

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE TO DEPOSIT OR USE ANY EXPLOSIVE SUBSTANCE OR ARTICLE IN THE SCOTTISH MARINE AREA

Licence Number: **MS-00009338**

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

**BAE Systems Surface Ships Ltd
South Street
Scotstoun
Glasgow
G14 0XN**

to deposit or use any explosive substance or article as described in Part 2. The licence is subject to the conditions set out, or referred to, in Part 3.

The licence is valid from **04 June, 2021** until **28 February, 2023**

Signed:

Anni Mäkelä

For and on behalf of the Licensing Authority

Date of issue: 03 June, 2021

1. PART 1 - GENERAL

1.1 Interpretation

In the licence, terms are as defined in Section 1, 64 and 157 of the Marine Scotland Act 2010, and

- a) "**the 2010 Act**" means the Marine (Scotland) Act 2010;
- b) "**Licensed Activity**" means any activity or activities listed in section 21 of the 2010 Act which is, or are authorised under the licence;
- c) "**Licensee**" means BAE Systems Surface Ships Ltd
- d) "**Mean high water springs**" means any area submerged at mean high water spring tide;
- e) "**Commencement of the Licensed Activity**" means the date on which the first vehicle or vessel arrives on the site to begin carrying on any activities in connection with the Licensed Activity;
- f) "**Completion of the Licensed Activity**" means the date on which the Licensed Activity has been installed in full, or the Licensed Activity has been deemed complete by the Licensing Authority, whichever occurs first;

All geographical co-ordinates contained within the licence are in WGS84 format (latitude and longitude degrees and minutes to three decimal places) unless otherwise stated.

1.2 Contacts

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

Marine Scotland
Licensing Operations Team
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB
Email: MS.Marinelicensing@gov.scot

1.3 Other authorisations and consents

The Licensee is deemed to have satisfied itself that there are no barriers or restrictions, legal or otherwise, to the carrying on of the Licensed Activities in connection with the licensed activity. The issuing of the 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 the Licensing Authority may by notice vary, suspend or revoke the licence granted by them if it appears to the Licensing Authority that there has been a breach of any of its provisions. For any such other reason that appears to be relevant to the Licensing Authority under section 30(2) or (3) of the 2010 Act. Under the 2010 Act variations, suspensions, revocations and transfers of licences are subject to the procedures set out in section 31 of the 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, on an application made by the licensee, the Licensing Authority may transfer the licence from the Licensee to another person.

1.5 Breach of requirement for, or conditions of, licence

Under section 39 of the 2010 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 it is a defence for a person charged with an offence under section 39(1) of the 2010 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.

1.7 Offences relating to information

Under section 42 of the 2010 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 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 against a decision taken by the Licensing Authority under section 71(1)(b) or (c) or (5) of the Act.

2. PART 2 – PARTICULARS

2.1 Agent

Arch Henderson LLP
142 St Vincent Street
Glasgow
G2 5LA

2.2 Location of the Licensed Activity

Deep Water Berth, BAE Systems Scotstoun Shipyard, River Clyde, with the boundary of;

55° 52.847' N 04° 22.008' W
55° 52.826' N 04° 22.039' W
55° 52.857' N 04° 22.106' W
55° 52.855' N 04° 22.108' W
55° 52.867' N 04° 22.133' W
55° 52.868' N 04° 22.130' W
55° 52.891' N 04° 22.179' W
55° 52.901' N 04° 22.148' W

As shown in Annex One.

2.3 Description of the Licensed Activity

Use of explosives for deepening of existing berths.

As described in the application dated 24 November, 2020 and correspondence submitted in support of the application.

2.4 Descriptions of the explosive substance or article

The licence authorises the deposit or use of the undernoted explosive substance or article required in connection with the licensed activity, subject to the maximum amounts as specified below:

Explosives 1 Tonne

2.5 Contractor and Vessel Details

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1. Only the Substances or Articles listed in Part 2 of the licence may be used during the execution of the Licensed Activity.

3.1.2. The Licensee must only deposit and use the explosive substance or article listed in Part 2 of the licence in accordance with the licence, the application and any plans or programmes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

3.1.3. In the event of any breach of health and safety or environmental obligations relating to the Licensed Activity during the period of the licence, the Licensee must provide written notification of the nature and timing of the incident to the Licensing Authority within 24 hours of the incident occurring. Confirmation of remedial measures taken and/or to be taken to rectify the breach must be provided, in writing, to the Licensing Authority within a period of time to be agreed by the Licensing Authority.

3.1.4. The Licensee must notify Source Data Receipt, The Hydrographic Office, Admiralty Way, Taunton, Somerset, TA1 2DN (e-mail: sdr@ukho.gov.uk; tel.: 01823 484444) of the progress and upon on completion of the the Licensed Activity. Such notification must include a copy of the licence, and wherever possible, 'as built plans', in order that all necessary amendments to nautical publications are made.

3.1.5. If governmental assistance is required (including UK governmental assistance or the assistance of any UK devolved government) to deal with any emergency arising from:

- a) the failure to mark and light the deposited substances or articles as required by this licence;
- b) the maintenance of the deposited substances or articles
- c) the drifting or wreck of the deposited substances or articles,

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

3.1.6. If any injured or dead diadromous fish are observed following any blasting events, the Licensee must inform the Licensing Authority within 24 hours of the event.

