

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

LICENCE TO DEPOSIT ANY SUBSTANCE OR OBJECT IN THE SCOTTISH MARINE AREA

Licence Number: **MS-00008933**

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

**Marine Scotland Science
Marine Laboratory
PO Box 101
375 Victoria Road
Aberdeen AB11 9DB**

to deposit 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 **03 October, 2020** until **01 October, 2025**

Signed:

Ellie Noble

For and on behalf of the Licensing Authority

Date of issue 02 October, 2020

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, and,

- 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 Marine Scotland Science
- 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 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.

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.

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.

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.

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

2.2 Location of the Licensed Activity

South East Rockall Bank, Rockall,

56° 41.300' N 14° 08.667' W

56° 40.681' N 14° 04.656' W

,

As shown in Annex One.

2.3 Description of the Licensed Activity

Deposit of two moorings

As described in application dated 01 September, 2020 and correspondence submitted in support of the application.

2.4 Descriptions of the substances or objects to be deposited

This 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:

2 x Autonomous passive acoustic monitoring buoys

2.5 Contractor and Vessel Details

MRV Scotia, Fisheries Research Vessel, Marine Scotland Compliance Aberdeen

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 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.

3.1.2 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.

3.1.3 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.

3.1.4 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.

3.1.5 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.

3.1.6 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.

3.1.7 The Licensee must at all times deposit substances or objects in accordance with the licence, the application and the plans and programmes approved by the Licensing Authority.

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 notify the Licensing Authority in writing of the name and address of any 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.

3.2.4 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.

3.2.5 The Licensee must ensure that HM Coastguard, in this case nmcccontroller@hmcg.gov.uk, The National Maritime Operations Centre is made aware of the Licensed Activity prior to Commencement.

3.2.6 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.

3.3 During the Licensed Activity

3.3.1 The Licensee must ensure that all moorings and any vessels attached to the moorings are within the area bounded by the coordinates in Part 2 of the licence at all states of the tide.

3.3.2 The Licensee must ensure that the Licensed Activity is maintained at all times in good repair.

3.3.3 Only those persons acting on behalf of, and authorised by, the agent or the Licensee shall undertake the deposit operations.

3.3.4 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.

3.3.5 The Licensee must ensure that a copy of the licence is given to each contractor employed to undertake the licensed Activities. The Licensee must also ensure that copies of the licence and all other relevant documents 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/on board the vessel(s) employed to undertake the Licensed Activities.

3.3.6 In the event of the Licensed Activity being discontinued the materials used or substances and objects deposited under the authority of the licence shall be removed to the satisfaction of the Licensing Authority.

3.4 Upon Completion of the Licensed Activity

3.4.1 The Licensee must, no later than 14 days following the Completion of the works and/or Licensed Activity notify the Licensing Authority, in writing, of the date of the Completion of the works and/or Licensed Activity.

3.4.2 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.

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.