

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

**LICENCE FOR THE CONTINUED DEPOSIT OF MARINE RENEWABLES SUBSTANCES
OR OBJECTS IN THE SCOTTISH MARINE AREA**

Licence Number: **06250/17/0**

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

**Scotrenewables Tidal power Ltd
Innovation Centre – Orkney,
Hatston Pier Road,
Kirkwall
Orkney,
KW15 1ZL**

Under the Marine (Scotland) Act 2010,

To allow the remainder of the deposits made under marine licence 05431/17/0 and as specified in Part 2 of this licence to remain on the seabed until full removal is carried out under a separate marine 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 **22nd February 2017** to **22nd March 2023** or until the Works have been decommissioned in accordance with an approved Decommissioning Programme prior to this date.

[Redacted]

Signed: _____

João Queiros
João Queiros

For and on behalf of the Licensing Authority

Date of issue: **22nd February 2017**

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,

- a) **“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 construction of the Works, as described in Part 2 of this licence;
- b) **“Company”** means Scotrenewables Tidal Power Ltd (Company Registration Number SC235066) and having its registered office at Innovation Centre – Orkney, Hatston Pier Road, Kirkwall, Orkney, KW15 1ZL
- c) **“Completion of the Works”** means the date on which the Works have been installed, or the Works have been deemed complete by the Licensing Authority, whichever occurs first;
- d) **“the 2010 Act”** means the Marine (Scotland) Act 2010;
- e) **“the Application”** means the marine licence application and supporting information submitted to the Licensing Authority by the Company, on 12th January 2017;
- f) **“Licensable Marine Activity”** means any activity which is listed in section 21 of the 2010 Act;
- g) **“Licensed Activity and “Licensed Activities”** means any activity or activities listed in section 21 of the 2010 Act which is, or are authorised under this licence;
- h) **“Licensee”** means the Company OR Scotrenewables Tidal Power Ltd having its registered offices at Innovation Centre – Orkney, Hatston Pier Road, Kirkwall, Orkney, KW15 1ZL and registered in Scotland having it registered number as SC235066;
- i) **“the Licensing Authority”** means the Scottish Ministers;
- j) **“Decommissioning of the Works”** includes removal of the Works from the seabed, demolishing the Works or dismantling the Works;
- k) **“Decommissioning Programme”** means the programme for decommissioning the Works, to be submitted by the Licensee to the appropriate authority under section 105(2) of the Energy Act 2004 (as amended);
- l) **“the Site”** means the area outlined in the figure contained in Part 4 of this licence;
- m) **“the Works”** means the Scotrenewables Tidal Power Ltd SR250 Cable, as described in Part 2 of this licence;
- n) **“MHWS”** means mean high water spring tide; and.
- o) **“Final Commissioning of the Works”** means the date on which all the Works have been used to supply electricity on a commercial basis to the National Grid, or such earlier date as the Licensing Authority deem the Works to be fully commissioned.

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 out of the licensed activities in connection with 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 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. 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 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 it is an offence to carry out 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 –

- (a) 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
- (b) 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.

2. PART 2 – THE WORKS**2.1 Title of the works**

This licence for the renewal of the SR250 cable relates to the 'Scotrenewables Tidal Power Ltd SR2000 Demonstrator Tidal Turbine' under marine licence 05431/17/0.

2.2 Description of the works

The description of the Works to which this licence relates to is the relicensing of the SR250 Cable which is already in place.

