents, Plans, Details or Schemes is to be taken to include the amendments as so approved pursuant to this paragraph.

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

Detailed design approval

5.—(1) No part of Work Nos. 1 to 6 and 9 may 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; and

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

relating to that part have been submitted to and approved by the relevant planning authority, such approval to be in consultation with Lincolnshire County Council as local highway authority in relation to sub-paragraph (f).

(2) The details submitted must—

(a) accord with the design commitments and project parameters;

(b) accord with any details approved under requirements 7 (battery safety management), 8 (landscape and ecology management plan), 9 (fencing and other means of enclosure), 10

(drainage), 11 (archaeology), 15 (operational noise) and 17 (public right of way and permissive path management plan); and

(c) demonstrate how they have taken account of the results of any archaeological evaluations carried out pursuant to requirement 11.

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

Community liaison group

6.—(1) Prior to the commencement of the authorised development the undertaker must submit to the relevant planning authority for approval the terms of reference for a community liaison group whose aim is to facilitate liaison between representatives of people living in the vicinity of the Order limits and other relevant organisations in relation to the construction of the authorised development.

(2) The community liaison group must be established prior to commencement of the authorised development and must be administered by the undertaker, and operated, in accordance with the approved terms of reference.

(3) The community liaison group is to continue to meet until the date of final commissioning of the final part of the authorised development unless otherwise agreed with the relevant planning authority.

Battery safety management

7.—(1) Work No. 4 must not commence until a battery safety management plan has been submitted to and approved by the relevant planning authority.

(2) The battery safety management plan must be substantially in accordance with the outline battery safety management plan.

(3) The relevant planning authority must consult with the Lincolnshire Fire and Rescue Service, North Kesteven District Council and the Environment Agency before determining an application for approval of the battery safety management plan.

(4) The battery safety management plan must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the plan relates.

Landscape and ecology management plan

8.—(1) No part of the authorised development may commence until a written landscape and ecology management plan has been submitted to and approved by the relevant planning authority for that part, in consultation with Lincolnshire County Council, the Environment Agency, Natural England and the Ministry of Defence.

(2) The landscape and ecology management plan must be substantially in accordance with the outline landscape and ecology management plan and for that part of the authorised development to which it relates must include details of how the plan proposals will contribute to the achievement of a minimum 27.16% biodiversity net gain for area-based habitat units, 19.06% biodiversity net gain for hedgerow units and 13.59% biodiversity net gain for watercourse units for all of the authorised development during the operation of the authorised development, using the Department for 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 landscape and ecology management plan must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the plan relates.

(4) For the purposes of sub-paragraph (1), "commence" includes part (h) (site clearance (including vegetation removal, demolition of existing structures or buildings) and (i) (Work No. 8 (works to facilitate access to Work Nos. 1 to 7 and 9)) of the permitted preliminary works.

Fencing and other means of enclosure

9.—(1) No part of the authorised development may commence until details of all proposed temporary fences, walls or other means of enclosure, including those set out in the construction environmental management plan, for that part have been submitted to and approved by the relevant planning authority.

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

(3) For the purposes of sub-paragraph (1), "commence" includes any permitted preliminary works.

(4) The details provided under sub-paragraph (2) must accord with the relevant design commitments and project parameters.

(5) Any construction site must remain securely fenced in accordance with the approved details under sub-paragraph (1) at all times during construction of the authorised development.

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

(7) Any approved permanent fencing for a part of the authorised development must be completed before the date of final commissioning in respect of that part and properly maintained for the operational lifetime of the part of the authorised development.

Drainage

10.—(1) No part of the authorised development may commence until written details of the drainage strategy for that part have been submitted to and approved by the relevant planning authority.

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

(3) Prior to approving the drainage strategy pursuant to sub-paragraph (1) where the plan relates to drainage in the aerodrome safeguarding zone, the relevant planning authority will consult the Ministry of Defence.

(4) Prior to approving the drainage strategy pursuant to sub-paragraph (1), where the plan relates to foul water drainage, the relevant planning authority will consult the Environment Agency.

(5) Before approving the written details under sub-paragraph (1) the relevant planning authority must consult with Anglian Water Services Limited or its successor in function as the relevant water undertaker.

(6) Any approved scheme must be implemented as approved and maintained throughout the construction and operation of the authorised development.

Archaeology

11.—(1) No part of the authorised development may commence until for that part—

(a) a written scheme of investigation for that part has been submitted to and approved by the relevant planning authority in consultation with Historic England;

(b) any archaeological evaluation as required pursuant to the approved written scheme of investigation to inform the approach to mitigation has been carried out in accordance with the approved written scheme of investigation; and

(c) updates are made to the draft archaeological mitigation strategy to account for the results of the additional archaeological evaluation carried out and such updated draft archaeological mitigation strategy has been submitted to and approved by the relevant planning authority in consultation with Historic England (at which time, such document shall become the archaeological mitigation strategy).

(2) The written scheme of investigation under sub-paragraph (1)(a) must be substantially in accordance with the outline written scheme of investigation.

(3) For the purposes of sub-paragraph (1), "commence" includes parts (a) to (h) inclusive of the permitted preliminary works.

(4) Any approved written scheme of investigation or archaeological mitigation strategy must be implemented as approved and maintained throughout the construction of the authorised development and any archaeological works or watching brief must be carried out in accordance with the approved scheme.

Construction environmental management plan

12.—(1) No part of the authorised development may commence until a construction environmental management plan for that part has been submitted to and approved by the relevant planning authority, such approval to be in consultation with Lincolnshire County Council, as the local highway authority and waste planning authority, the Environment Agency and the Ministry of Defence.

(2) The construction environmental management plan must be substantially in accordance with the outline construction environmental management plan.

(3) All construction works associated with the authorised development must be carried out in accordance with the approved construction environmental management plan.

(4) For the purposes of sub-paragraph (1), "commence" includes part (d) (remedial works in respect of any contamination or other adverse ground conditions) and (i) (Work No. 8 (works to facilitate access to Work Nos. 1 to 7 and 9)) of the permitted preliminary works.

Operational environmental management plan

13.—(1) Prior to the date of final commissioning for any part of the authorised development, an operational environmental management plan for that part must be submitted to and approved by the relevant planning authority, such approval to be in consultation with Lincolnshire County Council, as the local highway authority and waste planning authority, the Environment Agency and the Ministry of Defence.

(2) The operational environmental management plan must be substantially in accordance with the outline operational environmental management plan.

(3) The operational environmental management plan must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the plan relates.

Construction traffic management plan

14.—(1) No part of the authorised development may commence until a construction traffic management plan for that part has been submitted to and approved by the relevant planning authority.

(2) The construction traffic management plan must be substantially in accordance with the outline construction traffic management plan.

(3) All construction works associated with the authorised development must be carried out in accordance with the approved construction traffic management plan.

(4) For the purposes of sub-paragraph (1), "commence" includes part (i) (Work No. 8 (works to facilitate access to Work Nos. 1 to 7 and 9)) of the permitted preliminary works.

Operational noise

15.—(1) No part of Work Nos. 1 to 4 may commence until an operational noise assessment containing details of how the design of that numbered work has incorporated mitigation to ensure the operational noise rating levels as set out within Section 12.4.43 of Chapter 12 in the environmental statement and section 2.8.6. of the outline operational environmental management plan are complied with for that part has been submitted to and approved by the relevant 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.

Employment, skills and supply chain

16.—(1) No part of the authorised development may commence until an employment, skills and supply chain plan in relation to that part has been submitted to and approved by the relevant planning authority, such approval to be in consultation with Lincolnshire County Council.

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

(3) The employment, skills and supply chain plan must identify opportunities for individuals and businesses to access employment and supply chain opportunities associated with that part of the authorised development to which the plan relates and the means for publicising such opportunities.

(4) The employment, skills and supply chain plan must be implemented as approved and maintained throughout the construction, operation and decommissioning of the relevant part of the authorised development to which the plan relates.

Public right of way and permissive path management plan

17.—(1) No part of the authorised development may commence until details of the layout, alignment and specification of the—

(a) public rights of way to be constructed or improved pursuant to article 11 (status of public rights of way constructed or improved); and

(b) permissive paths to be created as identified on the streets, rights of way and access plans, in relation to that part have been submitted to and approved by the relevant planning authority.

(2) The details of the public rights of way and permissive paths must accord with—

(a) the streets, rights of way and access plans; and

(b) the design commitments.

(3) The public rights of way and permissive paths must be provided in accordance with the approved details.

(4) No part of the authorised development may commence until a public right of way and permissive path management plan relating to that part has been submitted to and approved by the relevant planning authority in consultation with North Kesteven District Council.

(5) The public right of way and permissive path management plan must be substantially in accordance with the outline public right of way and permissive path management plan.

(6) The public right of way and permissive path management plan must be implemented as approved and maintained throughout the construction and operation of the relevant part of the authorised development to which the plan relates.

(7) Nothing in this requirement prevents the withdrawal by the undertaker or its successor in title of permission to use the permissive paths after the date of decommissioning determined in accordance with requirement 19 (decommissioning and restoration).

Soil management plan

18.—(1) No part of the authorised development may commence until a soil management plan for that part has been submitted to and approved by the relevant planning authority, such approval to be in consultation with Natural England.

(2) The soil management plan must be substantially in accordance with the outline soil management plan.

(3) The soil management plan must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the plan relates.

Decommissioning and restoration

19.—(1) The date of decommissioning—

(a) with respect to each phase of Work No. 1 must be no later than 40 years following the date of final commissioning as notified to the relevant planning authority pursuant to requirement 3 (phasing of the authorised development and date of final commissioning); and

(b) with respect to the associated development in Work Nos. 2 to 9 must be no later than the date of decommissioning for the phase of Work No. 1 to which such associated development relates, and where such associated development relates to more than one phase of Work No. 1 must be no later than the latest date of decommissioning of the phases of Work No. 1 to which such associated development relates.

(2) Unless otherwise agreed with the relevant planning authority, no later than 12 months prior to the date the undertaker intends to decommission any part of the authorised development, the undertaker must notify the relevant planning authority of the intended date of decommissioning for that part of the authorised development.

(3) Unless otherwise agreed with the relevant planning authority, no later than ten weeks prior to the intended date of decommissioning of any part of the authorised development notified pursuant to sub-paragraph (2), the undertaker must submit to the relevant planning authority a decommissioning environmental management plan for approval.

(4) The decommissioning environmental management plan must be substantially in accordance with the outline decommissioning environmental management plan and must include a timetable for its implementation.

(5) No decommissioning works may be carried out until the relevant planning authority has approved the decommissioning environmental management plan submitted in relation to those works, in consultation with Lincolnshire County Council in its capacity as the local highway authority and waste planning authority, the Environment Agency, Natural England and the Ministry of Defence.

(6) The decommissioning environmental management plan must be implemented as approved.

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

Electrical noise

20.—(1) Unless otherwise agreed in writing by the relevant planning authority in consultation with the Ministry of Defence, no individual part(s) of the authorised development featuring Work Nos. 1 – 6 may commence unless or until an electrical noise interference management plan which accounts for the electrical noise emissions of that part(s) has been submitted to and approved by the relevant planning authority, such approval to be in consultation with the Ministry of Defence.

(2) The electrical noise interference management plan (unless otherwise agreed in writing between the relevant planning authority and the Ministry of Defence) must include but is not limited to—

(a) manufacturer's specifications for all electrical equipment including but not limited to solar PV modules, balance of solar system plant, substation, transformers, battery energy storage systems, inverters, switch gear, electrical cables included within Work Nos. 1 to 6;

(b) details of measures designed to prevent electrical noise interference being caused to technical installations at RAF Digby or forming part of the East 1 Wide Area Multilateration Network;

(c) report(s) and supporting evidence, using methodologies and standards accredited by the Ministry of Defence, to demonstrate how Work Nos. 1 to 6 (featured in the part(s) of the authorised development being submitted for approval under sub-paragraph (1), together with any part(s) of the authorised development featuring Work Nos. 1 to 6 that have already been approved under sub-paragraph (1) will be constructed, tested, operated, and maintained throughout the life of the development to ensure that individually or cumulatively any electrical noise emissions from each part(s) of the authorised development that will be built and in operation at the same time will be prevented or otherwise constrained to a level agreed by the Ministry of Defence to safeguard the effective operation of the technical site installations at RAF Digby or forming part of the East 1 Wide Area Multilateration Network;

(d) a protocol through which the undertaker can be notified by the Ministry of Defence of electrical noise interference issues or observations, the measures that would be taken by the undertaker to investigate, and a description of the approach to resolving, rectifying or mitigating those impacts and timescales for the undertaker to implement any such address; and

(e) parameters or requirements that would need to be met by any replacement or modification of the electrical equipment that is the subject of the management plan being submitted for approval under sub-paragraph (1), together with protocols through which the undertaker must—

(i) notify the Ministry of Defence of any replacement or modification of electrical equipment (such notification to provide confirmation that the electrical equipment complies with the approved management plan) using the evidence, methodologies or accredited standards referred to under sub-paragraph 20(2)(c); and

(ii) seek the Ministry of Defence's prior approval if the undertaker intends to replace electrical equipment that is the subject of the approved management plan and such equipment would not be in accordance with the approved management plan. All submissions for prior approval are to be supported with a relevant assessment(s) using evidence, methodologies or accredited standards referred to under sub-paragraph 20(2)(c).

(3) Unless otherwise agreed in writing by the relevant planning authority in consultation with the Ministry of Defence, the electrical noise interference management plan must be implemented as approved and maintained throughout the operation of the part(s) of the authorised development to which the plan relates, to ensure that no single part(s) of the authorised development for the duration that they may be built and operated individually or thereafter when connected together will produce any electrical noise emissions in excess of a level agreed by the Ministry of Defence to safeguard the effective operation of the technical site installations at RAF Digby or forming part of the East 1 Wide Area Multilateration Network.

(4) For the purposes of sub-paragraph (1), "part of Work Nos. 1 – 6" means all of the works comprised in Work Nos. 1 – 6 for a specified spatial part(s) of the Order limits, and would include installation and commissioning of all electrical systems required to enable such a part(s) to function as intended in its operational state.

