

CORRECTION NOTICE

HORNSEA FOUR OFFSHORE WIND FARM ORDER 2023

SCHEDULE 4 TO THE PLANNING ACT 2008

CORRECTION OF ERRORS IN DEVELOPMENT CONSENT DECISIONS

DATE: 30 JANUARY 2024

The Secretary of State received a request dated 17 August 2023 from Pinsent Masons LLP on behalf of Orsted Hornsea Project Four Limited (“the Applicant”) for the correction of errors in the Hornsea Four Offshore Wind Farm Order 2023 (“the Order”), under section 119 of, and Schedule 4 to, the Planning Act 2008.

The Secretary of State has made the following corrections to the Order:

Corrections to the Preamble and Articles

Preamble, paragraph 1

For “the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 substitute “the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009”.

Secretary of State’s rationale:

To correct a typographical error.

Article 2(1) – Interpretation

In the definition of “the 2016 Regulations”, at the end of the definition substitute “:” for “;”.

Secretary of State’s rationale:

To correct a typographical error.

Article 2(1) – Interpretation

In the definition of “energy balancing infrastructure”, after the words “electrical energy to” insert “or from”.

Secretary of State’s rationale:

To recognise that the development involves the import and export of electrical energy.

Article 2(1) – Interpretation

In the definition of ““highway” and “highway authority”, insert “;” at the end of the definition.

Secretary of State’s rationale:

To correct a typographical error.

Article 2(1) – Interpretation

In the definition of “maintain”, after the words “(authorised development) not including” insert “the”.

Secretary of State’s rationale:
To correct a typographical error.

Article 2(1) – Interpretation

In the definition of “maintain”, after the words “onshore project substation” insert “,”.

Secretary of State’s rationale:
To correct a typographical error.

Article 2(1) – Interpretation

In the definition of “offshore transformer substation”, in sub-paragraph (b), after the words “housing accommodation, storage, workshop” insert “,”.

Secretary of State’s rationale:
To correct a typographical error.

Article 2(3)(a) – Interpretation

In article 2(3)(a) for “(requirement)” substitute “(requirements)”.

Secretary of State’s rationale:
To correct a typographical error.

Article 5(4) – Benefit of the Order

In article 5(4), for “paragraph (1) or (3)” substitute “paragraph (2) or (3),”.

Secretary of State’s rationale:
To correct a referencing and typographical error.

Article 5(7) – Benefit of the Order

In article 5(7), for “paragraphs (1)” substitute “paragraphs (2)”.

Secretary of State’s rationale:
To correct a referencing error.

Article 5(7)(c) – Benefit of the Order

In article 5(7)(c) for “paragraph (1)” substitute “paragraph (2)”

Secretary of State’s rationale:
To correct a referencing error.

Article 7(1)(b)(i) – Defence to proceedings in respect of statutory nuisance

In article 7(1)(b)(i) after the words “(control of noise during” delete the word “the”.

Secretary of State's rationale:

To conform with the heading of requirement 22.

Article 9(1)(b) – Application of the 1991 Act

In article 9(1)(b), after the words “under article 10 (temporary closure” insert the words “and restriction”.

Secretary of State's rationale:

To confirm with the title of article 10.

Article 10(4) – Temporary closure and restriction of streets and public rights of way

In article 10(4), for the words “the undertaker may temporarily closure, alter or divert the streets set out in column (10)” substitute “the undertaker may temporarily close, alter or divert the streets set out in column (1)”.

Secretary of State's rationale:

To correct typographical errors.

Article 11(1)(d) – Closure and diversion of public rights of way and access land

In article 11(1)(d), after “column (1) of Part 3” insert “of”.

Secretary of State's rationale:

To correct a typographical error.

Article 15(3) – Discharge of water

In Article 15(3), after the words “any watercourse or” insert “any”.

Secretary of State's rationale:

To correct a typographical error and to ensure consistency with Article 15(1).

Article 16(4) – Protective work to buildings

In paragraph 16(4), for paragraphs(5)” substitute “paragraph (5).

Secretary of State's rationale:

To correct a formatting error.

Article 21(8) – Compulsory acquisition of rights etc.

In article 21(8), after the words “Subject to article 43” insert “(crown rights)”.

Secretary of State's rationale:

To reflect the title of article 43.

Article 22(1) – Private rights

Change “article 18” with “this Order”.

Secretary of State's rationale:

Article 22 also deals with compulsory acquisition of land, rights in land and temporary possession powers and so referring to article 18 only is not appropriate or effective.