These works will comprise of the following components:

- 1 cable 2900m

2.3 Location of the works

Located at Berth 8 within the European Marine Energy Centre (EMEC) tidal test facility at the Fall of Warness, situated West of the island of Eday in a narrow channel between the Westray Firth and Stronsay Firth, approximately 16 km from the Orkney Mainland, within the area bounded by joining the following points:

Fall of Warness lease area:

59° 09.780' N	002° 47.890' W	59° 09.250' N	002° 48.400' W
59° 08.360' N	002° 47.760' W	59° 08.370' N	002° 47.440' W
59° 08.370' N	002° 47.010' W	59° 07.600' N	002° 47.570' W
59° 07.860' N	002° 49.110' W	59° 07.820' N	002° 49.500' W
59° 07.910' N	002° 49.830' W	59° 09.590' N	002° 50.800' W
59° 09.740' N	002° 48.840' W	59° 10.010' N	002° 48.550' W

Location of cable:

59° 9.969' N	002° 48.200' W	59° 9.825' N	002° 48.386' W
59° 9.773' N	002° 48.269' W	59° 9.215' N	002° 48.407' W
59° 8.668' N	002° 48.316' W	59° 8.590' N	002° 48.324' W
59° 8.461' N	002° 48.292' W		

2.4 Deposits

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

PERMANENT DEPOSITS

- 1 cable 2900m

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 Compliance with the licence and application

The Licensee must maintain the Works in accordance with this Licence and the Application.

Reason: To ensure compliance with the marine licence and the application for the marine licence.

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 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 Marine (Scotland) Act 2010.

3.1.3 Force majeure

Should the Licensee or any of their agents, contractors or sub-contractors, by any reason of *force majeure* deposit 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 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 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)(a) of the 2010 Act.

3.1.4 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 authorised marine enforcement officer at:

- a) the premises of the Licensee;
- b) the premises of any agent, contractor or sub-contractor acting on behalf of the Licensee;
- c) any onshore premises directly associated with the Works; and
- d) 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.

3.1.5 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.

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

3.1.6 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;
- b) the maintenance of the Works; or
- c) 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 licensee is aware of financial liabilities, in accordance with s.29(2)(b) of the 2010 Act

3.1.6.1 Serious 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 Scottish Ministers informed of any such incidents which may be in the public interest, in accordance with s.29(3)(c) of 2010 Act.

3.1.6.2 Restoration of the site to its original condition

The Licensee must take all reasonable, appropriate and practicable steps to restore the Site to its original condition before the Works were undertaken, or to as close to its original condition as is reasonably practicable, in accordance with the Decommissioning Programme ("DP") for Scotrenewables Tidal Power Ltd SR2000 Demonstrator Tidal Turbine Licence Number: 05431/17/0 to the satisfaction of the Licensing Authority. Should the Works be discontinued prior to Completion of the Works, the Licensee must inform the Licencing Authority in writing of the discontinuation of the Works.

Reason: To mitigate the effects of the activity on the Site, in accordance with s.29(3)(e) of the 2010 Act.

3.1.6.3 Removal of the Works

This licence does not permit the Removal of the Works, for which a separate marine licence is required.

The Licensee must, no later than 3 months prior to any proposed removal works, submit a plan for the Removal of the Works, in writing, to the Licensing Authority, along with a marine licence application for the Removal of the Works.

Removal of the Works must not occur until the Licensing Authority has given its prior written approval to the plan and issued a marine licence.

Reason: *To ensure that removal of works is carried out under an appropriate licence, in accordance with s.29(3)(a) of the 2010 Act.*