SCHEDULE 3 Article 6

LEGISLATION TO BE DISAPPLIED

1. The following provisions do not apply in so far as they relate to the construction of any numbered work or the carrying out of any operation required for the purpose of, or in connection with, the construction, operation, maintenance or decommissioning of the authorised development and so far as the provisions still in force are incompatible with the powers contained within this Order—

(a) Anglian Water Authority Act 1977(**48**);

(b) Blankney Fen, Blankney Dales, Linwood Fen, Linwood Dales, Martin Fen and Martin Dales Drainage Act 1832(**49**);

(c) Lincoln Heath and Peterborough Road Act 1800(**50**);

(d) Lincolnshire Courthouse Act 1809(**51**);

(e) Lincolnshire Drainage Act 1840(**52**);

(f) Metheringham and Dunston Drainage Act 1826(**53**);

(g) New Sleaford and Anwick Road and Tattershall Witham Bridge Act 1814(**54**);

(h) Ruskington, Dorrington and North Kyme (Lincs) Inclosure and Drainage Act 1832(**55**);

(i) The Land Drainage Supplemental Act 1871(**56**);

(j) The South East Lincolnshire Joint Strategic Planning Committee Order 2011(**57**);

(k) Trent and Lincolnshire Water Act 1971(**58**);

(l) Witham Drainage Act 1762(**59**); and

(m) Witham First IDB byelaws.

(**48**) 1977 c. i.
(**49**) 1832 c. xciv.
(**50**) 1800 c. lxx.
(**51**) 1809 c. lxxv.
(**52**) 1840 c. xc.
(**53**) 1826 c. xxxiv.
(**54**) 1814 c. lv.
(**55**) 1832 c. lxx.
(**56**) 1871 c. lx.
(**57**) S.I. 2011/1455.
(**58**) 1971 c. xiii.
(**59**) 1762 c. 32.

SCHEDULE 4 Article 8

STREETS SUBJECT TO STREET WORKS

(1) *Area*	*(2)* *Street*	*(3)* *Extent of the street works*
District of North Kesteven	Public right of way Blan/738/1	Street works to facilitate cable installation works between points SW62 to SW63 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/4/2	Street works to facilitate cable installation works between points SW66 to SW67 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/738/1	Street works to facilitate cable installation works between points SW72 to SW73 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/11/4	Street works to facilitate cable installation works between points SW78 to SW79 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/7/3	Street works to facilitate cable installation works between points SW86 to SW87 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Street works to facilitate cable installation works between points SW90 to SW91 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/8/2	Street works to facilitate cable installation works between points SW94 to SW95 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.

(1) *Area*	*(2)* *Street*	*(3)* *Extent of the street works*
District of North Kesteven	Public right of way Blan/4/2	Street works to facilitate cable installation works between points SW64 to SW65 and shown by a pink line on sheet 3 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/4/2	Street works to facilitate cable installation works between points SW82 to SW83 and shown by a pink line on sheet 3 of the streets, rights of way and access plans.
District of North Kesteven	B1188, Scopwick	Street works to facilitate cable installation works between points SW57 to SW58 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Street works to facilitate cable installation works between points SW68 to SW69 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Street works to facilitate cable installation works between points SW70 to SW71 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/1	Street works to facilitate cable installation works between points SW88 to SW89 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/2	Street works to facilitate cable installation works between points SW92 to SW93 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/13/1	Street works to facilitate cable installation works between points SW59 to SW60 and shown by a pink line on sheet 5

(1) *Area*	*(2)* *Street*	*(3)* *Extent of the street works*
		of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/12/1	Street works to facilitate cable installation works between points SW80 to SW81 and shown by a pink line on sheet 5 of the streets, rights of way and access plans.
District of North Kesteven	B1191, Scopwick	Street works to facilitate cable installation works between points A96 to A97 and shown by a pink line on sheet 5 of the streets, rights of way and access plans.
District of North Kesteven	B1191, between RAF Digby and Scopwick	Street works to facilitate cable installation works between points SW76 to SW77 and shown by a pink line on sheet 6 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Rows/5/1	Street works to facilitate cable installation works between points SW53 to SW54 and shown by a pink line on sheet 7 of the streets, rights of way and access plans.
District of North Kesteven	B1191, between RAF Digby and Ashby-de-la-Launde	Street works to facilitate cable installation works between points SW74 to SW75 and shown by a pink line on sheet 7 of the streets, rights of way and access plans.
District of North Kesteven	Navenby Lane, Ashby-de-la-Launde	Street works to facilitate cable installation works between points SW84 to SW85 and shown by a pink line on sheet 8 of the streets, rights of way and access plans.
District of North Kesteven	A15, north of A15/B1191 junction	Street works to facilitate cable installation works between points SW47 to SW48 and shown by a pink line on sheet 9 of the streets, rights of way and access plans.

(1) *Area*	*(2)* *Street*	*(3)* *Extent of the street works*
District of North Kesteven	B1191, east of junction with A15	Street works to facilitate cable installation works between points A13 to A14 and shown by a pink line on sheet 10 of the streets, rights of way and access plans.
District of North Kesteven	B1191, east of junction with A15	Street works to facilitate cable installation works between points A11 to A12 and shown by a pink line on sheets 10 and 15 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Temp/2/1	Street works to facilitate cable installation works between points SW103 to SW104 and shown by a pink line on sheet 11 of the streets, rights of way and access plans.
District of North Kesteven	Gorse Hill Lane, east of Navenby	Street works to facilitate cable installation works between points SW37 to SW38 and shown by a pink line on sheet 12 of the streets, rights of way and access plans.
District of North Kesteven	A15, south of Gorse Hill Lane	Street works to facilitate cable installation works between points SW49 to SW50 and shown by a pink line on sheet 12 of the streets, rights of way and access plans.
District of North Kesteven	Lane to Thompson's Bottom Farm, west of junction with A15	Street works to facilitate cable installation works between points SW101 to SW102 and shown by a pink line on sheet 13 of the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15 / Temple Road junction	Street works to facilitate cable installation works between points SW41 to SW42 and shown by a pink line on sheet 15 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Brau/8/1	Street works to facilitate cable installation works between points SW51 to SW52 and shown by a pink line on sheet

(1) *Area*	*(2)* *Street*	*(3)* *Extent of the street works*
		15 of the streets, rights of way and access plans.

SCHEDULE 5 Articles 10 and 12

ALTERATION OF STREETS

(1) *Area*	*(2)* *Street*	*(3)* *Description of alteration*
District of North Kesteven	Public right of way Blan/737/1, Scop/737/1, Scop/10/1, Scop/1135/1, Scop/1135/2, Scop/1136/1	Alteration of layout including works to upgrade the existing footpath to bridleway between points PE-A1 and PE-A2 shown by a blue line on sheets 3 and 4 of the streets, rights of way and access plans.
District of North Kesteven	B1188, Scopwick	Alteration of layout including the provision of a permanent means of access at AS-A1 shown shaded yellow on sheet 4 of the streets, rights of way and access plans, and associated works between points A1 and A2 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	B1191, Scopwick	Alteration of layout including the provision of new footway between points A96 to A97 and shown by a pink line on sheet 5 of the streets, rights of way and access plans.
District of North Kesteven	B1191, RAF Digby	Alteration of layout including the provision of new footway between points A99 to A100 and shown by a pink line on sheet 6 of the streets, rights of way and access plans.
District of North Kesteven	Heath Road, east of Navenby	Alteration of layout including the provision of a permanent means of access at AS-A2 shown shaded yellow on sheet 6 of the streets, rights of way and access plans, and associated

(1) *Area*	*(2)* *Street*	*(3)* *Description of alteration*
		works between points A3 and A4 and shown by a pink line on sheet 6 of the streets, rights of way and access plans.
District of North Kesteven	B1191, RAF Digby	Alteration of layout including modifications to road markings on the carriageway between points A5 to A6 and shown by a pink line on sheet 7 of the streets, rights of way and access plans.
District of North Kesteven	B1191, Heath Road, Ashby-de-la-Launde	Alteration of layout including the widening of the carriageway between points A7 to A8 and shown by a pink line on sheet 7 of the streets, rights of way and access plans.
District of North Kesteven	B1191, Heath Road junction with Navenby Lane, Ashby-de-la-Launde	Alteration of layout including modifications to road markings on the carriageway between points A9 to A10 and shown by a pink line on sheet 7 of the streets, rights of way and access plans.
District of North Kesteven	Navenby Lane, Ashby-de-la-Launde	Alteration of layout including the provision of a permanent means of access at AS-A11 shown shaded yellow on sheet 8 of the streets, rights of way and access plans, and associated works between points A33 and A34 and shown by a pink line on sheet 8 of the streets, rights of way and access plans.
District of North Kesteven	Navenby Lane, Ashby-de-la-Launde	Alteration of layout including the provision of a permanent means of access at AS-A12 shown shaded yellow on sheet 8 of the streets, rights of way and access plans, and associated works between points A35 and A36 and shown by a pink line on sheet 8 of the streets, rights of way and access plans.
District of North Kesteven	A15/B1191 Junction, east of junction with A15	Alteration of layout including the provision of a permanent

(1) *Area*	*(2)* *Street*	*(3)* *Description of alteration*
		means of access at AS-A4 shown shaded yellow on sheets 10 and 15 of the streets, rights of way and access plans.
District of North Kesteven	A15/B1191 Junction, east of junction with A15	Alteration of layout including the widening of the carriageway between points A11 to A12 and shown by a pink line on sheets 10 and 15 of the streets, rights of way and access plans.
District of North Kesteven	B1191, east of junction with A15	Alteration of layout including the provision of a permanent means of access at AS-A3 shown shaded yellow on sheet 10 of the streets, rights of way and access plans, and associated works including works to layby between points A13 to A14 and shown by a pink line on sheet 10 of the streets, rights of way and access plans.
District of North Kesteven	Heath Lane, east of Navenby	Alteration of layout including the provision of a permanent means of access at AS-A10 and AS-13 shown shaded yellow on sheet 11 of the streets, rights of way and access plans, and associated works between points A31 to A32 and shown by a pink line on sheet 11 of the streets, rights of way and access plans.
District of North Kesteven	Gorse Hill Lane, east of Navenby	Alteration of layout including the provision of a permanent means of access at AS-A8 shown shaded yellow on sheet 12 of the streets, rights of way and access plans.
District of North Kesteven	Gorse Hill Lane, east of Navenby	Alteration of layout including the widening of the carriageway between points A25 to A26 and shown by a pink line on sheet 12 of the streets, rights of way and access plans.

(1) *Area*	*(2)* *Street*	*(3)* *Description of alteration*
District of North Kesteven	Gorse Hill Lane, east of Navenby	Alteration of layout including the provision of a permanent means of access at AS-A9 shown shaded yellow on sheet 12 of the streets, rights of way and access plans.
District of North Kesteven	Gorse Hill Lane, east of Navenby	Alteration of layout including the widening of the carriageway between points A27 to A28 and shown by a pink line on sheet 12 of the streets, rights of way and access plans.
District of North Kesteven	A15, east of Navenby	Alteration of layout at the A15 / Gorse Hill Lane junction including the widening of the carriageway between points A29 to A30 and shown by a pink line on sheet 12 of the streets, rights of way and access plans.
District of North Kesteven	Lane leading to Thompson's Bottom Farm	Alteration of layout including the provision of a permanent means of access at AS-A6 shown shaded yellow on sheet 13 of the streets, rights of way and access plans, and associated works between points A21 to A22 and shown by a pink line on sheet 13 of the streets, rights of way and access plans.
District of North Kesteven	Lane leading to Thompson's Bottom Farm	Alteration of layout including the provision of a permanent means of access at AS-A7 shown shaded yellow on sheet 13 of the streets, rights of way and access plans, and associated works between points A23 to A24 and shown by a pink line on sheet 13 of the streets, rights of way and access plans.
District of North Kesteven	A15/B1191 junction	Alteration of layout at the A15 / B1191 junction including the widening of the carriageway and improvement works between points A15 to

(1) *Area*	*(2)* *Street*	*(3)* *Description of alteration*
		A16 and shown by a pink line on sheet 15 of the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15	Alteration of layout including new passing place between points A19 to A20 and shown by a pink line on sheet 15 of the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15	Alteration of layout including the provision of a permanent means of access at AS-A5 shown shaded yellow on sheet 15 of the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15	Alteration of layout including new passing place between points A17 to A18 and shown by a pink line on sheet 15 of the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15	Alteration of layout including the provision of a permanent means of access at AS-A14 shown shaded yellow on sheet 15 of the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15	Alteration of layout including new passing place between AC-A29 and AC-A30 shown shaded yellow on sheet 15 of the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15	Alteration of layout including new passing place between AC-A31 and AC-A26 shown shaded yellow on sheet 15 of the streets, rights of way and access plans.

SCHEDULE 6 Articles 11, 12 and 13

STREETS AND PUBLIC RIGHTS OF WAY

PART 1

STATUS OF PUBLIC RIGHTS OF WAY CREATED OR IMPROVED

(1) *Area*	*(2)* *Existing or new highway*	*(3)* *New status*
District of North Kesteven	Existing footpath Blan/737/1, Scop/737/1, Scop/10/1, Scop/1135/1, Scop/1135/2, Scop/1136/1 between points PE-A1 and PE-A2 shown by a blue line on sheets 3 and 4 of the streets, rights of way and access plans.	Bridleway
District of North Kesteven	New footpath between points FP-A1 and FP-A2 shown by a broken green line on sheets 4 and 6 of the streets, rights of way and access plans.	Footpath
District of North Kesteven	New footpath between points FP-A2 and FP-A3 shown by a broken green line on sheet 4 of the streets, rights of way and access plans.	Footpath
District of North Kesteven	New footpath between points FP-A7 and FP-A8 shown by a broken green line on sheets 10 and 15 of the streets, rights of way and access plans.	Footpath
District of North Kesteven	New footpath between points FP-A4 and FP-A5 shown by a broken green line on sheet 15 of the streets, rights of way and access plans.	Footpath
District of North Kesteven	New footpath between points FP-A5 and FP-A6 shown by a broken green line on sheet 15 of the streets, rights of way and access plans.	Footpath
District of North Kesteven	New footpath between points FP-A6 and FP-A7 shown by a broken green line on sheet 15	Footpath

(1) *Area*	*(2)* *Existing or new highway*	*(3)* *New status*
	of the streets, rights of way and access plans.	

PART 2

TEMPORARY PROHIBITION OR RESTRICTION OF THE USE OF STREETS

(1) *Area*	*(2)* *Street*	*(3)* *Measure*
District of North Kesteven	Approximately 320 metres of Gorse Hill Lane, east of Navenby as shown between points TTM01 and TTM02 and coloured pink on sheet 12 of the traffic regulations plans.	Temporarily closed to all traffic save for traffic under the direction of the undertaker.

