



MARINE (SCOTLAND) ACT 2010 & MARINE AND COASTAL ACCESS ACT 2009 (AS AMENDED), PART 4 MARINE LICENSING

LICENCE TO DEPOSIT, BACKFILL OF SEABED DEPRESSIONS WITHIN THE SCOTTISH MARINE AREA AND THE UK MARINE LICENSING AREA

Licence Number: **07086/20/0**

The Scottish Ministers (hereinafter referred to as "the licensing authority") hereby grant a marine licence authorising:

**Moray Offshore Windfarm (East) Limited
C/O Shepherd And Wedderburn Llp
Condor House
10 St. Paul's Churchyard
London
EC4M 8AL**

Under the Marine (Scotland) Act 2010,

To deposit any substance or object within the Scottish marine area, either in the sea or on or under the seabed.

Under the Marine and Coastal Access Act 2009,

To deposit any substance or object within the UK marine licensing area, either in the sea or on or under the seabed;

required in the execution of the works described in Part 2 of the Schedule attached to this licence. The issue of this licence is subject to conditions as set out in Part 3 of the Schedule.

This licence remains in force from **14 April 2020 to 31 December 2020.**

Signed:

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Giulia Agnisola

For and on behalf of the Licensing Authority

Date of Issue: 14 April 2020

1 PART 1 – GENERAL

1.1 Interpretation

In this licence, unless otherwise stated, terms are as defined in sections 1, 64 and 157 of the Marine (Scotland) Act 2010, and in sections 66(4), 115 and 322 of the Marine and Coastal Access Act 2009, and;

“**the 2009 Act**” means the Marine and Coastal Access Act 2009 (as amended);

“**the 2010 Act**” means the Marine (Scotland) Act 2010;

“**the Application**” means the application and supporting environmental information accepted by the Licensing Authority on 1 July 2019;

“**Commencement of the Works**” means the date on which the first vessel arrives on the Site to begin carrying on any Licensed Activity in connection with the Works, as described in Part 2 of this licence;

“**Completion of the Works**” means the date on which the Works have been completed, or the Works have been deemed to be complete by the Licensing Authority, whichever occurs first;

“**HMCG**” means Her Majesty’s Coastguard;

“**Licensable Marine Activity**” means the activities listed in section 21 of the 2010 Act and section 66 of the 2009 Act ;

“**Licensed Activities**” means any activity or activities authorised under this licence;

“**Licensee**” means Moray Offshore Windfarm (East) Limited (“Moray East”)(Company Registration Number 07101438) and having its registered office at C/O Shepherd And Wedderburn Llp, Condor House, 10 St. Paul's Churchyard, London, EC4M 8AL;

“**the Licensing Authority**” means the Scottish Ministers;

“**MHWS**” means mean high water spring tide;

“**OSP**” means Offshore Substation Platform;

“**the Site**” means the area outlined in the Figure 1 contained in Part 4 of this licence; and

“**the Works**” means the backfill of seabed depressions.

All geographical co-ordinates contained within this licence are in latitude and longitude format World Geodetic System 84 (“WGS84”).

1.2 Contacts

All correspondence or communications relating to this licence should be addressed to:

Marine Scotland
Licensing Operations Team
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

Email: MS.MarineRenewables@gov.scot

1.3 Other authorisations and consents

The Licensee is deemed to have satisfied themselves that there are no barriers or restrictions, legal or otherwise, to the carrying on of the licensed activities in connection with the Works. The issuing of this licence does not absolve the Licensee from obtaining such other authorisations and consents, which may be required under statute.

1.4 Variation, suspension, revocation and transfer

Under section 30(1) of the 2010 Act and section 72(1) of the 2009 Act the Licensing Authority may by notice vary, suspend or revoke this licence granted by them if it appears to the Licensing Authority that there has been a breach of any of its provisions or for any such other reason that appears to be relevant to the Licensing Authority under section 30(2) or (3) of the 2010 Act and section 72(2) or (3) of the 2009 Act.

