

MARINE SCOTLAND ACT 2010, PART 4 MARINE LICENSING

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

Licence Number: **MS-00008738**

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 **10 February, 2021** until **09 February, 2026**

Signed:

Anni Mäkelä

For and on behalf of the Licensing Authority

Date of issue 09 February, 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 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

Xodus Group Limited
The Auction House
63A George Street
Edinburgh
EH2 2JG

2.2 Location of the Licensed Activity

Western Isles Cable: Arnish - Dundonnell, On a line (+/- 100 m) formed by joining these indicative points:

58° 10.696' N 6° 22.756' W
58° 11.071' N 6° 22.859' W
58° 11.159' N 6° 22.681' W
58° 10.654' N 6° 22.040' W
58° 9.156' N 6° 11.193' W
57° 59.948' N 5° 44.496' W
57° 57.475' N 5° 40.643' W
57° 55.766' N 5° 33.186' W
57° 53.431' N 5° 20.683' W
57° 52.799' N 5° 19.602' W
57° 59.384' N 5° 44.374' W
58° 10.199' N 6° 16.521' W
58° 10.072' N 6° 18.522' W
58° 10.206' N 6° 21.168' W
58° 10.613' N 6° 22.233' W

As shown in Annex One. Detailed route co-ordinates are shown in Annex Two.

2.3 Description of the Licensed Activity

Construction of a High Voltage Direct Current ("HVDC") cable and cable protection at cable crossing points and where cable burial is not possible between Western Isles and Mainland Scotland

As described in application dated 09 October, 2018 and correspondence submitted in support of the application.

2.4 Descriptions of the materials to be used during Licensed Activity

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9 February, 2021

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

2 no. HVDC subsea cables, each 82,000 m

1 no. fibre optic control cable, 82,000 m

3 no. PVC or steel ducts, each 750 m

3 no. PVC or steel ducts , each 1300 m

Protective duct, 750 m

Cast iron shells, 1500 m

40 no. concrete mattresses, 240 m

Rock armour sized 25 mm to 200 mm, 162,874 tonnes

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1. The Licensee must at all times construct and maintain the Licensed Activity in accordance with the licence, the application and the plans and programmes approved by the Licensing Authority.

3.1.2. All conditions attached to the licence bind any person who for the time being owns, occupies or enjoys any use of the works, whether or not the licence has been transferred to that person.

3.1.3. The Licensee must ensure that only the materials, substances or objects listed in Part 2 of the licence are used during the execution of the Licensed Activity and that all materials, substances or objects used during the execution of the Licensed Activity 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 ensure that the Licensed Activity does not encroach on any recognised anchorage, either charted or noted in nautical publications, within the licensed area.

3.1.5. 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.

3.1.6. 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.

3.1.7. The Licensee must remove the materials, substances or objects from below the level of Mean High Water Springs, or make such alterations as advised by the Licensing Authority, within one month of notice being given by the Licensing Authority at any time it is considered necessary or advisable for the safety of navigation, and not replaced without further approval by the Licensing Authority. The Licensee shall be liable for any expense incurred.

3.1.8. Should the construction of the Licensed Activity 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.

3.1.9. 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 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.

3.1.10. The Licensee must ensure that if oil based drilling muds are utilised they must be contained within a zero discharge system.

3.1.11. 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.

3.1.12. 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.

3.1.13. 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.

3.1.14. The Licensee must ensure that only those agents, contractors or sub-contractors notified to the Licensing Authority are permitted to undertake the Licensed Activity.

3.1.15. The Licensee must notify the UK Hydrographic Office to permit the promulgation of marit safety information Prior to Commencement of the Licensed Activity and updating of nautical charts and publications through the national Notice to Mariners system after Completion of the Licensed Activity. The Notice to Mariners must state the nature and duration of the Licensed Activity.

3.2 Prior to the commencement of the Licensed Activity

3.2.1. The Licensee must complete and submit a proposed activity form in the online Marine Noise Registry for all Licensed Activities that will produce loud, low to medium frequency (10Hz-10kHz) impulsive noise no later than seven days prior to commencement of the Licensed Activity. If any aspects of the Licensed Activity differs 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 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 nmoccontroller@hmcg.gov.uk, The National Maritime Operations Centre is made aware of the works prior to commencement.

3.2.5. 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 Licensed Activity.