PART 3

TEMPORARY PROHIBITION OR RESTRICTION OF PUBLIC RIGHTS OF WAY

(1) *Area*	*(2)* *Public right of way*	*(3)* *Measure*
District of North Kesteven	Public right of way Blan/738/1	Public right of way to be temporarily closed between points SW72 to SW73 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/738/1	Public right of way to be temporarily closed between points SW62 to SW63 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/4/2	Public right of way to be temporarily closed between points SW66 to SW67 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Public right of way to be temporarily closed between points SW90 to SW91 and

(1) *Area*	*(2)* *Public right of way*	*(3)* *Measure*
		shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/11/4	Public right of way to be temporarily closed between points SW78 to SW79 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1134/1	Public right of way to be temporarily closed between points SW86 to SW87 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/8/2	Public right of way to be temporarily closed between points SW94 to SW95 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/4/2	Public right of way to be temporarily closed between points SW82 to SW83 and shown by a pink line on sheet 3 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/4/2	Public right of way to be temporarily closed between points SW64 to SW65 and shown by a pink line on sheet 3 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Public right of way to be temporarily closed between points SW68 to SW69 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Public right of way to be temporarily closed between points SW70 to SW71 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.

(1) *Area*	*(2)* *Public right of way*	*(3)* *Measure*
District of North Kesteven	Public right of way Scop/1135/2	Public right of way to be temporarily closed between points SW92 to SW93 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/1	Public right of way to be temporarily closed between points SW88 to SW89 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/12/1	Public right of way to be temporarily closed between points SW80 to SW81 and shown by a pink line on sheet 5 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/13/1	Public right of way to be temporarily closed between points SW59 to SW60 and shown by a pink line on sheet 5 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Rows/5/1	Public right of way to be temporarily closed between points SW53 to SW54 and shown by a pink line on sheet 7 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Temp/2/1	Public right of way to be temporarily closed between points SW103 to SW104 and shown by a pink line on sheet 11 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Brau/8/1	Public right of way to be temporarily closed between points SW51 to SW52 and shown by a pink line on sheet 15 of the streets, rights of way and access plans.

PART 4

TEMPORARY MANAGEMENT OF PUBLIC RIGHTS OF WAY

(1) *Area*	*(2)* *Public right of way*	*(3)* *Measure*
District of North Kesteven	Public right of way Blan/738/1	Public right of way to be managed during construction of the authorised development between points SW72 to SW73 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/738/1	Public right of way to be managed during construction of the authorised development between points SW62 to SW63 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/4/2	Public right of way to be managed during construction of the authorised development between points SW66 to SW67 and shown by a pink line on sheet 1 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Public right of way to be managed during construction of the authorised development between points SW90 to SW91 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/11/4	Public right of way to be managed during construction of the authorised development between points SW78 to SW79 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1134/1	Public right of way to be managed during construction of the authorised development between points SW86 to SW87 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.

(1) *Area*	*(2)* *Public right of way*	*(3)* *Measure*
District of North Kesteven	Public right of way Scop/8/2	Public right of way to be managed during construction of the authorised development between points SW94 to SW95 and shown by a pink line on sheet 2 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/4/2	Public right of way to be managed during construction of the authorised development between points SW82 to SW83 and shown by a pink line on sheet 3 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Blan/4/2	Public right of way to be managed during construction of the authorised development between points SW64 to SW65 and shown by a pink line on sheet 3 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Public right of way to be managed during construction of the authorised development between points SW68 to SW69 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/3	Public right of way to be managed during construction of the authorised development between points SW70 to SW71 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/2	Public right of way to be managed during construction of the authorised development between points SW92 to SW93 and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/1135/1	Public right of way to be managed during construction of the authorised development between points SW88 to SW89

(1) *Area*	*(2)* *Public right of way*	*(3)* *Measure*
		and shown by a pink line on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/12/1	Public right of way to be managed during construction of the authorised development between points SW80 to SW81 and shown by a pink line on sheet 5 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Scop/13/1	Public right of way to be managed during construction of the authorised development between points SW59 to SW60 and shown by a pink line on sheet 5 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Rows/5/1	Public right of way to be managed during construction of the authorised development between points SW53 to SW54 and shown by a pink line on sheet 7 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Temp/2/1	Street works to facilitate cable installation works between points SW103 to SW104 and shown by a pink line on sheet 11 of the streets, rights of way and access plans.
District of North Kesteven	Public right of way Brau/8/1	Public right of way to be managed during construction of the authorised development between points SW51 to SW52 and shown by a pink line on sheet 15 of the streets, rights of way and access plans.

SCHEDULE 7 Article 15

ACCESS TO WORKS

(1) *Area*	*(2)* *Street*	*(3)* *Description of means of access*
District of North Kesteven	B1188, Scopwick	The provision of a permanent means of access to the authorised development between points AC-A1 and AC-A2 shown shaded yellow on sheet 4 of the streets, rights of way and access plans.
District of North Kesteven	B1191, east of Navenby	The provision of a permanent means of access to the authorised development between points AC-A3 and AC-A4 shown shaded yellow on sheet 6 of the streets, rights of way and access plans.
District of North Kesteven	Navenby Lane, Ashby-de-la-Launde	The alteration of an existing means of access to facilitate access to the authorised development between points AC-A21 and AC-A22 shown shaded yellow on sheet 8 of the streets, rights of way and access plans.
District of North Kesteven	Navenby Lane, Ashby-de-la-Launde	The alteration of an existing means of access to facilitate access to the authorised development between points AC-A23 and AC-A24 shown shaded yellow on sheet 8 of the streets, rights of way and access plans.
District of North Kesteven	B1191, east of A15 / B1191 junction	The alteration of an existing means of access to facilitate access to the authorised development between points AC-A5 and AC-A6 shown shaded yellow on sheet 10 of the streets, rights of way and access plans.
District of North Kesteven	B1191, east of junction with A15	The provision of a permanent means of access to the authorised development between points AC-A7 and AC-

(1) *Area*	*(2)* *Street*	*(3)* *Description of means of access*
		A8 shown shaded yellow on sheets 10 and 15 of the streets, rights of way and access plans.
District of North Kesteven	Heath Lane, east of Navenby	The provision of a permanent means of access to the authorised development between points AC-A19 and AC-A20 shown shaded yellow on sheet 11 of the streets, rights of way and access plans.
District of North Kesteven	Heath Lane, east of junction with A15	The provision of a permanent means of access to the authorised development between points AC-A25 and AC-A26 shown shaded yellow on sheet 11 of the streets, rights of way and access plans.
District of North Kesteven	Gorse Hill Lane, east of Navenby	The provision of a permanent means of access to the authorised development between points AC-A15 and AC-A16 shown shaded yellow on sheet 12 of the streets, rights of way and access plans.
District of North Kesteven	Gorse Hill Lane, east of Navenby	The provision of a permanent means of access to the authorised development between points AC-A17 and AC-A18 shown shaded yellow on sheet 12 of the streets, rights of way and access plans.
District of North Kesteven	Lane leading to Thompson's Bottom, west of A15	The alteration of an existing means of access to facilitate access to the authorised development between points AC-A11 and AC-A12 shown shaded yellow on sheet 13 of the streets, rights of way and access plans.
District of North Kesteven	Lane leading to Thompson's Bottom, west of A15	The alteration of an existing means of access to facilitate access to the authorised development between points AC-A13 and AC-A14 shown shaded yellow on sheet 13 of

(1) *Area*	*(2)* *Street*	*(3)* *Description of means of access*
		the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15	The provision of a permanent means of access to the authorised development between points AC-A9 and AC-A10 shown shaded yellow on sheet 14 of the streets, rights of way and access plans.
District of North Kesteven	Temple Road, west of A15	The provision of a permanent means of access to the authorised development between points AC-A27 and AC-A28 shown shaded yellow on sheet 15 of the streets, rights of way and access plans.

SCHEDULE 8 Article 17

TRAFFIC REGULATION MEASURES

PART 1

TEMPORARY SPEED LIMITS

(1) *Area*	*(2)* *Road name, number and length*	*(3)* *Temporary speed limit*
District of North Kesteven	B1191 From its junction with A15 (point TTM09) in a generally north-easterly direction to point TTM10 for a distance of 310 metres and coloured black on sheets 10 and 15 of the traffic regulations plans.	40 miles per hour
District of North Kesteven	Gorse Hill Lane From its junction with A15 (point TTM02) in a generally westerly direction to point	40 miles per hour

(1) *Area*	*(2)* *Road name, number and length*	*(3)* *Temporary speed limit*
	TTM01 for a distance of 320 metres and coloured pink on sheet 12 of the traffic regulations plans.	
District of North Kesteven	A15 From a point 615 metres in a generally northerly direction of its junction with Gorse Hill Lane (point TTM64) to point TTM65 for a distance of 1,210 metres and coloured black on sheet 12 of the traffic regulations plans.	40 miles per hour
District of North Kesteven	A15 From a point 610 metres in a generally northerly direction of its junction with B1191 (point TTM72) to point TTM73 for a distance of 835 metres and coloured black on sheets 14 and 15 of the traffic regulations plans.	40 miles per hour
District of North Kesteven	Temple Road From its junction with A15 (point TTM67) in a generally north-westerly direction to point TTM66 for a distance of 1,010 metres and coloured black on sheet 15 of the traffic regulations plans.	40 miles per hour

PART 2

TEMPORARY ROAD CLOSURES

(1) *Area*	*(2)* *Road name, number and length*	*(3)* *Temporary road closures*
District of North Kesteven	Gorse Hill Lane	Closed to all traffic save for traffic under the direction of the undertaker

(1) *Area*	*(2)* *Road name, number and length*	*(3)* *Temporary road closures*
	From its junction with A15 (point TTM02) in a generally westerly direction to point TTM01 for a distance of 320 metres and coloured pink on sheet 12 of the traffic regulations plans.	

PART 3

TEMPORARY TRAFFIC SIGNALS

(1) *Area*	*(2)* *Extent of temporary traffic signals*
District of North Kesteven	B1188 An area of existing highway from a point 365 metres in a generally northerly direction of Bloxholm Lane (point TTM33) in a generally northerly direction to point TTM32 for a distance of 320 metres and including the means of access to the authorised development, and coloured blue on sheet 4 of the traffic regulations plans.
District of North Kesteven	B1188 An area of existing highway from a point 90 metres in a generally northerly direction of the junction with B1191 (point TTM34) in a generally northerly direction to point TTM35 for a distance of 50 metres, and coloured blue on sheet 4 of the traffic regulations plans.
District of North Kesteven	B1191 An area of existing highway from its junction with the access to Heath Farm House (point TTM74) in a generally northerly direction to point TTM75 for a distance of 50 metres, and coloured blue on sheet 6 of the traffic regulations plans.
District of North Kesteven	B1191 An area of existing highway from a point 185 metres in a generally southerly direction of

(1) *Area*	*(2)* *Extent of temporary traffic signals*
	the access adjacent to Scopwick Mill (point TTM24) in a generally southerly direction to point TTM25 for a distance of 320 metres and including the means of access to the authorised development, and coloured blue on sheet 6 of the traffic regulations plans.
District of North Kesteven	B1191 An area of existing highway from a point 260 metres in a generally southerly direction of the access adjacent to Scopwick Mill (point TTM27) in a generally southerly direction to point TTM26 for a distance of 47 metres, and coloured blue on sheet 6 of the traffic regulations plans.
District of North Kesteven	B1191 An area of existing highway from a point 245 metres in a generally southerly direction of the junction with Navenby Lane (point TTM14) in a generally northerly direction to point TTM15 for a distance of 305 metres, and coloured blue on sheet 7 of the traffic regulations plans.
District of North Kesteven	Navenby Lane An area of existing highway from a point 20 metres in a generally westerly direction of the Navenby Lane junction (point TTM16) in a generally easterly direction to point TTM17 for a distance of 20 metres, and coloured blue on sheet 7 of the traffic regulations plans.
District of North Kesteven	B1191 An area of existing highway from a point 225 metres in a generally northerly direction of the junction with Glebe Farm (point TTM18) in a generally northerly direction to point TTM19 for a distance of 50 metres, and coloured blue on sheet 7 of the traffic regulations plans.
District of North Kesteven	B1191 An area of existing highway from a point 55 metres in a generally northerly direction of the junction with the RAF Digby access point (point TTM22) in a generally easterly direction to point TTM23 for a distance of 130 metres,

(1) *Area*	*(2)* *Extent of temporary traffic signals*
	and coloured blue on sheet 7 of the traffic regulations plans.
District of North Kesteven	Navenby Lane An area of existing highway from a point 370 metres in a generally easterly direction of its junction with A15 (point TTM68) in a generally easterly direction to point TTM69 for a distance of 275 metres and including the means of access to the authorised development, and coloured blue on sheet 8 of the traffic regulations plans.
District of North Kesteven	Navenby Lane An area of existing highway from a point 920 metres in a generally easterly direction of its junction with A15 (point TTM80) in a generally easterly direction to point TTM81 for a distance of 42 metres, and coloured blue on sheet 8 of the traffic regulations plans.
District of North Kesteven	A15 An area of existing highway from a point 970 metres in a generally southerly direction of the junction with Navenby Lane (point TTM05) in a generally southerly direction to point TTM06 for a distance of 47 metres, and coloured blue on sheet 9 of the traffic regulations plans.
District of North Kesteven	B1191 An area of existing highway from its junction with A15 (point TTM09) in a generally north-easterly direction to point TTM10 for a distance of 310 metres and including the means of access to the authorised development, and coloured blue on sheets 10 and 15 of the traffic regulations plans.
District of North Kesteven	B1191 An area of existing highway from a point 275 metres in a generally easterly direction of its junction with A15 (point TTM11) in a generally easterly direction to point TTM12 for a distance of 290 metres and including means of access to the authorised development, and coloured blue on sheet 10 of the traffic regulations plans.

