

SCHEDULE 7

Article 35

DEEMED LICENCE UNDER THE MARINE AND COASTAL ACCESS ACT 2009

Interpretation

1.—(1) In this licence—

“the 2009 Act” means the Marine and Coastal Access Act 2009(1);

“authorised development” means the development and associated development described in Schedule 1 (authorised development) of the Order;

“commencement” means beginning to carry out any material operation (as defined in section 155 of the 2008 Act) other than operations consisting of marine and benthic surveys, archaeological investigations and investigations for the purpose of assessing ground and geological conditions and “commence” and “commenced” shall be construed accordingly;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order;

“key BAP habitats” means the Sabellaria alveolata reef;

“licence conditions” means the licence conditions set out at paragraphs 2 to 42;

“licence holder” means the “undertaker” as defined in article 2 (interpretation) of the Order to whom this licence is issued;

“licensed activity” means an activity described in paragraph 8 of this licence;

“licensed location” means the area bounded by the coordinates set out at paragraph 9 of this licence;

“licensed works” means any works constructed in the course of a licensed activity;

“MMO” means the Marine Management Organisation created under the 2009 Act responsible for the monitoring of this licence or any successor to its statutory functions;

“the Order” means the Preesall Underground Gas Storage Facility Order 2015;

“pipeline” means the brine discharge pipeline comprised in the licensed works;

“sea bed” means the solid surface of the earth which lies under the sea;

“UK marine area” has the same meaning as that given at section 42 (UK marine area) of the 2009 Act;

“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;

“working day” means a day which is not a Saturday, Sunday, bank holiday or other public holiday.

(2) Unless otherwise indicated all geographical co-ordinates contained within this licence shall be taken to be latitude and longitude degrees and minutes to three decimal places.

(3) Except where otherwise indicated—

(a) the point of contact with the MMO shall be at its main office(2); and

(1) 2009 c. 23.

(2) Contact details for the main office of the MMO are Marine Management Organisation, Inshore Marine Licensing, Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH; telephone 0300 123 1032; fax: 0191 376 2681; and email: infrastructure@marinemanagement.org.uk.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) details for contact with the MMO’s marine pollution response team shall be at its main office⁽³⁾.

Licence validity period

2.—(1) This licence is valid from the licence commencement date until the licence termination date.

(2) For the purposes of this licence—

- (a) the “licence commencement date” means the date on which the Order is made; and
- (b) the “licence termination date” means an indefinite period unless a licensed activity has not been commenced by the fifth anniversary of the licence commencement date, in which case it means the fifth anniversary of the licence commencement date.

Inspection of records etc.

3. The licence holder shall—

- (a) permit any person who is appointed by the MMO for the purpose to inspect, and make notes from, all books, papers, maps and other records of any kind kept by the licence holder in pursuance of this licence or in connection with activities associated with this licence; and
- (b) furnish that person at reasonable times with such information at reasonable times with such reasonable assistance as may be requested by that person in connection with or arising out of an inspection in pursuance of this paragraph.

Rights of access

4. Any person authorised by the MMO shall be entitled at all reasonable times to enter into and upon any of the licence holder’s installations, vessels or equipment used or to be used in connection with the activities authorised by this licence in accordance with Chapter 2 of Part 8 (common enforcement powers) of the 2009 Act.

Transfer

5. In the application of section 72 of the 2009 Act to this licence, subsection 72(8) of the 2009 Act shall not apply to a transfer made in accordance with article 8 (transfer of benefit of Order) of the Order.

Force majeure

6.—(1) If by reason of force majeure any substances or articles are deposited or removed otherwise than at the licensed location, the licence holder shall notify the MMO of the full details of the circumstances of that deposit within 48 hours of the incident occurring.

(2) For the purposes of this paragraph, “force majeure” means when, due to stress of weather or any other cause, the master of a vessel determines that it is necessary to deposit substances or articles otherwise than at the licensed location because the safety of human life or the vessel is threatened.

(3) Contact details for the main office of the MMO’s Marine Pollution response team are Marine Management Organisation, Marine Pollution Response Team, Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH; telephone 0870 785 1050 or 07770 977825; and email: dispersants@marinemangement.org.uk.

Licence conditions binding other parties

7. The licence conditions shall bind any person who for the time being owns, occupies or enjoys any use of the licensed works.

Licensed activities

8. Subject to the licence conditions this licence authorises the licence holder (and any agent, contractor or subcontractor acting on its behalf) to—

(a) carry out those elements of—

- (i) Work No. 1A;
- (ii) Work No. 1B;
- (iii) Work No. 15;
- (iv) Work No. 16J;
- (v) Work No. 16K; and
- (vi) Work No. 16L,

of Schedule 1 (authorised development) of the Order, and of any further associated development listed at items (a) to (j) in Schedule 1 in connection with those Work Nos., which fall within the UK marine area and constitute licensable marine activities under section 66 of the 2009 Act; and

(b) undertake a borehole survey in connection with the installation of the brine outfall pipeline comprised within the licensed activities set out at sub-paragraph (a), the purpose of which would be to inform the micro-siting of the pipeline and to determine if there are any archaeological remains or there is any palaeoenvironmental evidence present which could be directly affected by such pipeline installation.