Article 25(1) – Acquisition of subsoil only

In article 25(1), after the words “(compulsory acquisition of land” delete “etc.” .

Secretary of State's rationale:

To ensure consistency with the title of article 18.

Article 26(5) – Modification of Part 1 of the 1965 Act

After article 26(4) insert:

“(5) 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 25(3) (acquisition of subsoil only) of the Hornsea Four Offshore Wind Farm Order 2023, which excludes the acquisition of subsoil only from this Schedule.”; and”,

“(b) at the end insert—

PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 16 (protective works to buildings), article 28 (temporary use of land for carrying out the authorised project) or article 29 (temporary use of land for maintaining the authorised project) of the Hornsea Four Offshore Wind Farm Order 2023.”.

Secretary of State's rationale:

To reinstate previous wording incorrectly removed.

Article 27(5) – Rights under or over streets

In article 27(5) for “paragraph (5)” substitute “paragraph (4)”.

Secretary of State's rationale:

To correct a typographical error.

Article 37(1) – Trees subject to tree preservation orders

In article 37(1), after the words “onshore site preparation works” insert “,”.

Secretary of State's rationale:

To correct a typographical error.

Article 46 – Amendment and modification of statutory provisions

In article 46 after “Schedule 13 (modifications to” insert “and amendments of”.

Secretary of State’s rationale:

To reflect the title of Schedule 13.

Article 47(3)(a) – Service of notices

In article 47(3)(a), for “in the case of the secretary of clerk” substitute “in the case of the secretary or clerk”.

Secretary of State’s rationale:

To correct a typographical error.

Corrections to Schedules 1, 6, 7, 9, 13, 14, 15, and 16

Schedule 1 – Part 1, Work No. 5

For “Work No. 5-“ substitute “Work No. 5 —”.

Secretary of State’s rationale:

To correct a formatting error.

Schedule 1 – Part 1, Work No. 7

Insert space after “—”.

Secretary of State’s rationale:

To correct a formatting error.

Schedule 1 – Part 1, paragraph 2, Point ID 73

After “56.253 insert ”.

Secretary of State’s rationale:

To correct a typo.

Schedule 1 – Part 3, requirement 7(1)(h)

In requirement 7(1)(h), after the words “above and below” delete “,”.

Secretary of State’s rationale:

To correct a typographical error.

Schedule 1 – Part 3, requirement 22(1)

In requirement 22(1), after the words “Work Nos. 7(a), (b) and (c) insert “must not”.

Secretary of State’s rationale:

To correct a typographical error.

Schedule 6 – column (2)

Insert comma between “ecological measures” and “the right to pass” in: “together with the right to maintain, inspect and replant such trees, shrubs, hedgerows, landscaping and other ecological measures the right to pass and repass on foot”.

Secretary of State’s rationale:
To correct a typographical error.

Schedule 7 – paragraph 3(2)

In Schedule 7, paragraph 3(2), “for an interest in the land,” substitute “an interest in the land;”.

Secretary of State’s rationale:
To correct a punctuation error.

Schedule 7 – paragraph 9

In Schedule 7, paragraph 9, for “article 29(3)” substitute “article 26(3)”.

Secretary of State’s rationale:
To correct a referencing error.

Schedule 7 – paragraph 10 (para 1(1))

Change “serve” to “serves”.

Secretary of State’s rationale:
To correct a typographical error.

Schedule 7 – paragraph 10 (para 1(1))

In paragraph 1(1) of paragraph 10 of Schedule 7, for “(application of the Compulsory Purchase (Vesting Declarations) Act 1981)” substitute “(application of the 1981 Act)”.

Secretary of State’s rationale:
To reflect the title of article 23.

Schedule 9 – Part 1, paragraph 1

In paragraph 1 of Part 1 of Schedule 9, for “Part 10” substitute “Part 9”.

Secretary of State’s rationale:
To correct a referencing error.

Schedule 9 – Part 1, paragraph 2

In paragraph 2 of Part 1 of Schedule 9 in the definition of “affected undertaker”, for “Part 3 or Part 10” substitute “Part 3A or 3B, Part 7 or Part 9”.

Secretary of State’s rationale:
To correct referencing errors.

Schedule 9, Part 1, paragraph 7(4)

In paragraph 7(4) of Part 1 of Schedule 9, for “paragraph5” substitute “paragraph 5”.

Secretary of State’s rationale

To correct a typographical error.

