

SCHEDULES

SCHEDULE 8

Protective Provisions

PART 7

Protection for oil and gas licensees

Application

75. For the Protection of the Licensees from time to time of United Kingdom Petroleum Production Licence P1965, unless otherwise agreed in writing between the Undertaker and the Licensees the provisions of this part of this Schedule shall have effect.

Interpretation

76. In this Part of this Schedule—

“Applicable Laws” means applicable laws, rules, orders, guidelines and regulations, including without limitation, those relating to health, safety and the environment and logistics activities such as helicopter and vessel operations;

“Good Offshore Wind Farm Construction Practice” means the application of those methods and practices customarily used in construction of wind farms in the United Kingdom Continental Shelf with that degree of diligence and prudence reasonably and ordinarily exercised by experienced operators and contractors engaged in the United Kingdom Continental Shelf in a similar activity under similar circumstances and conditions;

“Good Oilfield Practice” means the application of those methods and practices customarily used in good and prudent oil and gas field practice in the United Kingdom Continental Shelf with that degree of diligence and prudence reasonably and ordinarily exercised by experienced operators engaged in the United Kingdom Continental Shelf in a similar activity under similar circumstances and conditions;

“Guidance” means the “Oil and gas clause in Crown Estate leases, Guidance on procedures for independent valuation where necessary” published by the Department of Energy and Climate Change in June 2014, or any similar supplementary or replacement policy;

“Licence” means United Kingdom Petroleum Production Licence P.1965;

“Licensee” means the licensee from time to time of the Licence;

“Licensees’ Works” means any infrastructure to be installed owned and occupied or maintained by or on behalf of the Licensees or exploration, appraisal, development and decommissioning activities (and associated logistics activities), by the Licensees in connection with the Licence within the Protected area;

“Ministerial Statement” means the written statement given by the Secretary of State for Energy and Climate Change to the UK Parliament regarding Crown Estate Leases for Offshore Renewables Projects on 12 July 2011, or any similar supplementary or replacement policy;

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“Plan of the Licensees’ Works” means an exploration and development programme and details and location of Licensees’ Works and minimum requirements known at that time such as exclusive zones in accordance with Good Oilfield Practice and Applicable Laws to enable the Licensees to, as applicable, explore, appraise, develop and/or decommission hydrocarbon resources within the Protected area;

“Plan of the Undertakers’ Works” means a construction programme and details of location of the Undertakers’ Works and minimum requirements known at that time such as safety and exclusion zones in accordance with Good Offshore Wind Farm Construction Practice and Applicable Laws to enable the Undertaker to construct and operate the Undertakers’ Works within the Protected area;

“the Protected area” means the area coloured green on the Protective Provisions Plan (that area coloured green being delineated by a line drawn between the points in the Table of Co-ordinates);

“the Protective Provisions Plan” means the plan entitled Protective Provisions Plan and certified as the Protective Provisions Plan for the purposes of this Part of this Schedule;

“Proximity Agreement” means an agreement between the Undertaker and the Licensees to reconcile and protect the interests of the parties as are known at the time to secure the implementation of the Undertakers’ Works and the Licensees’ Works, taking account of the matters in paragraph 84;

“the Table of Co-ordinates” means the following table—

<i>Area</i>	<i>Label Point</i>	<i>Latitude (European Datum 1950 UTM 31N)</i>	<i>X Datum Zone</i>	<i>Longitude (European Datum 1950 UTM 31N)</i>	<i>Y Datum Zone</i>
1	A	483,799.57		5,834,052.15	
	B	494,193.52		5,830,959.70	
	C	490,468.86		5,823,847.11	
	D	483,750.96		5,823,832.51	
2	E	500,000.00		5,846,795.24	
	F	502,637.55		5,847,084.40	
	G	500,000.00		5,842,047.75	

“Undertakers’ Works” means the works permitted in this Order within the Protected area.

Proximity Agreement

77. Save as provided in paragraphs 83 and 85 no part of the Undertakers’ Works shall commence until either—

- (i) a Proximity Agreement has been concluded between the Undertaker and the Licensees in respect of that part of the Undertakers’ Works; or
- (ii) the Undertaker and the Licensees shall have agreed in writing that no Proximity Agreement is required in respect of that part of the Undertakers’ Works

78. Preparation of a Proximity Agreement must commence when the Undertaker serves Notice on the Licensees of the Undertaker’s intention to commence any part of the Undertaker’s Works

79. Any such notice must be served within no less than 12 months of the intended commencement date of that part of the Undertakers’ Works and within no less than 12 months of the grant of the

Order and shall include a Plan of that part of the Undertakers' Works and a request to the Licensees to produce a Plan of the Licensees' Works

80. In response to the notice the Licensee shall produce a Plan of the Licensees' Works within 28 days of service of the notice.

