



Department of
**Agriculture, Environment
and Rural Affairs**

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

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

MARINE CONSTRUCTION LICENCE

Licence Number: ML27/14 Var 1

Part 1 - Particulars

1. Licensee(s) Name & Address:

Minesto
Unit 13, Castle Yard
Castle Street
Portaferry
Co. Down
BT22 1NZ

2. Area of Deposit:

Tidal device, known as the Deep Green OceanKite, as described in Marine Licence application dated 13 March 2014. This licence permits the continued placement and operation of the DGO device until January 31st 2020 supersedes licence ML27/12.

3. Location of Site

Lat: 54 23.0544N
Long: -5 33.8040W

4. Period of validity of licence:

From: 2nd December 2014
Until: 31st January 2020

PART 2: CONDITIONS

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

Licence Condition(s):

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

1. The licensee shall not deposit any other material than that detailed in the Marine Licence application form received by the Department, dated 13 March 2014.
2. The licensee shall contact the Department if it is proposed to vary the materials or methods to be used from those described in the documentation supplied in connection with the Marine Licence application.
3. In the event of the licensee becoming aware that any of the information on which the licence was based has changed, the Department shall be immediately notified in writing of the alterations. It should be noted that alterations may invalidate a licence, and that an application for a new licence may be necessary.
4. The licensee shall ensure that copies of the licence are available for inspection by any Enforcement Officer authorised under the Marine and Coastal Access Act 2009 at:
 - the premises of the licensee
 - the premises of and on board any vessel or chartered agent acting on behalf of the licensee; and
 - the site of the works.
5. The licensee shall ensure that a JNCC approved Marine Mammal Observer, will be used during all times that the Deep Green Ocean Kite Device is in operation.
6. If a seal, cetacean, basking shark, or other large marine animal passes within 50 metres of the device, the device will be stopped until the animal has passed out of the 50 metre buffer zone.
7. If a strike is detected on the device, it shall be shut down immediately and the Department informed.
8. The Licensee shall submit to the Department, monthly electronic data sheets, having one tab per specific device operation, detailing, date, time and visual observations for seals, cetaceans, basking sharks and diving birds.
9. If the Department has reason to believe that a significant environmental impact attributable to the operation of the device has occurred or is likely to occur, the Department may require the licensee to comply with one of the following options; however in doing so, the Department will take into consideration all available environmental information:
 - Cessation of the operation of the device pending an assessment of the situation.
 - in the case of a permanent cessation of operation, the licensee shall ensure that the device is decommissioned and removed from the site.
10. Where the Department instructs the licensee to stop the operation of the device, the device can only be restarted on receipt of permission to do so from the Department.
11. The licensee shall continue to develop the Marine Mammal Detection System (MMDS) and submit quarterly progress reports to the Department.
12. The licensee shall ensure that all conditions that have been agreed with the Maritime and Coastguard Agency (MCA) and Statutory Sanctions obtained from the Commissioner of Irish Lights (CIL) are promulgated through the correct channels in a timely manner. All Notices to Mariners are to also be issued through the correct channels in a timely manner.
13. The licensee must notify The Source Data Receipt team, UK Hydrographic Office, Taunton Somerset,TA1 2DN (Email: sdr@ukho.gov.uk; Tel 01823337900) of both commencement and completion of the works in order that all necessary amendments to nautical charts can be made, to ensure navigational safety. This office must be copied into all notifications

Signed on behalf of the Department:



Dated: 27/11/2019



Additional Informative Information

Northern Ireland Environment Agency - Water Management Unit

The licensee should ensure that measures are in place to prevent pollution of surface or ground water as a result of the activities on site, both during construction and thereafter. You should be aware that is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and /or three months imprisonment.

For your information I have attached **Pollution Prevention Guidelines for Works in, or liable to effect watercourses', PPG5.**

NOTES

- (A) The Licensing Authority would advise that this licence does not negate the licensees' responsibility to gain any other environmental or access permissions that may be required to progress the works.
- (B) Under Part 4, Chapter 1, paragraph 72 of the Marine and Coastal Access Act 2009 the licensing authority may revoke, vary or suspend this licence if it appears to the authority that the holder is in breach of a condition included in it, or if it appears to the authority that the licence ought to be varied, suspended or revoked because of a change of circumstances relating to the marine environment or human health, including a change in scientific knowledge. A revocation, variation or suspension may also be enforced in the interests of safety of navigation.
- (C) Under Part 4, Chapter 3, paragraph 85 of the Marine and Coastal Access Act 2009 it is an offence to fail to comply with any condition of a marine licence. In some circumstances there may be a defence to non compliance under paragraph 85. These defence conditions are given under paragraph 86 "Action taken in an Emergency", paragraph 87 "Electronic communications, emergency works" and paragraph 88 "Activity licensed by another State".
- (D) The applicant should be made aware that it is an offence under section 47 of the Fisheries Act (Northern Ireland) 1966 to cause pollution which is subsequently shown to have deleterious effect on fish stocks.
- (E) The Licensee's attention is drawn to the fact that the site lies within and adjacent to the boundary of Strangford Lough SPA/SAC/ASSI and precautions should be taken to ensure its integrity will not be damaged by construction vehicles, deposited materials, contaminated run-off, or any other activity during the construction period or thereafter. Any works occurring within the designated site but outside the red line planning application boundary are subject to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and Environment (Northern Ireland) Order 2002 (as amended) and require consent from the Northern Ireland Environment Agency, Conservation, Designations and Protection Unit, Klondyke Building, Gasworks Business Park, Belfast BT7 2JA.
- (F) **European Protected Species**
The applicant's attention is drawn to regulation 34 of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), which states that it is an offence to deliberately capture, injure or kill a wild animal of a European protected species included in Schedule 2 to these Regulations. This includes all species of dolphins, porpoises and whales and the marine turtle species: *Caretta caretta*, *Chelonia mydas*, *Lepidochelys kempii*, *Eretmochelys imbricata* and *Dermochelys coriacea*.