Schedule 9 – Part 1, paragraph 8(4)

In paragraph 8(4) of Part 1 of Schedule 9 for “sub-paragraph (2)” substitute “sub-paragraph (3)”.

Secretary of State’s rationale:

To correct a referencing error.

Schedule 9 – Part 2, paragraph 2

In paragraph 2 of Part 2 of Schedule 9, in the definition of “the electronic communications code” after “2003 Act” delete “(“.

Secretary of State’s rationale:

To correct a typographical error.

Schedule 9 – Part 3A, paragraph 3

In paragraph 3 of Part 3A of Schedule 9 for “streets subject to temporary stopping up)”, substitute “streets subject to temporary closure)”.

Secretary of State’s rationale:

To reflect the heading of paragraph 4.

Schedule 9 – Part 3A, paragraph 9(4)

In paragraph 9(4) of Part 3A of Schedule 9 for “sub-paragraph (1), (2)(2)” substitute “sub-paragraph (1), (2)”.

Secretary of State’s rationale:

To correct a typographical error.

Schedule 9 – Part 3B, paragraph 23(3) and 23(5)

In paragraph 23(3) and 23(5) of Part 3B of Schedule 9 for “7(2)” substitute “(2)” and also in paragraph 23(5) for “7(3)” substitute “(3)”

Secretary of State’s rationale:

To correct a referencing error.

Schedule 9 – Part 3B, paragraph 24(2)

In paragraph 24(2) of Part 3B to Schedule 9, for “8(1)” substitute “(1)” and for “8(2)” substitute “(2)”.

Secretary of State’s rationale:

To correct a referencing error.

Schedule 9 – Part 3B, paragraph 25(1), 25(3), 25(5), 25(6), 25(10)

In paragraphs 25(1), 25(3), 25(5), 25(6) and 25(10) of Part 3B of Schedule 9, for “9(1)” substitute “(1)”.

Secretary of State’s rationale:
To correct a referencing error.

Schedule 9 – Part 3B, paragraph 26(2), 26(3), 26(4), 26(5)

In paragraphs 26(2), 26(3), and 26(5) of Part 3B of Schedule 9, for “10(1)” substitute “(1)” and in paragraph 26(4) for “10(3)” substitute “(3)”.

Secretary of State’s rationale:
To correct a referencing error.

Schedule 9 – Part 4, paragraph 2

In paragraph 2 of Part 4 of Schedule 9, in the definition of “specified work” for “(maintenance of authorised development)” substitute “(power to maintain the authorised project)”.

Secretary of State’s rationale:
To reflect the title of article 4.

Schedule 9 – Part 4, paragraph 4(1)(a)

In paragraph 4(1)(a) of Part 4 of Schedule 9 for “(development consent granted by the Order)” substitute “(development consent etc. granted by this Order)”.

Secretary of State’s rationale:
To reflect the title of article 3.

Schedule 9 – Part 4, paragraph 4(1)

Remove the blank line between (h) and (i).

Secretary of State’s rationale:
To correct a formatting error.

Schedule 9 – Part 4, paragraph 4(1)(r)

In paragraph 4(1)(r) of Part 4 of Schedule 9, after “any powers” delete “under”.

Secretary of State’s rationale:
To correct a typographical error.

Schedule 9 – Part 4, paragraph 4(3)

In paragraph 4(3) of Part 4 of Schedule 9, for “(power to override easements)” substitute “(statutory authority to override easements)”.

Secretary of State’s rationale:
To reflect the title of article 24.

Schedule 9 – Part 4, paragraph 12(5)

In paragraph 12(5) of Part 4 of Schedule 9, at the end, for “sub-paragraph” substitute “sub-paragraphs in paragraph 6”.

Secretary of State’s rationale:

To provide clarity.

Schedule 9 – Part 4, paragraph 22

In paragraph 22 of Part 4 of Schedule 9, for “(certification of plans, etc.)” substitute “(certification of plans and documents, etc.)”

Secretary of State’s rationale:

To reflect the title of article 38.

Schedule 9 – Part 5, paragraph 1(2)(d)

In paragraph 1(2)(d) of Part 5 of Schedule 9 in the definition of “specified work” after “water resources” delete “.”.

Secretary of State’s rationale:

To correct a punctuation error.

Schedule 9 – Part 6, paragraph 2(e)

In paragraph 2(e) of Part 6 of Schedule 9, in the definition of “specified work” after the words “by any other means whatsoever” insert “of”.

Secretary of State’s rationale:

To correct a typographical error.

