

SCHEDULE 14

Deemed licence under Marine and Coastal Access Act 2009 – export cables

PART 2

Conditions

Design parameters

- 1.—(1) The total length of the cables comprising Work No. 3A shall not exceed 92 kilometres.
- (2) The total amount of cable protection for the cables comprising Work No. 3A shall not exceed 0.092km³.
- (3) No export cables forming part of the authorised development shall be located within the area hatched green on the works plan (the “exclusion zone for export cables”), whose coordinates are specified below—

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
17	50° 45' 11.46 N	000° 14' 39.33 W
22	50° 47' 40.20 N	000° 17' 22.86 W
23	50° 43' 59.56 N	000° 17' 23.22 W
24	50° 43' 59.47 N	000° 13' 03.88 W

Commencement Information

II Sch. 14 Pt. 2 para. 1 in force at 6.8.2014, see [art. 1](#)

Notifications and inspections

- 2.—(1) The undertaker shall ensure that—
 - (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
 - (i) all agents and contractors notified to the MMO in accordance with condition 9; and
 - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with condition 9;
 - (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) above shall provide a completed confirmation form to the MMO confirming that they have read and will comply with the terms of the conditions of this licence.
- (2) Only those persons and vessels notified to the MMO in accordance with condition 9 are permitted to carry out the licensed activities.
- (3) Copies of this licence shall also be available for inspection 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

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- (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.
- (4) The documents referred to in paragraph (1)(a) shall be available for inspection by an authorised enforcement officer at the locations set out in paragraph (3)(b) above.
- (5) The undertaker shall provide access, and if necessary appropriate transportation, 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 scheme.
- (6) The undertaker shall inform the MMO in writing at least five working days prior to the commencement of the licensed activities or any part of them.
- (7) Prior to the commencement of the licensed activities or any part of them the undertaker shall publish in the Kingfisher Fortnightly Bulletin details of the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part.
- (8) The undertaker shall ensure that a notice to mariners is issued at least 10 working days prior to the commencement of Work No. 3A advising of the start date of Work No. 3A and the route of the subsea export cables.
- (9) The undertaker shall ensure that the notices to mariners are updated and reissued at weekly intervals during construction activities and within 5 days of any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction programme approved under condition 7(1)(b), and copies of all notices shall be provided to the MMO.
- (10) The undertaker shall notify—
- (a) the Hydrographic Office of both the commencement (within two weeks), progress and completion (within two weeks) of the authorised scheme in order that all necessary amendments to nautical charts are made; and
 - (b) the MMO, MCA and Trinity House within two weeks once the authorised scheme is completed and any required lighting or marking has been established.

Commencement Information

I2 Sch. 14 Pt. 2 para. 2 in force at 6.8.2014, see [art. 1](#)

Navigational practice, safety and emergency response

3.—(1) No part of the authorised scheme shall commence until the Secretary of State, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and adequately addressed all MCA recommendations contained within MGN 371 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes including full details of the Emergency Co-operation Plans (ERCoP) for the construction, operation and decommissioning as appropriate to the authorised scheme.

(2) The undertaker will prepare and implement a project-specific Active Safety Management System, taking account of safety and mitigation measures as referred to in the navigation risk assessment in the environmental statement.

Commencement Information

I3 Sch. 14 Pt. 2 para. 3 in force at 6.8.2014, see [art. 1](#)

Aids to navigation

4.—(1) The undertaker shall at or near the authorised scheme during the whole period of the construction, operation, alteration, replacement or decommissioning of the authorised scheme exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation, as Trinity House may from time to time direct.

(2) The undertaker shall ensure that timely and efficient notices to mariners and other navigational warnings of the position and nature of the authorised scheme seaward of MHWS, are issued during and after the period of construction, alteration, replacement or decommissioning of the authorised scheme, such information to be promulgated to mariners in the shipping and fishing industry as well as to recreational mariners in accordance with condition 2(8) and (9).

(3) The undertaker shall notify Trinity House, in writing, as soon as reasonably practicable of both the progress and completion of the authorised scheme seaward of MHWS and any aids for navigation established from time to time.

(4) The undertaker shall provide reports on the availability of aids to navigation periodically as requested by Trinity House.

(5) In case of injury to, or destruction or decay of, the authorised scheme or any part thereof the undertaker shall as soon as reasonably practicable notify Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House may from time to time direct.