(1) It is also an offence to;

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

(2) It is an offence for any person;

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

Any person who knowingly causes or permits an act which is made unlawful under any of these provisions shall also be guilty of an offence.

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

If there is evidence of Schedule 2 animals listed above at the site, all works must cease immediately and further advice must be sought from DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast, BT7 2JA.

G. Wildlife Order

"Marine"

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended), under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 to the Order. This includes the common seal (*Phoca vitulina*), grey seal (*Halichoerus grypus*), basking shark (*Cetorhinus maximus*), angel shark (*Squatina squatina*), common skate (*Dipturus batis*) short snouted sea horse *Hippocampus hippocampus*), spiny seahorse (*Hippocampus guttulatus*), spiny lobster (*Palinurus e/aphus*) and fan mussel (*Atrina fragilis*).

Under this regulation it is an offence to intentionally or recklessly disturb; common seals, grey seals or basking sharks.

It is also an offence to intentionally or recklessly damage or destroy, or obstruct access to, any structure or place which these animals (Schedule 5*) use for shelter or protection; damage or destroy anything which conceals or protects any such structure; or disturb any such animal while it is occupying a structure or place which it uses for shelter or protection.

Under Article 13 of the Wildlife (Northern Ireland) Order 1985 (as amended) it is an offence to sell or transport any Schedule 7 animal dead or alive at any time **

Any person who knowingly causes or permits an act which is made unlawful under any of these provisions shall also be guilty of an offence.

Under the Wildlife (Northern Ireland) Order 1985 (as amended) a licence may be required for any operations which might impact on protected species.

*Common skate and angel sharks in respect to article 10 (1) only and within 6 nautical miles of coastal water only.

**Schedule 7 species includes all Schedule 5 species listed above, with the exception of the common skate and angel shark. Sea urchin is protected under Schedule 7 only.

If there is evidence of Schedule 5 animals and Schedule 7 animals listed above at the site, all works must cease immediately and further advice must be sought from DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast, BT7 2JA.

H. Wildlife Order

"Birds"

The Licensee's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly kill, injure or take any wild bird. It is also an offence to intentionally or recklessly: take damage or destroy the nest of any wild bird while that nest is in use or being built; or take or destroy an egg of any wild bird. If any person intentionally or recklessly disturbs any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or disturbs dependent young of such a bird they shall be guilty of an offence.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

- I. The Licensee should consult the following Pollution Prevention guidelines and any others deemed applicable to the project. Contractors should adhere to the precepts contained within these.
 - PPG 1 General guide
 - GPP 2 Above ground oil storage tanks
 - GPP 5 Works in near or liable to affect I impact
 - PPG 6 Working at construction or demolition sites
 - GPP 21 Pollution incident response planning

Link to Pollution Prevention Guidelines and Guidance for Pollution Prevention documents can be found at: <https://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

- J. Attention is drawn to the necessity of complying where appropriate with the Radioactive Substances Act 1960, the Prevention of Oil Pollution Act 1971 and to the Merchant Shipping (Dangerous Goods) (Amendment) Rules 1968.
- K. If within 28 days of the issue of a licence the person to whom it was issued requests the Licensing Authority to give him notice in writing of the reasons for the inclusion of any provision in it, the Authority shall comply with his request within 28 days of receiving it.

Please note:

Anyone who fails to comply with a condition on a Marine Licence commits an offence under Section 85 of the Marine and Coastal Access Act 2009, and may be subject to enforcement action. Possible enforcement actions are compliance notices, remediation notices, fixed monetary penalties and variable monetary penalties. In the worst cases, a person found guilty of an offence may be subject to a fine of up to £50,000 or to imprisonment for a term not exceeding two years or both.

All correspondence or communications relating to the licence should be addressed to:

DAERA Marine and Fisheries Division,
Klondyke Building,
Cromac Avenue,
Belfast, BT7 2JA.

