



# Marine and Coastal Access Act 2009

## 2009 CHAPTER 23

### PART 4

#### MARINE LICENSING

#### CHAPTER 1

#### MARINE LICENCES

##### Modifications etc. (not altering text)

- C1** Pt. 4 Ch. 1 modified (E.W.S.) (15.8.2013) by [The North Blyth Biomass Power Station Order 2013 \(S.I. 2013/1873\)](#), arts. 1, **27** (with art. 30)
- C2** Pt. 4 Ch. 1 modified (E.W.S.) (6.8.2014) by [The Rampion Offshore Wind Farm Order 2014 \(S.I. 2014/1873\)](#), arts. 1, 11, **Sch. 13 Pt. 2 Sch. 14 Pts. 2** (with arts. 12, 13, Pt. 2 para. 6, Pt. 3 para. 5, Pt. 4 para. 4, Pt. 5 para. 4, Sch. 12 paras. 19)
- C3** Pt. 4 excluded (E.W.S.) (11.3.2015) by [The Dogger Bank Creyke Beck Offshore Wind Farm Order 2015 \(S.I. 2015/318\)](#), arts. 1, **8(6)** (with arts. 40, 41, Pt. 2 para. 4(2), Pt. 2 para. 4(3), Pt. 2 para. 19, Pt. 4 para. 3, Pt. 4 para. 4, Pt. 4 para. 16, Sch. 12 paras. 4, 9(2), 10)
- C4** Pt. 4 excluded (E.W.S.) (26.8.2015) by [The Dogger Bank Teesside A and B Offshore Wind Farm Order 2015 \(S.I. 2015/1592\)](#), arts. 1, **8(7)** (with arts. 40, 41)
- C5** Pt. 4 modified (E.W.S.) (7.9.2016) by [The Hornsea Two Offshore Wind Farm Order 2016 \(S.I. 2016/844\)](#), arts. 1(2), **36** (with arts. 37, 38)
- C6** Pt. 4 modified (E.W.S.) (22.1.2021) by [The Hornsea Three Offshore Wind Farm Order 2020 \(S.I. 2020/1656\)](#), arts. 1, **31** (with arts. 40, 41, Sch. 9 Pt. 5 para. 18)

## 65 Requirement for licence

- (1) No person may—
- (a) carry on a licensable marine activity, or
  - (b) cause or permit any other person to carry on such an activity,

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except in accordance with a marine licence granted by the appropriate licensing authority.

- (2) Subsection (1) is subject to any provision made by or under sections 74 to 77 (exemptions).

#### Commencement Information

**II** S. 65 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

## 66 Licensable marine activities

- (1) For the purposes of this Part, it is a licensable marine activity to do any of the following—

1. To deposit any substance or object within the UK marine licensing area, either in the sea or on or under the sea bed, from—
  - (a) any vehicle, vessel, aircraft or marine structure,
  - (b) any container floating in the sea, or
  - (c) any structure on land constructed or adapted wholly or mainly for the purpose of depositing solids in the sea.
2. To deposit any substance or object anywhere in the sea or on or under the sea bed from—
  - (a) a British vessel, British aircraft or British marine structure, or
  - (b) a container floating in the sea, if the deposit is controlled from a British vessel, British aircraft or British marine structure.
3. To deposit any substance or object anywhere in the sea or on or under the sea bed from a vehicle, vessel, aircraft, marine structure or floating container which was loaded with the substance or object—
  - (a) in any part of the United Kingdom except Scotland, or
  - (b) in the UK marine licensing area.
4. To scuttle any vessel or floating container in the UK marine licensing area.
5. To scuttle any vessel or floating container anywhere at sea, if the scuttling is controlled from a British vessel, British aircraft or British marine structure.
6. To scuttle any vessel or floating container anywhere at sea, if the vessel or container has been towed or propelled, for the purpose of that scuttling,—
  - (a) from any part of the United Kingdom except Scotland, or
  - (b) from the UK marine licensing area, unless the towing or propelling began outside that area.
7. To construct, alter or improve any works within the UK marine licensing area either—
  - (a) in or over the sea, or
  - (b) on or under the sea bed.

