



**Department of Agriculture, Environment and Rural Affairs  
Marine & Fisheries Division**

**LICENCE ISSUED UNDER THE MARINE AND COASTAL ACCESS ACT 2009, PART 4, MARINE  
LICENSING**

**MARINE CONSTRUCTION LICENCE**

**Licence for: Deposit and removal activities, associated with the construction, operation, maintenance and decommissioning of a tidal array of up to 100 tidal devices, connecting cables and associated infrastructure in, on or under the sea at Torr Head, Co. Antrim**

**Licence Number:** ML115\_15

The Licensing Authority for Northern Ireland as described within the Marine & Coastal Access Act 2009 hereby grants a marine licence authorising the Licensee(s) as detailed below.

**Part 1 - Particulars**

**Interpretation**

In this licence, unless otherwise stated, terms are as defined in the Marine and Coastal Access Act 2009 (The Act).

**Licensing Authority Contact Details**

Marine & Fisheries Division  
Marine Strategy and Licensing  
Klondyke Building  
Cromac Avenue  
Belfast  
BT7 2JA.

E-mail: [marinelicensingteam@daera-ni.gov.uk](mailto:marinelicensingteam@daera-ni.gov.uk)  
Telephone: 028 905 69238

**1. Licensee(s) Name & Address:**

Tidal Ventures Limited,  
c/o Brookfield Renewable Energy Group,  
5th Floor,  
City Quarter,  
Lapps Quay,  
Cork Ireland



**2. The names, and operators, of the vessels to be employed to undertake or support the deposit, relocation or removal operations must be detailed with a Construction Method Statement.**

To be confirmed in accordance with Conditions 1.4 & 1.5.

**3. Description of works and nature and quantity of all deposits below Mean High Water Springs including details of tonnage of steel, concrete and cable lengths must be detailed with a Construction Method Statement.**

The offshore Project comprises all components seaward of the Mean High Water Springs (MHWS), which includes between 50-100 tidal turbines, turbine support structures and all associated offshore infrastructure, electrical infrastructure consisting of inter array cables, subsea cable connection hub(s) and export cables and landfall for export cables (up to MHWS only) as described in the environmental statement that accompanied the licence application.

Final detail on nature and quantity of all deposits to be confirmed in accordance with Condition 2.8

**4. Location of works:**

Seaward of Torr Head within an area bounded by the following points;

<b>PointID</b>	<b>X_DDM</b>	<b>Y_DDM</b>
AfL1	6° 3.358' W	55° 13.170' N
AfL2	6° 1.338' W	55° 12.481' N
AfL3	6° 1.250' W	55° 12.185' N
AfL4	6° 1.913' W	55° 11.578' N
AfL5	6° 2.961' W	55° 11.682' N
AfL6	6° 3.655' W	55° 11.961' N
AfL7	6° 4.559' W	55° 12.324' N
AfL8	6° 4.682' W	55° 12.790' N
AfL9	6° 4.430' W	55° 12.960' N
C1	6° 1.913' W	55° 11.578' N
C2	6° 2.083' W	55° 10.206' N
C3	6° 3.858' W	55° 11.858' N
C4	6° 3.731' W	55° 11.991' N
C5	6° 2.961' W	55° 11.682' N

**5. Valid:**

**From:** 09/12/2016. The commencement of the works must occur within five years of the start date of this licence. The licensing authority may extend this period on request and will confirm any extension in writing to the licensee(s).

**Until:** This licence will remain valid for the operational lifespan of the array, estimated at 25 years from commissioning, with an additional period post-decommissioning as dictated by the licensing authority, unless otherwise stated by the licensing authority.

## **PART 2: CONDITIONS**

The Department of Agriculture, Environment and Rural Affairs (referred to as the licensing authority) authorises **the Licensee(s)** to deposit or remove from within or under the sea, the substances or articles (except for dredged material) used in the execution of works described in Part 1 of this licence. This licence is subject to the under-mentioned condition(s):