(1) *Area*	*(2)* *Extent of temporary traffic signals*
District of North Kesteven	Heath Lane An area of existing highway from its junction with A15 (point TTM63) in a generally westerly direction for a distance of 175 metres to point TTM62 and including the means of access to the authorised development, and coloured blue on sheet 11 of the traffic regulations plans.
District of North Kesteven	Gorse Hill Lane An area of existing highway from its junction with A15 (point TTM02) in a generally westerly direction for a distance of 320 metres to point TTM01 and including the means of access to the authorised development, and coloured pink on sheet 12 of the traffic regulations plans.
District of North Kesteven	A15 An area of existing highway from a point 615 metres in a generally northerly direction of its junction with Gorse Hill Lane (point TTM64) in a generally southerly direction to point TTM65 for a distance of 1,210 metres, and coloured blue on sheet 12 of the traffic regulation plans.
District of North Kesteven	Lane leading to Thompson's Bottom Farm An area of existing highway from a point 885 metres in a generally westerly direction of its junction with A15 (point TTM70) in a generally easterly direction to point TTM71 for a distance of 345 metres and including the means of access to the authorised development, and coloured blue on sheet 13 of the traffic regulation plans.
District of North Kesteven	A15 An area of existing highway from a point 610 metres in a generally northerly direction of its junction with B1191 (point TTM72) in a generally southerly direction to point TTM73 for a distance of 835 metres, and coloured blue on sheets 14 and 15 of the traffic regulations plans.
District of North Kesteven	Temple Road

(1) *Area*	*(2)* *Extent of temporary traffic signals*
	An area of existing highway from its junction with A15 (point TTM67) in a generally north-westerly direction to point TTM66 for a distance of 1,010 metres and including the means of access to, and the passing places for, the authorised development, and coloured blue on sheet 15 of the traffic regulations plans.

PART 4

PERMANENT SPEED LIMITS

(1) *Area*	*(2)* *Road name, number and length*	*(3)* *Permanent speed limit*
District of North Kesteven	B1191 From a point 550 metres from its junction with B1188 (PTR01) in a generally north-easterly direction to point PTR02 for a distance of 55 metres and coloured green on sheet 5 of the traffic regulations plans.	30 miles per hour

SCHEDULE 9 Article 23

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

Interpretation

1. In this schedule—

"access rights" means 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 or improvements and to remove impediments (including vegetation) to such access; and

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

"public right of way rights" means rights over land to—

(a) alter, improve, form, maintain, retain, use, reinstate public rights of way; and

(b) pass and repass on foot, without vehicles, for all purposes in connection with the use of the public rights of way;

"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 Navenby Substation;

(b) install, use, support, protect, inspect, alter, remove, replace, retain, renew, improve and maintain watercourses, public sewers and drains and drainage apparatus and equipment;

(c) 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 National Grid Navenby Substation works;

(d) 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

(e) install, use, support, protect, inspect, alter, remove, replace, retain, renew, improve and maintain soft landscaping and biodiversity measures; and

"vegetation maintenance rights" means rights over land to install, use, support, protect, inspect, alter, remove, replace, retain, renew, improve and maintain vegetation and restrict or prevent the removal of vegetation for the purposes of the authorised development and in connection with the authorised development.

(1) *Plot reference number shown on the Land Plans*	*(2)* *Purposes for which rights over land may be required and restrictive covenants imposed*
1/2	cable rights, vegetation maintenance rights
2/2	cable rights, vegetation maintenance rights

(1) *Plot reference number shown on the Land Plans*	*(2)* *Purposes for which rights over land may be required and restrictive covenants imposed*
2/10	cable rights, vegetation maintenance rights
2/4	cable rights, vegetation maintenance rights
2/6	vegetation maintenance rights, access rights
2/9	cable rights
4/1	cable rights
4/3	public right of way rights
4/4	public right of way rights
4/5	cable rights
4/7	cable rights
4/9	cable rights
4/12	cable rights, vegetation maintenance rights
4/14	cable rights, vegetation maintenance rights
4/17	cable rights
4/18	cable rights
6/1	cable rights
6/2	cable rights
6/3	cable rights
6/4	cable rights, vegetation maintenance rights
6/5	cable rights
6/7	cable rights
7/1	cable rights
7/15	cable rights
7/16	cable rights
8/4	cable rights
8/6	cable rights, vegetation maintenance rights
8/8	cable rights
9/2	cable rights, vegetation maintenance rights
9/6	cable rights, vegetation maintenance rights
10/2	public right of way rights
10/3	cable rights, vegetation maintenance rights
11/1	substation connection rights

(1) *Plot reference number shown on the Land Plans*	*(2)* *Purposes for which rights over land may be required and restrictive covenants imposed*
11/3	substation connection rights
11/4	substation connection rights
12/3	substation connection rights
12/4	substation connection rights
12/8	substation connection rights
12/9	substation connection rights
12/13	cable rights, vegetation maintenance rights
12/14	cable rights, vegetation maintenance rights
12/16	cable rights
12/17	cable rights
12/18	cable rights
12/19	cable rights
13/3	vegetation maintenance rights
13/6	cable rights, vegetation maintenance rights
13/8	cable rights
13/11	cable rights
14/2	cable rights
14/6	cable rights, vegetation maintenance rights
15/2	cable rights, vegetation maintenance rights
15/5	cable rights, vegetation maintenance rights
15/7	cable rights, public right of way rights
15/8	cable rights
15/10	cable rights
15/11	cable rights
15/13	cable rights

SCHEDULE 10 Article 23

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

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land are to apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restrictive covenant as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(**60**) 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 to the scope of paragraph 1, the 1961 Act has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 5A(5A) (relevant valuation date) of the 1961 Act, omit the words after "if—" and substitute—

"(a) the acquiring authority enters on land for the purpose of exercising a right in pursuant of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 10 to the Springwell Solar Farm Order 2026);

(b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 10 to the Springwell Solar Farm Order 2026) to acquire an interest in the land; and

(c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.".

Application of 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 21 (compulsory acquisition of land) and as modified by article 28 (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 23 (compulsory acquisition of rights)—

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

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

(**60**) 1973 c. 26.

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.

(3) For section 7 of the 1965 Act (measure of compensation in 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 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.".

(4) 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) (refusal to convey, failure to make title, etc.);

(b) paragraph 10(3) of Schedule 1 (conveyance of the land or interest);

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified 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.

(5) Section 11 (**61**) (powers of entry) of the 1965 Act is modified to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 21 (compulsory acquisition of land)), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 11A(**62**) (powers of entry: further notices of entry), 11B(**63**) (counter-notice requiring possession to be taken on specified date), 12(**64**) (unauthorised entry) and 13(**65**) (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20(**66**) (tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference

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

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

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

(**64**) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23) and paragraphs (2) and (4) of Schedule 16 to the Housing and Planning Act 2016.

(**65**) 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).

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

with such an interest as is actually caused, or likely to be caused, by the exercise of the right or enforcement of the restrictive covenant in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 28(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.

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

"SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

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 25 (application of the 1981 Act) of the Springwell Solar Farm Order 2026 in respect of the land to which the notice to treat relates.

(2) But see article 26(3) (acquisition of subsoil only) of the Springwell Solar Farm 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 three 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 six 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 cause by the giving and withdrawal of the notice.

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

SCHEDULE 11 Article 30

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) *Plot reference number shown on the Land Plans*	*(2)* *Purpose for which temporary possession may be taken*
3/1, 4/6, 4/8, 4/10, 4/11, 7/2, 7/3, 7/4, 7/5, 7/6, 7/7, 7/8, 7/9, 7/10, 7/11, 7/12, 7/14, 8/1, 8/3, 8/5, 11/2, 11/5, 11/6, 11/7, 11/8, 11/9, 11/10, 11/11, 11/12, 12/6, 12/7, 12/10, 12/11, 12/12, 12/15, 13/4, 13/10	Temporary use (including access) to carry out Work No. 8 (being works to the street or highway to facilitate access) and management of traffic and vegetation to facilitate the construction of Work Nos. 1 to 9.
3/2, 4/13, 4/21	Temporary use (including access) to carry out works to existing public right of way and associated management of vegetation.

(1) *Plot reference number shown on the Land Plans*	*(2)* *Purpose for which temporary possession may be taken*
12/1	Temporary use (including access) for management of vegetation.

SCHEDULE 12 Article 39

HEDGEROWS TO BE REMOVED

PART 1

REMOVAL OF HEDGEROWS

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*
District of North Kesteven	Removal of part of approximately 4m of hedgerow within the area identified by blue shading on figure 3.11B of the vegetation removal parameters, reference R1
District of North Kesteven	Removal of part of approximately 7m of hedgerow within the area identified by blue shading on figure 3.11B of the vegetation removal parameters, reference R3
District of North Kesteven	Removal of part of approximately 8m of hedgerow within the area identified by blue shading on figure 3.11B of the vegetation removal parameters, reference R4
District of North Kesteven	Removal of part of approximately 6m of hedgerow within the area identified by blue shading on figure 3.11B of the vegetation removal parameters, reference R6
District of North Kesteven	Removal of part of approximately 10m of hedgerow within the area identified by blue shading on figure 3.11B of the vegetation removal parameters, reference R9
District of North Kesteven	Removal of part of approximately 20m of hedgerow within the area identified by blue shading on figure 3.11B of the vegetation removal parameters, reference R10
District of North Kesteven	Removal of part of approximately 20m of hedgerow within the area identified by blue

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*
	shading on figure 3.11B of the vegetation removal parameters, reference R12
District of North Kesteven	Removal of part of approximately 14m of hedgerow within the area identified by blue shading on figure 3.11B of the vegetation removal parameters, reference R13
District of North Kesteven	Removal of part of approximately 19m of hedgerow within the area identified by blue shading on figure 3.11C of the vegetation removal parameters, reference R14
District of North Kesteven	Removal of part of approximately 15m of hedgerow within the area identified by blue shading on figure 3.11C of the vegetation removal parameters, reference R15
District of North Kesteven	Removal of part of approximately 20m of hedgerow within the area identified by blue shading on figure 3.11C of the vegetation removal parameters, reference R16
District of North Kesteven	Removal of part of approximately 20m of hedgerow within the area identified by blue shading on figure 3.11C of the vegetation removal parameters, reference R17
District of North Kesteven	Removal of part of approximately 15m of hedgerow within the area identified by blue shading on figure 3.11C of the vegetation removal parameters, reference R18
District of North Kesteven	Removal of part of approximately 21m of hedgerow within the area identified by blue shading on figure 3.11C of the vegetation removal parameters, reference R22
District of North Kesteven	Removal of part of approximately 15m of hedgerow within the area identified by blue shading on figure 3.11C of the vegetation removal parameters, reference R23
District of North Kesteven	Removal of part of approximately 3m of hedgerow within the area identified by blue shading on figure 3.11C of the vegetation removal parameters, reference R24
District of North Kesteven	Removal of part of approximately 12m of hedgerow within the area identified by blue shading on figure 3.11D of the vegetation removal parameters, reference R25
District of North Kesteven	Removal of part of approximately 30m of hedgerow within the area identified by blue

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*
	shading on figure 3.11D of the vegetation removal parameters, reference R26
District of North Kesteven	Removal of part of approximately 198m of hedgerow within the area identified by blue shading on figure 3.11F of the vegetation removal parameters, reference R29
District of North Kesteven	Removal of part of approximately 13m of hedgerow within the area identified by blue shading on figure 3.11F of the vegetation removal parameters, reference R30
District of North Kesteven	Removal of part of approximately 9m of hedgerow within the area identified by blue shading on figure 3.11F of the vegetation removal parameters, reference R31
District of North Kesteven	Removal of part of approximately 5m of hedgerow within the area identified by blue shading on figure 3.11F of the vegetation removal parameters, reference R32
District of North Kesteven	Removal of part of approximately 25m of hedgerow within the area identified by blue shading on figure 3.11F of the vegetation removal parameters, reference R33
District of North Kesteven	Removal of part of approximately 53m of hedgerow within the area identified by blue shading on figure 3.11F of the vegetation removal parameters, reference R34
District of North Kesteven	Removal of part of approximately 43m of hedgerow within the area identified by blue shading on figure 3.11E of the vegetation removal parameters, reference R38
District of North Kesteven	Removal of part of approximately 10m of hedgerow within the area identified by blue shading on figure 3.11E of the vegetation removal parameters, reference R39
District of North Kesteven	Removal of part of approximately 5m of hedgerow within the area identified by blue shading on figure 3.11E of the vegetation removal parameters, reference R40
District of North Kesteven	Removal of part of approximately 10m of hedgerow within the area identified by blue shading on figure 3.11E of the vegetation removal parameters, reference R41
District of North Kesteven	Removal of part of approximately 34m of hedgerow within the area identified by blue

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*
	shading on figure 3.11E of the vegetation removal parameters, reference R42
District of North Kesteven	Removal of part of approximately 14m of hedgerow within the area identified by blue shading on figure 3.11E of the vegetation removal parameters, reference R43
District of North Kesteven	Removal of part of approximately 139m of hedgerow within the area identified by blue shading on figure 3.11E of the vegetation removal parameters, reference R44
District of North Kesteven	Removal of part of approximately 20m of hedgerow within the area identified by blue shading on figure 3.11E of the vegetation removal parameters, reference R45
District of North Kesteven	Removal of part of approximately 5m of hedgerow within the area identified by blue shading on figure 3.11D of the vegetation removal parameters, reference R46
District of North Kesteven	Removal of part of approximately 10m of hedgerow within the area identified by blue shading on figure 3.11D of the vegetation removal parameters, reference R47
District of North Kesteven	Removal of part of approximately 30m of hedgerow within the area identified by blue shading on figure 3.11D of the vegetation removal parameters, reference R48
District of North Kesteven	Removal of part of approximately 2m of hedgerow within the area identified by blue shading on figure 3.11C of the vegetation removal parameters, reference R49
District of North Kesteven	Removal of part of approximately 2m of hedgerow within the area identified by blue shading on figure 3.11E of the vegetation removal parameters, reference R50

PART 2

REMOVAL OF IMPORTANT HEDGEROWS

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*
District of North Kesteven	Removal of part of approximately 10m of hedgerow within the area identified by orange