81. Preparation of a Proximity Agreement must be concluded within 3 months of the date for production of the Plan of the Licensees' Works under paragraph 80 above

82. If the Undertaker considers that the Plan of the Licensees' Works produced pursuant to paragraph 80 above provides insufficient detail of—

- (i) the existence of a realistic oil and gas prospect within the Protected area and/or
- (ii) the nature and location of the Licensees' Works in order to enable the Undertaker to define or mitigate the effects of the Undertakers' Works on the Licensees' Works and/or
- (iii) any area of sea required for the Licensees' Works having been minimised in light of (i) above

to enable a Proximity Agreement to be concluded which contains ongoing limitations on the programming siting design construction or operation of the Undertakers' Works or the Order works the Undertaker must notify the Licensees of the additional detail required whereupon the Licensees must provide all such additional detail within 28 days of such notification by the Undertaker.

83. Paragraph 77 shall not apply if the plan of the Licensees' Works or additional detail provided pursuant to paragraph 82 above provides insufficient detail for the purposes set out in paragraph 82 above.

84. The Proximity Agreement must be based on the Plan of the Licensees' Works and the Plan of the Undertakers' Works and must take account of—

- (i) the nature and location of the Licensees' Works on any Plan of the Licensees' Works as known at that time
- (ii) the location and extent of sea required for the Licensees' Works (including all applicable exclusive zones) on any Plan of the Licensees' Works as known at that time
- (iii) all such evidence as is available at the time to support the existence of an oil and gas prospect within the Protected area
- (iv) the ability of the Licensees to reduce or remove its sea area requirement under (ii) above in light of evidence at (iii) above, whether with immediate effect or at a specified later date
- (v) the date by which the Licensees will seek to commence exploitation, or at which works of exploration, will cease as known at that time
- (vi) the siting and design of the Undertakers' Works on any Plan of the Undertakers' Works as known at that time
- (vii) the minimum feasible exclusive zones, buffer zones or safety zones required for safe construction and operation between the Undertakers' Works and the Licensees' Works
- (viii) protocols protective of navigation communication and use of the sea by third parties
- (ix) possible future transfer of the benefit of the Order or of the Licence
- (x) the desirability of co-existence and the ongoing commercial viability of the authorised development permitted under the Order together with exploration for and commercial exploitation of oil and gas within the Protected area

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Arbitration

85. If no Proximity Agreement is concluded or the parties shall not have agreed whether paragraph 83 applies within the period specified in paragraph 81 the outstanding matters in dispute must be referred to an arbitrator and the Undertakers' Works must not commence until the determination of the arbitrator has been made and must only be implemented in accordance with the arbitrator's determination which is final and binding on the parties (save for manifest or legal error)—

- (i) the arbitration shall be decided by a sole arbitrator whose appointment shall be agreed by the parties
- (ii) the arbitrator shall be a person (including one who has retired) with not less than ten years' experience of offshore oil and gas development or offshore wind farm development or as a lawyer or other professional advisor serving those industries
- (iii) where the parties fail to agree to appoint an arbitrator within 28 days of the delivery of a notice of arbitration, then upon application the Secretary of State will appoint an arbitrator within 28 days. At any time prior to the appointment by the Secretary of State the parties may make an appointment
- (iv) the intention of the parties is that, so far as is practical, the arbitrator should make a determination within 3 months of appointment
- (v) the seat of arbitration shall be London

Provision of information

86. Without prejudice to any other rights or obligations under this Part of the Schedule the Licensees and the Undertaker shall from time to time keep each other informed of relevant activities such that the Licensees and the Undertaker may seek to agree solutions to allow the Undertakers' works and the Licensees' works to successfully co-exist as far as reasonably practicable or if later until completion of activities required under any statutory decommissioning plan required under the Petroleum Act 1998 in relation to the Licence and taking place within the Protected area

Compensation

87. Nothing in this Part of the Schedule shall affect any rights or obligations or assessment of compensation in accordance with the Ministerial Statement and the Guidance (as applicable)