

SCHEDULE 2

Articles 2(1), 3(1), 5 and 12

Deemed licence under the Marine and Coastal Access Act 2009

PART 1

Interpretation

1.—(1) In this Schedule—

“the 1990 Act” means the Town and Country Planning Act 1990⁽¹⁾;

“the 2008 Act” means the Planning Act 2008⁽²⁾;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“authorised deposits” means the substances and articles specified in paragraph 2(4) of Part 1 of this Schedule;

“authorised development” means the development described in Part 1 of Schedule 1 to the Order;

“Cefas” means the Centre for Environment, Fisheries and Aquaculture Science or any replacement body or successor to its functions;

“the centre point of a wind turbine” means the centre point bisecting the turbine tower, transition piece and foundation;

“commence” means beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised development other than operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions and “commencement” shall be construed accordingly;

“enforcement officer” means a marine enforcement officer within the meaning of section 235 of the 2009 Act;

“English Heritage” means the Historic Buildings and Monuments Commission for England or any successor to its statutory functions;

“the Environment Agency” means the body established under the Environment Act 1995⁽³⁾ or any successor to its statutory functions;

“the environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order being application document reference number 4.1-4.3 dated October 2011;

“the Health and Safety Executive” or “HSE” means the body established under section 10 of the Health and Safety at Work etc. Act 1974⁽⁴⁾ or any successor to its statutory functions or other authority performing, carrying out or having the same regulatory functions as the HSE has at the date of this licence;

“the intertidal area” means the area between mean high water level and mean low water level;

“the Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this Schedule;

(1) 1990 c. 8.

(2) 2008 c. 29.

(3) 1995 c. 25.

(4) 1974 c. 37; section 10 of the Health and Safety at Work Act is substituted by S.I. 2008/960.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Kentish Flats Extension Order 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- “the licence conditions” means the conditions set out in Part 2 of this Schedule;
- “licensed activities” means the activities listed in Part 1 of this Schedule;
- “the Marine Management Organisation” or “MMO” means the body of that name created under the Marine and Coastal Access Act 2009 or any successor to its functions;
- “the Maritime and Coastguard Agency” or “MCA” means the executive agency of the Department for Transport or any successor to its functions;
- “mean high water level” or “MHW” means the level of mean high water spring tides;
- “mean low water level” or “MLW” means the level of mean low water spring tides;
- “monopile foundation” means a metal pile, typically cylindrical, driven and/or drilled into the seabed and associated equipment;
- “Natural England” means the body established by section 1 of the Natural Environment and Rural Communities Act 2006 or any successor to its statutory functions;
- “notice to mariners” includes any notice to mariners which may be issued by the Admiralty, Trinity House, Queen’s harbourmasters, government departments and harbour and pilotage authorities;
- “the Order” means the Kentish Flats Extension Order 2013;
- “the Order limits” means the limits shown on the Order limits plan and works plan as the limits within which the authorised development may be carried out;
- “the Order limits plan” means plan No 2.1 (Drawing no. 9V9546/30/001 rev. 004) certified as the Order limits plan by the Secretary of State for the purposes of the Order;
- “PLA” means the Port of London Authority or any successor to its statutory functions;
- “the project design statement” means the document certified as the project design statement by the Secretary of State for the purposes of the Order being document reference number 7.2 dated 10 October 2011;
- “regulatory authorities” means any government department, public, local or regulatory or any other authority or institution having regulatory functions, powers, duties and obligations having the full force of law;
- “the Requirements” means the requirements set out in paragraphs 2 to 18 of Part 3 of Schedule 1 to the Order;
- “Trinity House” means the Corporation of Trinity House of Deptford Strond or any successor to its functions;
- “the UK Hydrographic Office” means the Hydrographic Office of the Ministry of Defence, Taunton, Somerset TA1 2DN or any replacement body or successor to its functions;
- “the undertaker” means, subject to article 7(3) of the Order, Vattenfall Wind Power Ltd;
- “vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;
- “VHF” means very high frequency; and
- “wind turbine generator” or “wind turbine” means a structure comprising any or all of a tower, transition piece, rotor, blades, nacelle and ancillary electrical and other equipment which may include lighting, j-tubes, transition piece, access and rest platforms, access ladders, boat access systems, corrosion protection systems, fenders and maintenance equipment, fixed to a foundation;

“the works plan” means the plan No 5.4 (Drawing no. 9V9546/30/005 rev. 006) certified as the works plan by the Secretary of State for the purposes of the Order.

