

# SCHEDULES

## SCHEDULE 14

Article 45

### COMPENSATION MEASURES

#### PART 1

##### KITTIWAKE COMPENSATION MEASURES

**1.** In this Schedule:

“the FFC” means the site designated as the Flamborough and Filey Coast Special Protection Area; and

“the kittiwake compensation plan [<sup>F1</sup>]” means the document certified as the kittiwake compensation plan by the Secretary of State for the purposes of this Order under article 36 (certification of plans and documents etc.).

#### Textual Amendments

**F1** Sch. 14 Pt. 1 para. 1 punctuation inserted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), [Sch.](#)

#### Commencement Information

**I1** Sch. 14 para. 1 in force at 22.1.2021, see [art. 1](#)

**2.** The authorised development may not be commenced until a plan for the work of the Offshore Ornithology Engagement Group (“OOEG”) has been submitted to and approved by the Secretary of State. Such plan to include:

- (a) terms of Reference of the OOEG;
- (b) details of the membership of the OOEG;
- (c) details of the schedule of meetings, timetable for preparation of the kittiwake implementation and monitoring plan (the “KIMP”) and reporting and review periods; and
- (d) the dispute resolution mechanism.

#### Commencement Information

**I2** Sch. 14 para. 2 in force at 22.1.2021, see [art. 1](#)

**3.** The KIMP must be submitted to the Secretary of State for approval (in consultation with the MMO, the local planning authority or authorities for the land containing the artificial nest sites, and Natural England). The KIMP must be based on the strategy for kittiwake compensation set out in the kittiwake compensation plan and include:

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- (a) details of locations where compensation measures will be deployed and details of landowner agreements demonstrating how the land will be bought or leased and assurances that the land management will deliver the ecology objectives of the KIMP;
- (b) details of designs of artificial nest sites including the number of nesting structures; and how risks from avian or mammalian predation and unauthorised human access will be mitigated;
- [<sup>F2</sup>(c) an implementation timetable for delivery of four artificial nest structures that ensures all necessary compensation measures are in place to allow three full kittiwake breeding seasons in respect of two artificial nest structures prior to the operation of any turbine forming part of the authorised development, and to allow two full kittiwake breeding seasons for the other two artificial nest structures prior to the operation of any turbine forming part of the authorised development, with the KIMP to specify whether three or two breeding seasons applies to each artificial nest structure;]
- (d) details of the proposed ongoing monitoring of the measures including: survey methods; survey programmes; success criteria; recording of OOEG consultations and project reviews; details of the factors used to trigger alternative compensation measures and/ or adaptive management measures; and annual reporting to the Secretary of State;
- (e) details of any adaptive management measures, to include the provision of additional nesting sites if capacity in one location is exceeded;
- (f) provision for annual reporting to the Secretary of State, to include details of the use of each site by breeding kittiwake to identify barriers to success and target the adaptive management measures. This would include the number of birds colonising the site; evidence of birds prospecting; nesting attempts; egg laying; hatching; and fledging.
- (g) details of how natal dispersal and colony interchange with the FFC kittiwake colony will be considered and proposals for assessing any evidence of additional productivity to the FFC;
- (h) details of the artificial nesting site maintenance schedule; and
- (i) details of the work within the exploration of prey availability measures as set out in Appendix 1 of the response from the undertaker to the Secretary of State's minded to approve letter dated 1 July 2020, that could support practical management measures to increase prey availability, and which should be undertaken alongside the artificial nest site installation.

**Textual Amendments**

**F2** Sch. 14 para. 3(c) substituted (18.4.2023) by [The Hornsea Three Offshore Wind Farm \(Amendment\) Order 2023 \(S.I. 2023/459\)](#), arts. 1, **3(a)**

**Commencement Information**

**I3** Sch. 14 para. 3 in force at 22.1.2021, see [art. 1](#)

[<sup>F3</sup>4. The undertaker must implement the measures as set out in the KIMP approved by the Secretary of State and no operation of any turbine forming part of the authorised development may be commenced until three full breeding seasons have elapsed from the implementation of two of the artificial nest structures and two full breeding seasons have elapsed from the implementation of two of the artificial nest structures, as set out in the KIMP. For the purposes of this paragraph each breeding season is assumed to have commenced on 1 March in each year and ended on 30 September.]

