



Energy Act 2004

2004 CHAPTER 20

PART 2

SUSTAINABILITY AND RENEWABLE ENERGY SOURCES

CHAPTER 2

OFFSHORE PRODUCTION OF ENERGY

Supplementary provisions of Chapter 2 of Part 2

102 Amendments of 1989 Act consequential on Chapter 2 of Part 2

- (1) The 1989 Act is amended as follows.
- (2) In section 61(2) (concurrent proceedings for compulsory purchase and in respect of consents under section 36 of that Act), at the end insert “and with any related proceedings under Schedule 16 to the Energy Act 2004”.
- (3) In section 62(3) (power to combine inquiries)—
 - (a) in paragraph (a), after “this Part” insert “or Schedule 16 to the Energy Act 2004”; and
 - (b) in paragraph (b), after “this Part” insert “, that Schedule”.
- (4) In section 64(1) (interpretation of Part 1)—
 - (a) after the definition of “authorised supplier” insert—

““construct” and “construction”, in relation to so much of a generating station as comprises or is to comprise renewable energy installations, has the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004;”;
 - (b) after the definitions of “relevant condition” and “relevant requirement” insert—

Status: This is the original version (as it was originally enacted).

““renewable energy installation” and “Renewable Energy Zone” have the same meanings as in Chapter 2 of Part 2 of the Energy Act 2004;”.

(5) After section 108 insert—

“108A Extraterritorial operation of Act

- (1) Where by virtue of this Act an act or omission taking place outside Great Britain constitutes an offence, proceedings for the offence may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in Great Britain.
- (2) Provision made by or under this Act in relation to places outside Great Britain—
 - (a) so far as it applies to individuals, applies to them whether or not they are British citizens; and
 - (b) so far as it applies to bodies corporate, applies to them whether or not they are incorporated under the law of a part of the United Kingdom.”

103 Other amendments consequential on Chapter 2 of Part 2

- (1) In section 8 of the Continental Shelf Act 1964 (c. 29) (application of Submarine Telegraph Act 1885 to pipelines and submarine cables)—
 - (a) in subsection (1), omit “high-voltage”; and
 - (b) in subsection (1A), for the words from “pipe-lines under the high seas” onwards substitute “submarine cables and pipe-lines under the high seas includes a reference to submarine cables and pipe-lines under the territorial sea adjacent to the United Kingdom or under waters in an area designated under section 1(7) of this Act”.
- (2) In section 23 of the Police and Criminal Evidence Act 1984 (c. 60) (meaning of premises)—
 - (a) in the definition of “premises”, for the “and” at the end of paragraph (b) substitute—

“(ba) any renewable energy installation;”;
 - (b) after the definition of “offshore installation” insert—

““renewable energy installation” has the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004.”
- (3) In section 10(10) of the Petroleum Act 1998 (c. 17) (section to apply to installations in transit), after “transit” insert “but does not apply to an installation that is a renewable energy installation (within the meaning of Chapter 2 of Part 2 of the Energy Act 2004)”.
- (4) After section 47 of that Act insert—

“47A Factors for the Secretary of State to take into account

- (1) The matters to which the Secretary of State may have regard, in exercising or performing the powers and duties conferred or imposed on him by or under this Act, include, in particular—

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- (a) activities in relevant waters for or in connection with the generation of electricity;
 - (b) proposals made by a person to carry on such activities;
 - (c) the proposals that it appears to the Secretary of State may be made in the future for the carrying on of such activities; and
 - (d) the likelihood that activities will in due course be carried on in accordance with proposals falling within paragraph (b) or (c).
- (2) The reference in subsection (1) to activities in connection with the generation of electricity in relevant waters includes—
- (a) the transmission, distribution and supply of the electricity generated; and
 - (b) the doing of anything (whether by way of investigations, trials or feasibility studies or otherwise) with a view to ascertaining whether activities in relevant waters for or in connection with the generation of electricity are, in a particular case, practicable or commercially viable, or both.
- (3) In this section—
- “distribution”, “generate”, “supply” and “transmission”, and cognate expressions, have the same meanings as in Part 1 of the Electricity Act 1989; and
- “relevant waters” means—
- (a) waters in or adjacent to the United Kingdom up to the seaward limits of the territorial sea; or
 - (b) waters in a Renewable Energy Zone (within the meaning of Chapter 2 of Part 2 of the Energy Act 2004).”

