



MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE TO CONSTRUCT, ALTER OR IMPROVE WORKS IN THE SCOTTISH MARINE AREA

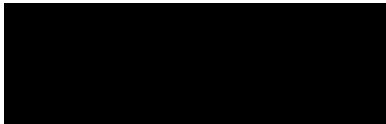
Licence Number: **MS-00010072**

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

Scottish Hydro Electric Transmission PLC
10 Henderson Road
Inverness
IV1 1SN

to construct, alter or improve works 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 **17 December, 2022** until **31 December, 2027**



Signed:

Neil MacLeod

For and on behalf of the Licensing Authority

Date of issue: 16 December, 2022

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 Scottish Hydro Electric Transmission PLC
- 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

as per Licensee

2.2 Location of the Licensed Activity

Orkney to Dounreay, within the 200m wide route corridor along the line located by joining the points of the co-ordinates contained within Annex One of the licence and as shown in Annex Two.

2.3 Description of the Licensed Activity

Construction of a High Voltage Alternating Current ("HVAC") cable between Orkney and Dounreay and construction of cable protection in areas of hard seabed and at cable crossing points

As described in the application dated 29 January, 2019 and correspondence submitted in support of the application.

2.4 Descriptions of the materials to be used during the Licensed Activity

The licence authorises the use of the undernoted construction materials required in connection with the licensed activity, subject to the indicative amounts as specified below:

HVAC cable 53 km x 255 mm
Rock protection 11,210 m³
32 No. concrete mattresses
Cast iron shells/split pipe or high density polyethylene ducting 2000m
2000 No. Concrete bags or grout bags totalling 50 tonnes
Horizontal directional drilling ("HDD") liner 2000 m

Less and materials used under the authority of Marine Licence 06889/20/0

2.5 Contractor and Vessel Details

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 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 both progress and on completion of the works supply a copy of the licence, and wherever possible, 'as built plans', in order that all necessary amendments to nautical publications are made.

3.1.2 The licensee must notify the licensing authority of the date of commencement and the date of completion of all construction, alteration or improvement of works relating to the licence. Separate notifications are required at the times of commencement and completion.

3.1.3 The licensee must ensure that only the materials listed in Part 1 of the licence are used in the construction, alteration or improvement of works and that materials used are inert and do not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

3.1.4 The licensee must adhere to all the archaeological mitigation measures included within the L T17 Orkney -Mainland HVAC 220 kV Subsea Link Environmental Appraisal (Document Number: A-100413-S02-REPT-002), Version A01, submitted to the licensing authority on 19 January 2019.

3.1.5 The licensee must ensure that a copy of the licence is given to each contractor appointed to carry out part or all of the works in order that they are clear about the extent of 'the works' for which the licence has been granted and the conditions that are attached to the licence.

3.1.6 In the event of the licensee becoming aware that any of the information on which the issue of the licence was based has changed, the licensing authority must be immediately notified of the details.

3.1.7 If it is desired to display any marks or lights not required by the licence then details must be submitted to the Northern Lighthouse Board and its ruling complied with. The display of unauthorised marks or lights is prohibited.

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

3.1.9 The licensee must ensure that no deviation from the schedule specified in the licence is made without the further written approval of the licensing authority.

3.1.10 If in the opinion of the licensing authority the assistance of a Government Department, including the broadcast of navigational warnings, is required to deal with any emergency arising from:

- a) The failure to mark and light the works as required by licence.
- b) The maintenance of the works.
- c) The drifting or wreck of the works.

The licensee shall be liable for any expenses incurred in securing such assistance.

3.1.11 The licensee must ensure that the works are maintained at all times in good repair.

3.1.12 In the event of the licensed activities being discontinued the works must be removed and the site cleared to the satisfaction of the licensing authority.

3.1.13 Any person authorised by the licensing authority must be permitted to inspect the works and the site of the works at any reasonable time.

3.1.14 The licensee must ensure that the licensed activity does not encroach on any recognised anchorage, either charted or noted in nautical publications, within the licensed area.

3.1.15 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) the site of the works.

3.1.16 Should the construction of the licensed works be halted before the completion, the licensee must notify the licensing authority and, within a timescale agreed by the licensing authority, submit a decommissioning plan to the licensing authority for approval. The plan must be based on best practice at that time. The licensee shall be liable for all costs.