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#### Textual Amendments

**F3** Sch. 14 para. 4 substituted (18.4.2023) by [The Hornsea Three Offshore Wind Farm \(Amendment\) Order 2023 \(S.I. 2023/459\)](#), arts. 1, **3(b)**

5. The undertaker shall notify the Secretary of State of completion of implementation of the measures set out in the KIMP.

#### Commencement Information

**I4** Sch. 14 para. 5 in force at 22.1.2021, see [art. 1](#)

6. Once the measures have been implemented the undertaker shall provide an annual report to the Secretary of State on the progress of the measures as detailed in the KIMP.

#### Commencement Information

**I5** Sch. 14 para. 6 in force at 22.1.2021, see [art. 1](#)

7. The artificial nest structures must not be decommissioned without written approval of the Secretary of State. The artificial nest structures shall be maintained beyond the operational lifetime of the authorised development if they are colonised, and routine and adaptive management measures and monitoring must continue whilst the artificial nesting structures are in place.

#### Commencement Information

**I6** Sch. 14 para. 7 in force at 22.1.2021, see [art. 1](#)

8. The KIMP approved under this Schedule includes any amendments that may subsequently be approved in writing by the Secretary of State. Any amendments to or variations of the approved KIMP must be in accordance with the principles set out in the kittiwake compensation plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any materially new or materially different environmental effects from those considered in the kittiwake compensation plan.

#### Commencement Information

**I7** Sch. 14 para. 8 in force at 22.1.2021, see [art. 1](#)

## PART 2

### BENTHIC COMPENSATION MEASURES

#### Benthic compensation measures

9. In this part of the Schedule:

“the NNSSR” means the site designated as the North Norfolk Sandbanks and Saturn Reef Special Area of Conservation;

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“the WNNC” means the site designated as the Wash and North Norfolk Coast Special Area of Conservation; and

“the sandbanks compensation strategy” means the document certified as the sandbanks compensation strategy by the Secretary of State for the purposes of this Order under article 36 (certification of plans and documents etc.).

**Commencement Information**

**I8** Sch. 14 para. 9 in force at 22.1.2021, see [art. 1](#)

**10.** The authorised development may not be commenced until a plan for the work of a Steering Group who will shape and inform the scope and delivery of Sandbanks Implementation Plans for the NNSR and the WNNC (“the SIPs”) has been submitted to and approved by the Secretary of State. Such plan to include:

- (a) terms of reference of the Steering Group;
- (b) the membership of the Steering Group;
- (c) the schedule of meetings, timetable for preparation of the SIPs and reporting and review periods; and
- (d) the dispute resolution mechanism.

**Commencement Information**

**I9** Sch. 14 para. 10 in force at 22.1.2021, see [art. 1](#)

**11.** The Steering Group must be consulted on i) the proposed SIPs prior to the submission to the Secretary of State and ii) the decommissioning feasibility study and monitoring plans prior to the submission to the MMO and must be consulted further as required during the approval process for each. The undertaker will meet with and report to the Steering Group at least annually throughout the establishment and implementation phases of [<sup>F4</sup>the SIPs] and document the conclusions of the meetings.

**Textual Amendments**

**F4** Words in [Sch. 14 para. 11](#) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), [art. 1\(2\)](#), [Sch.](#)

**Commencement Information**

**I10** Sch. 14 para. 11 in force at 22.1.2021, see [art. 1](#)

**12.** A SIP for each of the NNSR and the WNNC must be submitted to the Secretary of State for approval.

**Commencement Information**

**I11** Sch. 14 para. 12 in force at 22.1.2021, see [art. 1](#)

**13.** Each SIP must accord with the principles set out in the Sandbanks Compensation Strategy relating to the protected feature “sandbanks slightly covered by water all the time” and must include the following:

