

East Anglia THREE
Offshore Windfarm

East Anglia THREE

Comparison of previous offshore DCO drafting

Document Reference – Deadline 1/DCO
ISH/Offshore DCO Drafting

SCHEDULE OF OFFSHORE DCO DRAFTING

In advance of and during the Development Consent Order Issue Specific Hearing the Examining Authority requested that the Applicant reduce to writing instances of DCO drafting in relation to certain specified elements of the draft East Anglia THREE Development Consent Order. These instances are noted in the table attached to this note.

Drafting in the draft East Anglia THREE Offshore Wind Farm Order, Revision A, has been cross referenced with "the previous offshore DCOs" noted below which reflect the current drafting related to offshore wind farm projects:

- East Anglia ONE Offshore Wind Farm Order 2014;
- Burbo Bank Extension Offshore Wind Farm Order 2014;
- Walney Extension Offshore Wind Farm Order 2014;
- Hornsea One Offshore Wind Farm Order 2014;
- Dogger Bank Creyke Beck Offshore Wind Farm Order 2015; and
- Dogger Bank Teesside A and B Offshore Wind Farm Order 2015.

In the attached note, the column headed East Anglia THREE Offshore Wind Farm Order, and shaded blue, contains extract drafting from the draft DCO while the previous offshore DCOs drafting is shown in the unshaded columns. All text within the document is black save for two exceptions:

- Text coloured red in the East Anglia THREE Offshore Wind Farm Order column indicates drafting not used in the other Offshore Orders;
- Text coloured red in the other Offshore Orders indicates drafting not used in the draft East Anglia Three Offshore Wind Farm Order.

Article	EIA Comment	East Anglia THREE Offshore Wind Farm Order	East Anglia ONE Offshore Wind Farm Order 2014	Burbo Bank Extension Offshore Wind Farm Order 2014	Walney Extension Offshore Wind Farm Order 2014	Horsea One Offshore Wind Farm Order 2014	Dogger Bank Creyke Beck Offshore Wind Farm Order 2015	Dogger Bank Teesside A and B Offshore Wind Farm Order 2015
Definition - "Commence"	In comparison with definitions in similar made Orders, this definition in respect of onshore works (b) is broad. It permits works more widely than the more normal practice which is that a DCO should not permit works that are likely to have significant environmental effects or in respect of which particular mitigation has been proposed to commence before the discharge of any requirement that delivers the appropriate management or mitigation.	"commence" means, (a) in relation to works seaward of MHWS, the first carrying out of any licensed marine activities authorised by the deemed marine licence, save for pre-construction surveys and monitoring and, (b) in respect of any other works comprised in the authorised project, beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised project other than operations consisting of site clearance, demolition work, archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and the words "commencement" and "commenced" are construed accordingly;	"commencement" means, in relation to the authorised project seaward of MHWS, the first carrying out of any licensed marine activities authorised by the deemed marine licence, save for pre-construction surveys and monitoring and, in respect of any other part of the authorised project, beginning to carry out any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised project other than operations consisting of site clearance, demolition work, archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and the words "commencement" and "commenced" shall be construed accordingly;	"commence", unless otherwise provided for, means beginning to carry out any licensed marine activities referred to in the deemed marine licence at Schedule 2 (deemed licence under the Marine and Coastal Access Act 2009 - generation assets) and Schedule 3 (deemed licence under the Marine and Coastal Access Act 2009 - transmission assets) and any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised project other than archaeological investigations, environmental surveys and monitoring, investigations for the purpose of assessing ground conditions and "commencement" shall be construed accordingly;	(b) in relation to all other works, beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised project save for operations consisting of pre-construction surveys and/or monitoring, site clearance, demolition work, archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and the words "commencement" and "commenced" shall be construed accordingly;	"commence", except where otherwise provided for, means commencing any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised development other than operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, the diversion and laying of services, the erection of any temporary means of enclosure or the temporary display of site notices or advertisements, and "commencement" and "commenced" must be construed accordingly;	(b) in any other case, begin to carry out any material operation (as defined in section 155 of the 2008 Act) in respect of the authorised development or forming part of the authorised project except for operations consisting of site clearance, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, the diversion and laying of services, the erection of any temporary means of enclosure or the temporary display of site notices or advertisements, and "commencement" and "commenced" must be construed accordingly;	(b) in any other case, begin to carry out any material operation (as defined in section 155 of the 2008 Act) in respect of the authorised development or forming part of the authorised project except for operations consisting of site clearance, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, the diversion and laying of services, the erection of any temporary means of enclosure or the temporary display of site notices or advertisements, and "commencement" and "commenced" must be construed accordingly;