Variations, suspensions, revocations and transfers of licences are subject to the procedures set out in section 31 of the 2010 Act and in section 72 of the 2009 Act.

Under section 30(7) of the 2010 Act, on an application made by a licensee, the Licensing Authority may vary a licence if satisfied that the variation being applied for is not material.

Under section 30(8) of the 2010 Act and section 72(7) of the 2009 Act, on an application made by the licensee, the Licensing Authority may transfer this licence from the Licensee to another person.

1.5 Breach of requirement for, or conditions of, licence

Under section 39 of the 2010 Act and section 85 of the 2009 Act it is an offence to carry on a Licensable Marine Activity without a marine licence and it is also an offence to fail to comply with any condition of a marine licence.

1.6 Defences: actions taken in an emergency

Under section 40 of the 2010 Act and section 86 of the 2009 Act it is a defence for a person charged with an offence under section 39(1) of the 2010 Act and section 85(1) of the 2009 Act in relation to any activity to prove that –

the activity was carried out for the purpose of saving life, or for the purpose of securing the safety of a vessel, aircraft or marine structure (“force majeure”), and that the person took steps within a reasonable time to inform the Licensing Authority as set out in section 40(2) of the 2010 Act and section 86(2) of the 2009 Act.

1.7 Offences relating to information

Under section 42 of the 2010 Act and section 89 of the 2009 Act it is an offence for a person to make a statement which is false or misleading in a material way, knowing the statement to be false or misleading or being reckless as to whether the statement is false or misleading, or to intentionally fail to disclose any material information for the purpose of procuring the issue, variation or transfer of a marine licence or for the purpose of complying with, or purporting to comply with, any obligation imposed by either Part 4 of the 2010 Act and Part 4 of the 2009 Act or the provisions of this licence.

1.8 Appeals

Under Regulation 3(1) of the Marine Licensing Appeals (Scotland) Regulations 2011 a person who has applied for a marine licence may by summary application appeal to the sheriff of any sheriffdom against a decision taken by the Licensing Authority under section 29(1) of the 2010 Act or section 71(1) of the 2009 Act.

2 **PART 2 – THE WORKS**

2.1 **Title of the Works**

The title of the Works to which this licence relates is the Backfilling of Seabed Depressions to seabed level.

2.2 **Description of the Works**

The backfilling of seabed depressions caused by jack-up vessel spud cans, following WTG and OSP pile installation.

As described in the Application and supporting environmental information accepted by the Licensing Authority on 1 July 2019.

2.3 **Location of the Works**

Located at and adjacent to the windfarm site of the Moray Offshore Windfarm (East) Ltd, bounded by the following points:

58° 19.849' N	2° 50.458' W	58° 2.473' N	2° 35.755' W
58° 18.366' N	2° 31.278' W	58° 3.946' N	2° 54.796' W

2.4 **Deposits**

This licence authorises the deposit of the substances and objects required in connection with the Works, subject to the maximum amounts as specified below:

Amount	Description
106,600m ³	Crushed fresh, un-weathered and chemically stable rock, size range 5mm to 200mm.

2.5 **Persons responsible for the deposits of the substances or objects**

The operators, vessels and vehicles engaging in the Works must be notified to the Licensing Authority under condition 3.1.3 prior to their engagement in the Works:

Name of Vessel or Vehicle Registration	Operator	Type(s)
Flintstone	DEME Offshore	DO Fall Pipe Vessel

2.6 **Persons acting on behalf of the Licensee**

The name and address of any agents, contractors or sub-contractors appointed to carry out any part, or all, of the Works must be notified to the Licensing Authority under condition 3.1.3 prior to their engagement in the Works:

Role	Company Name	Address	Contact Name
Rock Installation Contractor	DEME Offshore NL BV	Minervum 7442, 4817 ZG Breda, The Netherlands	Tobe Possemiers

3 **PART 3 – CONDITIONS**

3.1 **General Conditions**

3.1.1 **Compliance with the Application**

The Licensee must at all times carry on the Works in accordance with this Licence and the Application and the supporting environmental information submitted in support of the Application. This includes carrying out all embedded mitigation measures as described within the Application.

