



Energy Act 2023

2023 CHAPTER 52

PART 13

OFFSHORE WIND ELECTRICITY GENERATION, OIL AND GAS

CHAPTER 2

OIL AND GAS

Environmental protection

298 Regulations under sections 296 and 297: procedure with devolved authorities

Regulations under section 296

- (1) Before making regulations under section 296 that contain provision within devolved competence, the Secretary of State must give notice to each relevant devolved authority—
 - (a) stating that the Secretary of State proposes to make regulations under that section,
 - (b) setting out or describing the provision that is within the relevant devolved competence, and
 - (c) specifying the period (of not less than 28 days from the date on which the notice is given) within which representations may be made with respect to that provision,and must consider any representations duly made and not withdrawn.
- (2) The Secretary of State need not wait until the end of the period specified under subsection (1)(c) before making regulations if, before the end of that period, each relevant devolved authority to which the notice was given has confirmed that it has made any representations it intends to make with respect to the provision referred to in subsection (1)(b).

Status: This is the original version (as it was originally enacted).

- (3) The Secretary of State must, if requested to do so by a relevant devolved authority, give the authority a statement setting out whether and how representations made by the authority with respect to the provision referred to in [subsection \(1\)\(b\)](#) have been taken into account in the regulations.
- (4) In subsections (1) to (3), “relevant devolved authority”, in relation to regulations, means—
- (a) the Scottish Ministers, if the regulations contain provision within Scottish devolved competence;
 - (b) the Welsh Ministers, if the regulations contain provision within Welsh devolved competence;
 - (c) the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, if the regulations contain provision within Northern Ireland devolved competence;
- and “the relevant devolved competence”, in relation to a relevant devolved authority, is to be construed accordingly.

Regulations under section 297

- (5) The Secretary of State may not make regulations under section [297](#) containing provision within Scottish devolved competence unless the Scottish Ministers have consented to that provision.
- (6) The Secretary of State may not make regulations under section [297](#) containing provision within Welsh devolved competence unless the Welsh Ministers have consented to that provision.

Devolved competence

- (7) For the purposes of this section, provision—
- (a) is within Scottish devolved competence if it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
 - (b) is within Welsh devolved competence if it would be within the legislative competence of Senedd Cymru if it were contained in an Act of the Senedd (ignoring any requirement for the consent of a Minister of the Crown imposed under Schedule 7B to the Government of Wales Act 2006);
 - (c) is within Northern Ireland devolved competence if it—
 - (i) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
 - (ii) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998;

and references to provision being within devolved competence are to provision that is within Scottish, Welsh or Northern Ireland devolved competence.