Schedule 9 – Part 7, paragraph 3

In paragraph 3 of Part 7 of Schedule 9, in the definition of “acceptable insurance” for “£50,000,000” substitute “£50,000,000.00”.

Secretary of State’s rationale:

For consistency of formatting.

Schedule 9 – Part 7, paragraph 4(2)(b)

In paragraph 4(2)(b) of Part 7 to Schedule 9, for “temporary restrictions” substitute “temporary closure and restriction”.

Secretary of State’s rationale:

To reflect the title of article 10.

Schedule 9 – Part 7, paragraph 4(2)(c)

In paragraph 4(2)(c) of Schedule 9 for “stopping up” substitute “closure”.

Secretary of State’s rationale:

To reflect the title of article 11.

Schedule 9 – Part 7, paragraph 4(2)(i)

In paragraph 4(2)(i) in Part 7 of Schedule 9, at the end insert “;”.

Secretary of State’s rationale:
To correct a typographical error.

Schedule 9 – Part 7, paragraph 4(2)(j)

In paragraph 4(2)(j) in Part 7 of Schedule 9 after “rights” insert “etc.”.

Secretary of State’s rationale:
To reflect the title of article 21.

Schedule 9 – Part 7, paragraph 4(2)(o)

In paragraph 4(2)(o) of Part 7 of Schedule 9, after “carrying out” insert “the”.

Secretary of State’s rationale:
To reflect the title of article 28.

Schedule 9 – Part 7, paragraph 4(2)(p)

In paragraph 4(2)(p) of Part 7 of Schedule 9, for “maintaining authorised development” substitute “maintaining the authorised project”.

Secretary of State’s rationale:
To reflect the title of article 29.

Schedule 9 – Part 7, paragraph 4(2)(q)

In paragraph 4(2)(q) in Part 7 of Schedule 9, for “31” substitute “30”.

Secretary of State’s rationale:
For consistency with the article number.

Schedule 9 – Part 7, paragraph 9(8)

In paragraph 9(8) of Part 7 of Schedule 9, after “the execution of any specified works” delete “.”and insert “;”.

Secretary of State’s rationale:
To correct a typographical error.

Schedule 9 – Part 9, paragraph 4(1)

In paragraph 4(1) of Part 9 of Schedule 9, after “otherwise than by agreement of” delete “the relevant”.

Secretary of State’s rationale:
To correct a typographical error.

Schedule 9 – Part 9, paragraph 8(1)(a)

In paragraph 8(1)(a) of Part 9 of Schedule 9 for “paragraph 7(3)” substitute “paragraph 5(3)”.

Secretary of State's rationale:
To correct a referencing error.

Schedule 9 – Part 9, paragraph 9(5)

In paragraph 9(5) of Part 9 of Schedule 9, for “If request” substitute “if requested” and “for claim reasonably incurred” substitute “for claims reasonably incurred”.

Secretary of State's rationale:
To correct typographical errors.

Schedule 9 – Part 10, paragraph 2(a)

In paragraph 2(a) of Part 10 of Schedule 9 delete the first word “the”.

Secretary of State's rationale:
To correct a typographical error.

Schedule 13 – paragraph 1 (paragraph 2)

In paragraph 1, of Schedule 13, in paragraph 2 of the inserted text, definition of “acceptable insurance” for “£50,000,000” substitute “£50,000,000.00”.

Secretary of State's rationale:
For consistency in formatting.

Schedule 13 – paragraph 1 (paragraph 2)

In paragraph 1 of Schedule 13, in paragraph 2 of the inserted text, definition of “ground subsidence event”, at the end, delete “and”.

Secretary of State's rationale:
To correct a typographical error.

Schedule 13 – paragraph 1 (paragraph 3(2)(m))

In paragraph 1 of Schedule 13, paragraph 3(2)(m) of inserted text for “authorised development” substitute “authorised project”.

Secretary of State's rationale:
To reflect the title of article 30 in the 2015 Order.

Schedule 13 – paragraph 1 (paragraphs 8 and 10)

In paragraph 1 of Schedule 13, paragraphs 8 and 10 of inserted text, for “Part 2” substitute “Part 3”.

Secretary of State's rationale:
To correct referencing errors.

Schedule 13 – paragraph 1 (paragraph 13(2))

In paragraph 1 of Schedule 13, paragraph 13(2) of inserted text, after “(unless sub-paragraph (3) applies)” delete “,”.

Secretary of State's rationale:
To correct a typographical error.