### **Licence Condition(s):**

### **NOTE: FAILURE TO COMPLY WITH THE LICENCE CONDITIONS BELOW MAY RESULT IN ENFORCEMENT ACTION BEING TAKEN**

#### **1. General Conditions**

- 1.1 All conditions of this licence bind any persons who, for the time being, owns, occupies or enjoys any use of the works for which this licence has been granted, in relation to those licensed activities authorized under section 66 of the 2009 Act, whether or not the licence has been transferred to that person.
- 1.2 The Licensee(s) must receive written authorization from the licensing authority to assign or transfer the consent. The licensing authority must confirm in writing to both the original Licensee(s) and any proposed new Licensee(s) that the licence has been transferred/assigned before any works or the operation of the array may commence under the new Licensee(s).
- 1.3 The Licensee(s) shall not deposit any other material than that detailed in the marine licence application (the application) received by the licensing authority, dated 30<sup>th</sup> April 2015. The Licensee(s) shall contact the licensing authority if it is proposed to vary the materials or methods to be used from those described in the documentation supplied in connection with the application, Environmental Statement and any subsequent report, plan or programme previously agreed in writing by the licensing authority.
- 1.4 The Licensee(s) shall ensure that a copy of this licence, and any subsequent variations made in accordance with section 72 of the Act are given to each agent, contractor and sub-contractor appointed to carry out part or all of the works. The Licensee(s) must ensure that such agent, contractor or sub-contractor is aware of the conditions within the aforementioned licence and any subsequent variations.
- 1.5 The Licensee(s) shall notify the licensing authority of any vessel, including platforms due to carry out activities associated with this licence, 72 hours prior to the commencement of that activity. Notification should include the master's name, vessel type, vessel IMO number, vessel owners and operating company.
- 1.6 The Licensee(s) must ensure that a copy of this licence and any subsequent variations made in accordance to section 72 of the Act is held onboard and has been read and understood by the master of any vessels carrying out a licensed activity.
- 1.7 The Licensee(s) must ensure that if for any reason of *Force Majeure* any substance or object is deposited other than at the site described in this licence, then the licensing authority must be notified of the full details of the circumstances of the deposit as soon as the Licensee(s) are aware of the incident occurring. *Force Majeure* may be deemed to apply when, due to stress of weather or another cause, the master of a vessel, vehicle or marine structure determines that it is necessary to deposit a substance or object other than according to a licence. Such actions must be directly related to the safety of: a human life, a vessel, vehicle or marine structure which is threatened by the failure to take the action. Under Annex II, Article 7 of the OSPAR Convention for the Protection of the Marine Environment of the North-East Atlantic, the licensing authority is obliged to immediately report *force majeure* incidents to the Convention Commission.



- 1.8 If any serious health and safety incident occurs on the site requiring the Licensee(s) to report it to both the MCA and the Health and Safety Executive, then the Licensee(s) must notify the licensing authority of the incident within 72 hours of the Licensee(s) becoming aware of the incident.
- 1.9 The Licensee(s) must submit the details and specifications of all studies and surveys, detailed in this licence, that are required to be undertaken in relation to any programme of the works under the licence to the licensing authority, no later than four months before the commencement of the specific programme of works for their written approval. Commencement of the works must not occur until the licensing authority has given its written approval to the Licensee(s) of the details and specifications of the studies and surveys.
- 1.10 The Licensee(s) must submit all reports, studies and surveys to the licensing authority as are required under the licence within the time periods specified by the licensing authority to allow the licensing authority to consider whether any consequential action may be required to be undertaken. Where it appears to the Licensee(s) that there may be a delay in the submission of the reports, studies or surveys to the licensing authority, then the Licensee(s) must advise the licensing authority of this fact as soon as is practicable. This must be no later than the time by which those reports, studies or surveys ought to have been submitted to the licensing authority.
- 1.11 All reports, studies and surveys must include executive summaries, assessments and conclusions and any data may, subject to any rules permitting non-disclosure or commercial confidence, be made publically available by the licensing authority or by any such party appointed by the direction of the licensing authority.
- 1.12 The Licensee(s) shall ensure that copies of the licence are available for inspection by any authorised Enforcement Officer at:
- The premises of the Licensee(s)
  - The premises of the operating facility
  - The site of the works (including on board vessels)
- 1.13 The Licensee(s) must notify The Source Data Receipt team, UK Hydrographic Office, Taunton. Somerset, TA1 2DN (Email: [sdr@ukho.gov.uk](mailto:sdr@ukho.gov.uk); Tel: 01823 337900) at least 4 weeks before the commencement of a programme of works, to allow for any necessary amendments to nautical charts. The UK Hydrographic Office must also be notified upon completion of the works. **This office must be copied into all notifications.**
- 1.14 Four months prior to the commencement of a programme of works, the Licensee(s) must submit to the licensing authority for its written agreement, a written report detailing mitigation measures, based on FLOWW Guidelines\*, detailing any interference with a legitimate use of the sea, specifically interference on fishing by the development.
- \*Or other appropriate guidelines as may be available at the time.