Definition - "maintain"	"maintain"... In comparison with definitions in similar made Orders including that for EA1, this definition is quite broad and appears to enable some activities beyond more normal definitions of the term. The made Order for Dogger Bank Teesside A&B (DBTA&B) provides as follows: "maintain" includes upkeep, inspect, repair, adjust, alter, relay and remove, to the extent assessed in the environmental statement, and any derivative of maintain must be construed accordingly... Is there any reason why an equivalently limited and simple provision could not be used here?	"maintain" includes inspect, repair, adjust, alter, remove, reconstruct and replace, and further includes remove, reconstruct and replace any of the ancillary works in Part 2 of Schedule 1 (ancillary works) and any component part of any wind turbine generator, offshore electrical station, accommodation platform or meteorological mast described in Part 1 of Schedule 1 (authorised development) (but not including the alteration, removal or replacement of foundations), to the extent assessed in the environmental statement, and "maintenance" is construed accordingly;	"maintain" includes inspect, maintain, repair, adjust and alter, and further includes remove, reconstruct and replace any of the ancillary works in Part 2 of Schedule 1 (Ancillary Works) and any component part of any wind turbine generator, offshore substation or meteorological mast described in Part 1 of Schedule 1 (ancillary works) (but not including the alteration, removal or replacement of foundations) to the extent assessed in the environmental statement; and "maintenance" shall be construed accordingly;	"maintain" includes inspect, maintain, repair, adjust and alter, and further includes remove, reconstruct and replace any of the ancillary works in Part 2 of Schedule 1 (ancillary works) and any component part of any wind turbine generator or offshore substation described in Part 1 of Schedule 1 (authorised development) (but not including the alteration removal or replacement of foundations) to the extent assessed in the environmental statement, and "maintenance" shall be construed accordingly;	"maintain", unless otherwise provided for, includes inspect, repair, adjust, alter, remove, reconstruct and replace any of the authorised development, and any derivative of "maintain" shall be construed accordingly;	"maintain", includes, to the extent assessed in the [Environmental Statement] 16 – (a) inspect, repair, adjust and alter; and (b) in respect of any of the ancillary works and any component part of any wind turbine generator, offshore accommodation platform, offshore HVAC collector substation, offshore HVDC converter station, offshore reactive compensation substation or Work No. 10 also includes remove, reconstruct and replace, but does not include the alteration, removal or replacement of foundations; and "maintenance" shall be construed accordingly;	"maintain" includes upkeep, inspect, repair, adjust, alter, relay and remove, to the extent assessed in the environmental statement, and any derivative of maintain must be construed accordingly;	"maintain" includes upkeep, inspect, repair, adjust, alter, relay and remove, to the extent assessed in the environmental statement, and any derivative of maintain must be construed accordingly;
Definition - "Statutory Undertaker"	This term is defined by reference to PA2008 s127, PA2008 s158 contains a different definition of a statutory undertaker and those that come within it might not also fall within the s127 definition and so may be excluded from the definition in this Order. Why has the applicant limited the definition to s127 undertakers and is there any reason why it should not be broader?	"statutory undertaker" means any person falling within section 127(8) of the 2008 Act;	"statutory undertaker" means any person falling within section 127(8), 128(5) or 129(2) of the 2008 Act;	NA	Not defined.	Not defined.	"statutory undertaker" means a person falling within section 127(8) of the 2008 Act. BUT in art 31(2) is added "(2) In this article, a reference to a statutory undertaker includes a reference to a public communications provider (as defined in article 32(3)) (recovery of costs of new connections)."	31 (2) In this article, "statutory undertaker" means— (a) a person falling within section 127(8) of the 2008 Act; and (b) a public communications provider (as defined in section 15(1) of the Communications Act 2003).
Definition - "undertaker"	"undertaker". This is a key term in the draft Order as it describes the entity or entity that would implement the development. Made Orders for similar offshore wind farm developments that include phased or multiple entity delivery (Dogger Bank Creyke Beck (DBC&B), DBTA&B, Horsea 1) include definitions for phases and terms for delivery bodies responsible for delivering phases. (For example, the Dogger Orders refer to future delivery bodies for different phases as 'Bizzos'). A delivery body model is not used in this draft and there are no definitions of phases or delivery bodies for phase delivery. The term 'undertaker' in this Order means East Anglia THREE Limited. The term is widely used in the singular throughout the Order in a manner that may give rise to uncertainty if two undertakers ever need to operate in tandem and both require the powers granted to the undertaker. The use of the term in the singular would also raise questions if the benefit of part of the Order (be that a phase or a component) were to be transferred to another entity. Other provisions in the draft Order do anticipate that transfer of benefit may occur (see article 5 below). The applicant is requested to review the approach taken to this issue in other recent made Orders and to consider how to provide greater clarity for plural undertakers and for transfers of benefit. Given the extent of this usage in the Order, this point is not raised individually in every provision below to which it is relevant.	