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*
	shading on figure 3.11B of the vegetation removal parameters, reference R2
District of North Kesteven	Removal of part of approximately 10m of hedgerow within the area identified by orange shading on figure 3.11B of the vegetation removal parameters, reference R5
District of North Kesteven	Removal of part of approximately 3m of hedgerow within the area identified by blue shading on figure 3.11B of the vegetation removal parameters, reference R7
District of North Kesteven	Removal of part of approximately 20m of hedgerow within the area identified by orange shading on figure 3.11B of the vegetation removal parameters, reference R8
District of North Kesteven	Removal of part of approximately 20m of hedgerow within the area identified by orange shading on figure 3.11B of the vegetation removal parameters, reference R11
District of North Kesteven	Removal of part of approximately 18m of hedgerow within the area identified by orange shading on figure 3.11C of the vegetation removal parameters, reference R19
District of North Kesteven	Removal of part of approximately 16m of hedgerow within the area identified by orange shading on figure 3.11C of the vegetation removal parameters, reference R20
District of North Kesteven	Removal of part of approximately 30m of hedgerow within the area identified by orange shading on figure 3.11C of the vegetation removal parameters, reference R21
District of North Kesteven	Removal of part of approximately 136m of hedgerow within the area identified by orange shading on figure 3.11D of the vegetation removal parameters, reference R27
District of North Kesteven	Removal of part of approximately 29m of hedgerow within the area identified by orange shading on figure 3.11D of the vegetation removal parameters, reference R28
District of North Kesteven	Removal of part of approximately 25m of hedgerow within the area identified by orange shading on figure 3.11F of the vegetation removal parameters, reference R35
District of North Kesteven	Removal of part of approximately 25m of hedgerow within the area identified by orange

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*
	shading on figure 3.11E of the vegetation removal parameters, reference R36
District of North Kesteven	Removal of part of approximately 25m of hedgerow within the area identified by orange shading on figure 3.11E of the vegetation removal parameters, reference R37

SCHEDULE 13 Article 41

DOCUMENTS AND PLANS TO BE CERTIFIED

(1) *Document name*	*(2)* *Document reference*	*(3)* *Revision number*	*(4)* *Date*
book of reference	EN010149/APP/4.3.4	4	September 2025
crown land plans	EN010149/APP/2.7	1	November 2024
design commitments	EN010149/APP/7.4.2	2	August 2025
environmental statement (excluding chapters 3, 7, 8, 9, 11, 12, 13, 14, 16 and 17; Figures 3.1-3.15, Figures 16.1-16.8; Appendices 5.4, 7.1, 7.5, 7.11, 7.14, 9.1, 16.1, Volume 4 Part 6)	EN010149/ APP/6.1-6.4	1	November 2024
environmental statement chapter 3	EN010149/APP/6.1.2	2	June 2025
environmental statement chapter 7	EN010149/APP/6.1.3	3	August 2025
environmental statement chapter 8	EN010149/APP/6.1.2	2	August 2025
environmental statement chapter 9	EN010149/APP/6.1.2	2	January 2025
environmental statement chapter 11	EN010149/APP/6.1.2	2	June 2025
environmental statement chapter 12	EN010149/APP/6.1.2	2	August 2025
environmental statement chapter 13	EN010149/APP/6.1.2	2	June 2025

(1) *Document name*	*(2)* *Document reference*	*(3)* *Revision number*	*(4)* *Date*
environmental statement chapter 14	EN010149/APP/6.1.2	2	January 2025
environmental statement chapter 16	EN010149/APP/6.1.5	5	September 2025
environmental statement chapter 17	EN010149/APP/6.1.2	2	June 2025
environmental statement figures 3.1-3.15	EN010149/APP/6.2.4	4	September 2025
environmental statement figures 16.1-16.8	EN010149/APP/6.2.4	4	September 2025
environmental statement appendix 5.4	EN010149/APP/6.3.2	2	June 2025
environmental statement appendix 7.1	EN010149/APP/6.3.3	3	August 2025
environmental statement appendix 7.5	EN010149/APP/6.3.2	2	June 2025
environmental statement appendix 7.11	EN010149/APP/6.3.2	2	August 2025
environmental statement appendix 7.14	EN010149/APP/6.3.4	4	October 2025
environmental statement appendix 9.1	EN010149/APP/6.3.5	5	September 2025
environmental statement appendix 16.1	EN010149/APP/6.3.5	5	September 2025
environmental statement landscape visualisations – part 6	EN010149/APP/6.4.2	2	August 2025
land plans	EN010149/APP/2.2.2	2	January 2025
outline battery safety management plan	EN010149/APP/7.14.2	2	June 2025
outline construction environmental management plan	EN010149/APP/7.7.5	5	September 2025
outline construction traffic management plan	EN010149/APP/7.8.4	4	September 2025

(1) *Document name*	*(2)* *Document reference*	*(3)* *Revision number*	*(4)* *Date*
outline decommissioning environmental management plan	EN010149/APP/7.13.5	5	September 2025
outline drainage strategy	flood risk assessment EN010149/APP/7.16.3 (appendix A)	3	June 2025
outline employment, skills and supply chain plan	EN010149/APP/7.20	1	November 2024
outline landscape and ecology management plan	EN010149/APP/7.9.5	5	October 2025
outline operational environmental management plan	EN010149/APP/7.10.5	5	September 2025
outline public right of way and permissive path management plan	EN010149/APP/7.12.3	3	August 2025
outline soil management plan	EN010149/APP/7.11.3	3	August 2025
outline written scheme of investigation	EN010149/APP/7.15.3	3	September 2025
draft archaeological mitigation strategy	outline written scheme of investigation EN010149/APP/7.15.2 (appendix 4)	2	August 2025
project parameters	environmental statement EN010149/APP/6.3 (appendix 3.1)	1	November 2024
streets, rights of way and access plans	EN010149/APP/2.4.3	3	June 2025
traffic regulations plans	EN010149/APP/2.6	1	November 2024
vegetation removal parameters	environmental statement EN010149/APP/6.2.3 (figure 3.11)	2	August 2025
works plans	EN010149/APP/2.3	1	November 2024
Navenby Substation area plan	EN010149/APP/2.8	1	March 2026

SCHEDULE 14 Article 42

ARBITRATION RULES

Commencing an arbitration

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

Time periods

2.—(1) All time periods in these arbitration rules are measured in days and include weekends, but not bank or public holidays.

(2) Time periods are calculated from the day after the arbitrator is appointed which is either—

(a) the date the arbitrator notifies the parties in writing of their acceptance of an appointment by agreement of the parties; or

(b) the date the arbitrator is appointed by the Secretary of State.

Timetable

3.—(1) The timetable for the arbitration is that which is set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 14 days of the arbitrator being appointed, the claimant must provide both the respondent and the arbitrator with—

(a) a written statement of claim which describes the nature of the difference between the parties, the legal and factual issues, the claimant's contentions as to those issues, the amount of its claim or the remedy it is seeking; and

(b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 14 days of receipt of the claimant's statements under sub-paragraph (2) by the arbitrator and respondent, the respondent must provide the claimant and the arbitrator with—

(a) a written statement of defence consisting of a response to the claimant's statement of claim, its statement in respect of the nature of the difference, the legal and factual issues in the claimant's claim, its acceptance of any elements of the claimant's claim and its contentions as to those elements of the claimant's claim it does not accept;

(b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports;

(c) any objection it wishes to make to the claimant's statements, comments on the claimant's expert reports (if submitted by the claimant) and explanations of the objections.

(4) Within seven days of the respondent serving its statements under sub-paragraph (3), the claimant may make a statement of reply by providing both the respondent and the arbitrator with—

(a) a written statement responding to the respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;

(b) all statements of evidence and copies of documents in response to the respondent's submissions;

(c) any expert report in response to the respondent's submissions;

(d) any objections to the statements of evidence, expert reports or other documents submitted by the respondent; and

(e) its written submissions in response to the legal and factual issues involved.

Procedure

4.—(1) The parties' pleadings, witness statements and expert reports (if any) must be concise. A single pleading must not exceed 30 single-sided A4 pages using 10pt Arial font.

(2) The arbitrator will make an award on the substantive differences based solely on the written material submitted by the parties unless the arbitrator decides that a hearing is necessary to explain or resolve any matters.

(3) Either party may, within two days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(4) Within seven days of receiving the last submission, the arbitrator must notify the parties whether a hearing is to be held and the length of that hearing.

(5) Within ten days of the arbitrator advising the parties that a hearing is to be held, the date and venue for the hearing are to be fixed by agreement with the parties, save that if there is no agreement the arbitrator must direct a date and venue which the arbitrator considers is fair and reasonable in all the circumstances. The date for the hearing must not be less than 35 days from the date of the arbitrator's direction confirming the date and venue of the hearing.

(6) A decision must be made by the arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the arbitrator, then any experts attending the hearing may be asked questions by the arbitrator.

(7) There is to be no examination or cross-examination of experts, but the arbitrator must invite the parties to ask questions of the experts by way of clarification of any answers given by the experts in response to the arbitrator's questions. Prior to the hearing in relation to the experts—

(a) at least 28 days before a hearing, the arbitrator must provide a list of issues to be addressed by the experts;

(b) if more than one expert is called, they will jointly confer and produce a joint report or reports within 14 days of the issues being provided; and

(c) the form and content of a joint report must be as directed by the arbitrator and must be provided at least seven days before the hearing.

(8) Within 14 days of a hearing or a decision by the arbitrator that no hearing is to be held the parties may by way of exchange provide the arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The arbitrator must take these submissions into account in the award.

(9) The arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within four months of the date on which the arbitrator is appointed, unless both parties otherwise agree to an extension to the date for the award.

(10) If a party fails to comply with the timetable, procedure or any other direction then the arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before the arbitrator attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure or direction.

(11) The arbitrator's award must include reasons. The parties must accept that the extent to which reasons are given must be proportionate to the issues in dispute and the time available to the arbitrator to deliver the award.

Arbitrator's powers

5.—(1) The arbitrator has all the powers of the Arbitration Act 1996, save where modified in this Schedule.

(2) There must be no discovery or disclosure, except that the arbitrator is to have the power to order the parties to produce such documents as are reasonably requested by another party no later than the statement of reply, or by the arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the arbitrator. In the absence of agreement, the arbitrator may vary the timescales or procedure—

(a) if the arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;

(b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the arbitrator's fees and expenses.

Costs

6.—(1) The costs of the arbitration must include the fees and expenses of the arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the arbitration.

(2) Where the difference involves connected or interrelated issues, the arbitrator must consider the relevant costs collectively.

(3) The final award must fix the costs of the arbitration and decide which of the parties are to bear them or in what proportion they are to be borne by the parties.

(4) The arbitrator must award recoverable costs on the general principle that each party should bear its own costs, having regard to all material circumstances, including such matters as exaggerated claims or defences, the degree of success for different elements of the claims, claims that have incurred substantial costs, the conduct of the parties and the degree of success of a party.

Confidentiality

7.—(1) Subject to sub-paragraphs (2) and (3), any arbitration hearing and documentation will be open and accessible by the public.

(2) The arbitrator may direct that the whole or part of a hearing is to be private or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(3) Nothing in this paragraph will prevent any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

SCHEDULE 15 Article 43

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 (save for any utility undertakers which are specifically protected by any other Part of this Schedule, which will take precedence), the following provisions have effect, unless 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 Electricity Act 1989(**67**)), 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(**68**); and

(ii) 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,

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; and

(e) any other mains, pipelines or cables that are not the subject of the protective provisions in Parts 2 to 6 of this Schedule;

"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—

(**67**) 1989 c. 29.
(**68**) 1991 c. 56.

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

(b) a gas transporter within the meaning of Part 1 of the Gas Act 1986(**69**);

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

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

(e) an owner or operator of apparatus within paragraph (e) of the definition of that term,

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 the temporary prohibition or restriction of use of streets under the powers conferred by article 13 (temporary prohibition or restriction on use of streets and public rights of way), a utility undertaker is at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction was in that street.

5. 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.

6.—(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 must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (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 42 (arbitration).

(**69**) 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).

(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 42, and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part 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.

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights 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 42 (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.

8.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 6(2), the undertaker must submit to the utility undertaker in question a plan, 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 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, 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.

9.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility 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 6(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 42 (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 6(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.

10.—(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 6(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.

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

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

(2) In this Part of this Schedule—

"the 2003 Act" means the Communications Act 2003(**70**);

"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) 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 32 (statutory undertakers) is subject to Part 10 (undertakers' 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—

(70) 2003 c. 21.

(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.

(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 Part of this Schedule must be referred to and settled by arbitration under article 42 (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 DRAINAGE AUTHORITIES

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

18. In this Part of this Schedule—

"authorised development" has the same meaning as in article 2 (interpretation) of this Order and (unless otherwise specified) for the purposes of this Part of this Schedule includes the operation and maintenance of the authorised development and the construction of any works authorised by this Part of this Schedule;

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

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

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

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

"drainage work" means any ordinary watercourse and includes any bank, wall, embankment or other structure, or any appliance constructed for land drainage or flood defence which is the responsibility of the drainage authority;

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

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

"specified work" means so much of the authorised development as is in, on, under, over or within 8 metres of a drainage work or is otherwise likely to affect the flow of water in any watercourse.

19.—(1) Before commencing construction of a 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 reasonably require within 14 days of the submission of the plans.

(2) A 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 9.

(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 28 days of the submission of the plans for approval, or submission of further particulars (where required by the drainage authority under sub-paragraph (1)) whichever is the later; and

(c) may be given subject to such reasonable requirements as the drainage authority may make for the protection of any drainage work taking into account the terms of this Order.

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

20. Without limiting the scope of paragraph 3, 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 taking account of the terms of this Order—

(a) to safeguard any drainage work against damage by reason of any specified work; or

(b) to secure that the efficiency of any drainage work for flood defence 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.

21.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 4, must be constructed—

(a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part of this Schedule; 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 seven days after the date on which it is brought into use.

22. If by reason of the construction of a specified work or of the failure of any a specified work the efficiency of any drainage work for flood defence purposes or land drainage is impaired, or that 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.

23. The undertaker must make reasonable compensation for costs, charges and expenses which the drainage authority may reasonably incur—

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

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

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

24.—(1) The undertaker must make reasonable compensation for liabilities, costs and losses which may be reasonably incurred or suffered by reason of—

(a) the construction of any specified works comprised within the authorised development; or

(b) any act or omission of the undertaker, its employees, contractors or agents or others while engaged upon the construction of the authorised development.

(2) The drainage authority must give to the undertaker reasonable notice of any such claim or demand.

(3) The undertaker may at its own expense conduct all negotiations for the settlement of the same and any litigation that may arise therefrom.

(4) The drainage authority must not compromise or settle any such claim or make any admission which might be prejudicial to the claim without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

(5) The drainage authority will, having regard to its statutory functions, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(6) The drainage authority will, at the request of the undertaker and having regard to its statutory functions, afford all reasonable assistance for the purpose of contesting any such claim or action, and is entitled to be repaid its reasonable expenses reasonably incurred in so doing.

(7) 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 of this Schedule.

