



# Energy Act 2004

## 2004 CHAPTER 20

### PART 2

#### SUSTAINABILITY AND RENEWABLE ENERGY SOURCES

### CHAPTER 2

#### OFFSHORE PRODUCTION OF ENERGY

##### *Navigation and civil aviation*

#### **100 Further provision relating to public rights of navigation**

- (1) This section applies where a consent falling within subsection (2) has been granted by the Secretary of State or the Scottish Ministers (“the consenting authority”) under section 36 of the 1989 Act (consent required for construction etc. of generating stations) before the commencement of section 99.
- (2) A consent falls within this subsection if it relates to—
  - (a) the construction or operation of a generating station that comprises or is to comprise (in whole or in part) renewable energy installations situated in relevant waters; or
  - (b) an extension of a generating station that comprises or is to comprise (in whole or in part) renewable energy installations so situated or an extension of such an installation.
- (3) On an application made by the generator, the consenting authority may make a declaration under this section as respects rights of navigation—
  - (a) so far as they pass through the places where the renewable energy installations are situated or are to be situated; or
  - (b) so far as they pass through some of those places.

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*Status: Point in time view as at 01/09/2005. This version of this provision has been superseded.*

*Changes to legislation: Energy Act 2004, Section 100 is up to date with all changes known to be in force on or before 12 October 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)*

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- (4) A declaration under this section is one declaring that the rights of navigation specified or described in it—
- (a) are extinguished;
  - (b) are suspended for the period that is specified in the declaration;
  - (c) are suspended until such time as may be determined in accordance with provision contained in the declaration; or
  - (d) are to be exercisable subject to such restrictions or conditions, or both, as are set out in the declaration.
- (5) Subsections (4) to (6) of section 36A of the 1989 Act (declarations extinguishing etc. rights of navigation upon grant of consent under section 36 of that Act) shall apply in relation to declarations under this section as they apply in relation to declarations under that section, but with the omission of subsection (5)(c).
- (6) Before making a declaration under this section, the consenting authority must—
- (a) publish details of the generator’s application in such manner as that authority considers appropriate;
  - (b) give notice of that application to such persons as that authority considers appropriate;
  - (c) consult the persons to whom notice has been given;
  - (d) make such arrangements as that authority considers appropriate for a copy of the application to be made available for inspection by members of the public; and
  - (e) give such opportunities to such persons as that authority considers appropriate to make representations to the authority about the application.
- (7) The consenting authority may satisfy the requirements of paragraphs (a) to (d) of subsection (6) by securing that the things that it is required to do under those paragraphs are done on its behalf by the generator.
- (8) In this section—
- “generator”, in relation to a consent under section 36 of the 1989 Act, means the person who is constructing or operating the station in question, or making the extension in question, or who is proposing to do so;
- “relevant waters” has the same meaning as in section 36A of the 1989 Act.

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**Commencement Information**

**II** S. 100 in force at 1.9.2005 by [S.I. 2005/442](#), art. 2(3), [Sch. 3](#)

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