"undertaker" means East Anglia THREE Limited;	"undertaker" means East Anglia ONE Limited	"undertaker" means DONG Energy Burbo Extension (UK) Limited;	"undertaker" means DONG Energy Walney Extension (UK) Limited and any other person who has the benefit of that provision in accordance with article 5;	"undertaker" to be construed in accordance with article 3; Article 3: (5) Any reference in this Order to the "undertaker" means Heron Wind Limited except that— (a) insofar as relevant to Work No. 2 and related associated development or ancillary works, "undertaker" means Njord Limited; (b) insofar as relevant to Work No.3 and related associated development or ancillary works, "undertaker" means Vi Aura Limited; and (c) insofar as relevant to Work No. 10 also includes remove, reconstruct and replace, but does not include the alteration, removal or replacement of foundations; and "maintenance" shall be construed accordingly;	"undertaker" means, subject to article 8(2) (consent to transfer benefit of Order)— (a) in relation to the Project A offshore works, the Project A onshore works, any other authorised development associated with those works and related ancillary works, Bizzo 1; (b) in relation to the Project B offshore works, the Project B onshore works, any other authorised development associated with those works and related ancillary works, Bizzo 4; (c) in relation to the shared works, any other authorised development associated with those works and related ancillary works, Bizzo 1 and Bizzo 4; (d) in any other case, Bizzo 1 and Bizzo 4;	"undertaker" means, subject to article 8(3) (consent to transfer benefit of Order)— (a) in relation to Project A and related ancillary works, Bizzo 2; (b) in relation to Project B and related ancillary works, Bizzo 3; (c) in relation to the shared works, Bizzo 2 and Bizzo 3; and (d) in any other case, Bizzo 2 and Bizzo 3;
Development consent etc. granted by the Order	3—(1) Subject to the provisions of this Order and to the requirements the undertaker is granted— (a) development consent for the authorised development; and (b) consent for the ancillary works. (2) Subject to the requirements and conditions in the deemed marine licences, Work Nos. 1 to 5A must be constructed anywhere within the Order limits seaward of MHWS and Work Nos. 5B to 69 must be constructed anywhere within the Order limits landward of MLWS.	Development consent etc. granted by the Order 3—(1) Subject to the provisions of this Order and to the requirements the undertaker is granted— (a) development consent for the authorised development; and (b) consent for the ancillary works. (2) Subject to the requirements and conditions in the deemed marine licences, Work Nos. 1 to 5A must be constructed anywhere within the Order limits seaward of MHWS and Work Nos. 5B to 69 must be constructed anywhere within the Order limits landward of MLWS.	3—Development consent etc. granted by the Order (1) Subject to the provisions of this Order and to the Requirements the undertaker is granted— (a) development consent for the authorised development; and (b) consent for the ancillary works, to be carried out within the Order limits. (2) Subject to the Requirements, Work Nos. 1 to 3A shall be constructed anywhere within the Order limits seaward of mean high water springs and Work Nos. 3B to 41 shall be constructed anywhere within the Order limits landward of mean low water.	3—Development consent etc. granted by the Order (1) Subject to the provisions of this Order and to the Requirements, in Part 3 of Schedule 1 the undertaker is granted— (a) development consent for the authorised development, in Part 1 of Schedule 1; and (b) consent for the ancillary works, in Part 2 of Schedule 1, to be carried out within the Order limits. (2) Subject to the Requirements, the works comprised in the authorised development may be constructed anywhere within the Order limits.	3—Development consent etc. granted by the Order (1) Subject to the provisions of this Order and to the Requirements in Part 3 of Schedule 1 the undertaker is granted— (a) development consent for the authorised development in Part 1 of Schedule 1; and (b) consent for the ancillary works to be carried out within the Order limits. (2) Subject to the Requirements, Work Nos. 1 to 3A shall be constructed anywhere within the Order limits seaward of mean high water springs and Work Nos. 3B to 27 shall be constructed anywhere within the Order limits landward of mean low water.	3—Development consent granted by the Order (1) Subject to the provisions of this Order and the requirements, development consent is granted to the following persons in respect of the scheduled works, along with associated development and ancillary works related to those works— (a) to Njord Limited to construct, maintain and operate Work No. 2; (b) to Vi Aura Limited to construct, maintain and operate Work No. 3; and (c) to Heron Wind Limited to carry out all other works comprising the authorised development. (2) Each of the scheduled works must be constructed and maintained within the limits of deviation for that work.	3—Development consent, etc. granted by Order (1) Subject to the provisions of this Order and to the Requirements, Bizzo 1 is granted— (a) development consent for the Project A offshore works, the Project A onshore works, any other authorised development associated with those works; and (b) consent for related ancillary works, to be carried out within the Order limits. (2) Subject to the provisions of this Order and to the Requirements, Bizzo 4 is granted— (a) development consent for the Project B offshore works, the Project B onshore works, any other authorised development associated with those works; and (b) consent for related ancillary works, to be carried out within the Order limits. (3) Subject to the provisions of this Order and to the Requirements, Bizzo 1 and Bizzo 4 are jointly granted— (a) development consent for the shared works and any other authorised development associated with those works; and (b) consent for related ancillary works, to be carried out within the Order limits. (4) Despite anything in this Order or shown on the offshore works plans, the undertaker may construct either Work No. 2BA or Work No. 2BC but not both. (5) Schedule 1 (authorised project) has effect.	3—Development consent granted by Order (1) Subject to the provisions of this Order and to the Requirements— (a) Bizzo 3 is granted development consent for Project A and related ancillary works; (b) Bizzo 3 is granted development consent for Project B and related ancillary works; and (c) Bizzo 2 and Bizzo 3 are jointly granted development consent for the shared works, to be carried out within the Order limits. (2) Schedule 1 (authorised project) has effect.
