



Energy Act 2004

2004 CHAPTER 20

PART 2

SUSTAINABILITY AND RENEWABLE ENERGY SOURCES

CHAPTER 2

OFFSHORE PRODUCTION OF ENERGY

Safety zones for installations

95 Safety zones around renewable energy installations

(1) This section applies where—

- (a) there is a proposal to construct a renewable energy installation in waters subject to regulation under this section, or to extend or to decommission a renewable energy installation situated in such waters;
- (b) there is a proposal to operate a renewable energy installation on completion of its construction in such waters, or of any extension of it in such waters; or
- (c) a renewable energy installation is being constructed, extended, operated or decommissioned in such waters.

[^{F1}(1A) In this section and section 96 the “appropriate Minister” [^{F2}means—

- (a) the Scottish Ministers], in relation to a renewable energy installation—
 - [^{F3}(i)] which 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,
 - [^{F3}(ii)] to which [^{F4}sub-paragraph (i)] has ceased to apply because of an extension or proposed extension, if subsection (1B) applies, or
 - [^{F3}(iii)] to the extent that it 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, if [^{F5}sub-

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- paragraph (i)] has ceased to apply because of an extension or proposed extension, and subsection (1B) does not apply,
- [^{F6}(b) the Welsh Ministers, in relation to a renewable energy installation which has, or will have, a capacity of 350 megawatts or less and—
- (i) which is to be or is in an area of Welsh waters, and is not being proposed to be extended outside those areas,
 - (ii) to which sub-paragraph (i) has ceased to apply because of an extension or proposed extension, if subsection (1D) applies, or
 - (iii) to the extent that it is to be or is in an area of Welsh waters, if sub-paragraph (i) has ceased to apply because of an extension or proposed extension, and subsection (1D) does not apply,]
- and otherwise means the Secretary of State (subject to section 13 of the Marine and Coastal Access Act 2009, which transfers certain functions of the Secretary of State to the Marine Management Organisation).
- (b) the Welsh Ministers, in relation to a renewable energy installation which has, or will have, a capacity of 350 megawatts or less and—
- (i) which is to be or is in an area of Welsh waters, and is not being proposed to be extended outside those areas,
 - (ii) to which sub-paragraph (i) has ceased to apply because of an extension or proposed extension, if subsection (1D) applies, or
 - (iii) to the extent that it is to be or is in an area of Welsh waters, if sub-paragraph (i) has ceased to apply because of an extension or proposed extension, and subsection (1D) does not apply,
- (1B) This subsection applies 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.]
- [^{F7}(1D) This subsection applies if there is an agreement in force between the Secretary of State and the Welsh Ministers providing for the Welsh Ministers to be the appropriate Minister in relation to the whole of the installation.
- (1E) Where subsection (1D) applies, the Welsh Ministers must consult the Secretary of State about the exercise of their functions as the appropriate Minister.]
- (2) If the [^{F8}appropriate Minister] considers it appropriate to do so for the purpose of securing the safety of—
- (a) the renewable energy installation or its construction, extension or decommissioning,
 - (b) other installations in the vicinity of the installation or the place where it is to be constructed or extended,
 - (c) individuals in or on the installation or other installations in that vicinity, or
 - (d) vessels in that vicinity or individuals on such vessels,
- he may issue a notice declaring that such areas as are specified or described in the notice are to be safety zones for the purposes of this Chapter.
- (3) The power of the [^{F8}appropriate Minister] to issue a notice under this section shall be exercisable by him either—
- (a) on an application made to him for the purpose by any person; or

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- (b) where no such application is made, on his own initiative.
- (4) Before issuing a notice under this section which relates, wholly or partly, to—
 - (a) an area of Scottish waters, or
 - (b) an area of waters in a Scottish part of a Renewable Energy Zone,the Secretary of State must consult the Scottish Ministers.
- [^{F9}(4A) Before issuing a notice under this section which relates, wholly or partly, to an area outside the areas mentioned in subsection (4), the Scottish Ministers must consult the Secretary of State.]
- [^{F10}(4B) Before issuing a notice under this section which relates, wholly or partly, to Welsh waters, the Secretary of State must consult the Welsh Ministers.
- (4C) Before issuing a notice under this section which relates, wholly or partly, to an area outside Welsh waters, the Welsh Ministers must consult the Secretary of State.]
- (5) An area may be declared to be a safety zone only if it is an area of waters around or adjacent to a place where a renewable energy installation is to be, or is being, constructed, extended, operated or decommissioned; but a safety zone may extend to waters outside the waters subject to regulation under this section.
- (6) A notice under this section—
 - (a) must identify the renewable energy installation, or proposed renewable energy installation, by reference to which it is issued;
 - (b) must specify the date on which it is to come into force, or the means by which that date is to be determined;
 - (c) may contain provision by virtue of which the area of a safety zone varies from time to time by reference to factors specified in, or determinations made in accordance with, the provisions of the notice;
 - (d) may contain provision imposing prohibitions on the carrying on in a safety zone of activities specified in, or determined in accordance with, the provisions of the notice, or for the imposition of such prohibitions;
 - (e) may contain provision granting permission for vessels to enter or remain in a safety zone or for persons to carry on prohibited activities, or for the grant of such permissions;
 - (f) may confer discretions, with respect to the making of determinations for the purposes of such a notice, on such persons as may be specified or described in the notice;
 - (g) may modify or revoke a previous notice; and
 - (h) may make different provision in relation to different cases.
- (7) Where a notice is issued under this section or a determination is made for the purposes of such a notice, the [^{F8}appropriate Minister] must either—
 - (a) himself publish the notice or determination in such manner as he considers appropriate for bringing it, as soon as is reasonably practicable, to the attention of persons likely to be affected by it; or
 - (b) secure that it is published in that manner—
 - (i) by the applicant for the notice; or
 - (ii) in the case of a determination made by a person other than the [^{F8}appropriate Minister], by the applicant for the notice or by the person who made the determination.

