

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING
MARINE AND COASTAL ACCESS ACT 2009, PART 4 MARINE LICENSING

LICENCE TO REMOVE ANY SUBSTANCE OR OBJECT FROM THE SCOTTISH MARINE AREA

Licence Number: **MS-00010414**

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

Moray Offshore Windfarm (West) Limited
C/O Shepherd And Wedderburn LLP
Octagon Point
5 Cheapside
London
EC2V 6AA

to remove any substance or object 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 **21 July, 2023** until **31 December, 2024**

Signed:

Debbie England

For and on behalf of the Licensing Authority

Date of issue: 20 July, 2023

1. PART 1 - GENERAL

1.1 Interpretation

In the licence, terms are Section 115 of the Marine and Coast Access Act 2009 unless otherwise stated.

- a) "**the 2009 Act**" means the Marine and Coastal Access Act 2009
- b) "**Licensed Activity**" means any activity or activities listed in section 66 of the 2009 Act which is, or are authorised under the licence;
- c) "**Licensee**" means Moray Offshore Windfarm (West) Limited
- 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;

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 Moray Offshore Windfarm (West) Limited
- 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 Directorate - Licensing Operations Team
375 Victoria Road
Aberdeen
AB11 9DB
Email: MS.MarineRenewables@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 72(1) of the 2009 Act the Licensing Authority may by notice vary, suspend or revoke the licence, if it appears to the Licensing Authority that there has been a breach of any of its provisions or for any such other reason that appears to be relevant to the Licensing Authority under section 71(2) or (3) of the 2009 Act.

Under section 71(7) of the 2009 Act, on an application made by the Licensee, the Licensing Authority may transfer the licence from the Licensee to another person.

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 85 of the 2009 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.

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 86 of the 2009 Act, it is a defence for a person charged with an offence under section 85(1) of the 2009 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, and

that the person took steps within a reasonable time to inform the Licensing Authority of the matters set out in section 86(2) of the 2009 Act.

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 85 of the 2009 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 2009 Act or the provisions of the licence.

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 the 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

Moray West Wind Farm, Moray Firth, within the areas bounded by joining the following points:

Moray West Site (1)

58° 03.946 'N 02° 54.796 'W
58° 05.426 'N 02° 52.017 'W
58° 06.918 'N 02° 50.583 'W
58° 08.780 'N 02° 49.983 'W
58° 10.551 'N 02° 50.450 'W
58° 11.729 'N 02° 51.382 'W
58° 12.588 'N 02° 52.468 'W
58° 12.223 'N 02° 53.279 'W
58° 10.482 'N 02° 55.851 'W
58° 08.825 'N 02° 59.258 'W

Moray West Site (2)

58° 07.380 'N 03° 03.768 'W
58° 06.413 'N 03° 08.237 'W
58° 04.496 'N 03° 10.472 'W
58° 02.650 'N 03° 13.068 'W
58° 00.237 'N 03° 12.986 'W

Offshore Cable Corridor

57° 41.573 'N 02° 46.238 'W
57° 42.512 'N 02° 47.675 'W
57° 48.070 'N 02° 53.945 'W
57° 58.663 'N 03° 00.854 'W
58° 00.237 'N 03° 12.986 'W
58° 03.946 'N 02° 54.796 'W
57° 59.012 'N 02° 57.866 'W
57° 48.245 'N 02° 50.819 'W
57° 41.676 'N 02° 43.047 'W
57° 40.914 'N 02° 44.315 'W

2.3 Description of the Licensed Activity

Seabed preparation works associated with pre-construction activities for the Moray West Offshore Wind Farm Project. The Licensed Activity will include:

Removal and deposit of boulders from the seabed in the vicinity of the wind turbine and offshore substation platform locations, the inter-array and inter-connector cables and offshore transmission infrastructure cable corridors.

As described in the application dated 15 May, 2023 and correspondence submitted in support of the application.