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8. To use a vehicle, vessel, aircraft, marine structure or floating container to remove any substance or object from the sea bed within the UK marine licensing area.
9. To carry out any form of dredging within the UK marine licensing area (whether or not involving the removal of any material from the sea or sea bed).
10. To deposit or use any explosive substance or article within the UK marine licensing area either in the sea or on or under the sea bed.
11. To incinerate any substance or object on any vehicle, vessel, marine structure or floating container in the UK marine licensing area.
12. To incinerate any substance or object anywhere at sea on—
  - (a) a British vessel or British marine structure, or
  - (b) a container floating in the sea, if the incineration is controlled from a British vessel, British aircraft or British marine structure.
13. To load a vehicle, vessel, aircraft, marine structure or floating container in any part of the United Kingdom except Scotland, or in the UK marine licensing area, with any substance or object for incineration anywhere at sea.

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(2) In subsection (1)—

- (a) in item 9, “dredging” includes using any device to move any material (whether or not suspended in water) from one part of the sea or sea bed to another part;
- (b) in items 12 and 13, “incineration” means the combustion of a substance or object for the purpose of its thermal destruction (and in items 11 and 12 “incinerate” is to be read accordingly).

(3) The appropriate licensing authority for any area may by order amend subsection (1) so as to add any activity to, or remove any activity from, the list of licensable marine activities as it has effect in that area.

(4) For the purposes of this Part “the UK marine licensing area” consists of the UK marine area, other than the Scottish inshore region.

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#### Commencement Information

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| <b>I2</b> | S. 66 partly in force; s. 66 in force for specified purposes at Royal Assent see s. 324(1)(c)                                |
| <b>I3</b> | S. 66 in force at 6.4.2011 in so far as not already in force by <a href="#">S.I. 2011/556</a> , <a href="#">art. 3(2)(a)</a> |

## 67 Applications

- (1) The appropriate licensing authority may require an application for a marine licence—
  - (a) to be made in such form as the authority may determine;
  - (b) to be accompanied by a fee.
- (2) The fee that may be charged under subsection (1)(b) is to be determined by, or in accordance with, regulations made by the appropriate licensing authority.
- (3) A licensing authority may—
  - (a) determine different forms for different descriptions of applications;

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- (b) provide for different fees for different descriptions of applications.
- (4) The appropriate licensing authority may require an applicant—
  - (a) to supply such information,
  - (b) to produce such articles, and
  - (c) to permit such investigations, examinations and tests,
 as in the opinion of the authority may be necessary or expedient to enable it to determine the application.
- (5) If the appropriate licensing authority carries out any investigation, examination or test (whether or not by virtue of subsection (4)(c)) which in its opinion is necessary or expedient to enable it to determine an application, the authority may require the applicant to pay a fee towards the reasonable expenses of that investigation, examination or test.
- (6) If an applicant fails to comply with a requirement made by the appropriate licensing authority under this section, the authority may—
  - (a) refuse to proceed with the application, or
  - (b) refuse to proceed with it until the failure is remedied.

#### Commencement Information

**I4** S. 67 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

#### [<sup>F1</sup>67A Advice and other assistance from the Welsh Ministers

- (1) This section applies where the Welsh Ministers are the appropriate licensing authority.
- (2) The licensing authority may provide advice or other assistance to any person who requests it in connection with—
  - (a) an application which the person proposes to make to the licensing authority for a marine licence, or
  - (b) any other matter in respect of which the licensing authority exercises functions under this Part.
- (3) The licensing authority may charge fees in respect of the reasonable costs incurred by it in connection with the provision of advice or other assistance under subsection (2).]

#### Textual Amendments

**F1** S. 67A inserted (E.W.) (1.4.2017) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), [ss. 76, 88\(3\)\(c\)](#); [S.I. 2017/504](#), [art. 2](#)

#### 68 Notice of applications

- (1) Having received an application for a marine licence, the appropriate licensing authority must—
  - (a) publish notice of the application, or
  - (b) require the applicant to publish notice of it.