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

3.2.7. 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 Licensed Activity, 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) Measures to minimise, recycle and reuse waste;
- b) Ecology Management Plan;
- c) Protocol for Archaeological Discoveries; and
- d) Marine Mammal Protection Plan.

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.

3.2.8. The Licensee must submit a Cable Burial and Protection Plan (CBPP) to the Licensing Authority for its 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;

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) Best method of practice to minimise re-suspension of sediment during the works;

g) 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; and

h) Details of any identified northern feather star aggregations, as detailed in condition 3.2.11, and the cable burial or protection methods selected to ensure any effects on these features will be minimised. The CBPP must also identify if any further pockmarks or any maerl or flame shell beds have been identified and how any effects on these features will be minimised.

3.2.9. The Licensee must submit a Fisheries Liaison and Mitigation Action Plan to the Licensing Authority no later than two months prior to the commencement of operations relating to the licence, for its 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 its discretion. All operations relating to the licence must be undertaken and operated in accordance with the approved Fisheries Liaison and Mitigation Action Plan. Any updates or amendments made to the Fisheries Liaison and Mitigation Action Plan by the Licensee must be submitted, in writing, by the Licensee to the Licensing Authority for its written approval. The Fisheries Liaison and Mitigation Action Plan must include employment of a Fisheries Liaison Officer, 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; and

c) Guard the unprotected cable between lay and burial.

3.2.10. The Licensee must submit a Communication Strategy to the Licensing Authority no later than two months Prior to the Commencement of the Licensed Activity, 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 construction, 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.

3.2.11. The Licensee must carry out a pre-lay survey within the Wester Ross MPA. This survey must collect images to ascertain if any northern feather star aggregations are present within the cable corridor. If any northern feather star aggregations are present, every attempt must be made to micro-route the cable to avoid these features. If this is not possible, the CBPP, required under condition 3.2.8, must include surface laying of the cable with external Uraduct (or similar) protection in areas of northern feather star aggregations in order to minimise the footprint of the construction and avoid / minimise disturbance of the feature.

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. 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.

3.3.3. 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.

3.3.4. The Licensee must ensure appropriate steps are taken to minimise damage to the seabed and foreshore by the Licensed Activity.

3.3.5. The Licensee must ensure the seabed and foreshore are returned to the original profile, or as close as reasonably practicable, following the completion of the Licensed Activity.

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

3.3.7. The Licensee must ensure that no trenching takes place within 100 m of any northern feather star aggregations.

3.3.8. The Licensee must ensure that within the cable corridor, the cable is routed as outlined in the document LT14 Western Isles HVDC Link - Post Application Support Pockmark Cable Routing (Document Number: A-100336-S04-TECH-002) unless otherwise agreed in writing with the Licensing Authority.

3.3.9. The Licensee must ensure that the cable and cable protection are constructed in line with the Western Isles HVDC Link - Post Application Support Response to Ornithological Comments (Document Number: A-100336-S04-TECH-001) document and all the ornithological mitigation outlined in the document is adhered to unless otherwise agreed in writing with the Licensing Authority.

3.3.10. The Licensee must ensure that no Licensed Activities take place within the Stornoway (HE035) authorised sea deposit site.

3.3.11. The Licensee must ensure that saltmarsh vegetation clearance is kept to a minimum during the Licensed Activity.

3.3.12. The Licensee must ensure that the Licensed Activity at the Dundonnell landfall site does not commence between 01 May and 30 June, inclusive, to avoid disturbing birds utilising the intertidal area, mudflats and saltmarshes.

3.3.13. The Licensee must adhere to all the mitigation measures detailed in the Western Isles Connection Project: Western Isles Connection Project Environmental Appraisal (Document Number: A-100336-S00-REPT-004) submitted to the Licensing Authority on 22 October 2018 but subject to the modifications or amendments made within this licence.

3.3.14. The Licensee must complete and submit a Close-out Report for the Licensed Activities that produced loud, low to medium frequency (10Hz-10kHz) impulsive noise in the online Marine Noise Registry no later than 12 weeks from the Completion of the Licensed activity and at 6 month intervals during the validity of the licence.

3.4 Upon Completion of the Licensed Activity

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

3.4.2. 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.

3.4.3. The Licensee must, following installation, notify the Kingfisher Information Service Offshore Renewables and Cable Awareness and the UK International Cable Protection Committees of the 'as laid' cable corridor and a 500m zone either side of it as a hazardous area for anchoring.

3.4.8. 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 2017.

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

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.