Schedule 13 – paragraph 1 (paragraph 13(5))

In paragraph 1 of Schedule 13, inserted text at paragraph 13(5), after “under sub-paragraph (1) for” insert “any”.

Secretary of State's rationale:
To correct a typographical error.

Schedule 14 – paragraph 3(4)

In paragraph 3(4) of Schedule 14, after “serving its statements” insert “under”.

Secretary of State's rationale:
To correct a typographical error.

Schedule 15 – Part 3

Replace “REP7-058” with “Post-examination F2.7” in first column.

Replace “7” with “3” in the third column.

Replace “10 August 2022” with “11 May 2023”.

Secretary of State's rationale:
To correct referencing errors.

Schedule 16 – Part 1, paragraph 2(c)

Change “...timetable for preparation of the KCIMP, the GCIMP and the RCIMP...” to “timetable for the preparation of the KCIMP and GCIMP”.

Secretary of State's rationale:
To correct a typographical error.

Schedule 16 – Part 2, paragraph 6

Insert “(if relevant)” after “any finding” in: “This must include any finding that the measures have been ineffective in securing...”.

Secretary of State's rationale:
For clarity.

Schedule 16 – Part 3, paragraph 10(a)(v)(cc)

In paragraph 10(a)(v)(cc) of Part 3 of Schedule 16, after “(cc) survey and reporting programmes” insert “;”.

Secretary of State's rationale:
To correct a typographical error.

Corrections which the Secretary of State has not made

Footnote (h), page 4

Delete “of the” from: “and by section 128(2) of the and Schedule 13”.

Secretary of State’s rationale:

The footnote is not part of the Statutory Instrument and therefore is not in a part of the decision document which records the decision.

Article 5(3)(a) and (b) – Benefit of the Order

Delete the words “Where an agreement has been made in accordance with paragraph (2)(a)” and “Where an agreement has been made in accordance with paragraph (2)(b)”

Secretary of State’s rationale:

Cross reference not necessary.

Article 7(1), footnote (e) – Defence to proceedings in respect of statutory nuisance

Delete the comma after the word “to” in: “1990 c. 43. Section 82 was amended by section 107 and paragraph 6 of Schedule 17 to, the Environment Act (c. 25)”.

Secretary of State’s rationale:

The footnote is not part of the Statutory Instrument and therefore is not in a part of the decision document which records the decision.

Schedule 6 – column (1) and (2)

Delete blank cells.

Secretary of State’s rationale:

To avoid creating issues with the formatting of the table.

Schedule 7 – paragraph 10 (para 5)

Change commas at the end of (a) and (b) to semicolons.

Secretary of State’s rationale:

Amendment not necessary.

Schedule 7 – paragraph 10 (para 11)

Change commas at the end of (a) and (b) to semicolons.

Secretary of State’s rationale:

Amendment not necessary.

Schedule 9 – Part 11 (para 2) (c)(iv)

Change full stop at the end of paragraph 2 (c)(iv) to a semicolon.

Secretary of State’s rationale:

Amendment not necessary.

Schedule 16 – Part 1

Remove the words “and razorbill” in: “the Hornsea Four Offshore Ornithology Engagement Group” or “H4 OOEG” means the group that will assist, through consultation, the undertaker in the delivery of the compensation measures identified in the kittiwake compensation plan and the guillemot and razorbill compensation plan;”.

Secretary of State’s rationale:

To ensure that the name of the document is correct.

Schedule 16 – Part 2, paragraph 3(d)

Change “four” to “three” in: “for at least four full kittiwake breeding seasons”.

Secretary of State’s rationale:

Reference to “four” breeding seasons was intentionally inserted into the Order by the Secretary of State. It is not an error and therefore does not need to be corrected.

Schedule 16 – Part 2, paragraph 4

Change “four” to “three” in: “and four full kittiwake breeding seasons”.

Secretary of State’s rationale:

Reference to “four” breeding seasons was intentionally inserted into the Order by the Secretary of State. It is not an error and therefore does not need to be corrected.

Schedule 16 – Part 3, paragraph 10(a)(iv), paragraph 10(b)(iii), paragraph 11

Delete “and 1(b), Work No. 2(a), 2(b) and (c) and Work No. 3(a)” from “Work No. 1(a) and 1(b), Work No. 2(a), 2(b) and (c) and Work No. 3(a)”.

Secretary of State’s rationale:

References to Work No. 1(b), Work No. 2(a), 2(b) and (c) and Work No. 3(a) were intentionally inserted into this paragraph of the Order by the Secretary of State. It is not an error and therefore does not need to be corrected.