## **2 Construction Conditions**

- 2.1 The Licensee(s) shall, within **eight weeks** after the completion of a programme of works, as agreed by the licensing authority, make a written report to the licensing authority stating the quantity and description of all articles and substances deposited under the authority of this licence for that programme.
- 2.2 The licence holder(s) must prepare a **Written Scheme of Investigation** in consultation with this Office to detail archaeological assessment and mitigation works necessary to inform the detailed delivery of the Project. The WSI must include:
- An Archaeological Reporting protocol for the prompt reporting and recording of archaeological remains encountered, or suspected, during all phases of construction, operation and decommissioning. This must be set out in accordance with The Crown Estate **Protocol for Archaeological Discoveries Offshore Renewable Projects (2014)**;
  - Responsibilities of the licence holder and archaeological consultant;
  - Details of contractors and curators;
  - Archaeological analysis and reporting of 'Project specific geophysical survey' data;
  - Delivery of mitigation including use of archaeological exclusion zones in agreement with this Office; and

- f. Conservation, publication and archiving duties for archaeological material.

Licensed activities must not commence until the licensing authority has provided written approval of the Written Scheme of Investigation.

- 2.3 The Licensee(s) must, as soon as reasonably practicable and at least 10 working days prior to the commencement of the a programme of works, ensure that local mariners, fishermen's organisations and the Maritime and Coastguard Agency are made aware of the activity through a local Notice to Mariners and any other appropriate means.
- 2.4 If drilling is required during construction works, all chemicals used during drilling operations must be selected from the list of Notified Chemicals assessed for the use by the offshore oil and gas industry under The Offshore Chemicals Regulations 2002. In the event that any system other than water-based mud is considered by the Licensee(s) for use in drilling operations, then prior written approval of the licensing authority must be obtained before its use. The Licensee(s) must comply with the terms of the guidance as to disposal of any material arising from the operation which will be given to the Licensee(s) by the licensing authority.

#### **Ecological Clerk(s) of Works / Environmental manager(s)**

- 2.5 The Licensee(s) must ensure that a suitably qualified and experienced Ecological Clerk(s) of Works / Environmental manager(s) is, or are, appointed prior to the commencement of any licensable programme of works. The appointed person(s) will provide environmental liaison establishing and maintaining effective communications between the Licensee, contractors, stakeholders, conservation groups and other users of the sea during the period in which licensed activities authorised under this licence are undertaken. Prior to the commencement of the works, the Licensee(s) must notify the licensing authority in writing of the identity, contact details and qualifications of the appointed Ecological Clerk(s) of Works / Environmental manager(s).
- 2.6 The term of appointment for the Ecological Clerk(s) of Works must cover the period from the commencement of a programme of marine works until commissioning, unless otherwise agreed by the licensing authority.
- 2.7 The responsibilities of the Ecological Clerk(s) of Works must include, but are not limited to the following:
- Quality assurance of the final draft of all plans and programmes required under this Licence.
  - Ensuring that all works are carried out in accordance with Construction Method Statements, Environmental Management Plans and Vessel Management Plans.
  - Project Monitoring Plan compliance with all environmental conditions and agreements.
  - Ensuring any wildlife designated site or protected species permissions are in place as required by the project.
  - Provide advice on monitoring and compliance of the licence by the Licensee(s) in coordination with the licensing authority.
  - Liaise through monthly reports to the marine licensing authority on works progress.

#### **Construction Method Statement**

- 2.8 The Licensee(s) must, submit a Construction Method Statement to the Licensing Authority for written agreement prior to the commencement of a programme of works. It must detail;
- Commencement dates.
  - Working methods including the proposed scope, frequency and daily hours of operation.
  - Details on the specific locations of turbines, cable routes and control hubs.
  - Installation methods including installation and supporting vessel details and routes.
  - Duration and phasing information of key elements of construction including but not exclusive to – cable trenching, cable laying, cable protection, turbine foundations and turbine structures.
  - Details of mitigation methods to prevent adverse impacts to species and habitats during construction.
  - Confirmation of reporting protocols used to update the licensing authority of construction activity, including any environmental issues, health and safety issues or unexpected impediment to the works.