Commencement Information

I4 Sch. 14 Pt. 2 para. 4 in force at 6.8.2014, see [art. 1](#)

Chemicals, drilling and debris

5.—(1) Unless otherwise agreed in writing by the MMO all chemicals used in the construction of the authorised scheme 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.

(2) The undertaker shall ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(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) The undertaker shall ensure that any debris arising from the construction of the authorised scheme or temporary works placed below MHWS are removed on completion of the authorised scheme.

(5) At least two months prior to the commencement of the licensed activities the undertaker shall submit to the MMO an audit sheet covering all aspects of the construction of the licenced activities or any part of them, which 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 scheme.

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(6) The audit sheet shall be maintained throughout the construction of the authorised scheme (or relevant part) and any changes notified immediately in writing to the MMO which must give written approval prior to any change being implemented.

(7) In the event that the MMO becomes aware that any of the materials on the audit sheet cannot be accounted for it shall—

(a) require the undertaker to carry out a side scan sonar survey to plot all obstructions across the relevant area(s) within the Order limits seaward of MHWS where construction works and related activities related to those materials have been carried out and, if the initial survey does not locate the missing materials, over such wider area as the MMO may reasonably request;

(b) invite local fishermen to send a representative to be present during the survey, and any new obstructions that the MMO believes to be associated with the authorised scheme shall be removed at the undertaker's expense.

(8) The undertaker shall ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(9) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker shall report the loss to the MMO's District Marine Office within 48 hours and if the MMO shall reasonably consider such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker shall endeavour to locate the material and recover it.

(10) The undertaker shall undertake the methods agreed under 7(1)(g)(iii) following the high resolution swath bathymetric survey referred to in condition 13(3)(a), and should any such obstructions resulting from burial of the export cables be identified which, in the reasonable opinion of the MMO, may be considered to interfere with fishing, the undertaker shall take such steps to remove them as the MMO in its reasonable opinion shall require.

(11) The undertaker shall ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team.

Commencement Information

I5 Sch. 14 Pt. 2 para. 5 in force at 6.8.2014, see [art. 1](#)

Force majeure

6.—(1) 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, within 48 hours full details of the circumstances of the deposit shall be notified to the MMO.

(2) The unauthorised deposits shall be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Commencement Information

I6 Sch. 14 Pt. 2 para. 6 in force at 6.8.2014, see [art. 1](#)

Pre-construction plans and documentation

7.—(1) No part of the works at paragraph 2(2) of Part 1 (licensed marine activities) of this licence shall commence until the following (as relevant to that Part) have been submitted to and approved in writing by the MMO—

- (a) subject to paragraph (2), a design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, which shows—
 - (i) the length and arrangement and location of all cables comprising Work No. 3A;
 - (ii) any archaeological exclusion zones identified under sub-paragraph(g)(iv); and
 - (iii) any exclusion zones/micrositing requirements identified in any mitigation scheme pursuant to sub-paragraph (h); and
 - (iv) in plan form, the indicative programming of particular works as set out in the indicative written construction programme to be provided under sub-paragraph (b) (iv),
to ensure conformity with the description of Work No. 3A and compliance with condition 1 above;
- (b) a construction and monitoring programme to include details of—
 - (i) the proposed construction start date;
 - (ii) proposed timings for mobilisation of plant, delivery of materials and installation works;
 - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with conditions 7(1)(h), 11, 12 and 13, and the pre-construction survey programme and pre-construction survey methodologies shall be submitted to the MMO for written approval by the MMO, in consultation with Natural England and JNCC, at least four months prior to the commencement of any survey works detailed within; and
 - (iv) an indicative written construction programme for all cables comprised in the works at paragraph 2(2) of Part 1 (licensed marine activities) of this licence (insofar as not shown in (ii) above);
- (c) a construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
 - (i) cable installation, including cable landfall;
 - (ii) contractors;
 - (iii) vessels and vessels transit corridors;
 - (iv) proposals to reduce the impacts of noise and vibration from construction works;
 - (v) a protocol for routeing vessels to and from the wind farm to minimise impacts on marine mammals and marine users;
 - (vi) associated works;
 - (vii) areas within the Order limits in which construction activity will take place; and
 - (viii) a schedule of planned maintenance (to be updated every three years to reflect any revised maintenance schedules, technologies or techniques);
- (d) a project environmental management and monitoring 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 scheme in relation to all activities carried out;