Article 4 - Power to construct and maintain the authorised project	The article does not contain a provision clarifying that matters not covered in the DMLs but that are licensable activities in the marine environment need a separate Marine Licence. See for example the equivalent provision in the made Dogger Bank Teesside A & B Order: (2) Paragraph (1) does not relieve the undertaker of any requirement to obtain a licence under Part 4 of the 2009 Act (marine licensing). Can the applicant and the Marine Management Organisation (MMO) advise whether this absence has any adverse effect? The applicant is requested to consider whether subsequent practice gives rise to considerations that influence the approach taken in the model provision used as the source for this article.	Power to construct and maintain authorised project The undertaker may at any time construct and maintain the authorised project, except to the extent that this Order or an agreement made under this Order provides otherwise.	N/A	N/A	N/A	N/A	4—Maintenance of authorised project (1) The undertaker may at any time maintain, and maintain from time to time, the authorised project except to the extent that this Order or an agreement made under this Order provides otherwise. (2) The power to maintain conferred under paragraph (1) does not relieve the undertaker of any requirement to obtain a licence under Part 4 of the 2009 Act (marine licensing).	4—Maintenance of authorised project (1) The undertaker may at any time maintain, and maintain from time to time, the authorised project except to the extent that this Order or an agreement made under this Order provides otherwise. (2) Paragraph (1) does not relieve the undertaker of any requirement to obtain a licence under Part 4 of the 2009 Act (marine licensing).
Article 7 - Defence to proceedings in respect of statutory nuisance	Defences to statutory nuisance proceedings are justified by the priority accorded to Nationally Significant Infrastructure Projects (NSIPs) in National Policy Statement EN-1 (NPS EN-1) at section 4.14, which makes clear that the defence provision is conferred only to the extent that the nuisance is the inevitable consequence of what has been authorised. The EIA takes an inevitable nuisance to be a residual nuisance (allowing for all applicable mitigations) which does not meet statutory nuisance thresholds, but is argued to be justified given the need for and benefit of the project. If no impact beyond statutory nuisance thresholds is expected once mitigation has been applied, it appears that this provision is seeking to provide a defence for occasional and incidental as distinct from inevitable instances of nuisance. Is the policy meant to apply to circumstances such as this and is this provision justified by EA17? If the applicant is referring to similar provisions in made Orders, it would be useful to accompany these with an explanation of whether there was an inevitable nuisance. The applicant is requested to consider whether subsequent practice gives rise to considerations that influence the approach taken in the model provision used as the source for this article.	Defence to proceedings in respect of statutory nuisance 7—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order shall be made, and no fine may be imposed, under section 82(2) of that Act if— (a) the defendant shows that the nuisance— (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project and that the nuisance is attributable to the carrying out of the authorised project 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) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974; or (ii) is a consequence of the construction or maintenance of the authorised project and that it cannot reasonably be avoided; or (b) the defendant shows that the nuisance— (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and that the nuisance is attributable to the use of the authorised project which is being used in compliance with requirement 26 (control of noise during operational phase); or (ii) is a consequence of the use of the authorised project and that it cannot reasonably be avoided. (2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), do not apply where the consent relates to the use of premises by the undertaker for purposes of or in connection with the construction or maintenance of the authorised project.	7—Defence to proceedings in respect of statutory nuisance (1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order shall be made, and no fine may be imposed, under section 82(2) of that Act if— (a) the defendant shows that the nuisance— (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project and that the nuisance is attributable to the carrying out of the authorised project 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) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974; or (ii) is a consequence of the construction or maintenance of the authorised project and that it cannot reasonably be avoided; or (b) the defendant shows that the nuisance— (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and that the nuisance is attributable to the use of the authorised project which is being used in accordance with Requirement 35; or (ii) is a consequence of the use of the authorised project and that it cannot reasonably be avoided. (2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), do not apply where the consent relates to the use of premises by the undertaker for purposes of or in connection with the construction or maintenance of the authorised project.	8—Defence to proceedings in respect of statutory nuisance (1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine may be imposed, under section 82(2) of that Act if— (a) the defendant shows that the nuisance— (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project and that the nuisance is attributable to the carrying out of the authorised project 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) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974; or (ii) is a consequence of the construction or maintenance of the authorised project and that it cannot reasonably be avoided; or (b) the defendant shows that the nuisance— (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and that the nuisance is attributable to the use of the authorised project which is being used in accordance with Requirement 35; or (ii) is a consequence of the use of the authorised project and that it cannot reasonably be avoided. (2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), do not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project.	8—Defence to proceedings in respect of statutory nuisance (1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine may be imposed, under section 82(2) of that Act if— (a) the defendant shows that the nuisance— (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project and that the nuisance is attributable to the carrying out of the authorised project 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) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974; or (ii) is a consequence of the construction or maintenance of the authorised project and that it cannot reasonably be avoided; or (b) the defendant shows that the nuisance— (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and that the nuisance is attributable to the use of the authorised project which is being used in accordance with Requirement 35; or (ii) is a consequence of the use of the authorised project and that it cannot reasonably be avoided. (2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), do not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project.	12—Defence to proceedings in respect of statutory nuisance (1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within section 79(1)(g) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance), 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 construction or maintenance of the authorised project and is attributable to the carrying out of the authorised project 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) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974; (b) is a consequence of the construction or maintenance of the authorised project and that it cannot reasonably be avoided; (c) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and is attributable to the use of the authorised project in compliance with Requirement 25 (control of noise during operational phase); or (d) is a consequence of the use of the authorised project and that it cannot reasonably be avoided. (2) Section 61(9) of the Control of Pollution Act 1974 (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), do not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project.	13—Defence to proceedings in respect of statutory nuisance (1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within section 79(1)(g) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) 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 construction or maintenance of the authorised project and is attributable to the carrying out of the authorised project 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) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974; (b) is a consequence of the construction or maintenance of the authorised project and cannot reasonably be avoided; (c) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and is attributable to the use of the authorised project being used in compliance with Requirement 30 (control of noise during operational phase); or (d) is a consequence of the use of the authorised project and cannot reasonably be avoided. (2) Section 61(9) of the Control of Pollution Act 1974 (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), do not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project.	