Reason: *To ensure compliance with the Marine Licence and the Application for the marine licence and the supporting environmental information in accordance with s.29(3)(c) of the 2010 Act and s.71(3)(c) of the 2009 Act.*

3.1.2 **Licence conditions binding other parties**

All conditions attached to this licence bind any person who for the time being owns, occupies or enjoys any use of the Works for which this licence has been granted in relation to those licensed activities authorised under item 5 in section 21(1) of the 2010 Act and item 7 in section 66(1) of the 2009 Act whether or not this licence has been transferred to that person.

Reason: *To safeguard the obligations of the licence, in accordance with s.29(5) of the 2010 Act and s.71(5) of the 2009 Act.*

3.1.3 **Vessels, vehicles agents, contractors and sub-contractors**

The Licensee must provide, as soon as reasonably practicable in advance of their engagement in the Works authorised under this licence, the name and function of any vessel, vehicle, agent, contractor or sub-contractor appointed to engage in the Works to the Licensing Authority. Where applicable the notification must include the, vessel type, vessel IMO number and vessel owner or operating company.

The Licensee must ensure that any changes to the supplied details must be notified to the Licensing Authority, in writing, seven days prior to any vessel, agent, contractor or sub-contractor which has not yet been notified to the Licensing Authority engaging in the Works.

The Licensee must ensure that only those vessels, vehicles, operators, agents, contractors or sub-contractors notified to the Licensing Authority are permitted to carry out any part of the Works.

The above details must be recorded in section 2.4 and 2.5 of this licence, if not provided at application these details and any subsequent changes will require a variation to the licence to update section 2.4 and 2.5 prior to engagement in the Works.

The Licensee must satisfy themselves that any masters of vessels or vehicle operators, agents, contractors or sub-contractors are aware of the extent of the Works for which this licence has been granted, the activity which is licensed and the terms of the conditions attached to this licence. All masters of vessels or vehicle operators, agents, contractors and sub-contractors permitted to engage in the Works must abide by the conditions set out in this licence.

The Licensee must give a copy of this licence, and any subsequent variations made to this licence in accordance with section 30 of the 2010 Act and section 72 of the 2009 Act, to the masters of any vessels, vehicle operators, agents, contractors or sub-contractors permitted to engage in the Works and must ensure that the licence and any such variations are read and understood by those persons.

Reason: *To ensure all parties involved in the Works are aware of the licence and its conditions to reduce the risk of a breach of the licence, in accordance with s.39(1)(b) of the 2010 Act and s.85(1)(b) of the 2009 Act.*

3.1.4 Force Majeure

Should the Licensee or any of their agents, contractors or sub-contractors, by any reason of force majeure deposit/remove anywhere in the marine environment any substance or object, then the Licensee must notify the Licensing Authority of the full details of the circumstances of the deposit/removal within 48 hours of the incident occurring (failing which as soon as reasonably practicable after that period of 48 hours has elapsed). Force majeure may be deemed to apply when, due to stress of weather or any other cause, the master of a vessel or vehicle operator determines that it is necessary to deposit/remove the substance or object other than at the Site because the safety of human life or, as the case may be, the vessel, vehicle or marine structure is threatened. Under Annex II, Article 7 of the Convention for the Protection of the Marine Environment of the North-east Atlantic, the Licensing Authority is obliged to immediately report force majeure incidents to the Convention Commission.

Reason: *To provide a defence for the Master to protect himself and his crew in bad weather conditions, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.*

3.1.5 Material alterations to the licence application

The Licensee must, where any information upon which the granting of this licence was based has after the granting of the licence altered in any material respect, notify the Licensing Authority of this fact, in writing, as soon as is practicable.