(2) In this Schedule references to the locations of a wind turbine are references to the centre point of that turbine.

(3) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence shall be—

(a) Marine Management Organisation

Marine Environment Team
PO Box 1275
Newcastle upon Tyne
NE99 5BN
Tel: 0191 376 2525

(b) Marine Management Organisation

Coastal Office
Fish Market
Rock-A-Nore Road
Hastings
East Sussex
TN34 3DW

(c) Trinity House

Tower Hill
London
EC3N 4DH
Tel: 020 7481 6900

(d) The United Kingdom Hydrographic Office

Admiralty Way
Taunton
Somerset
TA1 2DN
Tel: 01823 337 900

(e) Maritime and Coastguard Agency

Navigation Safety Branch
Bay 2/04
Spring Place
105 Commercial Road
Southampton
SO15 1EG
Tel: 023 8032 9191

(f) Centre of Environment, Fisheries and Aquaculture Science

Pakefield Road

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Kentish Flats Extension Order 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Lowestoft
Suffolk
NR33 0HT
Tel: 01502 562 244

(g) The Environment Agency

Orchard House
Endeavour Park
London Road
Addington
West Malling
Kent
ME19 5SH
Tel: 01732 223272

(h) Natural England

Hercules House
Hercules Road
Lambeth
London
SE1 7DU
Tel: 0300 060 4911

(i) English Heritage

Eastgate Court
195-205 High Street
Guildford
GU1 3EH
Tel: 01483 252 057

(j) Port of London Authority

London River House
Royal Pier Road
Gravesend
Kent
DA12 2BG
Tel 01474 562200

Commencement Information

II Sch. 2 Pt. 1 para. 1 in force at 20.2.2013, see [art. 1](#)

Details of licensed marine activities

2.—(1) Subject to the licence conditions this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities pursuant to section 66(1) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in sub-paragraph (3);
 - (b) the construction of works in or over the sea and/or on or under the sea bed; and
 - (c) sampling or investigative works required in connection with paragraphs (a) and (b).
- (2) Such activities are authorised in relation to the construction and operation of—
- (a) within the offshore development area—
 - (i) Work No. 1a—
between 10 and 17 (inclusive) wind turbine generators fixed to the seabed by monopile foundations; and
 - (ii) Work No. 1b—
a network of inter-array cables connecting the wind turbine generators to each other.

Co-ordinates for offshore development area

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
A1	51°27'58.960"	01°01'57.889"
A2	51°28'06.600"	01°03'13.800"
A3	51°26'49.200"	01°04'51.000"
A4	51°27'08.400"	01°08'02.400"
A5	51°26'48.536"	01°08'27.326"
A6	51°26'21.713"	01°04'00.060"

(b) and associated development within the meaning of section 115(2) of the 2008 Act comprising within the export cable area—

- (i) Work No. 2a—
a connection within the Order limits seaward of mean high water level consisting of subsea cables from one or more of the wind turbine generators comprised within Work No. 1a to shore, including cable crossing works.

Co-ordinates for export cable area

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
B1	51°26'49.516"	01°03'25.151"
B2	51°26'57.154"	01°04'41.017"
B3	51°26'49.200"	01°04'51.000"
B4	51°27'08.400"	01°08'02.400"
B5	51°26'44.304"	01°08'32.636"
B6	51°26'30.954"	01°06'19.501"
B7	51°22'34.716"	01°06'13.284"
B8	51°22'20.604"	01°05'58.812"

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Kentish Flats Extension Order 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
B9	51°22'19.812"	01°05'58.812"
B10	51°22'19.92"	01°05'56.256"
B11	51°22'33.685"	01°05'26.707"
B12	51°26'26.282"	01°05'32.847"
B13	51°26'17.484"	01°04'05.369"

(3) For the avoidance of doubt, this licence does not authorise the decommissioning of the authorised development for which a separate marine licence may be required.