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- (2) Publication under subsection (1) must be in such manner as the authority thinks is best calculated to bring the application to the attention of any persons likely to be interested in it.
- (3) If the activity in respect of which the application is being made is proposed to be carried on wholly or partly within the area of a local authority in England, Wales or Northern Ireland, the appropriate licensing authority must give notice of the application, or require the applicant to give notice of the application, to that local authority (whether or not notice has been published under subsection (1)).
- (4) The appropriate licensing authority must not proceed with an application unless—
  - (a) notice has been published under subsection (1) (but see subsection (7)), and
  - (b) notice has been given under subsection (3) to any local authority to which notice of the application is required to be given by virtue of that subsection (but see subsection (8)).
- (5) If the appropriate licensing authority—
  - (a) publishes notice of an application, in pursuance of subsection (1)(a), or
  - (b) gives notice of an application to a local authority, in pursuance of subsection (3),the licensing authority may require the applicant to pay a fee towards the reasonable expenses of doing so.
- (6) If an applicant fails to comply with a requirement made by the authority under subsection (5), the authority may—
  - (a) refuse to proceed with the application, or
  - (b) refuse to proceed with it until the failure is remedied.
- (7) Subsection (1) does not apply in the case of any particular application if—
  - (a) the authority considers that notice of the application should not be published, or
  - (b) the Secretary of State certifies that in the opinion of the Secretary of State publication of notice of the application would be contrary to the interests of national security.
- (8) Subsection (3) does not apply in the case of any particular application and any particular local authority if—
  - (a) the appropriate licensing authority considers that notice of the application should not be given to the local authority, or
  - (b) the Secretary of State certifies that in the opinion of the Secretary of State it would be contrary to the interests of national security to give notice of the application to the local authority.
- (9) In this section “local authority” means—
  - (a) in relation to England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
  - (b) in relation to Wales, a county council or a county borough council;
  - (c) in relation to Northern Ireland, a district council.

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#### **Modifications etc. (not altering text)**

- C7** S. 68 excluded by 2008 c. 29, s. 149A(5) (as inserted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 8 para. 4\(2\)](#) (with s. 111); S.I. 2011/556, art. 3(2)(a))

#### **Commencement Information**

- I5** S. 68 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

## **69 Determination of applications**

- (1) In determining an application for a marine licence (including the terms on which it is to be granted and what conditions, if any, are to be attached to it), the appropriate licensing authority must have regard to—
    - (a) the need to protect the environment,
    - (b) the need to protect human health,
    - (c) the need to prevent interference with legitimate uses of the sea,
 and such other matters as the authority thinks relevant.
  - (2) In the case of an application for a licence to authorise such activities as are mentioned in item 7 in section 66(1), the appropriate licensing authority must have regard (among other things) to the effects of any use intended to be made of the works in question when constructed, altered or improved.
  - (3) The appropriate licensing authority must have regard to any representations which it receives from any person having an interest in the outcome of the application.
  - (4) A licensing authority may—
    - (a) from time to time consult any person or body it thinks fit as to the general manner in which the licensing authority proposes to exercise its powers in cases involving any matter in which that person or body has particular expertise;
    - (b) in relation to any particular application, consult any person or body which has particular expertise in any matter arising in relation to that application.
  - (5) If the appropriate licensing authority consults any person or body under subsection (4) (b), it must give the applicant the opportunity to make representations to the licensing authority about any observations made by the person or body.
- [<sup>F2</sup>(5A) Regulation 3 of the Electronic Communications and Wireless Telegraphy Regulations 2011 makes provision about the time within which certain applications under this section for the granting of rights to install facilities must be determined.]
- (6) A licensing authority may by regulations make further provision as to the procedure to be followed in connection with—
    - (a) applications to it for marine licences, and
    - (b) the grant by it of such licences.
  - (7) The provision that may be made by virtue of subsection (6) includes (in particular) provision as to—
    - (a) the period within which any function is to be exercised (including when that period is to begin and how it is to be calculated);
    - (b) notifying the applicant of any licensing determination.