- h. Pollution prevention measures and contingency plans.
- 2.9 The Construction Method Statements must, so far as reasonably practicable, be consistent with the Environmental Management Plans, and all other controlled documents agreed with the Licensing Authority.
- 2.10 The Licensee(s) must submit details of cable installation methods, including landfall works for the approval of the licensing authority. Cable installation details must include;
- The use of geotechnical data to ascertain optimal burial depth along the length of the export cable (including works within the intertidal zone).
  - The methods used for laying the cables.
  - Details of cable burial depths.
  - Details of Lowest Astronomical Tide (LAT) water depth above any cable armouring.
  - Cable burial risk assessment.
  - The need, types and installation method for any scour protection.
- 2.11 In the event that cable protection is required, the Licensee(s) must submit the details of proposed cable protection for the approval of the licensing authority. The cable protection must be incorporated within a Construction Method Statement. Cable protection must not commence until the licensing authority has approved the protection in writing.

#### **Environmental Management Plan**

- 2.12 The Licensee(s) shall provide in writing an Environmental Management Plan to the licensing authority, for its written agreement, no less than four months prior to the commencement of any programme of works. It must detail measures to be taken by the Licensee(s), through all stages of the programme of works to prevent adverse impacts, including but not limited to the following; marine mammals, birds, fish, habitats and legitimate uses of the sea. The Environmental Management Plan must contain monitoring requirements for the programme of works as reasonably requested by the licensing authority.
- 2.13 The Licensee(s) may be required, under an adaptive management approach, to amend the Environmental Management Plan including project monitoring requirements and submit an amended Environmental Management Plan for written approval of the licensing authority.
- \*The Environmental Management Plan should be able to draw on the latest industry data and guidance from including input from the Licensing Authority's advisory Science Group.
- 2.14 The Licensee(s) will be expected to agree monitoring details with the licensing authority no less than four months prior to the commencement of a programme of works. Project monitoring must set out the measures of monitoring the environmental impacts of the development, including pre-construction, construction, operation and decommissioning. The Project monitoring must provide validation to the Environmental Statement as requested by the licensing authority.
- 2.15 The Licensee(s) must submit written reports resulting from the Project monitoring, as requested by the licensing authority to provide validation on the following Environmental Statement predictions:
- Benthic changes.
  - Collision and encounter interactions with the turbines for marine mammals, birds and fish of concern.
  - Disturbance and displacement of marine mammals, birds and fish of concern.
- 2.16 The Licensee(s) must, prior to the commencement of a programme of works, agree in writing to the licensing authority, the details of an appointed JNCC-approved Marine Mammal Observer if required within the Environmental Management Plan. The Licensee(s) must provide the licensing authority with the Marine Mammal Observer's records on request following the commencement of the Marine Mammal Observer work and at six monthly intervals thereafter.
- 2.17 The Licensee(s) shall conduct a pre-construction survey at pre-determined sentinel location/s as advised by the licensing authority. This will form a baseline which can be used to qualify the Environmental Statement



predictions. The Licensing authority may require the Licensee(s) to attend project specific science group meetings to discuss survey requirements and Environmental Management Plans. The licensing authority retains the final say on all science group recommendations.

- 2.18 If impact piling or blasting is required during construction, the licensing authority must be notified **one month** in advance of commencement. A noise risk impact assessment must be produced and submitted to the licensing authority for approval before impact piling can begin, to prevent disturbance to sensitive receptors.
- 2.19 If impact piling or blasting is required during construction, the Licensee(s) shall maintain a record of the beginning and end times and duration, e.g. hammer energy blow or explosive charges. Records must be submitted to the licensing authority within **eight weeks** of completion of the piling or blasting works.
- 2.20 At the time the rock breaker or any other similar breaking machinery is in use, a Marine Mammal Observer, must ensure there is no disturbance or injury/harm to marine mammals wherever they are present. If marine mammals are detected in the area, the Marine Mammal Observer will issue a delay in the commencement of the activity, until they are satisfied that the animals have left the mitigation zone which should be no less than 500 metres, measured from the rock activity location. It is expected that the Marine Mammal Observer will follow JNCC guidelines as published at the time of the commencement of the works.
- 2.21 The Licensee(s) should ensure that measures are in place to prevent pollution of surface or ground water as a result of the activities on site, both during construction and thereafter.
- 2.22 The Licensee(s) should adhere to the following:
- Works in, near or over watercourses, PPG5 and
  - Prevent Pollution, & Construction and Demolition sites: PPG6: Prevent Pollution.