(4) The substances or articles authorised for deposit at sea are—

- (a) metal;
- (b) stone and rock;
- (c) concrete;
- (d) sand; and
- (e) plastic/synthetic.

(5) The provisions of section 72 of the 2009 Act shall apply to this licence, save that the provisions of section 72(7) relating to the transfer of the licence shall only apply to a transfer not falling within article 7 of the Order.

Commencement Information

I2 Sch. 2 Pt. 1 para. 2 in force at 20.2.2013, see [art. 1](#)

PART 2

Licence conditions

Design parameters

1. The wind turbine generators forming part of the authorised development shall be located within the Order limits and within 160 metres of the grid co-ordinates listed below.

<i>Turbine</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
T1	51°27'56.719"	01°02'11.603"
T2	51°28'00.579"	01°02'47.537"
T3	51°27'38.990"	01°02'33.993"
T4	51°27'42.632"	01°03'10.491"
T5	51°27'21.259"	01°02'56.378"
T6	51°27'24.677"	01°03'32.602"
T7	51°27'03.300"	01°03'19.206"
T8	51°27'06.943"	01°03'54.979"
T9	51°26'45.416"	01°03'42.001"

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Kentish Flats Extension Order 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

<i>Turbine</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
T10	51°26'48.994"	01°04'17.918"
T11	51°26'27.428"	01°04'04.186"
T12	51°26'31.046"	01°04'39.957"
T13	51°26'34.817"	01°05'15.662"
T14	51°26'42.074"	01°06'27.237"
T15	51°26'45.659"	01°07'03.019"
T16	51°26'49.262"	01°07'38.798"
T17	51°26'52.861"	01°08'14.578"

Commencement Information

I3 Sch. 2 Pt. 2 para. 1 in force at 20.2.2013, see [art. 1](#)

2. Except with the prior written approval of the Secretary of State and as assessed in the environmental statement all wind turbine generators forming part of the authorised development shall be of the same make, model and size, have three blades and shall not—

- (a) exceed a height of 145 metres or be less than 115 metres when measured from mean sea level to the tip of the vertical blade;
- (b) exceed a height of 85 metres or be less than 70 metres to the hub when measured from mean sea level;
- (c) exceed a rotor diameter of 120 metres or have a rotor diameter of less than 90 metres;
- (d) have a distance of less than 22 metres between the lowest point of the rotating blade of the wind turbine and mean high water level;
- (e) subject to Requirement 9 be lit unless the lighting used is of a shape, colour and character as required by the Air Navigation Order 2009 or as directed by the CAA; and
- (f) subject to Requirement 9, be painted in any colour other than submarine grey RA7035.

Commencement Information

I4 Sch. 2 Pt. 2 para. 2 in force at 20.2.2013, see [art. 1](#)

- 3.—(1) The total length of the cables comprising Work No. 1b shall not exceed 12 kilometres.
- (2) The total length of the cables comprising Work No. 2a shall not exceed 18 kilometres.
- (3) The number of cables forming part of Work No. 2a and installed within the export cable area shall not exceed two.
- (4) Each monopile foundation forming part of the authorised development shall not have a diameter greater than 6 metres.
- (5) The undertaker shall notify the MMO in writing within 14 days of any changes to the detailed design parameters approved by the Secretary of State in accordance with licence condition 2.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Kentish Flats Extension Order 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Commencement Information

I5 Sch. 2 para. 3 in force at 20.2.2013, see [art. 1](#)

Commencement Information

I3 Sch. 2 Pt. 2 para. 1 in force at 20.2.2013, see [art. 1](#)

I4 Sch. 2 Pt. 2 para. 2 in force at 20.2.2013, see [art. 1](#)

I5 Sch. 2 para. 3 in force at 20.2.2013, see [art. 1](#)

Notifications and inspections

4.—(1) The undertaker shall ensure that—

- (a) a copy of this licence and any subsequent amendments or revisions to it are provided to—
 - (i) all agents and contractors notified to the MMO in accordance with the conditions of this licence; and
 - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with the conditions of this licence;
- (b) within 28 days of receipt of a copy of this licence those persons referred to at paragraph (a) shall provide a completed confirmation form to the MMO confirming their understanding of the terms and conditions of this licence.