104 Interpretation of Chapter 2 of Part 2

- (1) In this Chapter—
- “construct”, in relation to an installation or an electric line or in relation to a generating station so far as it is to comprise renewable energy installations, includes—
- (a) placing it in or upon the bed of any waters;
 - (b) attaching it to the bed of any waters;
 - (c) assembling it;
 - (d) commissioning it; and
 - (e) installing it;
- and “construction” is to be construed accordingly;
- “decommission”, in relation to an installation or an electric line, includes—
- (a) removing it from the bed of any waters;
 - (b) demolishing it; and
 - (c) dismantling it;
- “distribution” and “electric line” have the same meanings as in Part 1 of the 1989 Act;
- “extend” and “extension”—
- (a) in relation to a generating station, have the same meanings as in Part 1 of the 1989 Act; and

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- (b) in relation to an installation, have the same meanings as in relation to a generating station;
 - “installation” includes artificial island, structure and device;
 - “master” includes—
 - (a) in relation to a hovercraft, the captain;
 - (b) in relation to any submersible apparatus, the person in charge of the apparatus; and
 - (c) in relation to an installation in transit, the person in charge of the transit operation;
 - “renewable energy installation” is to be construed in accordance with subsections (3) to (5);
 - “Renewable Energy Zone” has the meaning given by section 84(4);
 - “safety zone” means an area which is a safety zone for the purposes of this Chapter by virtue of section 95;
 - “Scottish part”, in relation to a Renewable Energy Zone, means so much of that Zone as is designated under section 84(5);
 - “Scottish waters” means—
 - (a) the internal waters of the United Kingdom that are in or are adjacent to Scotland; or
 - (b) so much of the territorial sea of the United Kingdom as is adjacent to Scotland;
 - “submersible apparatus” has the meaning given by section 88(4) of the Merchant Shipping Act 1995 (c. 21);
 - “supply”, in relation to electricity, has the same meaning as in Part 1 of the 1989 Act;
 - “transmission”, in relation to electricity, has the same meaning as in Part 1 of the 1989 Act;
 - “vessel” includes—
 - (a) a hovercraft;
 - (b) any submersible apparatus; and
 - (c) an installation in transit.
- (2) References in this Chapter to the production of energy from water include, in particular, references to its production from currents and tides.
- (3) In this Chapter “renewable energy installation” means—
- (a) an offshore installation used for purposes connected with the production of energy from water or winds;
 - (b) an installation in the course of construction at a place where it is to be used as an offshore installation within paragraph (a);
 - (c) an installation that has ceased to be an installation within paragraph (a) while remaining an offshore installation (whether or not at the same place);
 - (d) an installation that is being decommissioned at a place where it has been an installation within paragraph (a) or (c);
 - (e) an installation in transit to or from a place where it is to be, or has been, used for purposes that would make it, or made it, an installation within paragraph (a);
 - (f) an installation in transit to or from a place where it is to be, or was, an installation within paragraph (c).

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- (4) In subsection (3) “offshore installation” means an installation which is situated in waters where—
- (a) it permanently rests on, or is permanently attached to, the bed of the waters; and
 - (b) it is not connected with dry land by a permanent structure providing access at all times for all purposes.
- (5) The purposes referred to in subsection (3)(a) include, in particular—
- (a) the transmission, distribution and supply of electricity generated using water or winds; and
 - (b) the doing of anything (whether by way of investigations, trials or feasibility studies or otherwise) with a view to ascertaining whether the generation of electricity in that manner is, in a particular case, practicable or commercially viable, or both.
- (6) Provision made by or under this Chapter in relation to places outside the United Kingdom—
- (a) so far as it applies to individuals, applies to them whether or not they are British citizens; and
 - (b) so far as it applies to bodies corporate, applies to them whether or not they are incorporated under the law of a part of the United Kingdom.