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### Textual Amendments

- F2** S. 69(5A) inserted (E.W.) (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 101** (with Sch. 3 para. 12)

### Modifications etc. (not altering text)

- C8** S. 69(3) excluded by 2008 c. 29, s. 149A(5) (as inserted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), **Sch. 8 para. 4(2)** (with s. 111); S.I. 2011/556, art. 3(2)(a))
- C9** S. 69(5) excluded by 2008 c. 29, s. 149A(5) (as inserted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), **Sch. 8 para. 4(2)** (with s. 111); S.I. 2011/556, art. 3(2)(a))

### Commencement Information

- I6** S. 69 partly in force; s. 69 in force for specified purposes at Royal Assent see s. 324(1)(c)
- I7** S. 69 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), **art. 3(2)(a)**

## 70 Inquiries

- (1) The appropriate licensing authority may cause an inquiry to be held in connection with the determination of an application for a marine licence.
- (2) Subsection (1) is subject to the following provisions of this section.
- (3) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (c. 70) apply to any inquiry which the Secretary of State or the Welsh Ministers may cause to be held under subsection (1) as they apply to inquiries under that section.
- (4) Subsections (2) to (8) of section 210 of the Local Government (Scotland) Act 1973 (c. 65) apply to any inquiry which the Scottish Ministers may cause to be held under subsection (1) as they apply to inquiries under that section.
- (5) Schedule A1 to the Interpretation Act (Northern Ireland) 1954 (c. 33) applies to any inquiry which the Department of the Environment in Northern Ireland may cause to be held under subsection (1) as it applies to a local inquiry held under an enactment passed or made as mentioned in section 23 of that Act.
- (6) Where—
  - (a) an inquiry is caused by a licensing authority to be held under subsection (1), and
  - (b) in the case of some other matter required or authorised to be the subject of an inquiry (“the other inquiry”), it appears to the relevant authority or authorities that the matters are so far cognate that they should be considered together,
 the relevant authority or authorities may direct that the two inquiries be held concurrently or combined as one inquiry.
- (7) In subsection (6) “the relevant authority or authorities” means the licensing authority or, where causing the other inquiry to be held is the function of some other person or body, the licensing authority and that other person or body acting jointly.
- (8) If, in the case of any particular application, the Secretary of State certifies that it would in the opinion of the Secretary of State be contrary to the interests of national security—
  - (a) if an inquiry under subsection (1) were to be held, or



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- (b) if any members of the public, or any specified persons, were to be admitted to the inquiry or some specified part of it,  
the inquiry is not to be held or, as the case may be, the public is not, or those persons are not, to be admitted to the inquiry or that part of it.
- (9) In subsection (8) “specified” means—
- (a) specified in the certificate, or
  - (b) of a description specified in the certificate.

**Modifications etc. (not altering text)**

**C10** S. 70(6): functions made exercisable jointly with the Welsh Ministers by 2006 c. 32, Sch. 3A para. 4 (as inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 4 para. 4** (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), reg. 3(p))

**Commencement Information**

**I8** S. 70 in force at 6.4.2011 by [S.I. 2011/556](#), **art. 3(2)(a)**

## 71 Licences

- (1) The appropriate licensing authority, having considered an application for a marine licence, must—
  - (a) grant the licence unconditionally,
  - (b) grant the licence subject to such conditions as the authority thinks fit, or
  - (c) refuse the application.
- (2) The conditions that may be attached to a licence under subsection (1)(b) may relate to—
  - (a) the activities authorised by the licence;
  - (b) precautions to be taken or works to be carried out (whether before, during or after the carrying out of the authorised activities) in connection with or in consequence of those activities.
- (3) Those conditions include, in particular, conditions—
  - (a) that no activity authorised by the licence be carried out until the authority or some other specified person has given such further approval of the activity as may be specified;
  - (b) as to the provision, maintenance, testing or operation of equipment for measuring or recording specified matters relating to any activity authorised by the licence;
  - (c) as to the keeping of records or the making of returns or giving of other information to the authority;
  - (d) for the removal, at the end of a specified period, of any object or works to which the licence relates;
  - (e) for the carrying out, at the end of a specified period, of such works as may be specified for the remediation of the site or of any object or works to which the licence relates;
  - (f) that any activity authorised by the licence must take place at a specified site, whether or not in the UK marine licensing area.



