

ENERGY ACT 2004

EXPLANATORY NOTES

TERRITORIAL EXTENT AND TERRITORIAL APPLICATION

6. Most of the Act's content relates to reserved matters. Except as set out in paragraph 10 below, the Act extends to the whole of the United Kingdom.

Scotland

7. On 4 February 2004, the Scottish Parliament agreed that a number of provisions should cover functions devolved in Scotland. These include:
- some functions of the NDA that relate to devolved functions;
 - amendments to the [Radioactive Substances Act 1993 \(c.12\)](#);
 - the jurisdiction of the new Civil Nuclear Constabulary;
 - in regard to offshore renewable developments (Chapters 2 (Offshore Production of Energy) and 3 (Decommissioning of Offshore Installations) of Part 2 (Sustainability and Renewable Energy Sources)), the application of civil and criminal law (including police powers) and the extinguishment of public rights of navigation;
 - provisions covering shorter obligation periods under the Renewables Obligation, and surcharges on late payments to the Renewables buy-out fund;
 - mutual recognition of Renewables Obligation Certificates issued in Northern Ireland and Great Britain;
 - provision covering surpluses arising from the Fossil Fuel Levy in Scotland.
8. The NDA will have functions which relate to both reserved and devolved matters in Scotland and so will have the status of and be similar to a cross border authority. The Act sets out the responsibilities which Scottish Ministers will have in relation to the operation of the NDA, and arrangements to ensure the accountability, where appropriate, to the Scottish Parliament as well as to Westminster. In respect of safety zones, the DTI and Scottish Executive have agreed that the Secretary of State will exercise the powers in the Act after consultation with Scottish Ministers.

Wales

9. The Act does not cover any areas where power has been devolved to the National Assembly for Wales except the provisions amending the [Radioactive Substances Act 1993 \(c.12\)](#) where functions of the Assembly are modified in the same way as functions of the Secretary of State and Scottish Ministers. Otherwise the Act does not confer functions on the Assembly.

Northern Ireland

10. The Act extends to Northern Ireland except:

These notes refer to the Energy Act 2004 (c.20) which received Royal Assent on 22 July 2004

- the provisions relating to the Civil Nuclear Constabulary (Chapter 3 of Part 1), with some minor exceptions;
- all amendments to the Electricity Act 1989 in Part 2 (Sustainability and Renewable Energy Sources);
- section 82 (microgeneration strategy);
- sections 90 and 91 (modification of conditions and extension of licences for offshore transmission) and 100 (further provision relating to public rights of navigation);
- Part 3 (Energy Regulation), with the exception of section 151 (5).