Reason: *To ensure that the Works are carried out in accordance with the Application documentation, in accordance with s.29(2)(a) of the 2010 Act and s.71(2)(a) of the 2009 Act.*

3.1.6 Submission of reports and notifications to the Licensing Authority

The Licensee must submit all reports and notifications to the Licensing Authority, in writing, as are required under this licence within the time periods specified in this licence. Where it would appear to the Licensee that there may be a delay in the submission of the reports or notifications to the Licensing Authority, then the Licensee must advise the Licensing Authority of this fact as soon as is practicable and no later than the time by which those reports or notifications ought to have been submitted to the Licensing Authority under the terms of this licence.

The reports must include executive summaries, deposits sheets, monitoring reports, assessments and conclusions and any data will, subject to any rules permitting non-disclosure, be made publically available by the Licensing Authority or by any such party appointed at their discretion.

Reports prepared pursuant to another consent or licence relating to the Works by the Licensee or by a third party may also be used to satisfy the requirements of this licence.

Reason: *To ensure that all reports and notifications are submitted within a reasonable timescale after the licence is granted, in accordance with s.29(3)(c) of the 2010 Act and s.71(3)(c) of the 2009 Act.*

3.1.7 Environmental Protection

The Licensee must ensure that all reasonable, appropriate and practicable steps are taken at all times to avoid or minimise any damage to the Scottish marine area and the UK marine licensing area caused as a result of the undertaking of the licensed activities.

The Licensee must ensure that all personnel adhere to the Scottish Marine Wildlife Watching Code where appropriate while carrying on the Works authorised under this licence.

The Licensee must ensure that any debris or waste material placed below MHWS during the the Works are removed from the Site, as soon as is reasonably practicable, for disposal at a location above the MHWS approved by the Scottish Environment Protection Agency ("SEPA").

The Licensee must ensure that all substances and objects deposited during the execution of the Works are inert (or appropriately coated or protected so as to be rendered inert) and do not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

Reason: *To ensure environmental impacts are minimised, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.*

3.1.8 Availability of the licence for inspection

The Licensee must ensure that copies of this licence and any subsequent amendments or variations are available for inspection at any reasonable time by any person authorised by the Licensing Authority at:

- the premises of the Licensee;
- the premises of any agent, contractor or sub-contractor acting on behalf of the Licensee;
- any onshore premises directly associated with the Works; and
- aboard any vessels permitted to engage in the Works.

Reason: *To ensure the licence is available for the purpose of inspection, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.*

3.1.9 Inspection of the Works

Any persons authorised by the Licensing Authority, must be permitted to inspect the Works at any reasonable time. The Licensee must, as far as reasonably practicable, on being given reasonable notice by the Licensing Authority (of at least 72 hours), provide transportation to and from the Site for any persons authorised by the Licensing Authority to inspect the Site/Works.

Reason: *To ensure access to the Site for the purpose of inspection, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.*

3.1.10 Emergencies

If the assistance of a Government Department (to include departments of Administrations other than the Scottish Government) is required to deal with any emergency arising from:

- a) the failure to mark and light the Works as required by this licence; or
- b) the drifting or wreck of the Works,

to include the broadcast of navigational warnings, then the Licensee is liable for any expenses incurred in securing such assistance.

Reason: *To ensure the licensee is aware of financial liabilities, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.*

3.2 Conditions specific to the Works

3.2.1 Conditions applicable to all phases of the Works

3.2.2 Incident Reporting

In the event of any breach of health and safety or environmental obligations relating to the Works during the period of this licence, the Licensee must provide written notification of the nature and timing of the incident to the Licensing Authority, including confirmation of remedial measures taken and/or to be taken to rectify the breach, within 24 hours of the incident occurring.