(2) Only those persons and vessels notified to the MMO in accordance with the conditions of this licence are permitted to carry out the licensed activities.

(3) Copies of this licence shall also be available for inspection by an enforcement officer at all reasonable times at the following locations—

- (a) the undertaker’s registered address;
- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits and works; and
- (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits are to be made or authorised works undertaken.

(4) The undertaker must provide access, and if necessary appropriate transportation, at reasonable notice to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised development.

(5) The undertaker must inform the MMO in writing at least five working days prior to the commencement of the licensed activities or any phase of them.

(6) At least 7 days prior to the commencement of the licensed activities the undertaker must publish in the Kingfisher Fortnightly Bulletin details of the vessel routes, timings and locations relating to the construction of the authorised development.

(7) The undertaker shall ensure that—

- (a) a notice to mariners is issued at least ten days prior to the commencement of the licensed activities advising of the commencement of licensed activities within the offshore development area and the expected vessel routes from the local service ports to the turbine locations; and

- (b) a second notice to mariners is issued advising of the commencement of licensed activities within the export cable area below mean high water level and the route of the subsea cable(s).
- (8) The notices to mariners must be updated and reissued not less frequently than weekly and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under licence condition 9(1)(a). Copies of all notices shall be provided to the MMO.
- (9) The undertaker must notify—
- (a) the UK Hydrographic Office of both the progress and completion of the authorised development in order that all necessary amendments to nautical charts are made; and
 - (b) the MMO once the authorised development is completed and any lighting or marking required by the Order has been established.
- (10) The undertaker must ensure that prior to the commencement of the licensed activities the following suitably qualified and experienced liaison officers are appointed and their identity and credentials provided as part of the project environmental management plan required by licence condition 9(1)(f)—
- (a) a Fisheries Liaison Officer or Officers; and
 - (b) an Environmental Liaison Officer or Officers.
- (11) The responsibilities of the Environmental Liaison Officer shall include—
- (a) monitoring compliance with this licence and the plans and programmes required by licence condition 9;
 - (b) being a central point of contact for the monitoring requirements set out in licence conditions 12, 13 and 14;
 - (c) providing induction in relation to environmental policies and procedures;
 - (d) ensuring that information is made available and circulated in such a way as to minimise interference with fishing operations and other users of the sea;
 - (e) consulting with representatives of relevant national, regional and local navigational interests on the plans required by licence condition 9(1)(g) and (i); and
 - (f) delivering the functions and duties required by the written scheme of archaeological investigation required by licence condition 9(1)(j).
- (12) The Fisheries Liaison Officer shall represent the views of fishermen to the MMO for the purposes of licence condition 9(1)(b).
- (13) Both the Fisheries Liaison Officer and the Environmental Liaison Officer shall be required to establish and maintain communications between the undertaker, contractors, fishermen, conservation groups and other users of the sea for the duration of the licensed activities.

Commencement Information

16 Sch. 2 para. 4 in force at 20.2.2013, see [art. 1](#)

Chemicals, drilling and debris

5.—(1) All chemicals used in the construction of the authorised development, including any chemical agents placed within the monopile void, shall be selected from the List of Notified Chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Kentish Flats Extension Order 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Regulations 2002(5) unless otherwise agreed in writing by the MMO prior to construction works commencing.

(2) All protective coatings and paints shall be suitable for use in the marine environment and approved by the Health and Safety Executive when required under EHS law. The use of such coatings shall accord with best environmental practice.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances shall be undertaken so as to prevent releases into the marine environment including bunding of 110% of the total volume of all reservoirs and containers.

(4) Where foundation drilling works are proposed, in the event that any system other than water-based mud is proposed the MMO's written approval in relation to the proposed disposal of any arisings shall be obtained before the drilling commences. If the disposal of the arisings has not been assessed within the environmental statement a separate marine licence will also be required.

(5) Written approval from the MMO following consultation with the MCA and Trinity House is required before any rock dumping is carried out. If the proposed rock dumping has not been assessed within the environmental statement a separate marine licence will also be required.

(6) The undertaker shall ensure that any debris or temporary works placed below mean high water level are removed on completion of the authorised development.