Licensed location

9. The licence holder (and any agent, contractor or subcontractor acting on its behalf) may engage in the licensed activities in the area bounded by the following coordinates—

<i>Latitude</i>	<i>Longitude</i>
Work Nos. 16J, 16K, 16L and borehole surveys—	
N 53 53.986	W 3 05.095
N 53 54.035	W 3 03.029
N 53 53.985	W 3 03.015
N 53 53.987	W 3 02.907
N 53 54.081	W 3 02.927
N 53 54.077	W 3 03.041
N 53 54.067	W 3 03.038
N 53 54.018	W 3 05.096
Work No. 15—	
N 53 54.774	W 3 00.799
N 53 54.798	W 3 00.768

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Latitude</i>	<i>Longitude</i>
N 53 54.819	W 3 00.823
N 53 54.793	W 3 00.855
N 53 54.802	W 3 00.869
N 53 54.791	W 3 00.858
N 53 54.770	W 3 00.883
N 53 54.755	W 3 00.889
N 53 54.755	W 3 00.880
N 53 54.769	W 3 00.827
Work Nos. 1A and 1B—	
N 53 54.759	W 2 59.541
N 53 54.758	W 2 59.618
N 53 54.745	W 2 59.705
N 53 54.658	W 2 59.780
N 53 54.654	W 2 59.789
N 53 54.590	W 2 59.771
N 53 54.501	W 2 59.767
N 53 54.348	W 2 59.635
N 53 54.347	W 2 59.641
N 53 54.212	W 2 59.528
N 53 54.210	W 2 59.519
N 53 54.204	W 2 59.502
N 53 54.186	W 2 59.468
N 53 54.187	W 2 59.434
N 53 54.195	W 2 59.426
N 53 54.201	W 2 59.413
N 53 54.215	W 2 59.351
N 53 54.303	W 2 59.196
N 53 54.440	W 2 59.071

Reporting of engaged agents, contractors or sub-contractors

10.—(1) The licence holder shall notify the MMO in writing of any agents, contractors or sub-contractors that will be carrying out the licensed activities on behalf of the licence holder no less than 5 working days before the commencement of that activity.

(2) The licence holder shall ensure that a copy of this licence and any subsequent revisions or amendments have been read and understood by any agents, contractors or sub-contractors that will be carrying out the licensed activities on behalf of the licence holder.

Notification of vessels

11.—(1) The licence holder shall ensure that the MMO is provided with notification of any vessel being used to undertake the licensed activities no less than 24 hours before that vessel first commences licensed activities.

(2) The licence holder shall ensure that a copy of this licence and any subsequent revisions or amendments has been read and understood by the masters of any vessel being used to undertake any licensed activity, and that a copy of this licence is held on board any such vessel.

Distribution of copies

12.—(1) The licence holder shall ensure that a copy of this licence and any subsequent revisions or amendments made to it in accordance with section 72 (variation, suspension, revocation and transfer) of the 2009 Act are given to—

- (a) any agent, contractor or subcontractor undertaking a licensed activity;
- (b) the master of any vessel undertaking a licensed activity;
- (c) the transport manager responsible for any vehicle undertaking a licensed activity.

(2) The licence holder shall keep a copy of this licence at its registered address.

Application of licence conditions

13.—(1) Reference to licensed activities in paragraphs 15 and 18 to 42 shall not include the undertaking of the borehole survey referred to at paragraph 8(b), unless the MMO (following a review of the method statement submitted in respect of such survey pursuant to paragraph 17) notifies the licence holder otherwise.

(2) Paragraphs 15 to 42 shall not apply to—

- (a) Work Nos. 1A and 1B of Schedule 1 (authorised development) of the Order; or
- (b) any part of Work No. 15 of Schedule 1 (authorised development) other than the incorporation of filters into the existing water intake structure comprised in that Work No.

Licence conditions prior to commencement of the licensed activities

14. The licence holder shall, unless otherwise agreed in writing with the MMO, within ten working days of receipt of a copy of this licence notify the MMO that it accepts the terms and conditions of this licence; and no licensed activities may be carried out until that notice has been given.

15. No licensed activities shall commence until a written scheme setting out all the stages of the licensed activities and a list of all proposed licensed activities additional to those listed at paragraph 8(a)(i) to (vi) (if any), have been submitted to and agreed with the MMO.