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

25. Any dispute arising between the undertaker and the drainage authority under this Part of this Schedule, if the parties agree, is to be determined by arbitration under article 42 (arbitration).

PART 4

FOR THE PROTECTION OF LINCOLNSHIRE FIRE AND RESCUE SERVICE

Interpretation

26.—(1) For the protection of Lincolnshire Fire and Rescue Service as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and Lincolnshire Fire and Rescue Service.

(2) In this Part of this Schedule—

"Index Linked" means an increase in the sums payable on an annual basis or pro rata per diem in accordance with the most recent published figure for the Consumer Price Index, or during any period when no such index exists the index which replaces it or is the nearest equivalent to it; and

"Lincolnshire Fire and Rescue Service" means Lincolnshire County Council in its capacity as a fire and rescue authority pursuant to section 1(2)(a) of the Fire and Rescue Services Act 2004.

Site visits

27.—(1) The undertaker must, prior to the date of final commissioning of Work No. 4, use reasonable endeavours to facilitate a site familiarisation exercise in connection with Work No. 4 of the authorised development for Lincolnshire Fire and Rescue Service for the purposes of providing the necessary assurance to Lincolnshire Fire and Rescue Service that all the required systems and measures are in place in accordance with the battery safety management plan.

(2) Following the first anniversary of the date of final commissioning of Work No. 4 of the authorised development, the undertaker must use reasonable endeavours to facilitate an annual review of Work No. 4 by Lincolnshire Fire and Rescue Service at the reasonable request of Lincolnshire Fire and Rescue Service, up until the year in which the undertaker commences decommissioning of Work No. 4.

Costs

28.—(1) Pursuant to the provisions set out at paragraph 27, the undertaker must pay to Lincolnshire Fire and Rescue Service—

(a) £16,665 in the first year of operation of the authorised development for, or in connection with Lincolnshire Fire and Rescue Service's attendance at the site familiarisation exercise facilitated by the undertaker pursuant to paragraph 27(1), such sum to be paid within 30 days following the date of the site familiarisation exercise; and

(b) £1,530 in each subsequent year of operation of the authorised development until the date of decommissioning of Work No. 4, such sums to be paid within 30 days of the date of the annual review for that year, if in that year an annual review has taken place pursuant to paragraph 27(2).

(2) The costs payable under this sub-paragraph (1)(b) are to be Index Linked.

Arbitration

29. Any difference or dispute arising between the undertaker and Lincolnshire Fire and Rescue Service under this Part of this Schedule must be determined by arbitration in accordance with article 42 (arbitration).

PART 5

FOR THE PROTECTION OF RAILWAY INTERESTS

30. 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 44 of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

31. 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;

"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;

"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;

"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 5 (power to maintain authorised development) in respect of such works.

32.—(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.

33.—(1) The undertaker must not exercise the powers conferred by—

(a) article 3 (development consent etc. granted by the Order);

(b) article 5 (power to maintain authorised development);

(c) article 13 (temporary prohibition or restriction on use of streets and public rights of way);

(d) article 18 (discharge of water);

(e) article 20 (authority to survey and investigate the land);

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

(g) article 23 (compulsory acquisition of rights);

(h) article 26 (acquisition of subsoil only);

(i) article 27 (power to override easements and other rights);

(j) article 30 (temporary use of land for constructing the authorised development);

(k) article 31 (temporary use of land for maintaining the authorised development);

(l) article 32 (statutory undertakers);

(m) article 39 (felling or lopping of trees and removal of hedgerows);

(n) article 40 (trees subject to tree preservation orders);

(o) the powers conferred by section 11(3) (power of entry) of the 1965 Act;

(p) the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016;

(q) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016;

(r) 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 32, article 27 or article 24 (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.

34.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, 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 decommissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case 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.

35.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 34(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 34;

(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, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss 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 servants, 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.

36. 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.

37. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part 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.

38.—(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 and 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 34(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.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 39(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.

39. 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 34(3) or in constructing any protective works under the provisions of paragraph 34(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.

40.—(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 34(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 34(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 34(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 35.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 44(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 39(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 42 (arbitration) to the Institution of Civil Engineers shall be read as a reference to the Institution of Engineering and Technology.

41. 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.

42. 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.

43. 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.

44.—(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 49 (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: 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; and

(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.

45. 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 44) 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).

46. 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.

47. 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.

48. 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.

49. 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 36 (consent to transfer the benefit of the Order) of this Order and any such notice must be given no later than 28 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.

50. 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 41 (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.

51. Any dispute arising under this Part of this Schedule, unless otherwise provided for, must be referred to and settled by arbitration in accordance with article 42 (arbitration) and the Rules at Schedule 14 (arbitration rules).

PART 6

FOR THE PROTECTION OF ANGLIAN WATER SERVICES LIMITED

Application

52. For the protection of Anglian Water the following provisions have effect, unless otherwise agreed in writing between the undertaker and Anglian Water.

Interpretation

53. 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;

"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 are taken to have the same meaning.

"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

54. 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 stopped up streets

55. Regardless of the temporary closure or diversion of any highway under the powers conferred by article 13 (temporary prohibition or restriction on use of streets and public rights of way), Anglian Water is at liberty at all times to take all necessary access across any such stopped up 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 stopping up or diversion was in that highway.

Protective works to buildings

56. The undertaker, in the case of the powers conferred by article 19 (protective works to buildings), may not exercise those powers so as to obstruct or render less convenient the access to any apparatus without the written consent of Anglian Water (such consent not to be unreasonably withheld or delayed).

Acquisition of land

57. 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

58.—(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 59.

(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 42 (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 42, 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 must remain the sole responsibility of Anglian Water or its contractors unless these works are to be carried out by the undertaker in accordance with sub-paragraph (6).

(8) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker must, 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.

Facilities and rights for alternative apparatus

59.—(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 or in default of agreement settled by arbitration in accordance with article 42 (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 2010 or other legislation.

Retained apparatus

60.—(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 58(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 58(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 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 (3) 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 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.

Expenses and costs

61.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably 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 42 (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.

62.—(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 56 or 58(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 incurred by Anglian Water, accompanied by an invoice or claim from 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 reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands and penalties to which the undertaker must bear and pay the costs for.

Cooperation

63. 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 58(2) or Anglian Water makes requirements for the protection or alteration of apparatus under paragraph 60, 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.

64. 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 must inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

65. 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.

66. 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 7

FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY TRANSMISSION PLC AS ELECTRICITY UNDERTAKER

Application

67.—(1) For the protection of National Grid Electricity Transmission plc (NGET) as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and NGET.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and NGET, where the benefit of this Order is transferred or granted to another person under article 37 (consent to transfer the benefit of the Order)—

(a) any agreement of the type mentioned in subparagraph (1) has effect as if it had been made between NGET and the transferee or grantee (as the case may be); and

(b) written notice of the transfer or grant must be given to NGET 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 NGET (but without prejudice to paragraph 83(3)(b)).

Interpretation

68. 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 a sum to be notified by NGET and agreed in writing between the parties. Evidence of that insurance must be provided to NGET on request. Such insurance shall be maintained (a) during the construction period of the specified works; and (b) after the construction period of the specified works in respect of any use and maintenance of the specified works by or on behalf of the undertaker 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 NGET;

(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 a sum to be notified by NGET and agreed in writing between the parties;

"acceptable security" means either—

(a) a parent company guarantee from a parent company in favour of NGET to cover the undertaker's liability to NGET to a total liability cap in an amount to be notified to the undertaker by NGET and agreed in writing between the parties (in a form reasonably satisfactory to NGET and where required by NGET, 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 NGET to cover the undertaker's liability to NGET for an amount to be notified to the undertaker by NGET and agreed in writing between the parties (in a form reasonably satisfactory to NGET);

"alternative apparatus" means appropriate alternative apparatus to the satisfaction of NGET to enable NGET 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, belonging to or maintained by NGET together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of NGET for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will 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 (interpretation) of this 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 will 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;

"grid connection works" means that part of the authorised development identified in work numbers 5, 7, 8 and 9 (to the extent work numbers 7, 8 and 9 are necessary in connection with work number 5) and carried out in the Navenby Substation area;

"ground mitigation scheme" means a scheme approved by NGET (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 NGET'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 NGET 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" will include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of NGET: construct, use, repair, alter, inspect, renew or remove the apparatus;

"National Grid Navenby Substation" means the proposed substation at Heath Lane, Navenby, LN5 0AY, owned and operated by NGET which NGET will seek planning permission for under the Town and Country Planning Act 1990;

"Navenby Substation area" means the land shown in the land plans as plots 11/1, 11/3 and 11/4 and shaded grey on the Navenby Substation area plan within which NGET intends to construct the National Grid Navenby Substation;

"Navenby Substation area plan" means the document of that name identified in the table at Schedule 13 (documents and plans to be certified) and which is certified by the Secretary of State as the Navenby Substation area plan for the purposes of this Order;

"NGET" 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;

"NGESO" 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 NGET acting reasonably;

"specified works" means any of the authorised works 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 79(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 79(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 NGESO as modified from time to time;

"STC claims" means any claim made under the STC against NGET 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 NGET's transmission system which arises as a result of the authorised works; and

"transmission owner" means as defined in the STC.

Interaction with the National Grid Navenby Substation

69. Without limiting any other provision of this Part of this Schedule, the undertaker and NGET must use reasonable endeavours to avoid any conflict arising between the construction, maintenance and operation of the grid connection works and the National Grid Navenby Substation. For the purposes of this paragraph, "reasonable endeavours" means—

(a) providing a point of contact for each of the undertaker and NGET for continuing liaison and co-ordination throughout the construction and operation of the grid connection works and the National Grid Navenby Substation;

(b) the undertaker will share its relevant design documents and programme for the grid connection works with NGET and NGET will share its relevant design documents with the undertaker;

(c) NGET will notify the undertaker of its programme of works for the National Grid Navenby Substation, including programme for the user-bay into which the authorised development's grid connection works will connect, not less than 21 days ahead of carrying out the works;

(d) a commitment by the undertaker to keep NGET informed through the point of contact identified under sub-paragraph (a) of any material changes to the programme and detailed design for the grid connection works in the event such changes arise; and

(e) the parties seeking to facilitate as far as reasonably practicable a co-ordinated approach to the programme, land assembly, and the carrying out of the grid connection works and the National Grid Navenby Substation.

Grid connection works

70. The undertaker must not except with the agreement of NGET pursuant to this Part of this Schedule, carry out the grid connection works, or any part of it (excepting any works which are works regulated by the connection agreement between the undertaker and National Grid Energy Systems Operator (or a successor thereto)).

71.—(1) Before beginning to construct any grid connection works, or any part of it, the undertaker must submit to NGET plans of the relevant grid connection works (or part of it) and such further particulars available to it as NGET may request within 21 days of receipt of the plans reasonably requested.

(2) Any grid connection works must not be constructed except in accordance with such plans as may be approved in writing by NGET.

72.—(1) Any approval of NGET required under this Schedule—

(a) must not be unreasonably withheld or delayed;

(b) in the case of a refusal must be accompanied by a statement of grounds or refusal; and

(c) may be given subject to such reasonable requirements as NGET may have in connection with the safe, economic and efficient construction, commissioning, operation, maintenance and future decommissioning of the National Grid Navenby Substation or otherwise for the protection of National Grid Navenby Substation apparatus,

provided always that in relation to a refusal under sub-paragraph (b) or any requirements requested pursuant to sub-paragraph (c) the undertaker shall be permitted to refer such matters to dispute resolution pursuant to paragraph 88 (arbitration).

(2) NGET must respond to the submission of any plans within a period of 56 days from the date of submission of the plans. If NGET require further particulars, such particulars must be requested by NGET no later than 21 days from the submission of plans and thereafter NGET must employ

reasonable endeavours to respond to the submission within 56 days from receipt of the further particulars.

73.—(1) The undertaker must give to NGET not less than 14 days' notice in writing of its intention to commence construction of any National Grid connection works and notice in writing of its completion not later than 7 days after the date on which it is completed and NGET will be entitled by its officer to watch and inspect the construction of such works.

(2) If any part of the grid connection works is constructed otherwise than in accordance with paragraph 71(2) above NGET may by notice in writing identify the extent to which the grid connection works do not comply with the approved details and request the undertaker at the undertaker's own expense carry out remedial works so as to comply with the requirements of paragraph 71(2) of this Schedule or such alternative works as may be agreed with NGET or as otherwise may be agreed between the parties.

(3) Subject to sub-paragraph 71, if within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (2) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, NGET may execute the works specified in the notice and any reasonable expenditure incurred by NGET in so doing will be recoverable from the undertaker.

(4) In the event of any dispute as to whether sub-paragraph (2) 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, NGET will not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 86.

74. Not used.

On Street Apparatus

75. Except for paragraphs 76 (apparatus of NGET in stopped up streets), 81 (retained apparatus: protection of NGET), 82 (expenses) and 83 (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 NGET, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and NGET are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of NGET in stopped up streets

76. Notwithstanding the temporary prohibition or restriction on use or diversion of any highway under the powers of article 13 (temporary prohibition or restriction on use of streets and public rights of way), NGET 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 maintain any apparatus which at the time of the prohibition or restriction on use or diversion was in that street or public right of way.

Protective works to buildings

77. The undertaker, in the case of the powers conferred by article 19 (protective works to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus or to the National Grid Navenby Substation without the written consent of NGET.

Acquisition of land

78.—(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 NGET 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 NGET 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 NGET or affect the provisions of any enactment or agreement regulating the relations between NGET and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as NGET reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between NGET and the undertaker acting reasonably and which must be no less favourable on the whole to NGET unless otherwise agreed by NGET, 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 NGET and the undertaker, the undertaker and NGET 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 NGET and/or other enactments relied upon by NGET 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 NGET under paragraph 81 or any other paragraph of this Part of this Schedule, must not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

79.—(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 NGET 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 NGET in accordance with sub-paragraph (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 NGET 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 NGET 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 NGET to its satisfaction (taking into account paragraph 80(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 consents, 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, NGET 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 consents, 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 NGET to use its compulsory purchase powers to this end unless it elects to do so.

(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 NGET and the undertaker.

(5) NGET 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 NGET 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.

Facilities and rights for alternative apparatus

80.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for NGET 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 NGET and must be no less favourable on the whole to NGET than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by NGET.

(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 NGET 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 88 (Arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to NGET as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of NGET

81.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to NGET a plan of the works to be executed and seek from NGET details of the underground extent of their electricity assets.