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- (a) details of how all impacts to Annex 1 reef habitats within designated sites will be avoided;
- (b) details of the locations for the disposal of dredged material, and evidence that the disposal mechanism will allow sediment to be retained within the sandbank system and avoid impacts to other features, particularly reef habitats;
- (c) details of the areas which will be subject to marine debris removal, which should equate to no less than 41.80 ha at NNSSR and 2.77 ha at WNNC;
- (d) details of the marine debris awareness events, and measures to facilitate the rapid recovery of lost fishing gear, as detailed in the sandbanks compensation strategy. Such measures should be applied to both NNSSR and WNCC;
- (e) an environmental monitoring plan to include: appropriate surveys to assess the effects of cable protection on sediment movement and epifauna assemblages during the operation of [F5the authorised project], to improve the evidence base for assessing the impacts of offshore windfarm cable installation and rock protection for future projects; and appropriate surveys to monitor the recovery of the areas of the NNSSR and the WNNC impacted by cable protection, post-decommissioning; and
- (f) Details of the timetable for implementation of each measure.

#### Textual Amendments

**F5** Words in Sch. 14 para. 13(e) substituted (21.5.2021) by [The Hornsea Three Offshore Wind Farm \(Correction\) Order 2021 \(S.I. 2021/599\)](#), art. 1(2), Sch.

#### Commencement Information

**I12** Sch. 14 para. 13 in force at 22.1.2021, see [art. 1](#)

**14.** No cable installation works in Work No. 2(c) and (d), Work No. 3(c) and (d) and Work No. 5 may be commenced until a SIP for each of the NNSSR and the WNNC has been approved in writing by the Secretary of State. Before approving the SIPs the Secretary of State must consult the MMO and Natural England and, in relation to the SIP for the NNSSR, the JNCC.

#### Commencement Information

**I13** Sch. 14 para. 14 in force at 22.1.2021, see [art. 1](#)

**15.** No cable installation work in Work No, 2(c) and (d), Work No, 3(c) and (d) and Work No. 5 may be commenced until the KIMP for the FFC as described in Part 1 of this Schedule has been approved in writing by the Secretary of State.

#### Commencement Information

**I14** Sch. 14 para. 15 in force at 22.1.2021, see [art. 1](#)

**16.** The measures in the SIPs must be carried out in accordance with the timetable in the relevant SIP as approved by the Secretary of State. In particular no cable installation works in Work No. 2(c) and (d), Work No. 3(c) and (d) and Work No. 5 may be commenced unless the measures set out in paragraph 13(c) have been completed.

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**Commencement Information**

**I15** Sch. 14 para. 16 in force at 22.1.2021, see [art. 1](#)

**17.** No later than four months prior to each deployment of cable protection, except where otherwise stated or unless otherwise agreed in writing by the MMO, the undertaker must submit the following documents for approval by the MMO:

- (a) A decommissioning feasibility study on the proposed cable protection to be updated at intervals of not more than every ten years throughout the operational phase of the project; and
- (b) A monitoring plan including appropriate surveys of cables situated within WNNC and NNSR that are subject to cable protection to assess the integrity and condition of that cable protection and determine the appropriate extent of the feasibility of the removal of such cable protection having regard to the condition of the cable protection and feasibility of any new removal techniques at that time, along with a method statement for recovery of cable protection.

**Commencement Information**

**I16** Sch. 14 para. 17 in force at 22.1.2021, see [art. 1](#)

**18.** A SIP approved under this Schedule, includes any amendments that may subsequently be approved in writing by the Secretary of State. Any amendments to or variations of the approved SIP must be in accordance with the principles and assessments set out in the Sandbanks Compensation Strategy and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any materially new or materially different environmental effects from those assessed in those sandbank compensation strategy.

**Commencement Information**

**I17** Sch. 14 para. 18 in force at 22.1.2021, see [art. 1](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Sch. 14 para. 3(c) substituted by [S.I. 2024/627 art. 3\(a\)](#)
- Sch. 14 para. 4 substituted by [S.I. 2024/627 art. 3\(b\)](#)