



Energy Act 2004

2004 CHAPTER 20

PART 2

SUSTAINABILITY AND RENEWABLE ENERGY SOURCES

CHAPTER 3

DECOMMISSIONING OF OFFSHORE INSTALLATIONS

Decommissioning programmes

105 Requirement to prepare decommissioning programmes

(1) This section applies where—

- (a) there is a proposal by a person to construct a relevant object in waters regulated under this Chapter, or to extend a relevant object in such waters;
- (b) there is a proposal by a person to operate or to use a relevant object in such waters on the completion of its construction, or of any extension of it in such waters; or
- (c) a person is constructing, extending, operating or using a relevant object in such waters or has begun in such waters to decommission such an object.

[^{F1}(1A) In this Chapter “appropriate Minister”—

- (a) in relation to a renewable energy installation, means the Scottish Ministers—
 - (i) if the installation is to be or is wholly in an area of Scottish waters or an area of waters in a Scottish part of a Renewable Energy Zone, and is not being or proposed to be extended outside those areas,
 - (ii) if sub-paragraph (i) has ceased to apply to the installation because of an extension or proposed extension, and subsection (1B) applies, or
 - (iii) to the extent that the installation is to be or is in an area of Scottish waters or an area of waters in a Scottish part of a Renewable Energy

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- Zone, if sub-paragraph (i) has ceased to apply because of an extension or proposed extension, and subsection (1B) does not apply;
 and otherwise means the Secretary of State;
- (b) in relation to an electric line which is or has been a related line, means—
- (i) the Scottish Ministers, to the extent that the line is to be or is in an area of Scottish waters or an area of waters in a Scottish part of a Renewable Energy Zone;
 - (ii) otherwise, the Secretary of State.
- (1B) This subsection applies to an installation if there is an agreement in force between the Secretary of State and the Scottish Ministers providing for the Scottish Ministers to be the appropriate Minister in relation to the whole of the installation.
- (1C) Where subsection (1B) applies, the Scottish Ministers must consult the Secretary of State about the exercise of their functions as the appropriate Minister.]
- (2) The [F²appropriate Minister] may by notice require[F³—
- (a) a person falling within subsection (1)(a), (b) or (c), or
 - (b) if a person to whom paragraph (a) applies is a body corporate, a body corporate associated with that person (subject to section 105A),]
- to submit to him a programme for decommissioning the relevant object (a “decommissioning programme”).
- (3) [F⁴Before requiring a person to submit a decommissioning programme in respect of proposals made by a person within paragraph (a) or (b) of subsection (1), the [F²appropriate Minister] must be satisfied that at least one of the statutory consents required for giving effect to those proposals—]
- (a) has been given; or
 - (b) has been applied for and is likely to be given;
- but for this purpose it is immaterial that a statutory consent that has been or may be given will have no effect before a particular time or unless particular conditions are satisfied.
- (4) Where there is more than one person to whom a notice under this section may be given—
- (a) it may be given to any one or more of them; and
 - (b) where it is given to more than one of them, the requirement to submit a programme must be satisfied by all those persons acting jointly.
- (5) Before giving a notice under this section in relation to a relevant object which is to be or is, F⁵... partly—
- (a) in an area of Scottish waters; or
 - (b) in an area of waters in a Scottish part of a Renewable Energy Zone,
- the Secretary of State must consult the Scottish Ministers.
- (6) A notice under this section must either—
- (a) specify the date by which the decommissioning programme is to be submitted; or
 - (b) require it to be submitted on or before such date as the [F²appropriate Minister] may direct.

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(7) A notice under this section may require the recipient of the notice to carry out the consultations specified in the notice before submitting the programme required of him.

(8) A decommissioning programme—

- (a) must set out measures to be taken for decommissioning the relevant object;
- (b) must contain an estimate of the expenditure likely to be incurred in carrying out those measures;
- (c) must make provision for the determination of the times at which, or the periods within which, those measures will have to be taken;
- (d) if it proposes that the relevant object will be wholly or partly removed from a place in waters regulated under this Chapter, must include provision about restoring that place to the condition that it was in prior to the construction of the object; and
- (e) if it proposes that the relevant object will be left in position at a place in waters regulated under this Chapter or will not be wholly removed from a place in such waters, must include provision about whatever continuing monitoring and maintenance of the object will be necessary.

^{F6}(9)

(10) In this Chapter—

“relevant object” means the whole or any part of—

- (a) a renewable energy installation; or
- (b) an electric line that is or has been a related line;

“waters regulated under this Chapter” means—

- (a) waters in or adjacent to Great Britain which are between the mean low water mark and the seaward limits of the territorial sea; and
- (b) waters in a Renewable Energy Zone.

(11) In this section—

“related line” means an electric line which is a line for the conveyance of electricity to or from a renewable energy installation but is not an electricity interconnector (within the meaning of Part 1 of the 1989 Act); and

“statutory consent” means a consent, licence or approval required by or under any enactment.

Textual Amendments

- F1** S. 105(1A)-(1C) inserted (1.4.2017) by Scotland Act 2016 (c. 11), ss. 62(9), 72(4)(e); S.I. 2017/300, reg. 3 (with regs. 4-6)
- F2** Words in Pt. 2 Ch. 3 substituted (1.4.2017) by Scotland Act 2016 (c. 11), ss. 62(10)(11), 72(4)(e); S.I. 2017/300, reg. 3 (with regs. 4-6)
- F3** Words in s. 105(2) substituted (6.4.2009) by Energy Act 2008 (c. 32), ss. 69(2), 110(2); S.I. 2009/45, art. 4(b)(ii)
- F4** Words in s. 105(3) substituted (6.4.2009) by Energy Act 2008 (c. 32), ss. 69(3), 110(2); S.I. 2009/45, art. 4(b)(ii)
- F5** Words in s. 105(5) omitted (1.4.2017) by virtue of Scotland Act 2016 (c. 11), ss. 62(11)(12), 72(4)(e); S.I. 2017/300, reg. 3 (with regs. 4-6)
- F6** S. 105(9) repealed (6.4.2009) by Energy Act 2008 (c. 32), s. 110(2), Sch. 5 para. 17, Sch. 6; S.I. 2009/45, art. 4(d)(i)(ii)(ee)

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Commencement Information

II S. 105 in force at 1.10.2005 by [S.I. 2005/877](#), art. 2(2), [Sch. 2](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 88(1)(a) words substituted by [S.I. 2024/706 reg. 7\(a\)](#)
- s. 137(3)(c)-(e) inserted by [2011 c. 16 s. 117\(b\)](#)
- s. 173(2C) inserted by [2023 c. 52 Sch. 14 para. 10](#)
- Sch. 22 para. 4(1A) inserted by [2023 c. 52 Sch. 14 para. 11\(2\)\(b\)](#)