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- (4) A licence may provide—
  - (a) that it is to expire unless the activity which it authorises is begun or completed within a specified period;
  - (b) that it is to remain in force indefinitely or for a specified period of time (which may be determined by reference to a specified event).
- (5) A licence authorising such activities as are mentioned in item 7 in section 66(1) may provide that the conditions attached to it are to bind any other person who for the time being owns, occupies or enjoys any use of the works in question (whether or not the licence is transferred to that other person).
- (6) A licensing authority must not grant a licence to carry on any activity which is contrary to international law.
- (7) In this section “specified” means specified in the licence in question.

#### **Commencement Information**

**19** S. 71 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

## **72 Variation, suspension, revocation and transfer**

- (1) A licensing authority may by notice vary, suspend or revoke a licence granted by it if it appears to the authority that there has been a breach of any of its provisions.
- (2) A licensing authority may by notice vary, suspend or revoke a licence granted by it if it appears to the authority that—
  - (a) in the course of the application for the licence, any person either supplied information to the authority that was false or misleading or failed to supply information, and
  - (b) if the correct information had been supplied the authority would have, or it is likely that the authority would have, refused the application or granted the licence in different terms.
- (3) A licensing authority may by notice vary, suspend or revoke a licence granted by it if it appears to the authority that the licence ought to be varied, suspended or revoked—
  - (a) because of a change in circumstances relating to the environment or human health;
  - (b) because of increased scientific knowledge relating to either of those matters;
  - (c) in the interests of safety of navigation;
  - (d) for any other reason that appears to the authority to be relevant.
- (4) A suspension under subsection (1), (2) or (3) is for such period as the authority specifies in the notice of suspension.
- (5) A licensing authority may by further notice extend the period of a suspension.
- (6) But a licence may not by virtue of this section be suspended for a period exceeding 18 months.
- (7) On an application made by a licensee, the licensing authority which granted the licence—
  - (a) may transfer the licence from the licensee to another person, and

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(b) if it does so, must vary the licence accordingly.

(8) A licence may not be transferred except in accordance with subsection (7).