(7) At least 14 days prior to the commencement of the licensed activities the undertaker must submit to the MMO an audit sheet covering all aspects of the construction of the authorised development below mean high water level. The audit sheet shall include details of—

- (a) loading facilities;
- (b) vessels;
- (c) equipment;
- (d) shipment routes;
- (e) working schedules; and
- (f) all components and materials to be used in the construction of the authorised development.

(8) No licensed activities shall commence until the MMO has approved the audit sheet in writing.

(9) The audit sheet shall be maintained throughout the construction of the authorised development and any changes notified immediately in writing to the MMO.

(10) In the event that—

- (a) any of the materials on the audit sheet cannot be accounted for the MMO will require the undertaker to carry out a side scan sonar survey to plot all obstructions across the Order limits;
- (b) any materials that cannot be accounted for are not located within the Order limits the MMO will require the undertaker to extend the side scan sonar survey to cover routes outside the Order limits used by the vessels in undertaking the authorised development.

(11) Local fishermen shall be invited to send a representative to be present during the side scan sonar survey. Any new obstructions that the MMO believes to be associated with the authorised development shall be removed at the undertaker's expense.

(12) For the purposes of this licence condition—

- (a) "best environmental practice" means best environmental practice as defined in Appendix 1 of the 1992 OSPAR Convention on the Protection of the Marine Environment of the North-East Atlantic;

- (b) “EHS law” means all applicable legislation, regulations and legally binding codes of practice and guidance notes issued by regulatory authorities in so far as they relate to or apply to matters relating to the occupational health and safety of any person and/or to the pollution or protection of air, water, land or any or all organisms (including man).

Commencement Information

I7 Sch. 2 para. 5 in force at 20.2.2013, see [art. 1](#)

Force majeure

6. If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to deposit the authorised deposits outside of the Order limits because the safety of human life and/or of the vessel is threatened, full details of the circumstances of the deposit shall be notified to the MMO within 48 hours.

Commencement Information

I8 Sch. 2 para. 6 in force at 20.2.2013, see [art. 1](#)

Seasonal restrictions

7. Except with the prior written approval of the MMO, following consultation with Cefas and Natural England, no monopile foundations shall be installed or works take place within the export cable area between 14 February and 31 May to avoid effects on herring spawning.

Commencement Information

I9 Sch. 2 para. 7 in force at 20.2.2013, see [art. 1](#)

8. In the event that cable installation works take place between October and April (inclusive) any such works between mean low water and mean high water shall avoid the period two hours either side of high water to avoid disturbance to roosting turnstone.

Commencement Information

I10 Sch. 2 para. 8 in force at 20.2.2013, see [art. 1](#)

Commencement Information

I9 Sch. 2 para. 7 in force at 20.2.2013, see [art. 1](#)

I10 Sch. 2 para. 8 in force at 20.2.2013, see [art. 1](#)

Pre-construction plans and documentation

9.—(1) The licensed activities shall not commence until the following have been submitted to and approved in writing by the MMO. Except where otherwise stated or with the prior written approval of the MMO these documents must be submitted to the MMO for approval at least 4 months prior to the commencement of works—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Kentish Flats Extension Order 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) a construction and monitoring programme to include details of—
 - (i) the proposed construction start date;
 - (ii) timings for mobilisation of plant, delivery of materials and installation works; and
 - (iii) the methodologies and timings for preparing and submitting survey specifications, data collection and analysis and submission of reports and the provision of this information to the MMO, Cefas and Natural England in accordance with licence conditions 12 to 14. This must be submitted 4 months prior to the start of any related survey works;
- (b) the scope of the fish and shellfish surveys required by licence conditions 12(3)(d) and 14(d) which shall only be agreed by the MMO, following consultation with Cefas and the Fisheries Liaison Officer;
- (c) the plans required under paragraphs (g) and (i) which shall only be agreed by the MMO following consultation with the MCA, the PLA and Trinity House;
- (d) where compliance with the construction and monitoring programme agreed under paragraph (a) is not possible, the undertaker must notify the MMO in writing and submit a revised programme for approval. In circumstances where the revised programme affects other plans or documents agreed by the MMO under this paragraph the MMO may require construction works to cease until the revised programme has been approved;
- (e) a construction method statement in accordance with the project design statement and environmental statement and including details of—
 - (i) foundation installation, including drilling methods;
 - (ii) turbine installation, including any scour protection;
 - (iii) cable installation, including cable landfall;
 - (iv) contractors;
 - (v) vessels; and
 - (vi) associated works;
- (f) a project environmental management plan to include details of—
 - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents during construction and operation of the authorised development in relation to all activities carried out below mean high water level;
 - (ii) a chemical risk analysis to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
 - (iii) waste management and disposal arrangements;
 - (iv) the appointment and responsibilities of any officers required in connection with the carrying out of the licensed activities;
 - (v) any seasonal restriction on construction works; and
 - (vi) locations of any archaeological exclusion zones agreed as part of the written scheme of investigation approved under paragraph (j) of this licence condition;
- (g) a scour protection management and cable armouring plan providing details of the need, type, sources, quantity and installation methods for scour protection and cable armoury;
- (h) only where driven or drilled pile foundations are used, a marine mammal mitigation protocol to include—
 - (i) identification of a marine mammal monitoring zone;

