

SCHEDULE 2

Deemed licence under the Marine and Coastal Access Act 2009

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" |
| 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

II 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;

Changes to legislation: There are currently no known outstanding effects for the
The Kentish Flats Extension Order 2013, PART 2. (See end of Document for details)

- (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

I2 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.

Commencement Information

I3 Sch. 2 para. 3 in force at 20.2.2013, see [art. 1](#)

Commencement Information

I1 Sch. 2 Pt. 2 para. 1 in force at 20.2.2013, see [art. 1](#)

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

I3 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

14 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 Regulations 2002(1) 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;

(1) [S.I. 2002/1355](#).

- (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

I5 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

I6 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

I7 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

I8 Sch. 2 para. 8 in force at 20.2.2013, see [art. 1](#)

Commencement Information

I7 Sch. 2 para. 7 in force at 20.2.2013, see [art. 1](#)

I8 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—

- (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;

Changes to legislation: There are currently no known outstanding effects for the
The Kentish Flats Extension Order 2013, PART 2. (See end of Document for details)

- (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

I9 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—

- (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

I10 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

I11 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

I12 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.

Commencement Information

I13 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

I14 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

I15 Sch. 2 para. 15 in force at 20.2.2013, see [art. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Kentish Flats Extension Order 2013, PART 2.