**Modifications etc. (not altering text)**

- C11** S. 72 applied in part (E.W.S.) (20.2.2013) by [The Kentish Flats Extension Order 2013 \(S.I. 2013/343\)](#), art. 1, **Sch. 2 para. 2(5)** (with arts. 13, 14)
- C12** S. 72 applied (with modifications) (E.W.S.) (7.7.2014) by [The East Anglia ONE Offshore Wind Farm Order 2014 \(S.I. 2014/1599\)](#), art. 1, **Sch. 10 para. 5**, Sch. 11 para. 5 (with arts. 37, 38, Sch. 9 paras. 19)
- C13** S. 72 applied (with modifications) (E.W.S.) (6.8.2014) by [The Rampion Offshore Wind Farm Order 2014 \(S.I. 2014/1873\)](#), art. 1, **Sch. 13 para. 5**, Sch. 14 para. 5 (with arts. 12, 13, Sch. 12 Pt. 1 para. 19, Pt. 2 para. 6, Pt. 3 para. 5, Pt. 4 para. 4, Pt. 5 para. 4, )
- C14** S. 72 applied (with modifications) (E.W.S.) (26.9.2014) by [The Burbo Bank Extension Offshore Wind Farm Order 2014 \(S.I. 2014/2594\)](#), art. 1, **Sch. 2 para. 5**, Sch. 3 para. 5
- C15** S. 72 applied (in part) (E.W.) (28.11.2014) by [The Walney Extension Offshore Wind Farm Order 2014 \(S.I. 2014/2950\)](#), art. 1, **Sch. 10 para. 3(6)** (with arts. 38, 39)
- C16** S. 72 applied in part (with modifications) (E.W.S.) (31.12.2014) by [The Hornsea One Offshore Wind Farm Order 2014 \(S.I. 2014/3331\)](#), art. 1, **Sch. 8 para. 2(5)**, Sch. 9 para. 2(5), Sch. 10 para. 2(6), Sch. 11 para. 2(8) (with arts. 37, 38)
- C17** S. 72 applied (with modifications) (E.W.S.) (7.8.2015) by [The Preesall Underground Gas Storage Facility Order 2015 \(S.I. 2015/1561\)](#), art. 1, **Sch. 7 para. 5** (with art. 44)
- C18** S. 72 applied (with modifications) (E.W.S.) (7.9.2016) by [The Hornsea Two Offshore Wind Farm Order 2016 \(S.I. 2016/844\)](#), art. 1(2), **Sch. 8 para. 2(5)**, Sch. 9 para. 2(7), Sch. 10 para. 2(5), Sch. 11 para. 2(7) (with arts. 37, 38)
- C19** S. 72 applied (with modifications) (27.9.2016) by [The Triton Knoll Electrical System Order 2016 \(S.I. 2016/880\)](#), art. 1(2), **Sch. 9 para. 4** (with arts. 39, 40, Sch. 8 para. 19)
- C20** S. 72 applied (with modifications) (E.W.S.) (29.8.2017) by [The East Anglia THREE Offshore Wind Farm Order 2017 \(S.I. 2017/826\)](#), art. 1, **Sch. 10 para. 7**, Sch. 11 para. 7, Sch. 12 para. 7, Sch. 13 para. 7, Sch. 14 para. 7, Sch. 15 para. 7 (with arts. 36, 37, Sch. 8 para. 34)
- C21** S. 72 applied (in part) (E.W.) (22.7.2020) by [The Norfolk Vanguard Offshore Wind Farm Order 2020 \(S.I. 2020/706\)](#), art. 1, **Sch. 11 Pt. 2 para. 2** (with arts. 41, 42, Sch. 16 para. 66)
- C22** S. 72 applied (in part) (E.W.) (22.7.2020) by [The Norfolk Vanguard Offshore Wind Farm Order 2020 \(S.I. 2020/706\)](#), art. 1, **Sch. 9 Pt. 2 para. 2** (with arts. 41, 42, Sch. 16 para. 66)
- C23** S. 72 applied (in part) (E.W.) (22.7.2020) by [The Norfolk Vanguard Offshore Wind Farm Order 2020 \(S.I. 2020/706\)](#), art. 1, **Sch. 12 Pt. 2 para. 2** (with arts. 41, 42, Sch. 16 para. 66)
- C24** S. 72 applied (in part) (E.W.) (22.7.2020) by [The Norfolk Vanguard Offshore Wind Farm Order 2020 \(S.I. 2020/706\)](#), art. 1, **Sch. 10 Pt. 2 para. 2** (with arts. 41, 42, Sch. 16 para. 66)
- C25** S. 72 applied (with modifications) (E.W.S.) (22.1.2021) by [The Hornsea Three Offshore Wind Farm Order 2020 \(S.I. 2020/1656\)](#), art. 1, **Sch. 12 Pt. 1 para. 7** (with arts. 40, 41, Sch. 9 Pt. 5 para. 18)
- C26** S. 72 applied (with modifications) (E.W.S.) (22.1.2021) by [The Hornsea Three Offshore Wind Farm Order 2020 \(S.I. 2020/1656\)](#), art. 1, **Sch. 11 Pt. 1 para. 7** (with arts. 40, 41, Sch. 9 Pt. 5 para. 18)
- C27** S. 72(7)(8) excluded (E.W.S.) (11.3.2015) by [The Dogger Bank Creyke Beck Offshore Wind Farm Order 2015 \(S.I. 2015/318\)](#), arts. 1, **8(10)** (with arts. 40, 41, Pt. 2 para. 4(2), Pt. 2 para. 4(3), Pt. 2 para. 19, Pt. 4 para. 3, Pt. 4 para. 4, Pt. 4 para. 16, Sch. 12 paras. 4, 9(2), 10)
- C28** S. 72(7)(8) excluded (E.W.S.) (26.8.2015) by [The Dogger Bank Teesside A and B Offshore Wind Farm Order 2015 \(S.I. 2015/1592\)](#), arts. 1, **8(7)** (with arts. 40, 41)
- C29** S. 72(7)(8) excluded (E.W.S.) by S.I. 2014/2950, art. 5 (as substituted (28.7.2016) by [The Walney Extension Offshore Wind Farm \(Amendment\) Order 2016 \(S.I. 2016/810\)](#), arts. 1, **2(2)**)
- C30** S. 72(7)(8) excluded (E.W.S.) (10.8.2016) by [The York Potash Harbour Facilities Order 2016 \(S.I. 2016/772\)](#), arts. 1, **8(10)** (with arts. 35, 36)

