
STATUTORY INSTRUMENTS

2023 No. 778

INFRASTRUCTURE PLANNING

The Boston Alternative Energy Facility Order 2023

Made - - - - *5th July 2023*

Coming into force *27th July 2023*

THE BOSTON ALTERNATIVE ENERGY FACILITY ORDER 2023

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- Signature

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PART 1 — FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

1. For the protection of the utility undertakers referred to in...
2. In this Part of this Schedule—“alternative apparatus” means alternative...

On street apparatus

3. This Part of this Schedule does not apply to apparatus...

Apparatus in stopped up streets

4. (1) Where any street is stopped up under article 14...

Protective works to buildings

5. The undertaker, in the case of the powers conferred by...

Acquisition of land

6. Regardless of any provision in this Order or anything shown...

Removal of apparatus

7. (1) If, in the exercise of the powers conferred by...

Facilities and rights for alternative apparatus

8. (1) Where, in accordance with the provisions of this Part...

Retained apparatus

9. (1) Not less than 28 days before starting the execution...

Expenses and costs

10. (1) Subject to the following provisions of this paragraph, the...
11. (1) Subject to sub-paragraphs (2) and (3), if by reason...

Cooperation

12. Where in consequence of the proposed construction of any part...
13. Nothing in this Part of this Schedule affects the provisions...

PART 2 — FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

14. For the protection of any operator, the following provisions have...
15. In this Part of this Schedule—“the 2003 Act” means...
16. The exercise of the powers conferred by article 35 (statutory...
17. (1) Subject to sub-paragraphs (2) to (4), if as the...

PART 3 — FOR THE PROTECTION OF HIGHWAYS AND TRAFFIC UNDERTAKERS

18. (1) The provisions of this Part of this Schedule have...
19. (1) Before commencing the construction of, or the carrying out...
20. (1) The undertaker must not alter, disturb or in any...

21. The undertaker must not remove any soil or material from...
22. (1) If the relevant highway authority, after giving to the...
23. (1) The undertaker shall not, except with the consent of...
24. The undertaker must not, except with the consent of the...
25. The undertaker must, if reasonably so required by the relevant...
26. (1) Where any part of any highway has been broken...
27. If any damage to any highway or any property of...
28. The fact that any act or thing may have been...
29. Any difference arising between the undertaker and the relevant highway...
PART 4 — FOR THE PROTECTION OF THE ENVIRONMENT AGENCY
30. The following provisions apply for the protection of the Agency...
31. In this Part of this Schedule—“the Agency” means the...

Submission and approval of plans

32. (1) Before beginning to construct any specified work, the undertaker...

Construction of protective works

33. Without limiting paragraph 32, the requirements which the Agency may...

Timing of works and service of notices

34. (1) Subject to sub-paragraph (2), any specified work, and all...

Maintenance of drainage works

35. (1) Subject to sub-paragraph (5) the undertaker must from the...

Impairment of drainage works

36. Subject to paragraph 39, if by reason of the construction...

Agency access

37. If by reason of construction of the specified work the...

Free passage of fish

38. (1) The undertaker must take all such measures as may...
39. The undertaker must indemnify the Agency in respect of all...

Indemnity

40. (1) The undertaker is responsible for and indemnifies the Agency...

Disputes

41. Any dispute arising between the undertaker and the Agency under...

Roman Bank

42. (1) The undertaker must at its own cost engage the...
43. The undertaker must at its own cost engage the services...
44. The initial condition survey in accordance with paragraph 42 must...
45. The undertaker must provide to the Agency a copy of—...
46. The undertaker at its own costs will inspect, maintain and...
47. In respect of the Roman Bank only, this Part of...

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PART 5 — FOR THE PROTECTION OF DRAINAGE AUTHORITIES

48. The provisions of this Part have effect for the protection...
49. In this Part of this Schedule— “construction includes execution, placing,...
50. (1) Before commencing construction of a specified work, the undertaker...
51. Without limiting paragraph 50, the requirements which the drainage authority...
52. (1) Subject to sub-paragraph (2), any specified work, and all...
53. (1) Subject to sub-paragraph (5), the undertaker must from the...
54. Subject to paragraphs 55 and 56 and sub-paragraph 53(5)(b), if,...
55. The undertaker must make reasonable compensation for costs, charges and...
56. (1) Without limiting the other provisions of this Part, the...
57. The fact that any work or thing has been executed...
58. Any dispute arising between the undertaker and the drainage authority...