3.1.17 Should the Licensee proceed to undertake the Licensed Activity under the authority of the licence, the Licensed Activity authorised under the previous marine licence in favour of Scottish Hydro Electric Transmission PLC dated 21 February 2020, 06889/20/0 is not permitted.

3.2 Prior to the commencement of the Licensed Activity

3.2.1 The licensee must submit a Cable Burial and Protection Plan (CBPP) to the licensing authority for their written approval no later than two months prior to the commencement of operations relating to the licence. It is not permissible for operations relating to the licence to commence prior to the granting of such approval. In granting such approval, the licensing authority may consult any such other advisors, organisations or stakeholders as may be required at their discretion. The CBPP must be consistent with the marine licence application and supporting information. All works must proceed in accordance with the approved CBPP. The CBPP must include the following:-

- a) Details of the location of all works relating to the licence and cable laying techniques;
- b) Summaries of the survey work used to inform cable routing. The summaries must include geophysical, geotechnical and benthic surveys, desk top studies and cable route studies where available. A non-technical summary of this information must be provided;
- c) A burial plan based on survey data to show proposed burial depths throughout the whole cable route. In locations where burial is not proposed it must be demonstrated, to the satisfaction of the licensing authority, that burial is not feasible. In locations where burial is not feasible, cables must be suitably protected through recognised and approved measures where practicable, and as risk assessments direct;
- d) Proposals for survey activity and programming to ensure safety of navigation to other legitimate users of the sea, and with particular relevance to fishing activity, in line with industry best practices and guidelines. Such proposals must apply to the entire cable route; and
- e) Proposals for further surveys to be undertaken, determined by the analysis of the data from previous survey activity and subsequent modelling and trending of seabed conditions.
- f) Proposals for dealing with the difficult conditions within the Hoy Mouth area during the construction of the cable taking into account the high seas, overfalls and strong tides localised to that area.
- g) Best method of practice to minimise re-suspension of sediment during the works.
- h) Steps taken to ensure existing and future safe navigation is not compromised. A maximum of 5% reduction in surrounding depth referenced to Chart Datum must not be exceeded without the approval of the licensing authority in consultation with the Maritime and Coastguard Agency (MCA).

3.2.2 The licensee must submit a Communication Strategy to the licensing authority no later than two months prior to the commencement of operations relating to the licence, for their written approval. It is not permissible for operations to commence prior to the granting of such approval. The Communication Strategy must document clearly defined procedures for the distribution of information relating to all cable installation, protection and survey activities to the fishing industry and other legitimate users of the sea. All works must proceed in accordance with the approved Communication strategy. The Communication Strategy must include the following:-

- a) Details of the timing, format and method(s) of distribution of notices of all operations relating to the licence including, but not limited to, horizontal directional drilling, boulder clearance, trenching, cable laying, backfill, surveys and additional protection;
- b) Details of the timing, format and method(s) of distribution of notices of hazards to other legitimate users of the sea;
- c) Details of the timing, format and method(s) of distribution of details of any protection requirements including expected berm heights relative to the sea bed (this information must be distributed at least four weeks prior to the commencement of any rock placement); and
- d) Details of the timing, format and method(s) of distribution of as laid position of cables and protection including berm heights relative to the sea bed.
- e) Details of measures taken to ensure that any disruption to the lifeline ferry service between Stromness and Scrabster is minimised

3.2.3 The licensee must submit a Fisheries Liaison and Mitigation Action Plan (FLMAP) to the licensing authority no later than two months prior to the commencement of operations relating to the licence, for their written approval. It is not permissible for works relating to the licence to commence prior to the granting of such approval. In granting such approval, the licensing authority may consult any such advisors, organisations or stakeholders as may be required at their discretion. All operations relating to the licence must be undertaken and operated in accordance with the approved FLMAP. Any updates or amendments made to the FLMAP by the licensee must be submitted, in writing, by the licensee to the licensing authority for their written approval. The FLMAP must include employment of a Fisheries Liaison Officer (FLO), details regarding how the licensee intends to engage with the local small craft sector and use of guard vessels to perform the following functions:

- a) Alerting other sea users of the cable laying vessel's presence
- b) Guard any free ends of the cable on the seabed while the cable laying vessel reloads
- c) Guard the unprotected cable between lay and burial

3.2.4 The licensee must complete and submit a Proposed Activity Form in the online Marine Noise Registry for all licensable marine activities that will produce loud, low to medium frequency (10Hz-10kHz) impulsive noise no later than seven days prior to commencement of the licensable marine activity. If any aspects of the licensable marine activities differ from the Proposed Activity Form in the online Marine Noise Registry, the licensee must complete and submit a new Proposed Activity Form no later than seven days prior to commencement of the licensable marine activity.

3.2.5 The licensee must undertake a desk study to establish the levels of electromagnetic deviation affecting ship compasses and other navigation systems caused by the HVAC cable. Should the desk study establish unacceptable deviation, a deviation survey plan must be submitted to licensing authority for their approval. In granting such approval, the licensing authority may consult any such advisors, organisations or stakeholders as may be required at their discretion.

3.2.6 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 national Notice to Mariners system.

3.2.7 The licensee must issue local notification to marine users -including fisherman's organisations, neighbouring port authorities and other local stakeholders to ensure that they are made fully aware of the works.

3.2.8 The licensee must ensure that HM Coastguard, in this case nmoccontroller@hmcg.gov.uk, The National Maritime Operations Centre is made aware of the works prior to commencement.

3.2.9 The licensee must submit a Construction Environmental Management Plan ("CEMP") to the licensing authority for its written approval at least two months prior to commencement of the works, or less if agreed by the licensing authority. The CEMP must be consistent with the marine licence application and supporting documents and must contain, but not be limited to, the following:

- a) The measures to be taken in the case of irradiated sediment being suspended or disturbed.
- b) Mitigation measures against the introduction of marine non-native species.
- c) Pollution prevention and management measures, including air and water pollution.
- d) Measures to minimise, recycle and reuse waste.

All works must proceed in accordance with the approved CEMP. Any updates or amendments made to the CEMP must be submitted, in writing, to the licensing authority for its written approval no later than two months 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 works to commence prior to approval of the CEMP.

3.3 During the Licensed Activity

3.3.1 The licensee must not carry out nearshore, landfall or cable pulling works between 01 April and 31 July inclusive.

3.3.2 The licensee must ensure that no works take place within the Stromness C (FI045) authorised sea deposit site shown in Annex Three.

3.3.3 The licensee must ensure appropriate steps are taken to minimise damage to the seabed by the works.

3.3.4 The licensee must ensure that any debris or waste materials arising during the course of the works are removed from the site for disposal at an approved location above the tidal level of Mean High Water Springs.

3.3.5 The licensee must ensure that vessel movement does not exceed speeds of six knots on both installation vessels and support vessels during the course of cable installation.

3.3.6 The licensee must ensure that all vessels adhere to the best practice guidelines as set out in the Scottish Marine Wildlife Watching Code and Guide to Best Practice for Watching Marine Wildlife at all times.

3.3.7 The licensee must ensure that the presence of vessels with a two kilometre radius of the landfall sites is minimised between 01 March and 30 September inclusive as far as reasonably practicable.

3.3.8 The licensee must ensure that lighting on vessels is kept to only the minimum level required to ensure safe operations.

3.4 Upon Completion of the Licensed Activity

3.4.1 The licensee must ensure the seabed is returned to the original profile, or as close as reasonably practicable, following the completion of the works or the removal of the cable.

3.4.2 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 2028.

3.4.3 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

3.4.4 The licensee must undertake and submit to the licensing authority, within eight weeks of the completion of operations relating to the licence (subject to operational constraints), an assessment of any risks posed by the final sub-sea cable route, burial depths and un-trenched areas where mechanical and any other protection measures were used within the cable route, to the satisfaction of the licensing authority, the purpose of which is to ensure that the safety of navigation and other legitimate users of the sea is not compromised.

3.4.5 The licensee must, two years prior to the predicted end of life of the cable or immediately in the case of cable faulting, submit a decommissioning plan to the licensing authority for approval. The plan must be based on best practice at that time. The licensee shall be liable for all costs.

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.