3.1.7. No deposit and use of any explosives is permitted between 01 April and 31 May inclusive without the further written approval of the Licensing Authority.

3.2 Prior to the commencement of the Licensed Activity

3.2.1. The Licensee must ensure that, if any aspects of the proposed works differ from the detail submitted in the Noise Registry - Initial Registration Form, a new Initial Registration Form shall be completed and submitted to the licensing authority and the Joint Nature Conservation Committee (JNCC) no later than one week prior to commencement of the licensed activity.

3.2.2. The Licensee must provide the name and function of any agent, contractor or sub-contractor appointed to undertake the Licensed Activities, as soon as is reasonably practicable prior to the Licensed Activities commencing.

3.2.3. The Licensee must, prior to and no less than seven calendar days before the Commencement of the Licensed Activity, notify the Licensing Authority, in writing, of the date of Commencement of the Licensed Activity authorised under the licence.

3.2.4. The Licensee must ensure that HM Coastguard, in this case zone34@hmcg.gov.uk is made aware of the works prior to commencement.

3.2.5. The Licensee must contact the local statutory harbour/port authority, in this case Clydeport, prior to Commencement of the Licensed Activity to discuss the requirements for navigational warnings and a works licence.

3.2.6. The Licensee must submit a blasting mitigation plan to the Licensing Authority for its written approval at least four weeks prior to deposit and use of any explosives, or less if agreed by the Licensing Authority. The plan must consider diadromous fish and marine mammal mitigation and be consistent with the marine licence application and supporting documents and must contain, but not be limited to, the following:

- a) Details of the proposed use of Marine Mammal Observers (“MMO”), bubble curtains and Acoustic Deterrent Devices (“ADD”), including their position and duration of use;
- b) Consideration of minimising the duration of deposit and use of any explosives;
- c) Consideration of avoiding or minimising the use of any explosives between 01 August until 01 November inclusive;
- d) A 1 km mitigation zone for marine mammals during the Licensed Activity;
- e) Limitation of ADD use to 10 minutes before blasting; and
- f) Procedure for mis-fire events.

All Licensed Activities must proceed in accordance with the approved blasting mitigation plan. Any updates or amendments made to the plan must be submitted, in writing, to the Licensing Authority for its written approval no later than four week or at such a time as agreed with the Licensing Authority, prior to the planned implementation of the proposed amendments. It is not permissible for any use of explosives to commence prior to approval of the blasting mitigation plan. In granting such approval, the Licensing Authority may consult any such other advisors, organisations or stakeholders as may be required at their discretion.

3.3 During the Licensed Activity

3.3.1. The Licensee must ensure that the Licensed Activity is maintained at all times in good repair.

3.3.2. Where possible the Licensee must remove all equipment used during the execution of the Licensed Activity from the sea and dispose of them at an approved location above the tidal level of Mean High Water Springs.

3.3.3. In the event of the Licensed Activity being discontinued the materials used or substances and objects deposited under the authority of the licence shall be removed to the satisfaction of the Licensing Authority.

3.3.4. The Licensee must ensure that only those agents, contractors or sub-contractors notified to the Licensing Authority are permitted to undertake the works and/or Licensed Activities.

3.3.5. The Licensee must ensure that copies of the licence are available for inspection by any authorised Enforcement Officer at:

- a) the premises of the Licensee;
- b) the premises of any agent acting on behalf of the Licensee; and

c) site of the Licensed Activity.

3.3.6. The Licensee must ensure the best method of practice is used to minimise re-suspension of sediment during the Licensed Activity.

3.3.7. The Licensee must ensure appropriate steps are taken to minimise damage to the river bank by the Licensed Activity.

3.3.8. The Licensee must ensure the river bank is returned to the original profile, or as close as reasonably practicable, following the completion of the Licensed Activity.

3.3.9. Any person authorised by the Licensing Authority must be permitted to inspect the site at any reasonable time.

3.3.10. The Licensee must ensure that any debris or waste materials arising during the course of the Licensed Activity are removed for disposal at an approved location above the tidal level of Mean High Water Springs.

3.4 Upon Completion of the Licensed Activity

3.4.1. The Licensee must, no later than 14 days following the Completion of the works and Licensed Activity notify the Licensing Authority, in writing, of the date of the Completion of the works and the Licensed Activity.

3.4.2. The Licensee must complete and submit a Close-out Report for the licensable marine activities that produced loud, low to medium frequency (10Hz-10kHz) impulsive noise in the online Marine Noise Registry at 6 month intervals during the validity of the licence.

3.4.3. The Licensee must submit a written report regarding the materials used during the works to the Licensing Authority. The written report must be submitted on completion of the works and on the forms provided by the Licensing Authority no later than 31 October 2023.

NOTES

1. You are deemed to have satisfied yourself that there are no barriers, legal or otherwise, to the carrying out of the licensed activity. The issue of the licence does not absolve the licensee from obtaining such authorisations, consents etc which may be required under any other legislation.
2. In the event that the licensee wishes any of the particulars set down in the Schedule to be altered, the licensing authority must be immediately notified of the alterations. It should be noted that changes can invalidate a licence, and that an application for a new licence may be necessary.