PART 6 — FOR THE PROTECTION OF ANGLIAN WATER

59. For the protection of Anglian Water, the following provisions have...
60. In this Part of this Schedule— “alternative apparatus” means alternative...
61. The undertaker will not interfere with, build over or near...
62. The alteration, extension, removal or re-location of any apparatus must...
63. In the situation, where in exercise of the powers conferred...
64. Regardless of any provision in this Order or anything shown...
65. If in consequence of the exercise of the powers conferred...
66. If in consequence of the exercise of the powers conferred...
67. If for any reason or in consequence of the construction...
68. Any agreement or approval of Anglian Water required under this...
69. Any dispute arising between the undertaker and Anglian Water under...

SCHEDULE 9 — DEEMED MARINE LICENCE

PART 1 — INTRODUCTION

Interpretation

1. (1) In this licence— “the 2009 Act” means the Marine...
2. (1) Except where otherwise indicated, the main point of contact...

PART 2 — LICENSED ACTIVITIES

3. Subject to the licence conditions in Part 3 of this...
4. (1) In this licence, “authorised development” means the construction, maintenance...

PART 3 — CONDITIONS

General conditions

5. The undertaker must notify the MMO at the earliest opportunity...
6. (1) The undertaker must notify the HM Coastguard (mail to:...
7. (1) The undertaker must ensure that local mariners and fishermen’s...

Vessels

8. (1) The MMO must be notified in writing of any...
9. The undertaker must ensure that a copy of this licence...

Agents/contractors/sub-contractors

10. (1) The undertaker must provide the name, address and function...
11. (1) The undertaker must ensure that a copy of this...

Construction environmental management plan

12. (1) The undertaker must submit a CEMP in writing to...

Piling

13. (1) The undertaker must submit a piling method statement in...

Navigation management plan

14. (1) The undertaker must submit a navigation management plan in...

Marine archaeology

15. (1) The undertaker must submit an archaeological written scheme of...

Marine pollution contingency plan

16. (1) The undertaker must submit a marine pollution contingency plan...

Marine mammal mitigation protocol

17. (1) The undertaker must submit a marine mammal mitigation protocol...

Landscape and ecological mitigation strategy

18. (1) The undertaker must submit a landscape and ecological mitigation...

Concrete and cement

19. (1) Waste concrete, slurry or wash water from concrete or...

Coatings and treatment

20. The undertaker must ensure that any coatings and any treatments...

Spills, etc.

21. (1) The undertaker must— (a) store, handle, transport and use...

Removal of temporary structures etc.

22. The undertaker must remove all equipment, temporary structures, waste and...

Dropped objects

23. (1) All dropped objects must be reported to the harbour...

Bathymetric surveys

24. (1) Pre and post dredge bathymetrical surveys must be undertaken...

Sediment sampling

25. (1) The undertaker must submit a sample plan in writing...

Reporting of impact sound to the Marine Noise Registry

26. (1) Only when impact driven or part-driven pile foundations or...

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Decommissioning

27. (1) Within 24 months of the permanent cessation of the...

Notice of completion of licensed activity

28. The undertaker must inform the MMO local office and MMO...
PART 4 — PROCEDURE FOR THE DISCHARGE OF CONDITIONS

Meaning of “return”

29. In this Part, “return” means a submission by the undertaker...

Further information regarding return

30. (1) The MMO may request in writing such further information...

Determination of returns

31. (1) In determining the return the MMO may have regard...

Notice of determination

32. (1) Subject to sub-paragraph (2) or (3), the MMO must...
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33. (1) In the event that the undertaker wishes to undertake...

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PART 1 — DOCUMENTS AND PLANS TO BE CERTIFIED
PART 2 — ENVIRONMENTAL STATEMENT SUPPLEMENTS

SCHEDULE 11 — ORNITHOLOGY COMPENSATION MEASURES

1. In this Schedule— “addendum to the outline ornithological compensation implementation...
2. The authorised development may not be commenced until a plan...
3. Following consultation with the OEG, the OCIMP must be submitted...
4. The OCIMP submitted for the approval of the Secretary of...
5. The OCIMP must include measures to compensate for the predicted...
6. The undertaker must implement the measures as set out in...
7. The undertaker must notify the Secretary of State of completion...
8. Results from the monitoring scheme must be submitted at least...
9. Unless otherwise agreed in writing by the Secretary of State...
10. The compensation measures delivered under this Schedule must not be...
11. The OCIMP approved under this Schedule includes any amendments that...
12. In the event of any conflict or inconsistency between the...

SCHEDULE 12 — HARBOUR SEAL COMPENSATION MEASURES

1. In this Schedule— “harbour seal compensation measures document” means the...
2. No part of the authorised development may commence until a...
3. The strategy submitted for approval must be based on the...
4. The undertaker must implement the measures set out in the...
5. The harbour seal compensation strategy approved under this Schedule includes...
6. Results from the monitoring scheme specified in paragraph 3(d) must...

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Explanatory Note