16. The licence holder shall, unless otherwise agreed in writing with the MMO, no less than ten working days prior to the commencement of any stage of the licensed activities notify the MMO of the proposed commencement date of that stage; and no stage of the licensed activities may be carried out until notice for that stage has been given.

17.—(1) The licence holder shall no less than two months prior to the commencement of any stage of the licensed activities submit to the MMO a method statement for that stage, the scope of which is to be agreed by the MMO prior to its submission; and no stage of the licensed activities may commence until the method statement for that stage has been approved in writing by the MMO.

(2) The licence holder shall carry out any stage of licensed activities in accordance with the approved method statement for that stage.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

18.—(1) The licence holder shall prior to the commencement of any stage of the licensed activities carry out a marine benthic ecology and habitats survey for that stage.

(2) The scope of any marine benthic ecology and habitats survey shall be agreed with the MMO in writing prior to it being carried out.

(3) Any report arising from any marine benthic ecology and habitats survey and any necessary monitoring requirements shall be agreed in writing with the MMO prior to the commencement of the stage of the licensed activities to which that survey relates; and no stage of the licensed activities may commence until such monitoring requirements (if any) for that stage and any amendments to the licence conditions (if required by the MMO) have been agreed.

19.—(1) The licence holder shall prior to the commencement of any stage of the licensed activities agree in writing with the MMO a vessel movement plan for that stage; and no stage of the licensed activities may commence until such a plan for that stage has been agreed.

(2) The licence holder shall carry out the licensed activities in accordance with the approved vessel movement plan, unless otherwise agreed in writing with the MMO.

20.—(1) The licence holder shall prior to the commencement of any stage of the licensed activities agree in writing with the MMO a construction monitoring plan (or, if so agreed with the MMO, construction monitoring plans) for that stage; and no stage of the licensed activities may commence until such a plan or plans for that stage have been agreed.

(2) Any construction monitoring plan shall include but not be limited to a pre-construction, construction and post-construction plan for monitoring the laying of the pipeline, consisting of trawl surveys within the transshipment area and barge approach routes for the delivery of rock armouring, and surveys of the pipeline corridor to ensure that the pipeline does not become exposed.

(3) The licence holder shall carry out any stage of the licensed activities in accordance with any approved construction monitoring plan for that stage.

21.—(1) The licence holder shall no less than six weeks prior to the transshipment of rock armouring comprised in any stage of the licensed activities submit a method statement relating to such transshipment for that stage, including details of the location of the transshipment area and barge approach routes for the delivery of rock armouring; and no stage of the licensed activities may commence until such a method statement for that stage has been approved in writing by the MMO.

(2) The licence holder shall carry out any stage of the licensed activities in accordance with the rock armouring transshipment method statement approved for that stage.

22.—(1) The licence holder shall prior to the commencement of any stage of the licensed activities agree with the MMO the lighting and marking of the licensed works comprised in that stage.

(2) The details of such lighting and marking shall be included in the method statement to be submitted for approval under paragraph 17.

23.—(1) The licence holder shall prior to the commencement of any stage of the licensed activities notify local mariners' and fishermen's organisations of that commencement by procuring issue of a notice to mariners; and no stage of the licensed activities may commence until such notice for that stage has been given.

(2) For the purposes of this paragraph, "notice to mariners" includes any notice to mariners issued by the Admiralty, Trinity House, Queen's harbourmasters, government departments or harbour or pilotage authorities.

24.—(1) The licence holder shall prior to the commencement of any stage of the licensed activities, following consultation with English Heritage, submit to the MMO for that stage a written scheme of investigation of areas of archaeological interest; and no stage of the licensed activities may commence until the written scheme of investigation for that stage has been approved in writing by the MMO.

(2) In undertaking any stage of the licensed activities, the licence holder shall act in accordance with the written scheme of investigation approved for that stage (if any).

Licence conditions during construction of the licensed works

25. The licence holder shall minimise the re-suspension of sediment during any stage of construction of the licensed works. Details of how this is to be achieved shall be included in the method statement for that stage to be submitted for approval under paragraph 17.

26.—(1) The licence holder shall in the course of any stage of construction of the licensed works take appropriate steps to minimise damage to the foreshore, including to key BAP habitats so far as they are located on the foreshore. Details of such steps, and for steps to identify damage caused (if any) by the construction of the licensed works to key BAP habitats so far as they are located on the foreshore, shall be included in the method statement for that stage to be submitted for approval under paragraph 17.

(2) For the purposes of this paragraph, “the foreshore” means land which is covered and uncovered by the ordinary movement of the tide.

27. The licence holder shall in the course of construction of any stage of the licensed works ensure that the pipeline, anchoring and rock armouring (if present during construction of that stage) are fully covered and do not protrude above the seabed. Details of the necessary steps shall be included in the method statement for that stage to be submitted for approval under paragraph 17.