<p>Article 21 (Acquisition of certain part of properties)</p>	<p>(6) If on such a reference the Tribunal determines that only part of the land subject to the notice to treat can be taken— (a) without material detriment to the remainder of the land subject to the counter-notice; or (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the notice to treat is deemed to be a notice to treat for that part. (7) If on such a reference the Tribunal determines that— (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but (b) the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order. (8) If the undertaker agrees to take the land subject to the counter-notice, or if the Tribunal determines that— (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice; or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and (b) the material detriment is not confined to a part of the land subject to the counter-notice, the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.</p>	<p>(6) If on such a reference the Tribunal determines that only part of the land subject to the notice to treat can be taken— (a) without material detriment to the remainder of the land subject to the counter-notice; or (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the notice to treat is deemed to be a notice to treat for that part. (7) If on such a reference the Tribunal determines that— (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but (b) the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order. (8) If the undertaker agrees to take the land subject to the counter-notice, or if the Tribunal determines that— (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice; or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and (b) the material detriment is not confined to a part of the land subject to the counter-notice, the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.</p>	<p>N/A</p>	<p>(6) If on such a reference the Tribunal determines that only part of the land subject to the notice to treat can be taken— (a) without material detriment to the remainder of the land subject to the counter-notice; or (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the notice to treat is deemed to be a notice to treat for that part. 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(8) If the undertaker agrees to take the land subject to the counter-notice, or if the Tribunal determines that— (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice; or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and (b) the material detriment is not confined to a part of the land subject to the counter-notice, the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.</p>	<p>(6) If on such a reference the Tribunal determines that only part of the land subject to the notice to treat can be taken— (a) without material detriment to the remainder of the land subject to the counter-notice; or (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the notice to treat is deemed to be a notice to treat for that part. (7) If on such a reference the Tribunal determines that— (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but (b) the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order. (8) If the undertaker agrees to take the land subject to the counter-notice, or if the Tribunal determines that— (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice; or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and (b) the material detriment is not confined to a part of the land subject to the counter-notice, the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.</p>	<p>(6) If on such a reference the Tribunal determines that only part of the land subject to the notice to treat can be taken— (a) without material detriment to the remainder of the land subject to the counter-notice; or (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the notice to treat is deemed to be a notice to treat for that part. (7) If on such a reference the Tribunal determines that— (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but (b) the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order. (8) If the undertaker agrees to take the land subject to the counter-notice, or if the Tribunal determines that— (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice; or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and (b) the material detriment is not confined to a part of the land subject to the counter-notice, the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.</p>	<p>N/A</p>
<p>Article 21 (Acquisition of certain part of properties)</p>	<p>(9) Where, by reason of a determination by the Tribunal under this article, a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, shall pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the Tribunal. (10) Where the owner is required under this article to sell only part of a house, building or factory or of land consisting of a house with a park or garden, the undertaker shall pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.</p>	<p>(9) Where, by reason of a determination by the Tribunal under this article, a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, shall pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the Tribunal. (10) Where the owner is required under this article to sell only part of a house, building or factory or of land consisting of a house with a park or garden, the undertaker shall pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.</p>	<p>(9) Where, by reason of a determination by the Tribunal under this article, a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, shall pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the Tribunal. (10) Where the owner is required under this article to sell only part of a house, building or factory or of land consisting of a house with a park or garden, the undertaker shall pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.</p>	<p>(9) Where, by reason of a determination by the Tribunal under this article, a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, shall pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the Tribunal. (10) Where the owner is required under this article to sell only part of a house, building or factory or of land consisting of a house with a park or garden, the undertaker shall pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.</p>	<p>(9) Where, by reason of a determination by the Tribunal under this article, a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, shall pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the Tribunal. (10) Where the owner is required under this article to sell only part of a house, building or factory or of land consisting of a house with a park or garden, the undertaker shall pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.</p>	<p>(9) Where, by reason of a determination by the Tribunal under this article, a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, shall pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the Tribunal. (10) Where the owner is required under this article to sell only part of a house, building or factory or of land consisting of a house with a park or garden, the undertaker shall pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.</p>	<p>(9) Where, by reason of a determination by the Tribunal under this article, a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, shall pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the Tribunal. (10) Where the owner is required under this article to sell only part of a house, building or factory or of land consisting of a house with a park or garden, the undertaker shall pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.</p>