### **Vessel Management Plan**

- 2.23 Four months prior to the commencement of a programme of works, the Licensee(s) shall submit to the licensing authority for its written agreement a Vessel Management Plan. Changes to the Vessel Management Plan must, as reasonably practicable, be agreed with the licensing authority prior to their commencement. The Vessel Management Plan must include, but is not limited to, the following;
- a. Individual vessel details.
  - b. Number of vessels to be used.
  - c. Details of vessel propulsion and proposed ducted propeller use.
  - d. Details on vessel coordination and interaction with other users of the sea.
  - e. Location of working ports, and emergency porting/berthing options.
  - f. Vessel transit routes and loading/offloading facilities and plans.
- 2.24 The Licensee(s) shall ensure that the Kingfisher Information Service of Seafish, is informed by email of the details of the vessel routes, timings and locations relating to the construction works or relevant operations to [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk):
- a. At least two weeks prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data, and;
  - b. On completion of all offshore activities

### **Navigational Safety Plan**

- 2.25 The Licensee(s) shall, if deemed necessary by the licensing authority, submit a Navigational Safety Plan to the licensing authority for their written approval prior to the commencement of a relevant programme of works. The Navigational Safety Plan must include, but is not limited to the following;
- a. Navigational Safety Measures.
  - b. Emergency Response Cooperation plan.
  - c. Proposed safety zones.
  - d. Details of promulgation of information to mariners.
  - e. Buoyage.
  - f. Anchoring areas.



g. Lighting and markings.

### **3 Operational Conditions**

- 3.1 Four months prior to the initial operation of devices within the array, the Licensee(s) shall submit in writing to the licensing authority an agreed Operation and Maintenance Programme. The Operation and Maintenance Programme must include, but is not limited to, the following;
- Timing of operation activities and notification proposals to the licensing authority.
  - Details of regular maintenance requirements and timing of checks.
  - Contractor roles and responsibilities during operations and maintenance.
  - Unexpected repair contingency plans.
  - Cable condition and operational status, maintenance plans
- 3.2 The Licensee(s) shall ensure that a Notice to Mariners is issued at least 10 working days prior to the commencement of a programme of works, advising of the start date and the expected vessel routes from the local construction ports to the relevant location.
- 3.3 The Licensee(s) must ensure that the Notices to Mariners are updated and reissued at weekly intervals during construction activities and within five days of any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction method statement approved under condition 2.6.
- 3.4 In case of damage to, or destruction or decay of the authorised development seaward of MHWS or any part thereof, the Licensee(s) shall as soon as possible and no later than 24 hours following the identification of damage, destruction or decay, notify the licensing authority, MCA, CIL and the UKHO.
- 3.5 Prior to the commencement of a programme of works, the Licensee(s) must provide the licensing authority with an Emergency Response Co-operation Plan (ERCoP) for written approval. The ERCoP must include full details for the construction, operation and decommissioning phases of the works in accordance with the MCA recommendations contained within MGN 543 (M+F) "Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues". The ERCoP and associated guidance and requirements must be implemented as approved, unless otherwise agreed in writing by the licensing authority.
- 3.6 The Licensee(s) must ensure that cable protection works ensure existing and future safe navigation is not compromised. A maximum of 5% reduction in surrounding depth referenced to Chart Datum is permitted unless otherwise agreed with the licensing authority.
- 3.7 The Licensee(s) must complete hydrographic surveys of the consented area or subsections thereof, to the IHO Order 1a survey standard, as requested by the licensing authority. On completion of these surveys the results and a corresponding report of survey must be supplied to the licensing authority and the Maritime & Coastguard Agency (MCA) Hydrography Manager.
- 3.8 If it is believed that serious harm to the environmental, human health or serious interference with legitimate uses of the sea, directly attributable to the construction or operation of the array has occurred or is likely to occur, the licensing authority may exercise its power under section 72 of the Act and require the Licensee(s) to comply with the following; Vary, Suspend or Stop the specific construction or operational aspects of the tidal array causing the occurrence, pending assessment of the situation.
- 3.9 Should significant detrimental environmental changes be determined that are attributable to the array, a restoration programme will be required. The restoration programme must include scoping of the issues, determination of best methodologies, implementation and monitoring to achieve acceptable recovery.