(2) In relation to specified works the plan to be submitted to NGET 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 NGET'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 NGET has given written approval of the plan so submitted.

(5) Any approval of NGET 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) may be given subject to such reasonable requirements as NGET may have in connection with the safe and efficient construction, commissioning, operation and maintenance of the National Grid Navenby Substation; and

(c) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, NGET 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.

(a) 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 NGET and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by NGET for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and NGET will be entitled to watch and inspect the execution of those works.

(b) Where NGET 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 NGET's satisfaction prior to the commencement of any authorised development (or any relevant part thereof) for which protective works are required and NGET must 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).

(c) If NGET 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, paragraphs 67, 68, 75 and 78 to 80 apply as if the removal of the apparatus had been required by the undertaker under paragraph 79(2).

(d) 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.

(e) 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 NGET 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 (11) at all times.

(f) (At all times when carrying out any works authorised under the Order, the undertaker must comply with NGET's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

Expenses

82.—(1) Save where otherwise agreed in writing between NGET and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to NGET within 30 days of receipt of an itemised invoice or claim from NGET all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by NGET 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 (excluding the construction, maintenance and decommissioning of the National Grid Navenby Substation) including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by NGET in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by NGET as a consequence of NGET—

(i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 79(3); or

(ii) exercising any compulsory purchase powers in the Order transferred to or benefitting NGET;

(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;

(i) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

(ii) the approval of plans;

(iii) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and

(iv) 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—

(i) 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

(ii) 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 88 (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 NGET 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 NGET 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 NGET 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

83.—(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 NGET, or there is any interruption in any service provided, or in the supply of any goods, by NGET, or NGET 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 NGET the cost reasonably and properly incurred by NGET in making good such damage or restoring the supply; and

(b) indemnify NGET for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from NGET, by reason or in consequence of any such damage or interruption or NGET becoming liable to any third party and including STC claims or an incentive deduction other than arising from any default of NGET.

(2) The fact that any act or thing may have been done by NGET on behalf of the undertaker or in accordance with a plan approved by NGET or in accordance with any requirement of NGET or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability

under the provisions of sub-paragraph (1) unless NGET 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 NGET, 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 NGET 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 37 (consent to transfer the benefit of the 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 83; 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) NGET 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) NGET 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) NGET 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 NGET'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 NGET's control and if reasonably requested to do so by the undertaker NGET 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 NGET or in respect of which NGET has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of NGET's apparatus until the following conditions are satisfied—

(a) unless and until NGET 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 NGET, acting reasonably, provided evidence that it shall maintain such acceptable security for the construction period of such authorised works from the proposed date of commencement of construction of the authorised works) and NGET has confirmed the same to the undertaker in writing; and

(b) unless and until NGET is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and unless otherwise agreed with NGET, acting reasonably, provided evidence to NGET that it shall maintain such acceptable insurance for the construction period of such authorised works from the proposed date of commencement of construction of the authorised works) and NGET 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 NGET from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

84. Not used.

Enactments and agreements

85. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between NGET 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 NGET 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

86.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or NGET requires the removal of apparatus under paragraph 79(2) or NGET makes requirements for the protection or alteration of apparatus under paragraph 81, 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 NGET's undertaking and NGET will use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever NGET'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

87. If in consequence of the agreement reached in accordance with paragraph 73(1) or the powers granted under this Order the access to any apparatus or the National Grid Navenby Substation is materially obstructed, the undertaker must provide such alternative means of access to such apparatus or the National Grid Navenby Substation as will enable NGET to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

88. Save for differences or disputes arising under paragraph 79(2), 79(4), 80(1) and 81 any difference or dispute arising between the undertaker and NGET under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and NGET, be determined by arbitration in accordance with article 43 (arbitration).

Notices

89. Notwithstanding article 45 (service of notices), any plans submitted to NGET by the undertaker pursuant to paragraph 81 must be submitted using the LSBUD system (https://lsbud.co.uk/) or to such other address as NGET may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 8

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

Application

90. 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

91. 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(**71**), 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) of the Order.

Precedence of 1991 Act in respect of apparatus in streets

92. 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

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

Removal of apparatus

94.—(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

(**71**) 1989 c. 29. The definition of "electricity plant" (in section 64) was amended by paragraphs 24 and 38(1) and (3) of Schedule 6 to the Utilities Act 2000 (c. 27).

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, the undertaker 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 99.

(8) NGED must, after the alternative apparatus to be provided or constructed has been agreed or settled pursuant to paragraph 99, 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 by the undertaker 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 owned or controlled by 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 paragraph 99; 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

95.—(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 must be agreed between the undertaker and NGED or in default of agreement settled in accordance with paragraph 99.

(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

96.—(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 94, 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 must 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 94(2).

(7) Nothing in this paragraph 96 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

97.—(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

98.—(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 or interruption 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, claims, demands, proceedings 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

99.—(1) Article 42 (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 submissions 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 42.

PART 9

FOR THE PROTECTION OF CADENT GAS LIMITED AS GAS UNDERTAKER

Application

100. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

Interpretation

101. 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, pipes, pressure governors, ventilators, cathodic protections, (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;

"authorised development" has the same meaning as in article 2 (interpretation) of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised development 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;

"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" has the same meaning as in article 2 of this Order and commencement will be construed to have the same meaning save that for the purposes of this Part of the Schedule only the terms commence and commencement include operations for the purposes of intrusive archaeological or intrusive ecological investigations and intrusive investigations of the existing condition of the ground or of structures;

"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 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, requires 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" includes notwithstanding article 2 of the Order, 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 to properly and sufficiently 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 part of the authorised development or activities (including maintenance) 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 sub-paragraph 106(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 106(2) or otherwise; and/or

(c) include any of the activities that are referred to in CD/SP/SSW/22 (Cadent's policies for safe working in the vicinity of Cadent's Assets); and

"undertaker" means the undertaker as defined in article 2 of this Order.

On Street Apparatus

102.—(1) Except for paragraphs 103, 106 in so far as sub-paragraph (2) applies, 107 in so far as sub-paragraph (2) below applies, 108, 109 and 110 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 Cadent, the other provisions of this Schedule do 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.

(2) Paragraphs 106 and 107 of this Part of this Schedule apply to diversions even where carried out under the 1991 Act, in circumstances This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within existing adopted public highway.

(3) Notwithstanding article 13 (temporary prohibition or restriction on use of streets and public rights of way) or any other powers in the Order generally, section 85 of the 1991 Act in relation to cost sharing and the regulations made thereunder does not apply in relation to any diversion of apparatus of Cadent under the 1991 Act.

Apparatus of Cadent in stopped up streets

103.—(1) Notwithstanding the temporary prohibition, diversion or restriction of any highway under the powers of article 13 (temporary prohibition or restriction on use of streets and public rights of way), Cadent will be at liberty at all times to take all necessary access across any such prohibited or restricted highway or to execute and do all such works and things in, upon or under any such highway as it would have been entitled to do immediately before such temporary prohibition, diversion or restriction in respect of any apparatus which at the time of the prohibition, diversion or restriction was in that highway.

(2) The Protective Provisions in this Part of this Schedule apply and take precedence over article 33 (apparatus and rights of statutory undertakers in closed or restricted streets) of the Order which do not apply to Cadent.

Protective works to buildings

104. The undertaker, in the case of the powers conferred by article 19 (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 (such consent not to be unreasonably withheld or delayed).

Acquisition of land

105.—(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 land interest or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right or apparatus of Cadent otherwise than by agreement.

(2) As a condition of 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 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 and/or other legal or land interest of Cadent and/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.

(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 Schedule prevail.

(4) Any agreement or consent granted by Cadent under paragraph 108 or any other paragraph of this Part of this Schedule, do not constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement between the parties in sub-paragraph (1) that involves de-commissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement and/or other interest of Cadent in such decommissioned apparatus and release Cadent from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where the undertaker acquires 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 106 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

106.—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 105 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed and any right of Cadent to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the rights and facilities referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of Cadent and in accordance with sub-paragraph (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, it must give to Cadent advance 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 sub-paragraph 107(1) below) 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 does 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.

(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.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3), 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

107.—(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 than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed (in Cadent's opinion) then the terms and conditions to which those facilities and rights are subject may be referred to arbitration in accordance with paragraph 114 of this Part of this Schedule and the arbitrator will make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of Cadent

108.—(1) Not less than 56 days (or such time period as may be agreed in writing between Cadent and the undertaker) before the 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 to which sub-paragraphs (1) and (2) apply until Cadent has given written approval of the plan so submitted.

(4) Any approval of Cadent 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 delayed.

(5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, Cadent may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) and (2) or as relevant sub-paragraph (4), as approved or as amended from time to time by agreement between the undertaker and Cadent and in accordance with all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works.

(7) 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 the authorised development (or any relevant part thereof) for which protective works are required prior to commencement.

(8) 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, paragraphs 100 to 102 and 105 to 107 apply as if the removal of the apparatus had been required by the undertaker under paragraph 106(2) provided that such written notice must be given by Cadent as part of the approval of a plan pursuant to this paragraph (except in an emergency).

(9) Nothing in this paragraph 108 precludes the undertaker from submitting—

(a) an amendment to any plan previously approved by Cadent for the agreement of Cadent; or

(b) a new plan pursuant to sub-paragraph (1) instead of the plan previously submitted and approved by Cadent not less than 56 days (or such other time period as may be agreed in writing between Cadent and the undertaker) before the commencement of any specified works, and having done so the provisions of this paragraph will 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 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 (11) at all times.

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with Cadent's policies for safe working in proximity to gas apparatus "CD/SP/SSW/22 (Cadent's policies for safe working in the vicinity of Cadent's Assets" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that 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 109.

Expenses

109.—(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 development 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 sub-paragraph 106(3) if it elects to do so; and/or

(ii) exercising any compulsory purchase powers in 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; and

(g) any watching brief pursuant to sub-paragraph 108(6).

(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 42 (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 save where it is not possible or appropriate in the circumstances (including due to statutory or regulatory changes) 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) 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

110.—(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 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 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 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 or costs incurred 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 act, neglect or 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 or in a manner as may otherwise be agreed between the undertaker and Cadent.

(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; and

(b) the authorised development and/or any other works authorised by this Part of this Schedule carried out by Cadent 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 36 (consent to transfer the benefit of the order) subject to the proviso that once such works become apparatus ("new apparatus"), any specified works yet to be executed and not falling within this sub-section (b) will be subject to the full terms of this Part of this Schedule including this paragraph 110.

(4) Cadent 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 promoter and considering its representations.

Enactments and agreements

111. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between Cadent 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

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

112.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or Cadent requires the removal of apparatus under sub-paragraph 106(2) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 108, the undertaker will 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 Cadent's undertaking and Cadent will 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

113. If in consequence of any agreement reached in accordance with paragraph 105(1) or the powers granted under this Order the access to any apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the 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.

Arbitration

114. Save for differences or disputes arising under sub-paragraphs 106(2), 106(4), 107(1) and paragraph 108 any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 42 (arbitration).

Notices

115. The plans submitted to Cadent by the undertaker pursuant to paragraph 108(1) must be sent to Cadent Gas Limited Plant Protection by e-mail to plantprotection@cadentgas.com copied by e-mail to landservices@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 10

FOR THE PROTECTION OF EXOLUM PIPELINE SYSTEM LTD

Application

116. For the protection of Exolum the following provisions, unless otherwise agreed in writing at any time between the undertaker and Exolum, have effect.

117. In this Part of this Schedule, the following terms 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 in respect of these items;

and, where the context requires, includes Alternative Apparatus.

"Exolum" means Exolum Pipeline System Ltd (company registration number 09497223 whose registered office is 1st Floor 55 King William Street, London, England, EC4R 9AD) and for the purpose only 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.

"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 position of the works as proposed to be constructed or renewed;

(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 that may also be affected by the Restricted Works;

(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 are near to, or 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,

(d) piling, undertaking of a 3D seismic survey or the sinking boreholes within 30 metres of any Apparatus,

(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

118.—(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 or any of Exolum's interests in the Order land;

(b) where the undertaker acquires the freehold of any land in which Exolum holds an interest, the undertaker must afford to or secure for Exolum such rights in land in substitution for any right which would be extinguished by that acquisition (the replacement rights). Unless otherwise agreed between the undertaker an Exolum, these replacement rights must be granted upon substantially the same terms and conditions as the right to be extinguished, must be no less favourable than the right to be extinguished, and must be granted or put in place contemporaneously with the extinguishment of the right which they replace;

(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 by the undertaker until any necessary Alternative Apparatus has been constructed and 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 their 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 / 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 works.

(3) Where the undertaker acquires land which is subject to any existing rights and the provisions of paragraph 119 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 an 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

119.—(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 paragraphs 120(1) to 120(5).

(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 shall 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 42 (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 42 (arbitration), and after the grant to Exolum of any such facilities and rights as are referred to in sub-paragraph (3), Exolum must proceed as soon as reasonably practicable using 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 sub-paragraphs (7) and (8) only apply if—

(a) Exolum fails to comply with its obligations under paragraph 10 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) 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 3000 millimetres of the Apparatus unless that Apparatus is redundant and disconnected from Exolum's remaining system.

Facilities and Rights for Alternative Apparatus

120.—(1) Where, in accordance with the provisions 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 in accordance with this Part of this Schedule or in default of agreement settled by arbitration in accordance with article 42 (arbitration).

(2) Alternative Rights must be granted before any Alternative Apparatus is brought into use.

(3) The parties agree that the undertaker must use all reasonable endeavours to procure the grant of the Alternative Rights by way of a 999 year sub-soil 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 Schedule or contained in the Alternative Rights requires 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 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 42 (arbitration).

Retained Apparatus and Alternative Apparatus: protection

121.—(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 paragraph (1) has been approved by Exolum in writing (acting reasonably) and are to be carried out only in accordance with the details submitted under paragraph (1) and in accordance with such reasonable requirements as may be notified to the undertaker in writing in accordance with 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;

(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 will 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 paragraph (1), the circumstances in paragraph 119(2) apply, then the parties must follow the procedure in paragraph 119(2) onwards.

(6) Nothing in 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 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 paragraphs 120(1) to 120(5).

(9) Any Protective Works are 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 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 42 (arbitration).

(10) After the details for the Protective Works to be provided or constructed have been agreed or settled in accordance with article 42 (arbitration), and after the grant to Exolum of any such facilities and rights as are referred to in paragraph 119(3), Exolum must proceed as soon as reasonably practicable using reasonable endeavours to construct and bring into operation the Protective Works.