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- (8) References in this section to a determination for the purposes of a notice include references to a determination made for those purposes in accordance with the notice, or with regulations under section 96—
- (a) to impose a prohibition;
 - (b) to grant a permission; or
 - (c) to impose conditions in relation to a permission.
- (9) Schedule 16 (which makes provision about the procedure for the declaration of safety zones) has effect.
- (10) The waters subject to regulation under this section are—
- (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 within a Renewable Energy Zone.

Textual Amendments

- F1** S. 95(1A)-(1C) substituted (1.4.2017) by [Scotland Act 2016 \(c. 11\)](#), **ss. 62(3)**, 72(4)(e); S.I. 2017/300, reg. 3
- F2** Words in s. 95(1A) substituted (1.4.2019) by [Wales Act 2017 \(c. 4\)](#), **ss. 41(2)(a)**, 71(4) (with Sch. 7 paras. 1, 6, 8, 10); S.I. 2017/1179, reg. 5(a)
- F3** S. 95(1A)(a)-(c) renumbered as s. 95(1A)(a)(i)-(iii) (1.4.2019) by [Wales Act 2017 \(c. 4\)](#), **ss. 41(2)(b)**, 71(4) (with Sch. 7 paras. 1, 6, 8, 10); S.I. 2017/1179, reg. 5(a)
- F4** Words in s. 95(1A)(a)(ii) substituted (1.4.2019) by [Wales Act 2017 \(c. 4\)](#), **ss. 41(2)(c)**, 71(4) (with Sch. 7 paras. 1, 6, 8, 10); S.I. 2017/1179, reg. 5(a)
- F5** Words in s. 95(1A)(a)(iii) substituted (1.4.2019) by [Wales Act 2017 \(c. 4\)](#), **ss. 41(2)(c)**, 71(4) (with Sch. 7 paras. 1, 6, 8, 10); S.I. 2017/1179, reg. 5(a)
- F6** S. 95(1A)(b) inserted (1.4.2019) by [Wales Act 2017 \(c. 4\)](#), **ss. 41(2)(d)**, 71(4) (with Sch. 7 paras. 1, 6, 8, 10); S.I. 2017/1179, reg. 5(a)
- F7** S. 95(1D)(1E) inserted (1.4.2019) by [Wales Act 2017 \(c. 4\)](#), **ss. 41(3)**, 71(4) (with Sch. 7 paras. 1, 6, 8, 10); S.I. 2017/1179, reg. 5(a)
- F8** Words in s. 95(2)(3)(7) substituted (1.4.2017) by [Scotland Act 2016 \(c. 11\)](#), **ss. 62(4)**, 72(4)(e); S.I. 2017/300, reg. 3
- F9** S. 95(4A) inserted (1.4.2017) by [Scotland Act 2016 \(c. 11\)](#), **ss. 62(5)**, 72(4)(e); S.I. 2017/300, reg. 3
- F10** S. 95(4B)(4C) inserted (1.4.2019) by [Wales Act 2017 \(c. 4\)](#), **ss. 41(4)**, 71(4) (with Sch. 7 paras. 1, 6, 8, 10); S.I. 2017/1179, reg. 5(a)

Modifications etc. (not altering text)

- C1** S. 95: transfer of functions in part (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), **ss. 13(2)(5)**, 324(3); S.I. 2010/298, art. 2, Sch. para. 5 (with art. 4(2))
- C2** **Ss. 95-98** applied (E.W.) (22.12.2021) by [The Morlais Demonstration Zone Order 2021 \(S.I. 2021/1478\)](#), arts. 1, **43(3)(4)** (with arts. 15, 50, Sch. 11 para. 29)

Commencement Information

- I1** S. 95 in force at 1.10.2005 by [S.I. 2005/877](#), art. 2(2), **Sch. 2**

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