- 3.10 Where the licensing authority instructs the Licensee(s) to stop the operation of the array, the operation of the array can only be resumed on receipt of permission to do so from the licensing authority.
- 3.11 If any device within the array fails to be operational post commissioning for a period of 24 months, unless otherwise agreed with the licensing authority, it must be either replaced or decommissioned and removed within the following 24-month period.

#### **4 Decommissioning Conditions**

- 4.1 The Licensee(s) shall notify the licensing authority in writing 6 months in advance of any individual device decommissioning relating to condition 3.11, and undertake the decommissioning in full consultation with the licensing authority.
- 4.2 The Licensee(s) shall ensure that during any decommissioning all materials, as agreed with the licensing authority at the time, are removed from the sea bed.
- 4.3 The Licensee(s) shall notify the licensing authority in writing 6 months in advance of decommissioning part or the entire array taking place, and shall undertake the decommissioning in full consultation with the licensing authority.
- 4.4 The Licensee(s) shall not commence with the decommissioning of the array until after the Licensee(s) has submitted an agreed decommissioning programme to the licensing authority, and a specific decommissioning licence application.
- 4.5 The Licensee(s) must submit to the licensing authority interpretative environmental monitoring reports detailing the effects of the final decommissioning works, within 6 months after the decommissioning of the array. This condition does not apply to individual device decommissioning under condition 3.11 unless stated in writing by the licensing authority.

#### **5 Post-Decommissioning conditions**

- 5.1 The Licensee(s) shall carry out environmental monitoring of the decommissioned site for a period of 24 months, post-decommissioning. This period may be reduced following initial result analysis by agreement with the licensing authority.
- 5.2 The Licensee(s) shall submit to the licensing authority, post decommissioning, reports from the environmental monitoring at six monthly intervals, for a period of 24 months, unless otherwise stated in writing by the licensing authority.

Signed on behalf of the Department:

[Redacted signature]

Dated: .....





**NOTE:**

- 1) Attention is drawn to the necessity of complying where appropriate with the **Radioactive Substances Act 1960**, the **Prevention of Oil Pollution Act 1971** and to the **Merchant Shipping (Dangerous Goods) (Amendment) Rules 1968**.
- 2) If within 28 days of the issue of a licence the person to whom it was issued requests the licensing authority to give him notice in writing of the reasons for the inclusion of any provision in it, the Authority shall comply with his request within 28 days of receiving it.
- 3) Anyone who fails to comply with a condition on a Marine Licence commits an offence under Section 85 of the **Marine and Coastal Access Act 2009**, and may be subject to enforcement action. Possible enforcement actions are compliance notices, remediation notices, fixed monetary penalties and variable monetary penalties. In the worst cases, a person found guilty of an offence may be subject to a fine of up to £50,000 or to imprisonment for a term not exceeding two years or to both.
- 4) The Licensee(s) are deemed to have satisfied themselves that there are no barriers or restrictions, legal or otherwise, to the carrying out of the licensed operations. The issuing of the licence does not absolve the Licensee(s) from obtaining such other authorizations and consents etc. which may be required under statute.
- 5) **Variation, Suspension, Revocation and Transfer:** Under section 72 of the 2009 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 the provisions of the licence or for any such other reason that appears to be relevant to the authority under section 72(2) or (3) of that Act.
- 6) **Breach of requirement for, or conditions of, the licence:** Under section 65 of the Act it is an offence to carry on a licensable activity without a marine licence or to fail with any condition of a marine licence.
- 7) **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 in relation to any activity, to prove that the activity was carried out for the purpose of saving life or for the purposes of securing the safety of a vessel, aircraft or marine structure and that the person took steps within a reasonable time to provide full details of the matter to the licensing authority as set out in section 86 1(b) of the 2009 Act.
- 8) **Offences relating to information:** Under section 89 of the 2009 Act it is an offence for a person to make a statement which is false or misleading in a material way, either knowing the statement to be 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 this licence.