2.4 Descriptions of the substances or objects to be removed

The licence authorises the removal of the undernoted substances and objects required in connection with the licensed activity, subject to the maximum amounts as specified below:

50,000 No. Boulders

The licence authorises the deposit of the undernoted substances and objects required in connection with the Licensed Activity, subject to the maximum amounts as specified below:

50,000 No. Boulders

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 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.

3.1.2 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 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.

3.1.3 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/objects as required by the licence;
- b) the maintenance of the works/object; or
- c) the drifting or wreck of the works/object, to include the broadcast of navigational warnings

then the Licensee is liable for any expenses incurred in securing such assistance.

3.1.4 The Licensee must ensure that the Licensed Activity is only carried out at the location of the Licensed Activity specified in Part 2 of the licence.

3.1.5 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 Moray Offshore Windfarm (West) Limited, dated 28 February 2023 (licence number MS-00010192) is not permitted.

3.2 Prior to the commencement of the Licensed Activity

3.2.1 The Licensee must notify the Licensing Authority in writing of the name and address of any agent, contractor or sub-contractor not already listed in Part 2 of the licence being used to carry out any Licensed Activity listed in Part 2 of the licence. Such notification must be received by the Licensing Authority no less than 24 hours before the commencement of the Licensed Activity

3.2.2 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. This should include a notification to the Kingfisher Safety Bulletin Scheme. This must be issued at least 5 days before the commencement of the works.

3.2.3 The Licensee must notify the HM Coastguard in this case Zone2@hmcg.gov.uk, Zone3@hmcg.gov.uk and renewables@hmcg.gov.uk prior to the commencement of the Licensed Activity.

3.2.4 The Licensee must notify The Source Data Receipt team, UK Hydrographic Office (email: sdr@ukho.gov.uk) of commencement of the Licensed Activity, at least 10 days before commencement of the works. The information supplied must include the start date and end date, a description of the works, positions of the work area (WGS84), and details of any marking arrangements.

3.3 During the Licensed Activity

3.3.1 Only those persons acting on behalf of, and authorised by, the agent or the Licensee shall undertake the Licensed Activity.

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) the site of the Licensed Activity.

3.3.4 The Licensee must ensure that a copy of the licence is given to each contractor and sub-contractor employed to undertake the Licensed Activity.

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

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

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

3.3.8 The Licensee must ensure that the distance between the removal location and deposit location of substances and objects is as minimal as practicable from the clearance area and does not exceed 150 metres ("m") from any wind turbine generator location or offshore substation platform location nor exceed 15m from the export, inter-array and OSPs inter-connector cable corridor routes.

3.3.9 The Licensee must provide the members of the Moray Firth Commercial Fisheries Working Group ("CFWG") with the as-found and as-laid position co-ordinates of each boulder greater than 30cm in diameter that has been removed and deposited using a grab tool. The position co-ordinates must be provided to the CFWG no later than 15 days after the end of the each calendar month and detail the boulders removed and deposited during the previous calendar month.

3.3.10 No works must be undertaken within 2km of a designated bathing water between 1 June and 15 September without the prior written approval of the Licensing Authority in consultation with the Scottish Environment Protection Agency.

3.4 Upon Completion of the Licensed Activity

3.4.1 If a new licence is required, the Licensee must make an application at least fourteen weeks before the expiry date of the licence. This licence shall not continue in force after the expiry date of 31 July 2023.

3.4.2 The Licensee must ensure the seabed is returned to the original profile, or as close as reasonably practicable, following the Completion of the Licensed Activity.

3.4.3 The Licensee must notify The Source Data Receipt team, UK Hydrographic Office, (email: sdr@ukho.gov.uk) on completion of the Licensed Activity, no later than 10 working days after their completion. The information provided must include: latitude and longitude coordinates in WGS84 (ETRS89) datum of the installed works on and/or above the seabed, any changes to engineering drawings, post dredge surveys, details of new or changed aids to navigation where applicable.

3.4.4 The Licensee must submit a written report regarding the removal and deposit of the licensed substances or objects to the Licensing Authority no later than 28 days following the Completion of the Licensed Activity. The report must confirm the location of boulders which have been moved or removed and confirm the disposal of debris or waste materials in line with condition 3.3.2 of this licence.

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.