3.2 Decommissioning

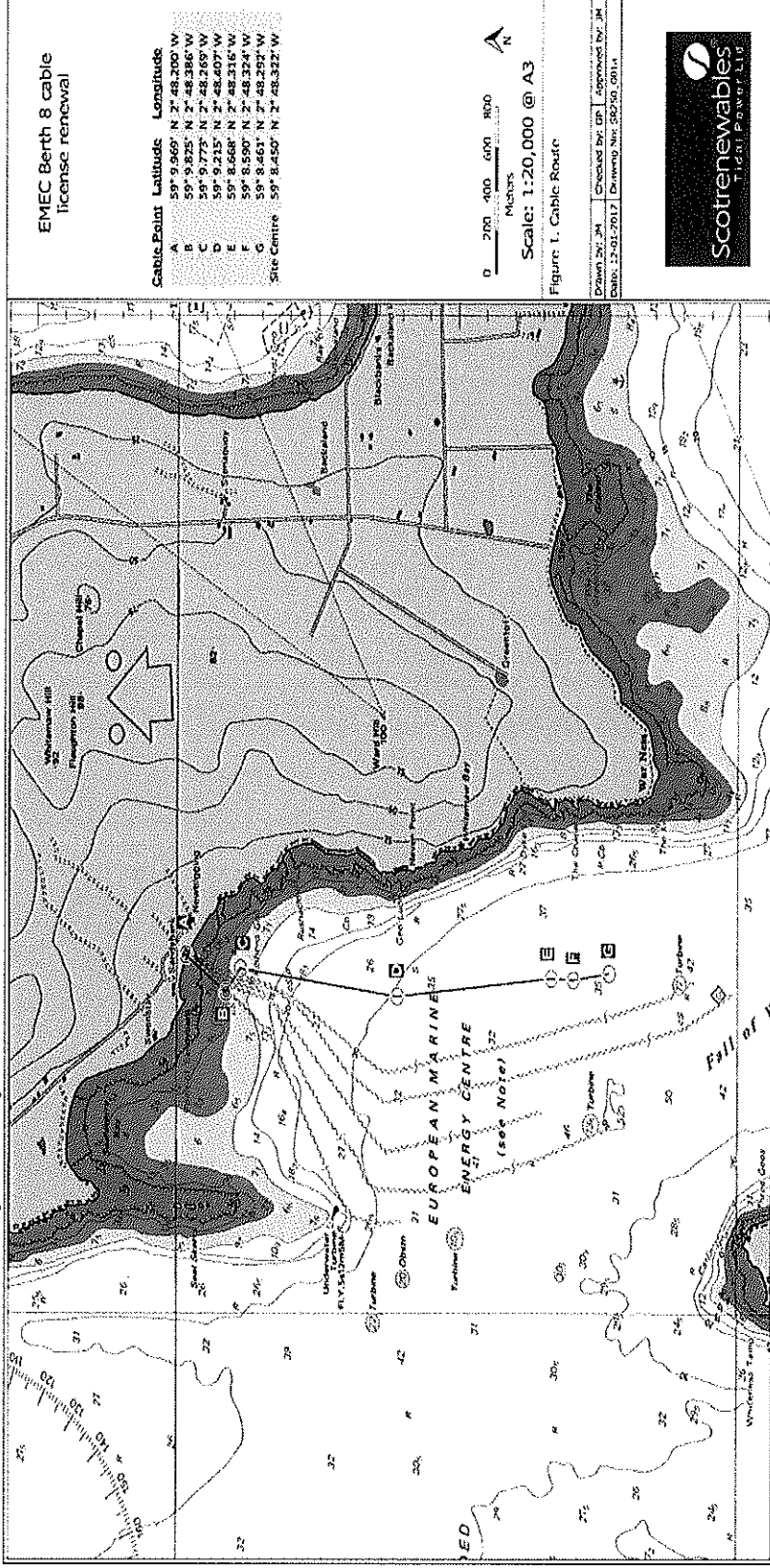
This licence does not permit the Decommissioning of the Works, for which a separate marine licence is required.

Reason: *To ensure that decommissioning is carried out according to the approved decommissioning programme under an appropriate licence, in accordance with s.29(3)(d) of the 2010 Act*

E: MS.MarineRenewables@gov.scot

4. PART 4 – PROJECT LOCATION

Figure 1 – SR250 cable location showing the point at which the cable is positioned at Berth 8 at Fall of Warness Site, European Marine Energy Centre, Eday, Orkney



Marine Laboratory, 375 Victoria Road,
Aberdeen AB11 9DB
www.scotland.gov.uk/marinescotland