**Further information from consultation:**

1. **Northern Ireland Environment Agency – Water Management Unit**

You should be aware that it is an offence under the **Water (Northern Ireland) Order 1999** to discharge or deposit whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and /or three months imprisonment.



## **2. Maritime & Coastguard Agency**

- Any jack up barges / vessels utilised during the works/laying of the cable, when jacked up, should exhibit signals in accordance with the UK Standard Marking Schedule for Offshore Installations.
- No radio beacon or radar beacon operating in the Marine frequency bands shall be installed or used on the works without prior written approval by OFCOM.
- If in the opinion of the Secretary of State the assistance of a Government Department, including the broadcast of navigational warnings, is required in connection with the works or to deal with any emergency arising from the failure to mark and light the works as required by the consent or to maintain the works in good order or from the drifting or wreck of the works, the owner of the works shall be liable for any expense incurred in securing such assistance.

## **3. DAERA – Marine & Fisheries Division - Conservation and Reporting**

### **Schedule 5 Species – Wildlife Order:**

- Article 11 of the Wildlife (Northern Ireland) Order 1985 (as amended) provides that a person shall not be guilty of an offence under Article 10 (killing or injuring a species listed in schedule 5 (as amended)) of the act was incidental to a lawful operation (i.e. activity permitted by a Marine Licence or planning permission) and could not reasonably be avoided. A separate Marine Wildlife Licence is therefore not required for national marine protected species if a Marine Licence/a Planning Permission has been granted, since adherence to the conditions of the Marine Licence should reduce the likelihood of harm to national marine protected species.

AND

- Under Article 10 it is an offence to intentionally or recklessly disturb; common seals, grey seals or basking sharks.
- It is also an offence under Article 10 to intentionally or recklessly damage or destroy, or obstruct access to, any structure or place which these animals (Schedule 5) use for shelter or protection; damage or destroy anything which conceals or protects any such structure; or disturb any such animal while it is occupying a structure or place which it uses for shelter or protection.
- Under Article 13 of the Wildlife (Northern Ireland) Order 1985 (as amended) it is an offence to sell or transport any Schedule 7 animal dead or alive at any time.
- Any person who knowingly causes or permits an act which is made unlawful under Article 10 or Article 13 shall also be guilty of an offence.
- Under the Wildlife (Northern Ireland) Order 1985 (as amended) a licence may be required for any operations which might impact on protected species.

### **European Protected Species:**

- The applicant's attention is drawn to regulation 34 of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), which states that it is an offence to deliberately<sup>[1]</sup> capture, injure or kill a wild animal of a European protected species included in Schedule 2 to these Regulations. This includes all species of dolphins, porpoises and whales and the marine turtle species: *Caretta caretta*, *Chelonia mydas*, *Lepidochelys kempii*, *Eretmochelys imbricata* and *Dermochelys coriacea*.

(1) It is also an offence to;

- (a) deliberately disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- (b) deliberately to disturb such an animal in such a way as to be likely to;
  - (i) affect the local distribution or abundance of the species to which it belongs;
  - (ii) impair its ability to survive, breed or reproduce, or rear or care for its young; or
  - (iii) impair its ability to hibernate or migrate;
- (c) deliberately take or destroy the eggs of such an animal;
- (d) deliberately obstruct access to a breeding site or resting place of such an animal; or
- (e) damage or destroy a breeding site or resting place of such an animal.

(2) It is an offence for any person;

- (a) to have in his possession or control,



(b) to transport,  
(c) to sell or exchange, or  
(d) to offer for sale or exchange,  
any live or dead animal which is taken from the wild and is of a species listed in Annex IV(a) to the Habitats Directive, or any part of, or anything derived from, such an animal.

- Under this legislation a licence may be required for any operations which might impact on protected species.

<sup>[1]</sup> Following two European Court of Justice cases (C-103/00 and C-221/04) “*deliberate actions are to be understood as actions by a person who knows, in the light of the relevant legislation that applies to the species involved, and the general information delivered to the public, that his action will most likely lead to an offence against a species, but intends this offence or, if not, consciously accepts the foreseeable results of his action*”

[http://jncc.defra.gov.uk/PDF/consultation\\_epsGuidanceDisturbance\\_all.pdf](http://jncc.defra.gov.uk/PDF/consultation_epsGuidanceDisturbance_all.pdf)

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