28. The licence holder shall in the course of construction of any stage of the licensed works only access the licensed location within a defined and marked out area which shall be set out in the method statement to be submitted for approval for that stage under paragraph 17, thereby limiting personnel and plant access to the licensed location.

29.—(1) The licence holder shall in the course of construction of the licensed works fit diffusers to the discharge end of the pipeline, unless otherwise agreed in writing with the MMO.

(2) The details of such diffusers shall be included in the method statement to be submitted for approval under paragraph 17.

30.—(1) The licence holder shall in the course of construction of the licensed works ensure that all chemicals utilised are selected from the list of notified chemicals assessed for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002⁽⁴⁾ or has gone through a similar level of ecotoxicological hazard or risk assessment.

(2) The licence holder shall obtain from the MMO prior written approval for the use of drilling fluids other than water-based mud for carrying out drilling operations comprised in any stage of the licensed activities.

(3) The licence holder shall comply with any guidance provided to it by the MMO in relation to the disposal of any arisings resulting from drilling operations using drilling fluids other than water-based mud.

(4) S.I. 2002/1355; amended by S.I. 2005/2055; 2010/1513; 2011/78; and 2011/982.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

31.—(1) The licence holder shall in the course of construction of the licensed works ensure that any coatings or treatments are suitable for use in the marine environment and are used in accordance with best environmental practice.

(2) For the purposes of this paragraph, “best environmental practice” means best environmental practice as defined in Appendix 1 of the 1992 OSPAR Convention of the Protection of the Marine Environment of the North-East Atlantic.

32. The licence holder shall in the course of construction of the licensed works, unless otherwise agreed in writing with the MMO, ensure that a soft-start procedure is used, whereby pile power is incrementally increased over a time period of not less than twenty minutes until full operational power is achieved. In the event that piling ceases for a period greater than ten minutes, the soft-start procedure shall be repeated.

33.—(1) The licence holder shall in the course of construction of the licensed works install bunding and/or storage facilities to contain and prevent the release of fuel, oils, and chemicals associated with plant, refuelling and construction equipment into the marine environment.

(2) There shall be containment facilities secondary to the bunding or storage facilities described in sub-paragraph (1).

(3) The capacity of those secondary containment facilities shall not be less than 100% of the storage capacity of the bunding or storage facilities described in sub-paragraph (1).

34. The licence holder shall ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO’s Marine Pollution Response Team by email or by telephone.

35. The licence holder shall in the course of construction of the licensed works ensure that during the works all waste is stored in designated areas which are isolated from surface water drains, open water and banded to contain any spillages.

36.—(1) The licence holder shall in the course of construction of the licensed works ensure that no waste concrete slurry or wash water from concrete or cement works is discharged into the marine environment.

(2) Concrete and cement mixing shall, unless otherwise agreed in writing with the MMO, be contained and sited at least ten metres from any watercourse or surface water drain.

(3) For the purposes of this paragraph “watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain.

37. The licence holder shall ensure that any vessels used for rock transhipment or delivery operations—

- (a) are suitably constructed and loaded to prevent rock falling over the side; and
- (b) use suitable screening to prevent the loss of rock or shingle through drainage holes.

38. The licence holder shall ensure that any rock misplaced or lost below the level of mean high water springs in the course of construction of the licensed works is reported to the MMO within 48 hours and located and recovered within six weeks, unless otherwise agreed in writing with the MMO.

Licence conditions following completion of the licensed works

39. The licence holder shall prior to the commencement of any stage of the licensed activities in which backfilling operations within the marine environment are to take place following the completion of that stage, submit to the MMO for that stage details of the materials to be used in such backfilling operations; and no such stage of the licensed activities may commence until those details have been approved in writing by the MMO.

40. The licence holder shall ensure that, unless otherwise agreed in writing with the MMO, within six weeks of completion of the licensed works, backfill operations shall return the intertidal area to its profile prior to the commencement of the licensed activities; and the licence holder shall use the materials the details of which have been approved pursuant to paragraph 39 in respect of those backfill operations.

41. The licence holder shall within six weeks of completion of the licensed works ensure that any equipment, temporary structures, waste or debris associated with those works are removed, unless otherwise agreed in writing with the MMO.

42.—(1) The licence holder shall as soon as reasonably practicable following completion of the licensed works notify the Hydrographic Office of that completion.

(2) The “Hydrographic Office” means the Hydrographic Office of the Ministry of Defence, Taunton, Somerset, TA1 2DN.

Changes approved by the MMO

43. Where the words “unless otherwise agreed” appear in this licence, any such agreement or statement may be given only in relation to immaterial changes where it has been demonstrated to the satisfaction of MMO that the subject matter of the approval or agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.