



# Energy Act 2023

## 2023 CHAPTER 52

### PART 13

#### OFFSHORE WIND ELECTRICITY GENERATION, OIL AND GAS

### CHAPTER 1

#### OFFSHORE WIND ELECTRICITY GENERATION

#### **292 Marine recovery fund**

- (1) The Secretary of State may by regulations make provision for the establishment, operation and management of one or more marine recovery funds.
- (2) A marine recovery fund is a fund—
  - (a) into which payments may be made in respect of relevant offshore wind activities, and
  - (b) out of which payments may be made towards expenditure on measures to compensate for adverse environmental effects of relevant offshore wind activities.
- (3) The following provisions of this section are without prejudice to the generality of subsection (1).
- (4) Regulations under this section may make provision—
  - (a) enabling a determination to be made, by or on behalf of the relevant person, as to whether (and, if so, the extent to which) a payment into the fund discharges a compensation condition imposed on another person in connection with the granting of consent in respect of a relevant offshore wind activity;
  - (b) for a payment into the fund to be treated as discharging a compensation condition to the extent (if any) determined by virtue of paragraph (a).

---

*Status: This is the original version (as it was originally enacted).*

---

- (5) “Compensation condition”, in relation to a person, means a condition requiring the person to take measures to compensate for adverse environmental effects of a relevant offshore wind activity.
- (6) “Relevant person”, for the purposes of a determination made by virtue of subsection (4)(a), means the person who imposed the compensation condition.
- (7) Regulations under this section may make provision—
- (a) enabling payments to be made out of the fund towards expenditure described in subsection (2)(b);
  - (b) about the persons to whom such a payment may be made;
  - (c) enabling conditions to be imposed on a person to whom such a payment is made in connection with the taking of measures described in subsection (2)(b).
- (8) Regulations under this section may make provision—
- (a) about the recovery of costs incurred in connection with the exercise of functions conferred by the regulations;
  - (b) conferring functions, including functions involving the exercise of a discretion, on the Secretary of State;
  - (c) for the delegation of functions conferred on the Secretary of State, where the functions relate to the operation or management of a marine recovery fund.
- (9) Regulations made by virtue of subsection (8)(c) may provide that a function may be delegated—
- (a) to a Scottish public authority only if the function relates to the taking or securing of measures in Scotland;
  - (b) to a Welsh public authority only if the function relates to the taking or securing of measures in Wales;
  - (c) to a Northern Ireland public authority only if the function relates to the taking or securing of measures in Northern Ireland.
- (10) Regulations made by virtue of subsection (8)(c) must provide that the delegation of a function—
- (a) to a Scottish public authority requires the consent of the Scottish Ministers;
  - (b) to a Welsh public authority requires the consent of the Welsh Ministers;
  - (c) to a Northern Ireland public authority requires the consent of DAERA.
- (11) Regulations made by virtue of subsection (8)(c) must provide that the delegation of a function—
- (a) may be cancelled by the Secretary of State in accordance with the regulations;
  - (b) does not prevent the Secretary of State from carrying out any function delegated.
- (12) Before making regulations under this section, the Secretary of State must consult—
- (a) the Scottish Ministers, so far as the regulations relate to relevant offshore wind activities in Scotland,
  - (b) the Welsh Ministers, so far as the regulations relate to relevant offshore wind activities in Wales,
  - (c) DAERA, so far as the regulations relate to relevant offshore wind activities in Northern Ireland, and
  - (d) such other persons as the Secretary of State considers appropriate.

(13) Regulations under this section are subject to the negative procedure.