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- C31** S. 72(7)(8) excluded (E.W.S.) (27.9.2016) by [The Triton Knoll Electrical System Order 2016 \(S.I. 2016/880\)](#), arts. 1(2), **5(6)** (with arts. 39, 40, Sch. 8 para. 19)
- C32** S. 72(7)(8) excluded (E.W.) (19.6.2020) by [The Cleve Hill Solar Park Order 2020 \(S.I. 2020/547\)](#), arts. 1, **5(12)** (with art. 37)

#### **Commencement Information**

- I10** S. 72 in force at 6.4.2011 by [S.I. 2011/556](#), art. 3(2)(a)

### **[<sup>F3</sup>72A Further fees chargeable where the Welsh Ministers are the appropriate licensing authority**

- (1) This section applies where the Welsh Ministers are the appropriate licensing authority in relation to a marine licence granted under this Part.
- (2) The licensing authority may require the licensee to pay a fee for—
  - (a) monitoring an activity authorised by the licence,
  - (b) assessing and interpreting the results of any monitoring of an activity authorised by the licence, or
  - (c) dealing with an application by the licensee for a variation, suspension, revocation or transfer of the licence under section 72.
- (3) In subsection (2) “monitoring”, in relation to a licence, means monitoring carried out for the purposes of enabling the licensing authority to determine—
  - (a) the environmental, economic or social consequences of any activity authorised by the licence, or
  - (b) whether the licensee is complying with any conditions attached to that licence.
- (4) The fees that may be charged under subsection (2) are to be determined by or in accordance with regulations made by the licensing authority.
- (5) Regulations under subsection (4) may provide for different fees for different cases.
- (6) If the licensing authority carries out any investigation, examination or test which in its opinion is necessary or expedient to enable it to determine an application by a licensee for a variation, suspension, revocation or transfer of a licence under section 72, the authority may require the licensee to pay a fee towards the reasonable expenses of that investigation, examination or test.
- (7) If a licensee fails to comply with a requirement to pay a fee charged under subsection (2)(a) or (b), the licensing authority may by notice vary, suspend or revoke the licence.
- (8) The suspension of a licence under subsection (7) continues in effect until the fee is paid (but this is subject to any provision made under section 108(3)(b) in relation to notices under that subsection).
- (9) If a licensee who has applied for a variation, suspension, revocation or transfer of a licence under section 72 fails to comply with a requirement to pay a fee charged under this section in connection with that application, the licensing authority may—
  - (a) refuse to proceed with the application, or
  - (b) refuse to proceed with it until the failure is remedied.]

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#### Textual Amendments

- F3** S. 72A inserted (E.W.) (24.2.2017 for specified purposes) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), [ss. 77\(1\), 88\(3\)\(c\)](#) (with [s. 77\(2\)](#)); [S.I. 2017/152](#), [art. 2\(a\)](#)

### 73 Appeals against licensing decisions

- (1) The appropriate licensing authority must by regulations make provision for any person who applies for a marine licence to appeal against a decision under section 71.
- (2) The regulations required by subsection (1) must come into force on the day on which this Part comes into force.
- (3) Regulations under this section may include—
  - (a) provision as to the procedure to be followed with respect to an appeal;
  - (b) provision for or in connection with suspending or varying any condition subject to which the licence was granted, pending determination of the appeal;
  - (c) provision as to the powers of any person to whom the appeal is made;
  - (d) provision as to how any sum payable in pursuance of a decision of that person is to be recoverable.