Reason: *To keep the Licensing Authority informed of any such incidents which may be in the public interest, in accordance with s.29(3)(c) of 2010 Act and s.71(3)(c) of the 2009 Act.*

3.2.3 Bunding and storage facilities

The Licensee must ensure suitable bunding and storage facilities are employed to prevent the release of fuel oils and lubricating fluids associated with the plant and equipment into the marine environment.

Reason: *To ensure pollution prevention is undertaken, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act*

3.3 Conditions prior to the commencement of the Works

3.3.1 Commencement date of the Works

The Licensee must, prior to and no less than seven days before the Commencement of the Works, notify the Licensing Authority, in writing, of the date of Commencement of the Works authorised under this Licence.

Reason: To inform the Licensing Authority of the commencement of the Works, in accordance with s.29(3)(c) of the 2010 Act and s.71(3)(c) of the 2009 Act.

3.3.2 Navigation and Charting

The Licensee must, no later than seven days prior to Commencement of the Works, ensure that local mariners, fishermen's organisations, neighbouring port authorities, any other local marine stakeholders and HM Coastguard, in this case the National Maritime Operations Centre (nmoccontroller@jmcg.gov.uk) are made fully aware of the Works through local Notice to Mariners or by any other appropriate means.

The Licensee must ensure that details of the Works are promulgated in the Kingfisher Fortnightly Bulletin, prior to the Commencement of the Works to inform the Sea Fish Industry of the vessel routes, the timings and the location of the Works and of the relevant operations.

The Licensee must notify the UK Hydrographic Office to permit the promulgation of maritime safety information and updating of nautical charts and publications through the Notice to Mariners system.

The Licensee must ensure that no deviation from this licence is made without the further written consent of the Licensing Authority.

Reason: To reduce the navigational risk to other legitimate users of the sea, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.

3.3.3 Marking, Lighting and signals of the Works and Jack Up Vessels

The Licensee must ensure that the Works are marked and lit in accordance with the requirement of the MCA and NLB and in accordance with the UK Standard Marking Schedule for Offshore Installations.

Reason: To ensure safe appropriate marking and lighting of the offshore Works, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.

3.3.4 Environmental Monitoring

The Licensee must ensure any sediment suspension and underwater noise generated from the Works is monitored as part of the Company's wider monitoring programme, and that any effects on the marine environment are fully assessed. The licensee must, within 28 days of Completion of the Works, submit a report of the activity monitored.

Reason: To ensure environmental impacts are minimised, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.

3.4 Conditions upon Completion of the Works

3.4.1 Date of Completion of the Works

The Licensee must, no later than 14 days following the Completion of the Works, notify the Licensing Authority, in writing, of the date of Completion of the Works.

Reason: To inform the Licensing Authority of the Completion of the Works, in accordance with s.29(3)(c) of the 2010 Act and s.71(3)(c) of the 2009 Act.

3.4.2 Navigational Safety

The Licensee must ensure that; neighbouring port authorities, local mariners, fishermen's organisations are made fully aware of the Completion of the Works. Verbal communication should be made direct with HMCG to notify the Completion of the Works. This can be established either using the appropriate radio channels/frequencies or via telephone in this case to 01224 592334.

The Licensee must ensure that the Completion of the Works is promulgated in the Kingfisher Fortnightly Bulletin to inform the Sea Fish Industry.

Reason: To reduce the navigational risk to other legitimate users of the sea, in accordance with s.29(2)(b) of the 2010 Act and s.71(2)(b) of the 2009 Act.

3.4.3 Reporting

The licensee must submit a written report regarding the correct deposit of the licensed objects to the licensing authority. The written report must be submitted on the forms provided by the licensing authority no later than 28 days after the Completion of the Works.

Reason: To inform the Licensing Authority of the Completion of the Works in accordance with s.29(3)(c) of the Marine (Scotland) Act 2010 and s.71(2)(b) of the 2009 Act.

4 PART 4 – PROJECT LOCATION

Figure 1 – Moray East Offshore Wind Farm Location & Location of Works outside Wind Farm area

