



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 to install and remove equipment for an algal farm in Killaney Bay,
Rathlin Island**

Licence Number: ML 48/13 – Variation One

Part 1 - Particulars

1. Licensee(s) Name & Address:

Kate Burns	Damien McFaul
Managing Director	Church Bay
Ocean Veg Ireland	Rathlin Island
Church Bay	Ballycastle
Rathlin Island	Co Antrim
Ballycastle	BT546RT
BT546RT	

**2. Names, and operators, of the vessels to be employed to undertake or support the deposit, relocation or
removal operations:**

Kate Burns	Damien McFaul
Managing Director	Church Bay
Ocean Veg Ireland	Rathlin Island
Church Bay	Ballycastle
Rathlin Island	Co Antrim
Ballycastle	BT546RT
BT546RT	

3. Description of works and nature and quantity of all deposits below Mean High Water Springs:

Installation of ropes and associated equipment and navigational markers, to allow seeding and harvesting of *Laminaria Digitata*, *Alaria* or *Latissima Saccharina* species. Ropes will be set in parallel lines with anchors to keep the end of each line in place. Buoys will mark the line and ensure that the depth of the line is maintained around 2.75

metres.

The following variations from the original licence applications are as follows:

- Deployment of 18mm ropes;
- Replacement of inflatable buoys with hard shell buoys;
- Use of equipment that connects the end buoys to the ropes, that enables the ropes to swivel without destroying the rope, or pull the anchors buoys under the water;
- Heavier rock anchors.

4. Location of works:

Killaney Bay, Rathlin Island.

55.2940 - 6.2338

55.2933 - 6.2338

55.2933 - 6.2248

55.2948 - 6.2248

5. Valid:

From: 30.07.2014

Until: 29.07.2019

PART 2: CONDITIONS

The Department of Agriculture, Environment & Rural Affairs (referred to as the licensing authority) authorises **Kate Burns (Ocean Veg Ireland) and Damian McFaul** 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. All conditions of this licence bind any persons whom, for the time being, owns, occupies or enjoys any use of the works for which this licence has been granted, in relation to those licensed activities authorized under section 66 of the 2009 Act, whether or not the licence has been transferred to that person.
2. The Licensee(s) must receive written authorization from the licensing authority to assign or transfer the consent. The licensing authority must confirm in writing to both the original Licensee(s) and any proposed new Licensee(s) that the licence has been transferred/assigned before any works may commence under the new Licensee(s).
3. The licensee(s) shall inform the licensing authority of the finishing date of the licensed work within **28 days** of completion.

4. The licensee(s) shall not carry out any licensable activity other than that detailed in the Marine Licence application form received by the licensing authority, dated 27 May 2014. The licensee(s) 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.
5. The licensee(s) shall ensure that a copy of this licence is given to each contractor appointed to carry out part or all of the works. The extent of the works for which the licence has been given and the conditions that are attached to the licence should be made clear to the contractors.
6. The licensee(s) shall, within **eight weeks** after the completion of the licensed works, make a written report to the licensing authority stating the quantity and description of all articles and substances deposited under the authority of this licence.
7. The licensee(s) shall ensure that copies of the licence are available for inspection by any authorised Enforcement Officer at:
 - a. The premises of the licensee(s)
 - b. The premises of the operating facility
 - c. The site of the works (including on board vessels)
8. The licensee(s) must notify The Source Data Receipt team, UK Hydrographic Office, Taunton, Somerset, TA1 2DN (Email: sdr@ukho.gov.uk; Tel: 01823 337900) at least 4 weeks before commencement of the works, to allow for any necessary amendments to nautical charts. The UK Hydrographic Office must also be notified upon completion of the works. **This office must be copied into all notifications.**
9. The licensee must ensure when operating under the marine licensed activity they meet all the requirements of the Merchant Shipping Regulations.
10. The licensee shall have permission from the Crown Estate prior to commencement of the works.
11. A Navigational Risk Assessment on the proposals must be agreed by the Licensing Authority prior to works commencing.
12. The site must be marked by Buoys and agreed by the Commissioner of Irish Lights with a Statutory Sanction before any works commence.
13. The works shall be maintained at all times in good repair.
14. No works may take place outside of the defined area set out in the original navigational assessment and attached to this licence as an appendix.
15. Any changes to the kelp production methods or suppliers must be made known to the Licensing Authority prior to the changes being made.
16. The identification of any disease or infestation significantly affecting the kelp must be reported to the Licensing Authority.
17. The licensee should have a bio security plan in place and available for inspection by the Licensing Authority.. Procedures should be adopted to ensure non-native or invasive species are not introduced as a result of the licensable activity.
18. The licensee shall use only native species from the North Coast Area sourced in an environmentally sensitive process for cultivation under this licence.
19. An annual report must be submitted to the Department detailing the species used and production volumes.
20. No artificial enrichment should occur or additives used at the site without agreement from the Licensing Authority.