<p>Article 26 (Recovery of costs of new connections)</p> <p>The applicant is requested to consider whether subsequent practice gives rise to considerations that influence the approach taken in the model provision used as the source for this article.</p>	<p>Recovery of costs of new connections 26—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 25 (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 25 (statutory undertakers), any person who is— (a) the owner or occupier of premises the drains of which communicated with that sewer; or (b) the owner of a private sewer which communicated with that sewer, is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant. (3) This article does not have effect in relation to apparatus to which Part 3 of the 1991 Act applies. (4) In this paragraph— "public communications provider" has the same meaning as in section 151(1) of the Communications Act 2003; and "public utility undertaker" has the same meaning as in the 1980 Act.</p>	<p>27—Recovery of costs of new connections (1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under [article 26] (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be 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 26] , 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, shall be 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 shall not have effect in relation to apparatus to which Part 3 of the 1991 Act applies. (4) In this paragraph— "public communications provider" has the same meaning as in section 151(1) of the Communications Act 2003; and "public utility undertaker" has the same meaning as in the 1980 Act.</p>	<p>N/A</p>	<p>30—Recovery of costs of new connections (1) Where any apparatus of public utility undertakers or of a public communications provider is removed under article 29 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be 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) shall not apply in the case of the removal of a public sewer but where such a sewer is removed under article 29 (statutory undertakers) any person who is— (a) the owner or occupier of premises the drains of which communicated with that sewer; or (b) the owner of a private sewer which communicated with that sewer, shall be 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) In this article— "public communications provider" has the same meaning as in section 151(1) of the Communications Act 2003; and "public utility undertaker" has the same meaning as in the 1980 Act.</p>	<p>28—Recovery of costs of new connections (1) Where any apparatus of public utility undertakers or of a public communications provider is removed under article 25 (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 25 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) In this article— (a) "public communications provider" has the same meaning as in section 151(1) of the Communications Act 2003; and (b) "public utility undertaker" has the same meaning as in the 1980 Act.</p>	<p>32—Recovery of costs of new connections (1) Where any apparatus of a public utility undertaker or a public communications provider is removed under article 31 (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 31, 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 that 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 of the 1991 Act applies. (4) In this article— "public communications provider" has the same meaning as in section 151(1) of the Communications Act 2003; and "public utility undertaker" has the same meaning as in the 1980 Act.</p>	<p>32—Recovery of costs of new connections (1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 31 (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 making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant. (2) This article does not have effect in relation to apparatus to which Part 3 of the 1991 Act applies. (3) In this article— "public communications provider" has the same meaning as in section 151(1) of the Communications Act 2003; and "public utility undertaker" has the same meaning as in the 1980 Act.</p>
<p>Article 28 (Deemed licences under the Marine and Coastal Access Act 2009)</p> <p>The EA understands the basis for the approach taken in this article and in Schedules 10 – 15 as arising from a view that a partial transfer of the benefit under a DML cannot be made and so separate DMLs are required for each element of the project that may require to be the subject of a transfer of benefit. This has the effect of requiring six DMLs.</p> <p>Recent Secretary of State decisions in relation to applications accompanied by Orders containing multiple DMLs have taken the view that such separation is not legally necessary. The Secretary of State has not amended the DMLs to remove duplicated provisions. However, given this development, combined with a larger than normal number of DMLs in this particular Order leading to potentially avoidable complexity, there is an argument that there would be benefits in consolidating these provisions to the extent that this is considered legally sound. The applicant and MMO are asked to consider whether the DML Schedules can be simplified and the level of reiteration reduced, whilst still providing fully for the anticipated needs of this project. For example:</p> <ul style="list-style-type: none"> • Unless the construction phases are clearly identified to result in separate generation assets with separate ownership, could the generation assets DMLs (Schedules 10 and 11) be unified? • Could OFTO DMLs (Schedules 12 and 13) be unified? • Could interconnection DMLs (Schedules 14 and 15) be unified and / or merged with a relevant OFTO DML? <p>The MMO's views are also sought on this issue.