Cathodic protection testing

122.—(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

123.—(1) Subject to the following provisions of these paragraphs 123 to 122, 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) the negotiation of the provisions of this Schedule;

(b) undertaking its obligations under this Schedule including—

(i) the installation, inspection, removal, alteration, testing or protection of any Apparatus, Alternative Apparatus and Protective Works;

(ii) the execution of any other works under this Schedule; and

(iii) the review and assessment of Plans;

(c) 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

(d) 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 121(3);

together with any administrative costs properly and reasonably incurred by Exolum, provided that none of the above shall make the undertaker liable for costs in relation to any work which Exolum would be expected to undertake as part of its standard business operations.

(2) There will be no deduction from any sum payable under 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) Upon the submission of proper and reasonable estimates of costs and expenses to be incurred by Exolum, the undertaker shall pay Exolum sufficiently in advance to enable Exolum to undertake its obligations under this Schedule in a manner that is neutral to its cash flow provided that in the event that the costs incurred by Exolum are less than the amount paid by the undertaker pursuant to this paragraph (3) then Exolum must within 35 days of payment being made by Exolum for the costs anticipated in the costs and expenses estimates, repay any overpayment to the undertaker.

Damage to property and other losses

124.—(1) Subject to paragraphs (2) to (6), the undertaker shall—

(a) indemnify Exolum for all reasonably incurred loss, damage, liability, costs and expenses suffered or reasonably incurred by Exolum including but not limited to claims against Exolum made pursuant to the Energy Act 2013 as amended arising out of—

(i) the carrying out of works under 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 for the purposes of carrying out any activity authorised by this Order;

(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 Schedule and arising out of the carrying out of the Authorised Development; and

(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 Schedule or the carrying out of the Authorised Development;

and 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 paragraph (4), excuse the undertaker from liability under the provisions of paragraph (1).

(3) Nothing in paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the negligent 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 Schedule.

(5) The undertaker warrants that it will use reasonable endeavours to ensure—

(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 such claim or demand to which paragraph (1) applies.

Insurance

125.—(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 shall maintain such insurance for the construction period of the any Restrictive Works from the proposed date of Commencement of such works.

Co-operation and reasonableness

126.—(1) Where Apparatus is required to be protected, altered, diverted or removed under 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 the Apparatus and carrying out of Exolum's functions.

(2) Exolum must use its reasonable endeavours to co-operate with the undertaker for the purposes outlined in paragraph (1).

(3) The undertaker and Exolum will act reasonably in respect of any given term 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

127.—(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 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 Schedule and Exolum shall not be in breach of its obligations under 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 paragraphs (2) to (3) or delays caused by it.

Dispute Resolution

128.—(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 will meet to try to resolve the matter. If the matter is not resolved at that level within ten working days 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) unless otherwise agreed in writing between the undertaker and Exolum, the dispute or difference will be determined by arbitration in accordance with article 42 (arbitration).

Miscellaneous

129. No failure or delay by a party to exercise any right or remedy provided under this Part of this Schedule or by law will constitute a waiver of that or any other right or remedy, nor will 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 will prevent or restrict the further exercise of that or any other right or remedy.

PART 11

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

130. For the protection of any operator, referred to in this Part of this Schedule, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

131. In this Part of this Schedule—

"the 2003 Act" means the Communications Act 2003(**72**);

"electronic communications apparatus" has the same meaning as in the electronic communications code(**73**);

"the electronic communications code" has the same meaning as in section 106 (application of the electronic communications code) of the 2003 Act(**74**);

"electronic communications code network" means—

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

"infrastructure system" has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7(2) of that code; and

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

132. The exercise of the powers conferred by article 32 (statutory undertakers) is subject to Part 10 (undertaker's works affecting electronic communications apparatus) of the electronic communications code.

133.—(1) Subject to sub-paragraphs (2) to (3), if as a result of the authorised development or its construction, or of any subsidence resulting from any of the authorised development—

(**72**) 2003 c. 21.
(**73**) See section 106. Section 106 was amended by section 4(3) to (9) of the Digital Economy Act 2017 (c. 30).
(**74**) See section 106. Section 106 was amended by section 4(3) to (9) of the Digital Economy Act 2017 (c. 30).

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development), 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 reasonable expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

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

134. Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 42 (arbitration).

135. 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;

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

136. 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.

SCHEDULE 16 Article 45

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Interpretation

1. In this Schedule—

"requirement consultee" means any body or authority named in a requirement as a body to be consulted by the relevant planning authority in discharging that requirement; and

"start date" means the date of the notification given by the Secretary of State under paragraph 4(2)(c).

Applications made under requirement

2.—(1) For an application for discharge of a requirement to be valid, the undertaker must provide the following information to the relevant planning authority electronically via email (unless otherwise agreed between the parties)—

(a) a covering letter which includes confirmation of the requirement to which the submission relates;

(b) 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;

(c) confirmation that the application has been notified and provided to the requirement consultees in accordance with sub-paragraph (5), if the provision governing or requiring the application specifies that consultation with a requirement consultee is required. Such confirmation to include contact details for the requirement consultees;

(d) the respective detailed management plan, drawing or other written information to discharge the requirement as required by the requirement; and

(e) payment of the discharge of requirement application fee in accordance with paragraph (5).

(2) Where a valid application has been made to the relevant planning authority for any discharge, the relevant planning authority must give notice to the undertaker of its decision on the application within a period of ten weeks beginning with the later of—

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

(b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 3; or

(c) such longer period that is agreed in writing by the undertaker and the relevant planning authority.

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

(4) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement included in this Order and the relevant planning authority does not determine the application within the period set out in sub-paragraph (2) and is accompanied by a report pursuant to sub-paragraph (2)(b) which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement then the application is to be taken to have been refused by the relevant planning authority at the end of that period.

(5) At the same time as submitting an application to the relevant planning authority for any consent, agreement or approval required by a requirement, the undertaker must also give notice of such application, and provide a copy of the application electronically via email (unless otherwise agreed between the parties), to any requirement consultee, if the provision governing or requiring the application specifies that consultation with a requirement consultee is required. As part of the notification to any requirement consultee, the undertaker must include a statement that refers to—

(a) the timeframes in which the requirement consultee can request any further information from the undertaker (via the relevant planning authority) as prescribed in paragraph 3(7)(a) and the consequences of the failure to meet those timescales as prescribed in paragraph 3(7)(b); and

(b) the timeframes in which the requirement consultee must give notice to the relevant planning authority of its comments on the application as prescribed in paragraph 3(7)(d) and the consequences of the failure to meet those timescales as prescribed in paragraph 3(7)(e).

Further information and consultation

3.—(1) In relation to any application made under paragraph 2(2), the relevant planning authority may request such reasonable further information from the undertaker as is necessary to enable it to consider the application.

(2) In the event that the relevant planning authority considers such reasonable further information to be necessary and the provision governing or requiring the application does not specify that consultation with a requirement consultee is required, the relevant planning authority must, within 15 working days of receipt of the application, notify the undertaker in writing specifying the reasonable further information required.

(3) If the provision governing or requiring the application specifies that consultation with a requirement consultee is required, the relevant planning authority must notify the undertaker in writing specifying any reasonable further information the relevant planning authority considers necessary or that is requested by the requirement consultee within 20 working days of receipt of the application (or such other period as is agreed in writing between the undertaker and the relevant planning authority).

(4) In the event that the relevant planning authority does not give notification as specified in sub-paragraph (2) or (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

(5) Where further information is requested under this paragraph in relation to part only of an application, that part is to be treated as separate from the remainder of the application for the purposes of calculating time periods in paragraph 2 and paragraph 3.

(6) Where further information is requested under this paragraph and provided by the undertaker, any notification reasonably given by the relevant planning authority that the information provided is inadequate and requesting additional information must be received by the undertaker within five working days, or such longer period as is agreed (including where the quantity of information is substantial or requirement consultees are involved) of the day on which the undertaker has provided the further information in response to the original request, and where no such notification is received the relevant planning authority is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

(7) If the provision governing or requiring the application specifies that consultation with a requirement consultee is required—

(a) A requirement consultee is required to notify the relevant planning authority in writing specifying any reasonable further information it considers necessary in order to comment on the application within 15 working days of receipt of the application pursuant to paragraph 2(5);

(b) If a requirement consultee does not give notification as specified in sub-paragraph (a) it is deemed to have sufficient information to comment on the application and is not thereafter entitled to request further information without the prior agreement of the undertaker and relevant planning authority;

(c) At the same time as providing any further information to the relevant planning authority pursuant to a request under paragraph (2), if the undertaker has been notified of further information requested by a requirement consultee, the undertaker must also give any further information to the requirement consultee;

(d) A requirement consultee is required to notify the relevant planning authority in writing of any comments on the application within 15 working days of receipt of the application from the undertaker pursuant to paragraph 2(5), or the receipt of any further information pursuant to sub-paragraph (c) (where further information has been requested); and

(e) If a requirement consultee does not give notification as specified in sub-paragraph (d) it is deemed to have no comments on the application.

Appeals

4.—(1) The undertaker may appeal in the event that—

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

(b) the relevant planning authority is deemed to have refused an application pursuant to paragraph 2(4);

(c) on receipt of a request for further information pursuant to paragraph 3 the undertaker considers that either the whole or part of the specified information requested by the relevant planning authority is not reasonably required or not necessary for consideration of the application; or

(d) on receipt of any further information requested, the relevant planning authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not reasonably required or not necessary for consideration of the application.

(2) The steps to be followed in the appeal process are as follows—

(a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision or the determination, or (where no determination has been made) the expiry of the time period set out in paragraph 2(2), giving rise to the appeal referred to in sub-paragraph (1);

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

(c) the Secretary of State must appoint a person to determine the appeal as soon as reasonably practicable and must forthwith notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person's attention should be sent;

(d) a person appointed pursuant to sub-paragraph (c) must—

(i) be a person who is professionally qualified to express an opinion on the subject matter of the appeal;

(ii) act objectively and independently of the parties who are involved in the appeal or who have appointed the person to determine the appeal; and

(iii) conduct themselves in compliance with any relevant code of practice adopted by any professional body of which they are a member;

(e) the relevant planning authority and any requirement consultee must submit written representations to the appointed person in respect of the appeal within 10 working days of the start date and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;

(f) the undertaker may make any counter-submissions to the appointed person within 10 working days of receipt of written representations pursuant to sub-paragraph (e);

(g) the appointed person must make their decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within 30 working days of the deadline for the receipt of counter-submissions pursuant to sub-paragraph (f); and

(h) the appointment of the person pursuant to sub-paragraph (c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(3) In the event that the appointed person considers that further information is necessary to enable the appointed person to consider the appeal they must, within five working days of the appointed person's appointment, notify the appeal parties in writing specifying the further information required.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the relevant party to the appointed person and the other appeal parties on the date specified by the appointed person (the "specified date"), and 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 10 working days of the specified date, but otherwise the process and time limits set out in sub-paragraphs (2)(e) to (2)(g) of sub-paragraph (2) apply.

(5) The appointed person may—

(a) allow or dismiss the appeal; or

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

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

(6) The appointed person may proceed to a decision on an appeal taking into account only 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.

(7) 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 them that there is sufficient material to enable a decision to be made on the merits of the case.

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

(9) If an approval is given by the appointed person pursuant to this Schedule, it is to be deemed to be an approval for the purpose of Schedule 2 (requirements) as if it had been given by the relevant planning authority. The relevant planning 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.

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

(11) On application by the relevant planning authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties 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 advice on planning appeals and award costs published in Planning Practice Guidance: Appeals (March 2014) or any circular or guidance which may from time to time replace it.

Fees

5.—(1) Where an application is made to the relevant planning authority for a discharge, a fee is to apply and must be paid to the relevant planning authority for each application.

(2) The fee payable for each application under sub-paragraph (1) is as follows—

(a) a fee of £2,578 for the first application for the discharge of each of the requirements 5 (detailed design approval), 7 (battery safety management), 8 (landscape and ecology management plan), 10 (drainage), 12 (construction environmental management plan), 13

(operational environmental management plan), 14 (construction traffic management plan), 18 (soil management plan) and 19 (decommissioning and restoration);

(b) a fee of £588 for each subsequent application for the discharge of each of the requirements listed in paragraph (a) and any application under requirement 5 in respect of the requirements listed in paragraph (a); and

(c) a fee of £298 for any application for the discharge of—

(i) any other requirements not listed in paragraph (a);

(ii) any application under requirement 4 (requirement for written approval) in respect of requirements not listed in paragraph (a); and

(iii) any approval required by a document referred to by any requirement or a document approved pursuant to any requirement.

(3) Where an application under sub-paragraph (1) is made and a fee payable on or after 1 April 2025, then section 18A of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (as amended by the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits (England) Amendment Regulations 2023) will apply as modified by this Order, so that "the relevant amount" means the fee payable under sub paragraph (2)(a), (2)(b) or (2)(c) above.

(4) 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 relevant planning authority failing to determine the application within the relevant period in paragraph 2(3) unless—

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

(ii) a longer period of time for determining the application has been agreed pursuant to paragraph 2(3) of this Schedule, as applicable.

Pre-application engagement

6. Where the undertaker engages with the relevant planning authority or requirement consultee ahead of submitting an application pursuant to paragraph 2(2) by providing a draft version of documents proposed to be submitted with such application, the relevant planning authority or requirement consultee (as relevant) must, within 5 working days of receipt of the draft documents (or such other period as is agreed in writing between the undertaker and the relevant planning authority or requirement consultee (as relevant)), notify the undertaker of comments on the draft documents either by email or in a meeting, and the undertaker will note this timescale in its correspondence providing any draft documents to the relevant planning authority or requirement consultee (as relevant).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Springwell Energy farm Limited (referred to in this Order as the undertaker) to construct, operate, maintain and decommission a ground mounted solar photovoltaic generating station with a gross electrical output capacity over 50 megawatts and associated development. The Order would permit the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

A copy of the Order plans and the book of reference mentioned in the Order and certified in accordance with article 41 (certification of plans and documents, etc.) of this Order may be inspected free of charge during working hours at North Kesteven District Council, District Council Offices, Kesteven Street, Sleaford, Lincolnshire, NG34 7EF and at Lincolnshire County Council, County Offices, Newland, Lincoln, LN1 1YL.