

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

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

Licence Number: **MS-00009393**

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

**Avoch Harbour Trust Ltd
11 Marine Park
North Kessock
Ross-shire
IV1 3XS**

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 **26 March, 2022** until **01 April, 2023**

Signed:

Neil MacLeod

For and on behalf of the Licensing Authority

Date of issue: 25 March, 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 Avoch Harbour Trust 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

as per Licensee

2.2 Location of the Licensed Activity

AVOCH HARBOUR,

Pontoon Area, Avoch Harbour, within the bounded by joining the points:

57° 34.022' N 04° 09.928' W
 57° 34.022' N 04° 09.935' W
 57° 34.009' N 04° 09.930' W
 57° 34.010' N 04° 09.938' W
 57° 33.991' N 04° 09.967' W
 57° 33.986' N 04° 10.007' W
 57° 34.005' N 04° 10.049' W
 57° 34.008' N 04° 10.035' W
 57° 33.993' N 04° 10.006' W
 57° 33.996' N 04° 09.972' W

Slipway Area, Avoch Harbour, within the bounded by joining the points:

57° 34.047' N 04° 10.000' W
 57° 34.043' N 04° 09.996' W
 57° 34.042' N 04° 10.001' W
 57° 34.046' N 04° 10.004' W

Avoch Harbour, within the bounded by joining the points:

57° 34.020' N 04° 09.922' W
 57° 34.019' N 04° 09.913' W
 57° 34.018' N 04° 09.913' W
 57° 34.018' N 04° 09.923' W

As shown in Annex One.

2.3 Description of the Licensed Activity

Construction of a groyne, installation of a pontoon and maintenance of the slipway at Avoch Harbour.

As described in the application dated 20 September, 2016 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:

10 x Galvanised RSJ's
40 x Brackets
60 m³ of Armoured rock
30 m³ of Concrete
14 m³ of Anchor blocks

2.5 Contractor and Vessel Details

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 The licensee must notify the licensing authority of the date of commencement and the date of completion of all operations relating to the licence. Separate notifications are required at the times of commencement and completion.

3.1.2 The licensee must ensure that only the deposits listed in Part 1 of the licence are deposited during the execution of the works and that all substances or objects deposited during the execution of the works 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.

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

3.1.4 The licensee must, within 28 days of completion of the works or within 28 days of the date of expiry of the licence, whichever is the sooner, submit a written report to the licensing authority stating the nature and quantity of all substances and objects deposited below Mean High Water Springs under authority of the licence. Where appropriate, nil returns shall be provided.

3.1.5 The licensee must notify Source Data Receipt, The Hydrographic Office, Admiralty Way, Taunton, Somerset, TA 1 2DN (e-mail: sdr@ukho.gov.uk; tel.: 01823 337900) 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.

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

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

3.1.8 The licensee must ensure that no radio beacon or radar beacon operating in the marine frequency bands is installed or used on the works without the prior written approval of the licensing authority.

3.1.9 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.

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

3.1.11 Any person authorised by the licensing authority must be permitted to inspect the works at any reasonable time.

3.1.12 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.

3.1.13 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 shall be immediately notified of the details.

3.2 Prior to the commencement of the Licensed Activity

3.2.1 The licensee must issue a Notice to Mariners in advance of the proposed start date, clearly stating the nature and duration of these operations.

3.2.2 The licensee must ensure that a copy of this 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 consent has been given and the conditions that are attached to the consent.

3.3 During the Licensed Activity

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

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

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.

3.4.2 The licensee must remove the works from below the level of Mean High Water Springs, or such alterations made, 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 consent by the licensing authority. The licensee shall be liable for any expense incurred.

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.