21. The licensee shall in the event of any detrimental environmental impact in connection with the licensable activity carryout or make arrangements for the carrying out of all measure considered reasonably necessary, by the Licensing Authority, to make good.
22. The licensee must inform the Department immediately of any wildlife entanglement at the site.
23. In the event of the licence activity being discontinued the works shall be removed and the site cleared to the satisfaction of the Licensing Authority.
24. The licensee(s) attention is drawn to Article 42 of the **Historic Monuments and Archaeological Objects (NI) Order 1995** that requires finders of archaeological objects to report within 14 days to a relevant authority. In the event of a discovery of an archaeological object and/or remains during the works the licensee(s) must: (1) record the position and details of the site; (2) not disturb the site further and (3) report your discovery to and seek further advice from the Department immediately.

Reason: To ensure recovered archaeological material is recorded with the appropriate authority

25. The licensee(s) must report any recovered wreck material to the Receiver of Wreck (Maritime and Coastguard Agency) in accordance with the **Merchant Shipping Act 1995**.

Reason: To ensure recovered wreck material is recorded with the appropriate authority

26. A Notice to Mariners must be issued in appropriate and timely manner before works begin and should include details of the works, including any vessels involved and their radio frequencies. This should also be issued to local fishermen organisations.
27. The licensee must ensure that HM Coastguard, in this case mmocontroller@hmcg.gov.uk, The National Maritime Operations Centre, is made aware of the works prior to commencement.

Signed on behalf of the Department:

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Dated: 9/11/2018



NOTE:

- (1) 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.
- (2) 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.

(3) A person who deposits material in contravention of the terms of a licence is guilty of an offence under Section 85 of the Act. It is a defence under paragraph 86 (1) for a person charged with such an offence to prove 'force majeure'. However they are also required to prove that they took steps within a reasonable time to inform the licensing authority of all details pertaining to the incident contained in paragraph 86 (2). The licensing authority shall be obliged to report force majeure cases immediately to the OSPAR Commission.

(4) 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**.

(5) 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.

(6) 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 on summary conviction may be subject to a fine not exceeding £50,000. In addition, a person found guilty of an offence on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both. Further details can be found at our guidance note

<https://www.daera-ni.gov.uk/sites/default/files/publications/doe/marine-licensing-guidance-enforcement-under-part-4-marine-and-coastal-access-act%2C-2009-may-2016.pdf>

Further information from consultation:

1. Northern Ireland Environment Agency – Water Management Unit

You should be aware that it 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.

2. DAERA Marine and Fisheries Division - Marine Conservation and Reporting Team

Marine National Protected Species

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 seahorse (*Hippocampus hippocampus*), spiny seahorse (*Hippocampus guttulatus*), spiny lobster (*Palinurus elaphus*) and fan mussel (*Atrina fragilis*).

Article 11 of the **Wildlife (Northern Ireland) Order 1985** (as amended) provides that a person shall not be guilty of an offence under Article 10 (killing or injuring a species listed in Schedule 5 (as amended)) if the act was incidental to a lawful operation (i.e. activity permitted by a Marine Licence or Planning Permission) and could not reasonably be avoided. A separate marine Wildlife Licence is therefore not required for national marine protected species if a Marine Licence/Planning Permission has been granted, since adherence to the conditions of the Marine Licence should reduce the likelihood of harm to marine national protected species.

Under Article 10 it is an offence to intentionally or recklessly disturb; common seals, grey seals or basking sharks. It is also an offence under Article 10 to intentionally or recklessly damage or destroy, or obstruct access to, any structure or place which these

animals (Schedule 5¹) 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 it is an offence to sell or transport any Schedule 7 animal dead or alive at any time².

Any person who knowingly causes or permits an act which is made unlawful under Article 10 or Article 13 shall also be guilty of an offence.

It is the applicant's responsibility to ensure that an offence is not committed. Further advice can be sought from DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast BT7 2JA.

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

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

² Schedule 7 species includes all Schedule 5 species listed in Appendix A, with the exception of the common skate and angel shark. Sea urchin is protected under Schedule 7 only.

Marine 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.

(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 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.

It is the applicant's responsibility to ensure that an offence is not committed. Further advice can be sought from DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast, BT7 2JA.

Under this legislation a licence may be required for any operations which might impact on European Protected Species.

¹ Following two European Court of Justice cases (C-103/00 and C-221/04) "deliberate actions are to be understood as actions by a person who knows, in the light of the relevant legislation that applies to the species involved, and the general information delivered to the public, that his action will most likely lead to an offence against a species, but intends this offence or, if not, consciously accepts the foreseeable results of his action"

http://jncc.defra.gov.uk/PDF/consultation_epsGuidanceDisturbance_all.pdf

3. DAERA Marine and Fisheries – Sea Fisheries/Inland Fisheries

- It is an offence under Article 47 of the Fisheries Act (NI) 1966 to cause pollution, which is subsequently shown to have a deleterious effect on fish stocks.
- It is an offence under Article 136 of the Fisheries Act (NI) 1966 act to disturb or injure in any manner the fishery or shellfish within a licensed shellfish fishery.

Appendix One



