

*Status: Point in time view as at 20/02/1999.*

**Changes to legislation:** Electricity Act 1989, SCHEDULE 9 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## SCHEDULES

### SCHEDULE 9

Section 38.

#### PRESERVATION OF AMENITY AND FISHERIES.

##### *Preservation of amenity: England and Wales*

- 1 (1) In formulating any relevant proposals, a licence holder or a person authorised by exemption to generate or supply electricity—
    - (a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archeological interest; and
    - (b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.
  - (2) In considering any relevant proposals for which his consent is required under section 36 or 37 of this Act, the Secretary of State shall have regard to—
    - (a) the desirability of the matters mentioned in paragraph (a) of sub-paragraph (1) above; and
    - (b) the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph (b) of that sub-paragraph.
  - (3) In this paragraph—

“building” includes structure;

“relevant proposals” means any proposals—

    - (a) for the construction or extension of a generating station of a capacity not less than 10 megawatts, or for the operation of such a station in a different manner;
    - (b) for the installation (whether above or below ground) of an electric line; or
    - (c) for the execution of any other works for or in connection with the transmission or supply of electricity.
  - (4) The Secretary of State may by order provide that sub-paragraph (3) above shall have effect as if for the capacity mentioned in paragraph (a) there were substituted such other capacity as may be specified in the order.
  - (5) This paragraph and paragraph 2 below extend to England and Wales only.
- 2 (1) A licence holder shall within twelve months from the grant of his licence prepare, and from time to time modify, a statement setting out the manner in which he proposes to

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perform his duty under paragraph 1(1) above, including in particular the consultation procedures which he intends to follow.

(2) Before preparing or modifying a statement under this paragraph, a licence holder shall consult the [<sup>F1</sup>Countryside Agency],

[<sup>F2</sup>and—

- (a) where the activities which he is authorised by his licence to carry on include activities in England, the Nature Conservancy Council for England and the Historic Buildings and Monuments Commission for England; and
- (b) where those activities include activities in Wales, the Countryside Council for Wales and] the Historic Buildings Council for Wales.

(3) As soon as practicable after preparing or modifying a statement under this paragraph, the licence holder shall publish the statement as so prepared or so modified in such manner as he considers appropriate.

#### Textual Amendments

- F1** Words in [Sch. 9 para. 2](#) substituted (20.2.1999) by [S.I. 1999/416, art. 3, Sch. 1 para. 13](#)
- F2** Words in [Sch. 9 para. 2\(2\)](#) substituted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), s. 132\(1\)\(a\), Sch. 9 para. 16\(a\); S.I. 1991/685, art. 3](#)

#### *Preservation of amenity and fisheries: Scotland*

- 3 (1) In formulating any relevant proposals, a licence holder or a person authorised by an exemption to generate or supply electricity—
- (a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and
  - (b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.
- (2) In considering any relevant proposals for which his consent is required under section 36 or 37 of this Act, the Secretary of State shall have regard to—
- (a) the desirability of the matters mentioned in paragraph (a) of sub-paragraph (1) above; and
  - (b) the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph (b) of that sub-paragraph.
- (3) Without prejudice to sub-paragraphs (1) and (2) above, in exercising any relevant functions each of the following, namely, a licence holder, a person authorised by an exemption to generate or supply electricity and the Secretary of State shall avoid, so far as possible, causing injuries to fisheries or to the stock of fish in any waters.
- (4) In this paragraph—  
 “building” includes structure;

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“relevant proposals” has the same meaning as in paragraph 1 above and, for the purposes of this paragraph, any such order as is mentioned in subparagraph (4) of that paragraph may be made under this sub-paragraph;

“relevant functions” means any powers conferred and any duties imposed by or under this Act.

(5) This paragraph and paragraphs 4 and 5 below extend to Scotland only.

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

**C1** Sch. 9 para. 3: transfer of certain functions (S.) (1.7.1999) by S.I. 1999/1750, arts. 1, 2, Sch. 1 (with art. 7)

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- (1) A licence holder shall within twelve months from the grant of his licence prepare, and from time to time modify, a statement setting out the manner in which he proposes to perform his duty under paragraph 3(1) above, including in particular the consultation procedures which he intends to follow.
  - (2) Before preparing or modifying a statement under this paragraph, a licence holder shall consult with [<sup>F3</sup>Scottish Natural Heritage], the Ancient Monuments Board for Scotland and the Historic Buildings Council for Scotland.
  - (3) As soon as practicable after preparing or modifying a statement under this paragraph, the licence holder shall publish the statement so prepared or so modified in such a manner as he considers appropriate.

#### Textual Amendments

**F3** Words in Sch. 9 para. 4(2) substituted (1.4.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), ss. 27(1), 28(2), Sch. 10 para.13; S.I. 1991/2633, art. 4

#### *Fisheries Committee: Scotland*

- 5
- (1) The Fisheries Committee appointed under section 5(2) of the <sup>M1</sup>Electricity (Scotland) Act 1979 shall continue in existence, and shall have the function of giving advice and assistance (whether specifically requested or not), on questions relating to the effect in Scotland—
    - (a) on fisheries, or
    - (b) on the stock of fish in any waters,of generating stations wholly or mainly driven by water, to the Secretary of State and to any person engaged in, or proposing to engage in, the operation of such a generating station.
  - (2) The Committee shall consist of such a number of persons, appointed by the Secretary of State, as he may think proper.
  - (3) The Committee shall have the power to regulate its own procedure.
  - (4) Persons engaged in, or proposing to engage in, the operation of such a generating station as is mentioned in subparagraph (1) above shall furnish to the Committee any maps, plans, drawings or information which the Committee may reasonably require, and give to the Committee reasonable facilities for inspection.

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- (5) A person making an application to the Secretary of State for consent under section 36 of this Act as respects such a generating station as is mentioned in sub-paragraph (1) above shall, before or on doing so, consult the Committee as regards the matter to which the application relates.
- (6) Upon being so consulted the Committee may make recommendations to the applicant or to any other person and shall transmit a copy of the recommendations to the Secretary of State; and the applicant shall intimate to the Committee and to the Secretary of State whether or not he is prepared to give effect to such recommendations as have been made to him.
- (7) If an applicant is not prepared to give effect to a recommendation made to him under sub-paragraph (6) above, the Secretary of State may, after considering any representation made, refuse the consent applied for.
- (8) Any expenses reasonably incurred by the Committee shall be defrayed by the Secretary of State out of money provided by Parliament.
- (9) Where recommendations are made under sub-paragraph (6) above to a person other than the applicant, that person shall have regard to the recommendations in carrying out any activities to which they are relevant.

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

**C2** Sch. 9 para. 5: transfer of certain functions (S.) (1.7.1999) by [S.I. 1999/1750](#), arts. 1, 2, [Sch. 1](#) (with art. 7)

**Marginal Citations**

**M1** [1979 c. 11](#)

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