[<sup>F4</sup>(4) The duty in subsection (1) does not apply in relation to a decision under section 71 to which section 73A applies.]

#### Textual Amendments

- F4** S. 73(4) inserted (26.2.2015) by [The Regulatory Reform \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2015 \(S.I. 2015/374\)](#), [arts. 1\(1\), 9\(2\)](#)

#### Commencement Information

- I11** S. 73 partly in force; s. 73 in force for specified purposes at Royal Assent see [s. 324\(1\)\(c\)](#)  
**I12** S. 73 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

### [<sup>F5</sup>73A Proceedings for questioning certain decisions under sections 70 and 71

- (1) If a person is aggrieved by a decision of the Scottish Ministers to which this section applies, and wishes to question the validity of the decision on either of the grounds mentioned in subsection (2), the person (the “aggrieved person”) may make an application to the Inner House of the Court of Session under this section.
- (2) The grounds are that—
  - (a) the decision is not within the powers of the Scottish Ministers under this Part,
  - (b) one or more of the relevant requirements have not been complied with in relation to the decision.
- (3) This section applies to—
  - (a) a decision to cause, or not to cause, an inquiry to be held under section 70(1) in connection with the Scottish Ministers’ determination of an application for a marine licence to carry on an activity in respect of which a generating station application must also be made, and

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- (b) a decision under section 71 in relation to an application for a marine licence to carry on such an activity.
- (4) An application under this section must be made within the period of 6 weeks beginning with the date on which the decision to which the application relates is taken.
- (5) On an application under this section, the Inner House of the Court of Session—
  - (a) may suspend the decision until the final determination of the proceedings,
  - (b) may quash the decision either in whole or in part if satisfied that—
    - (i) the decision in question is not within the powers of the Scottish Ministers under this Part, or
    - (ii) the interests of the aggrieved person have been substantially prejudiced by failure to comply with any of the relevant requirements in relation to the decision.
- (6) In this section—
  - “generating station application” means an application for consent under section 36 of the Electricity Act 1989 (consent for the construction etc. of generating stations) which falls (or would fall) to be granted by the Scottish Ministers;
  - “the relevant requirements”, in relation to a decision to which this section applies, means the requirements of this Act, or of any order or regulations made under this Part, which are applicable to that decision.]

#### Textual Amendments

**F5** Ss. 73A, 73B inserted (26.2.2015) by [The Regulatory Reform \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2015 \(S.I. 2015/374\)](#), arts. 1(1), **9(3)**

#### Modifications etc. (not altering text)

**C33** S. 73A excluded (26.2.2015) by [The Regulatory Reform \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2015 \(S.I. 2015/374\)](#), arts. 1(1), **9(3)**

### [<sup>F5</sup>73B Applications under section 73A: requirement for permission

- (1) No proceedings may be taken in respect of an application under section 73A(1) unless the Inner House of the Court of Session has granted permission for the application to proceed.
- (2) The Court may grant permission under subsection (1) for an application to proceed only if it is satisfied that—
  - (a) the applicant can demonstrate a sufficient interest in the subject matter of the application, and
  - (b) the application has a real prospect of success.
- (3) The Court may grant permission under subsection (1) for an application to proceed—
  - (a) subject to such conditions as the Court thinks fit, or
  - (b) only on such of the grounds specified in the application as the Court thinks fit.]

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#### **Textual Amendments**

- F5** Ss. 73A, 73B inserted (26.2.2015) by [The Regulatory Reform \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2015 \(S.I. 2015/374\)](#), arts. 1(1), **9(3)**

**Status:**

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**Changes to legislation:**

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