</p>	<p>Deemed marine licences under the Marine and Coastal Access Act 2009 28. Under Part 4 Chapter 1 of the 2009 Act (marine licensing), the undertaker is granted the deemed marine licences contained in Schedules 10 to 15 to carry out the works and make the deposits specified in Part 1 of the deemed marine licences, subject to the conditions set out in Part 2 of the deemed marine licences— (a) Generation Assets (Licence 1 – Phase 1) (set out in Schedule 10) (b) Generation Assets (Licence 2 – Phase 2) (set out in Schedule 11) (c) Transmission Assets (Licence 1 – Phase 1) (set out in Schedule 12) (d) Transmission Assets (Licence 2 – Phase 2) (set out in Schedule 13) (e) Interconnection (Licence 1 – Phase 1) (set out in Schedule 14) (f) Interconnection (Licence 2 – Phase 2) (set out in Schedule 15)</p>	<p>29. Deemed marine licences under the Marine and Coastal Access Act 2009 The undertaker is granted the deemed marine licences under Part 4 Chapter 1 of the 2009 Act to carry out the works and make the deposits specified in Part 1 of Schedule 10 (deemed licence under the Marine and Coastal Access Act 2009 – generation assets) and Part 1 of Schedule 11 (deemed licence under the Marine and Coastal Access Act 2009 – transmission assets), both subject to the conditions set out in Part 2 of those Schedules.</p>	<p>9. Deemed marine licences under the Marine and Coastal Access Act 2009 The undertaker is granted the deemed marine licences under Part 4 Chapter 1 of the 2009 Act to carry out the works and make the deposits and removals specified in Part 1 of Schedule 2 (deemed licence under the Marine and Coastal Access Act 2009 – generation assets) and Part 1 of Schedule 3 (deemed licence under the Marine and Coastal Access Act 2009 – transmission assets), subject to the conditions set out in Part 2 of those Schedules respectively.</p>	<p>37. Deemed licences under the Marine and Coastal Access Act 2009 The deemed marine licences set out in Part 1 of Schedules 9 (deemed generator assets marine licence under the Marine and Coastal Access Act 2009) and 10 (deemed transmission assets marine licence under the Marine and Coastal Access Act 2009) respectively, are deemed to be granted to the undertaker under Part 4 of Chapter 1 of the 2009 Act, subject to the conditions set out in Part 2 of each of those Schedules.</p>	<p>35. Deemed marine licences under the Marine and Coastal Access Act 2009 The person who is the licence-holder for the purpose of each of Schedules 8 to 11 is deemed to be granted under Part 4 of the 2009 Act the deemed marine licence set out in the relevant Schedule, subject to the licence conditions set out in Part 2 of that Schedule.</p>	<p>39. Deemed licences under Marine and Coastal Access Act 2009 The following marine licences set out in Schedules 8 to 11 are deemed to have been issued under Part 4 of the 2009 Act (marine licensing) for the licensed activities specified in Part A of each licence and subject to the conditions specified in Part 2 of each licence— (a) Marine Licence 1 (set out in Schedule 8); (b) Marine Licence 2 (set out in Schedule 9); (c) Marine Licence 3 (set out in Schedule 10); (d) Marine Licence 4 (set out in Schedule 11).</p>	<p>39. Deemed licences under Marine and Coastal Access Act 2009 The following marine licences set out in Schedules 8 to 11 are deemed to have been issued under Part 4 of the 2009 Act (marine licensing) for the licensed activities specified in Part A of each licence and subject to the conditions specified in Part 2 of each licence— (a) Marine Licence 1 (set out in Schedule 8); (b) Marine Licence 2 (set out in Schedule 9); (c) Marine Licence 3 (set out in Schedule 10); (d) Marine Licence 4 (set out in Schedule 11).</p>
<p>Article 29 (Application of Landlord and tenant law)</p> <p>Reference has been made above to the absence of clarity around the effect transfer of benefit and phased delivery might have within CA and related provisions where the undertaker is referred to in the singular. The applicant is requested to apply its consideration of this issue as raised in response to Article 2(1) to this and to other CA, rights and TP articles. The applicant is requested to consider whether subsequent practice gives rise to considerations that influence the approach taken in the model provision used as the source for this article.</p>	<p>Application of landlord and tenant law 29—(1) This article applies to— (a) any agreement for leasing to any person the whole or any part of the authorised project or the right to operate the same; and (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised project, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use. (2) No enactment or rule of law regulating the rights and obligations of landlords and tenants may prejudice the operation of any agreement to which this article applies. (3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to— (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter; (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease).</p>	<p>30—Application of landlord and tenant law (1) This article applies to— (a) any agreement for leasing to any person the whole or any part of the authorised project or the right to operate the same; and (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised project, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use. (2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of any agreement to which this article applies. (3) Accordingly, no such enactment or rule of law shall apply 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).</p>	<p>N/A</p>	<p>31—Application of landlord and tenant law (1) This article applies to— (a) any agreement for leasing to any person the whole or any part of the authorised project or the right to operate the same; and (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised project, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use. (2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of any agreement to which this article applies. (3) Accordingly, no such enactment or rule of law shall apply 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.</p>	<p>N/A</p>	<p>33—Application of landlord and tenant law (1) This article applies to— (a) an agreement for leasing to a person the whole or any part of the authorised project or the right to operate the same; and (b) an agreement entered into by the undertaker with a person for the construction, maintenance, use or operation of the authorised project, or any part of it, so far as any such agreement relates to the terms on which land that is the subject of a lease granted by or under that agreement is to be provided for that person's use. (2) No enactments or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of an 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 that 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.</p>	<p>33—Application of landlord and tenant law (1) This article applies to— (a) an agreement for leasing to a person the whole or any part of the authorised project or the right to operate the same; and (b) an agreement entered into by the undertaker with a person for the construction, maintenance, use or operation of the authorised project, or any part of it, so far as any such agreement relates to the terms on which land that is the subject of a lease granted by or under that agreement is to be provided for that person's use. (2) No enactments or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of an 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 that 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.</p>