- (ii) appointment of marine mammal observer(s);
 - (iii) proposals for the detection of marine mammals (visually and acoustically) within the marine mammal monitoring zone to be undertaken prior to the commencement of piling;
 - (iv) reporting methodology; and
 - (v) description of approved soft-start procedure to be used on commencement of piling;
 - (i) cable specification and installation plan, to include—
 - (i) technical specification of off-shore cables, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
 - (ii) a detailed cable laying plan, including geotechnical data and cable laying techniques;
 - (iii) provision that the depth of navigable water be maintained as far as reasonably practicable at a minimum of the depth stated upon the relevant Hydrographic Office charts current at the date the Order is made; and
 - (iv) provision to ensure that as far as reasonably practicable no hazard to navigation is created as a result of cable installation and protection works undertaken either during construction or during subsequent maintenance;
 - (j) a written scheme of archaeological investigation in accordance with industry good practice to include—
 - (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
 - (ii) a methodology for any site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
 - (iii) analysis and reporting of survey data to be submitted to the MMO within 3 months of survey completion and shall be agreed in writing with the MMO following consultation with English Heritage;
 - (iv) delivery of any mitigation including, where necessary, archaeological exclusion zones;
 - (v) monitoring during and post construction, including a conservation programme for finds;
 - (vi) archiving of archaeological material with a public archive in accordance with the Online Access to the Index of archaeological investigations (OASIS) system; and
 - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised development.
- (2) The undertaker shall comply with the plans and documentation approved under this licence condition in carrying out the licensed activities unless otherwise agreed in writing by the MMO.

Commencement Information

III Sch. 2 para. 9 in force at 20.2.2013, see [art. 1](#)

Reporting of engaged agents, contractors and vessels

10.—(1) The undertaker shall provide the following information to the MMO—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Kentish Flats Extension Order 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) at least 5 working days before any vessel, agent or contractor engages in any licensed activity the name and function of any agent or contractor appointed to engage in the licensed activities; and
 - (b) each week during the construction of the authorised development a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.
- (2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

Commencement Information

I12 Sch. 2 para. 10 in force at 20.2.2013, see [art. 1](#)

Equipment and operation of vessels engaged in licensed activities

11.—(1) All vessels employed to perform the licensed activities shall be constructed and equipped to be capable of the proper performance of such activities in accordance with the conditions of this licence and shall comply with sub-paragraphs (2) to (7).

(2) Subject to sub-paragraph (3) all motor powered vessels must be fitted with—

- (a) electronic positioning aid to provide navigational data;
- (b) radar;
- (c) echo sounder; and
- (d) multi-channel VHF.

(3) No radio beacon or radar beacon operating on the marine frequency bands shall be installed or used without the prior written approval of the Secretary of State.

(4) All vessels' names or identification shall be clearly marked on the hull or superstructure of the vessel.

(5) All vessels shall exhibit signals in accordance with the requirements of the International Regulations for the Prevention of Collisions at Sea.

(6) All communication on VHF working frequencies shall be in English.

(7) No vessel shall engage in the licensed activities unless all the equipment specified in sub-paragraph (2) is fully operational.

