



# Marine and Coastal Access Act 2009

## 2009 CHAPTER 23

### PART 1

#### THE MARINE MANAGEMENT ORGANISATION

### CHAPTER 2

#### TRANSFER OF FUNCTIONS TO THE MMO

#### *Generating and renewable energy installations*

#### **12 Certain consents under section 36 of the Electricity Act 1989**

- (1) The electricity consent functions of the Secretary of State are transferred to the MMO.
- (2) The electricity consent functions are functions under any of the following sections of the Electricity Act—
  - (a) section 36(1), (5) and (7) (giving consent for construction etc of generating stations, and prosecuting breaches of that requirement),
  - (b) section 36A (making declarations extinguishing etc public rights of navigation), and
  - (c) section 36B (duties in relation to navigation),so far as relating to any generating station that meets the requirements of subsections (3) and (4).
- (3) The generating station must be in waters which are subject to regulation under section 95 of the [Energy Act 2004 \(c. 20\)](#), other than—
  - (a) any area of Scottish waters, or
  - (b) any area of waters in a Scottish part of a Renewable Energy Zone.

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- (4) The generating station must have a capacity such that the construction or extension of the generating station would not be a nationally significant infrastructure project (within the meaning given by sections 14 and 15 of the [Planning Act 2008 \(c. 29\)](#)).
- (5) In accordance with subsection (1), any reference in the following provisions to the Secretary of State is to be read, so far as relating to the exercise of an electricity consent function of the Secretary of State, as a reference to the MMO—
- (a) Schedule 8 to the Electricity Act (procedure), except paragraphs 1(3), 2(3) and 3(1), and the modifications of paragraph 4 made by paragraph 7A(5)(a)(ii) and (b), of that Schedule;
  - (b) paragraph 1(2) of Schedule 9 to that Act (preservation of amenity);
  - (c) regulations 71 to 74 of the Conservation (Natural Habitats, &c) Regulations 1994 ([S.I. 1994/2716](#)) (adaptation of planning and other controls);
  - (d) the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000 ([S.I. 2000/1927](#)).
- (6) Paragraph 1(4) of Schedule 8 to the Electricity Act (payment of sums into Consolidated Fund) does not apply to sums received by the MMO by virtue of this section.
- (7) In consequence of the provision made by this section, insert the subsection set out in subsection (8)—
- (a) into section 36 of the Electricity Act, after subsection (1B) as subsection (1C), and
  - (b) into each of sections 36A and 36B of that Act, after subsection (1) as subsection (1A).
- (8) The subsection is—
- “This section is subject to section 12 of the Marine and Coastal Access Act 2009 (which transfers certain functions of the Secretary of State to the Marine Management Organisation).”.
- (9) In this section “the Electricity Act” means the [Electricity Act 1989 \(c. 29\)](#).
- (10) In this section, the following expressions have the same meaning as in section 95 of the [Energy Act 2004](#)—
- “Renewable Energy Zone”;
  - “Scottish part”, in relation to a Renewable Energy Zone;
  - “Scottish waters”.

### **13 Safety zones: functions under section 95 of the Energy Act 2004**

- (1) The functions of the Secretary of State specified in subsection (2) are transferred to the MMO.
- (2) Those functions are any functions of the Secretary of State under section 95 of the [Energy Act 2004 \(c. 20\)](#) (safety zones around renewable energy installations), so far as relating to any renewable energy installation that meets the requirements of subsections (3) and (4).
- (3) The renewable energy installation must be in waters subject to regulation under section 95 of the [Energy Act 2004](#), other than—

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- (a) any area of Scottish waters, or
  - (b) any area of waters in a Scottish part of a Renewable Energy Zone.
- (4) The renewable energy installation must have a capacity such that the construction or extension of the installation would not be a nationally significant infrastructure project (within the meaning given by sections 14 and 15 of the [Planning Act 2008 \(c. 29\)](#)).
- (5) In accordance with subsection (1), any reference in the following provisions to the Secretary of State is to be read, so far as relating to the exercise of any function falling within subsection (2), as a reference to the MMO—
- (a) section 95 of the [Energy Act 2004](#),
  - (b) Schedule 16 to that Act (procedure for declaring safety zones),
- but this is subject to the exceptions in subsection (6).
- (6) Those exceptions are the following provisions of Schedule 16 to the [Energy Act 2004](#) (which relate to regulations made by the Secretary of State)—
- paragraph 3(2)(b);
  - in paragraph 4(1), the words preceding paragraph (a);
  - paragraph 4(1)(b);
  - paragraph 4(2);
  - paragraph 6(2)(b) and (6).
- (7) In section 95 of the [Energy Act 2004](#), after subsection (1) insert—
- “(1A) This section is subject to section 13 of the Marine and Coastal Access Act 2009 (which transfers certain functions of the Secretary of State to the Marine Management Organisation).”.
- (8) In this section, the following expressions have the same meaning as in section 95 of the [Energy Act 2004](#)—
- “renewable energy installation”;
  - “Renewable Energy Zone”;
  - “Scottish part”, in relation to a Renewable Energy Zone;
  - “Scottish waters”.