<p>Article 30 (Operational land for the purposes of the 1990 Act)</p> <p>The applicant is requested to consider whether subsequent practice gives rise to considerations that influence the approach taken in the model provision used as the source for this article.</p>	<p>Operational land for purposes of the 1990 Act 30. Development consent granted by this Order is treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).</p>	<p>31. Operational land for purposes of the 1990 Act Development consent granted by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).</p>	<p>N/A</p>	<p>32. Operational land for the purposes of the 1990 Act Development consent granted by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).</p>	<p>29. Operational land for purposes of the 1990 Act Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).</p>	<p>37. Operational land for purposes of 1990 Act Development consent granted by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).</p>	<p>37. Operational land for purposes of Town and Country Planning Act 1990 Development consent granted by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).</p>
<p>Article 32 (Certification of plans etc)</p> <p>The applicant is requested to consider whether subsequent practice gives rise to considerations that influence the approach taken in the model provision used as the source for this article.</p>	<p>32—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of— (a) the plan or document to which it is a copy; and (b) the reference in the plan or document concerned is construed for the purposes of this Order as referring to the provision (if any) corresponding to that provision in the Order as made.</p>	<p>33—Certification of plans etc. (1) The undertaker shall, as soon as practicable after the making of this Order, submit to the Secretary of State copies of— (a) the work plan (document reference S(2)(x) dated March 2013); and (b) the environmental statement and the further environmental information for certification that they are true copies of the documents referred to in this Order. (2) A plan or document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy. (3) Where a plan or document certified under paragraph (1)— (a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and (b) identifies that provision by a number, or combination of numbers and letters, which is different from the number, or combination of numbers and letters by which the reference in the plan or document concerned is construed for the purposes of this Order as referring to the provision (if any) corresponding to that provision in the Order as made.</p>	<p>12— Certification of plans etc (1) The undertaker shall, as soon as practicable after the making of this Order, submit to the Secretary of State copies of— (a) the work plan (document reference S(2)(x) dated March 2013); and (b) the environmental statement and the further environmental information for certification that they are true copies of the documents referred to in this Order. (2) A plan or document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.</p>	<p>40— Certification of plans etc. (1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of— (a) the land plans; (b) the offshore works plans, intertidal works plans and the onshore works plans; (c) the book of reference; (d) the CoCP; (e) the design and access statement; (f) the environmental statement; (g) the General Arrangement Drawings; (h) the important hedgerows plan; (i) the land plans; (j) the Noise Monitoring Location Plan; (k) the Order limits and grid coordinates plan; (l) the Outline CTPMP; (m) the Public Access Strategy; (n) the public rights of way plan; (o) the Schedule of Offshore Maintenance Activities; (p) the street works plan; (q) the Transport Statement; and (r) the works plans, for certification that they are true copies of the documents referred to in this Order. (2) A plan or document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.</p>	<p>38— Certification of plans etc. (1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of— (a) the land plans; (b) the offshore works plans, intertidal works plans and the onshore works plans; (c) the book of reference; (d) the [Environmental Statement] 1; and (e) any other plans or 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.</p>	<p>42— Certification of plans and documents, etc. (1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of— (a) the offshore Order limits and grid co-ordinates plan; and (b) the access to work plan (drawing no. F-CNC-MA-805); 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 plan or document of which it is a copy.</p>	<p>42— Certification of plans and documents, etc. (1) The undertaker must, as soon as practicable after this Order is made, submit to the Secretary of State copies of the following— (a) the book of reference, dated 27th January 2015 (REP-4971) ; ...; (b) the [Wilton] protective provisions supporting plans, dated January 2015 (REP-505), 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.</p>
<p>Article 33 (Arbitration)</p> <p>The applicant is requested to consider whether subsequent practice gives rise to considerations that influence the approach taken in the model provision used as the source for this article.</p>	<p>Arbitration 33. Any difference under any provision of this Order, unless otherwise provided for, shall be referred to and settled by a single arbitrator to be agreed between the parties, or, failing agreement, to be appointed on application of either party (after giving notice in writing to the other) by the Secretary of State.</p>	<p>34. Arbitration Any difference under any provision of this Order, unless otherwise provided</p>					

Requirement	PINS Comment	East Anglia THREE Offshore Wind Farm Order	East Anglia ONE Offshore Wind Farm Order 2014	Burbo Bank Extension Offshore Wind Farm Order 2014	Hornsea One Offshore Wind Farm Order 2014	Dogger Bank Creyke Beck Offshore Wind Farm Order 2015	Dogger Bank Teesside A and B Offshore Wind Farm Order 2015
Structure	The requirements are not set out in their own schedule, instead forming a part of a broader schedule which also defines the project. There are no obvious technical / drafting concerns that arise from this, but it is different from some other made Orders which do place the requirements in a separate schedule.	Requirements were placed in Schedule 1 which also defined the project.	Requirements were placed in Schedule 1 which also defined the project.	Requirements were placed in Schedule 1 which also defined the project.	Requirements were placed in Schedule 1 which also defined the project.	Requirements were placed in Schedule 1 which also defined the project.	Requirements were placed in Schedule 1 which also defined the project.