Commencement Information

I13 Sch. 2 para. 11 in force at 20.2.2013, see [art. 1](#)

Pre-construction baseline

12.—(1) Any pre-construction baseline report shall take account of any existing environmental data, assessments and reports relevant to the Order limits.

(2) Prior to the commencement of the licensed activities the undertaker shall submit a pre-construction baseline report to the MMO for written approval at least 4 months prior to the start of any licensed activities. No licensed activities shall commence until the MMO has approved in writing the pre-construction baseline report. The form and content of the report, including any additional environmental monitoring, shall be agreed in writing by the MMO following consultation with Cefas, Natural England and English Heritage.

- (3) The pre-construction baseline report shall include—
- (a) data concerning the location and abundance of any benthic communities within the Order limits;
 - (b) a Phase 1 survey of the intertidal area;
 - (c) a swath-bathymetric survey including a side scan sonar survey including seabed anomalies of archaeological interest and those anomalies subject to exclusion zones and scour/spud marks across the Order limits;
 - (d) data concerning existing fish and shellfish populations and spawning activity in the vicinity of the Order limits;
 - (e) data concerning existing ornithological activity in the vicinity of the Order limits; and
 - (f) a desk based assessment of known and predicted archaeology and paleo-environmental deposits.

(4) In the event that the pre-construction baseline report contains sufficient information regarding the effects of the licensed activities on individual matters listed at sub-paragraph (3)(a) to (e) the MMO shall not require further monitoring to be carried out in respect of that matter.

Commencement Information

114 Sch. 2 para. 12 in force at 20.2.2013, see [art. 1](#)

Construction monitoring

13.—(1) During construction the undertaker shall submit environmental monitoring reports to the MMO in accordance with the construction and monitoring programme approved under licence condition 9(1)(a) which shall include—

- (a) if jetting is used for cable installation, the monitoring of suspended sediment concentrations within the jetting area and at a suitable control location;
- (b) measurements of noise generated by the installation of the first four foundations, following which the MMO will determine whether further noise monitoring is required;
- (c) recording of any sightings in accordance with licence condition 9(1)(h) of marine mammals within the marine mammal monitoring zone; and
- (d) ornithological monitoring.

(2) The results of any initial noise measurements provided in accordance with sub-paragraph (1) (b) shall be provided to the MMO within six weeks of the installation of the first foundation piece. The assessment of this report by the MMO shall determine whether any further noise monitoring is required. In the event that the reported noise levels are significantly in excess of those predicted in the environmental statement further pile installation shall only be carried out with the prior written approval of the MMO.

(3) In the event that the installation of the export cable(s) takes place between May and September, bathing water quality shall be monitored and reported to the Environment Agency in accordance with a written protocol agreed in advance of such works taking place. The protocol shall include procedures for setting the bathing water quality baseline, details of the appropriate standards and the steps to be taken in the event that, as a result of the export cable works, bathing water quality falls below the agreed standards.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Kentish Flats Extension Order 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Commencement Information

I15 Sch. 2 para. 13 in force at 20.2.2013, see [art. 1](#)

Post construction

14. Post construction the undertaker shall submit environmental monitoring reports to the MMO in accordance with the construction and monitoring timetable approved under licence condition 9(1) (a) which shall include—

- (a) data from sample locations for benthic monitoring;
- (b) monitoring of the intertidal area;
- (c) swath-bathymetric surveys including spud mark monitoring and scour monitoring around the turbine foundations;
- (d) a survey of fish and shellfish populations in the vicinity of the Order limits; and
- (e) ornithological monitoring.

Commencement Information

I16 Sch. 2 para. 14 in force at 20.2.2013, see [art. 1](#)

Amendments to approved details

15. With respect to any condition of this Schedule which requires the licensed activities to be carried out in accordance with plans, programmes and reports approved by the MMO, the approved plans, programmes and reports shall be taken to include any amendments that may subsequently be approved in writing by the MMO.

Commencement Information

I17 Sch. 2 para. 15 in force at 20.2.2013, see [art. 1](#)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Kentish Flats Extension Order 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Sch. 2 Pt. 2 para. 2(e) words substituted by [S.I. 2016/765 Sch. 14 Pt. 2 para. 5\(b\)](#)