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- (ii) a chemical risk assessment 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 plan and disposal arrangements;
 - (iv) the appointment and responsibilities of a fisheries liaison officer and an environmental liaison officer; and
 - (v) a fisheries liaison plan (in accordance with the outline fisheries liaison strategy) to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to condition 2 and to address the interaction of the licensed activities with fishing activities during construction and operation;
- (e) a scour protection management and cable armouring plan, in accordance with the outline scour protection management and cable armouring plan, providing details of the need, type, sources, quantity and installation methods for scour protection;
- (f) a cable specification and installation plan (in accordance with the outline cable specification and installation plan), to include—
- (i) technical specification of offshore cables below MHWS, 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 burial plan for the Order limits seaward of MHWS, incorporating a burial risk assessment to ascertain suitable burial depths and cable laying techniques;
 - (iii) appropriate methods such as a trawl or drift net to be deployed along the offshore subsea export cables between the array and mean low water mark, following the survey referred to in condition 13(3)(a) to assess any seabed obstructions resulting from burial of the export cables; and
 - (iv) proposals to minimise impacts on cuttlefish spawning;
- (g) a written scheme of archaeological investigation in relation to the Order limits seaward of mean low water in accordance with the outline offshore written scheme of archaeological investigation, industry good practice and after consultation with English Heritage (and, if relevant West Sussex County Council) to include—
- (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
 - (ii) a methodology for any further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
 - (iii) analysis and reporting of survey data, and timetable, which is to be submitted to the MMO within four months of any survey being completed;
 - (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, inclusive of any completed and agreed archaeological reports produced through the written scheme of archaeological investigation which are to be deposited by the undertaker within a public archive in accordance with the OASIS (Online AccesS to the Index of archaeological investigationS') system;
 - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and

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(viii) provision for a plan showing, in relation to the plan agreed pursuant to condition 7(1)(a), the indicative proposed location of installation vessels for construction of Work No. 3A; and

(h) a mitigation scheme for any Annex 1 Habitat identified by the survey referred to in condition 11(2)(a).

(2) Before approving the design plan required to be submitted under paragraph (1)(a), the MMO must consult with Trinity House and the MCA.

Commencement Information

I7 Sch. 14 para. 7 in force at 6.8.2014, see [art. 1](#)

8.—(1) Any archaeological reports produced in accordance with condition 7(1)(g)(iii) are to be agreed with English Heritage (and, if relevant West Sussex County Council).

(2) Each programme, statement, plan, protocol or scheme required to be approved under condition 7 shall be submitted for approval at least four months prior to the intended start of construction, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(3) The licensed activities shall be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 7, unless otherwise agreed in writing by the MMO.

Commencement Information

I8 Sch. 14 para. 8 in force at 6.8.2014, see [art. 1](#)

Commencement Information

I7 Sch. 14 para. 7 in force at 6.8.2014, see [art. 1](#)

I8 Sch. 14 para. 8 in force at 6.8.2014, see [art. 1](#)

Reporting of engaged agents, contractors and vessels

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

(a) the name and function of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and

(b) each week during the construction of the authorised scheme 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 shall be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

Commencement Information

I9 Sch. 14 para. 9 in force at 6.8.2014, see [art. 1](#)

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Equipment and operation of vessels engaged in licensed activities

10.—(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 (save in the case of remotely operated vehicles or vessels) shall comply with paragraphs (2) to (7) below.

(2) All motor powered vessels shall 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.

(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 until all the equipment specified in paragraph (2) is fully operational.

Commencement Information

110 Sch. 14 para. 10 in force at 6.8.2014, see [art. 1](#)

Pre-construction monitoring and surveys

11.—(1) The undertaker shall, in discharging condition 7(1)(b), submit details for written approval by the MMO in consultation with Natural England and JNCC of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report and—

- (a) the survey proposals shall specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement; and
- (b) the baseline report proposals shall ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and shall make clear what post-construction comparison is intended and the justification for this being required.

(2) The pre-construction surveys referred to in paragraph (1) shall unless otherwise agreed with the MMO have due regard to, but not be limited to, the need to undertake—

- (a) a survey(s), in combination with data derived from sub-paragraph (c) to determine the location and extent of any benthic Annex 1 Habitat in whole or in part inside the area(s) within the Order limits in which it is proposed to carry out construction works;
- (b) a survey(s) to determine the location, extent and composition of any benthic habitats of the area(s) within the Order limits in which it is proposed to carry out construction works of conservation, ecological and or economic importance;

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- (c) a high resolution swath-bathymetric survey(s) to include a 100% coverage and side scan sonar survey of the area(s) within the Order limits in which it is proposed to carry out construction works, including a 500m buffer around the site of each works and inclusive of seabed anomalies or sites of historical or archaeological interest that lie within that 500m buffer;
- (d) a survey(s) to determine the location and extent of the mussel beds in whole or in part inside the area(s) within the Order limits in which it is proposed to carry out construction works; and
- (e) a survey(s) to determine the extent of fish and shellfish populations and spawning activity within the Order limits in which it is proposed to carry out construction works, and any wider areas where appropriate.

(3) The undertaker shall carry out the surveys agreed under paragraph (1) and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing by the MMO in consultation with Natural England and JNCC.

Commencement Information

I11 Sch. 14 para. 11 in force at 6.8.2014, see [art. 1](#)

Construction monitoring

12.—(1) Unless otherwise agreed, the undertaker shall, in discharging condition 7(1)(b), submit details for approval by the MMO in consultation with Natural England and JNCC of any proposed surveys or monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme, and the survey proposals shall specify each survey's objectives.

(2) The undertaker shall carry out the surveys approved under paragraph (1) and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with Natural England and JNCC.

Commencement Information

I12 Sch. 14 para. 12 in force at 6.8.2014, see [art. 1](#)

Post construction surveys

13.—(1) The undertaker shall, in discharging condition 7(1)(b), submit details for written approval by the MMO in consultation with Natural England and JNCC of proposed post-construction surveys, including methodologies and timings, and a proposed format, content and timings for providing reports on the results at least four months prior to the commencement of any survey works detailed within.

(2) The survey proposals shall specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(3) The post construction surveys referred to in paragraph (1) shall unless otherwise agreed with the MMO have due regard to but not be limited to the need to undertake—

- (a) one high resolution swath bathymetric survey across the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography

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and such further monitoring as may be agreed to ensure scour equilibrium has been reached and that the cables have been buried;

- (b) a survey(s) to determine the location, extent and composition of any benthic habitats of the area(s) within the Order limits in which construction works were carried out of conservation, ecological and or economic importance to validate predictions made in the environmental statement;
- (c) dependent on the outcome of the survey undertaken in condition 11(2)(a) above, a survey(s) to determine the effects of construction activity on any benthic Annex 1 Habitat in whole or in part inside the area(s) within the Order limits;
- (d) a survey(s) of the extent of fish and shellfish populations and spawning activity within the Order limits in which construction works were carried out, and any wider areas where appropriate, for comparison against the results of the baseline survey carried out under condition 11(2)(e); and
- (e) a sidescan sonar and bathymetry survey(s) at the locations within the Order limits in which construction works were carried out after the first occurrence of a 1 in 10 year wave event within the Order limits seaward of MHWS in terms of wave height measured from the Greenwich Light Vessel Waverider buoy located at 50°23'.100N, 000°00'.00E.

(4) The undertaker shall carry out the surveys agreed under paragraph (1) for 3 years post-construction, which may be non-consecutive years, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with Natural England and JNCC.

Commencement Information

I13 Sch. 14 para. 13 in force at 6.8.2014, see [art. 1](#)

Decommissioning

14.—(1) This licence does not permit the decommissioning of the authorised scheme, and no authorised decommissioning activity shall commence until a decommissioning programme in accordance with an approved programme under Section 105(2) of the 2004 Act has been submitted to the Secretary of State for approval.

(2) At least four months prior to carrying out any proposed decommissioning activity the undertaker shall notify the MMO of the works to establish whether a marine licence is required.

Commencement Information

I14 Sch. 14 para. 14 in force at 6.8.2014, see [art. 1](#)

Monitoring of shoreline sediment morphology

15.—(1) The undertaker shall carry out monitoring of shoreline sediment morphology during operation of the export cables, unless otherwise agreed with the MMO in consultation with Natural England and JNCC.

(2) This monitoring shall be carried out in conjunction with established regional coastal process monitoring programmes or, in the event that such programmes are discontinued, in accordance with a coastal process monitoring strategy between the shoreline limits of Beachy Head and Selsey Bill to be approved by the MMO in consultation with Natural England and JNCC.

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Commencement Information

I15 Sch. 14 para. 15 in force at 6.8.2014, see [art. 1](#)

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 Pt. 3 para. 15(1) substituted by [S.I. 2021/535 art. 5\(a\)](#)
- Sch. 1 Pt. 3 para. 15(2) substituted by [S.I. 2021/535 art. 5\(b\)](#)