



# Scotland Act 2016

## 2016 CHAPTER 11

### PART 5

#### OTHER EXECUTIVE COMPETENCE

#### **62 Offshore renewable energy installations**

- (1) The Energy Act 2004 is amended as follows.
- (2) Section 95 (safety zones around renewable energy installations) is amended as follows.
- (3) For subsection (1A) substitute—

“(1A) In this section and section 96 the “appropriate Minister” means the Scottish Ministers, in relation to a renewable energy installation—

- (a) 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,
- (b) to which paragraph (a) has ceased to apply because of an extension or proposed extension, if subsection (1B) applies, or
- (c) 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 paragraph (a) has ceased to apply because of an extension or proposed extension, and subsection (1B) 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).

- (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.”

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*Changes to legislation: Scotland Act 2016, Section 62 is up to date with all changes known to be in force on or before 16 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (4) In subsections (2), (3) and (7) for “Secretary of State” in each place, substitute “appropriate Minister”.
- (5) After subsection (4) insert—
- “(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.”
- (6) Section 96 (prohibited activities in safety zones) is amended as follows.
- (7) In subsection (1)(b) and (3)(b) for “Secretary of State” substitute “appropriate Minister”.
- (8) In subsection (8)—
- (a) after “section” insert “—
- (a) if made by the Secretary of State,”
- (b) at the end insert “;
- (b) if made by the Scottish Ministers, are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).”
- (9) In section 105 (requirement to prepare decommissioning programmes) after subsection (1) insert—
- “(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 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.

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- (1C) Where subsection (1B) applies, the Scottish Ministers must consult the Secretary of State about the exercise of their functions as the appropriate Minister.”
- (10) In Chapter 3 (decommissioning of offshore installations), except in the provisions listed in subsection (11), for “Secretary of State” in each place substitute “ appropriate Minister ”.
- (11) The provisions not amended by subsection (10) are—
- (a) sections 105(5), 106(2), 107(2), 108(7) and 111(6) (consultation of the Scottish Ministers);
  - (b) section 113(2) (proceedings in England and Wales or Northern Ireland).
- (12) In the provisions listed in subsection (11)(a) omit “wholly or”.
- (13) In section 111(7) (regulations about decommissioning)—
- (a) after “section” insert “—
    - (a) if made by the Secretary of State,”
  - (b) at the end insert “;
    - (b) if made by the Scottish Ministers, are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).”
- (14) In section 112(7) (duty to inform Secretary of State: regulations)—
- (a) after “section” insert “—
    - (a) if made by the Secretary of State,”
  - (b) at the end insert “;
    - (b) if made by the Scottish Ministers, are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).”
- (15) In section 114 (interpretation of Chapter 3) in subsection (2) before the definition of “decommissioning programme” insert—
- ““appropriate Minister” has the meaning given by section 105(1A);”.
- (16) In section 192 (powers exercisable by statutory instrument) in subsection (4) after “Secretary of State” insert “ , the Scottish Ministers ”.
- (17) Schedule 16 (applications and proposals for notices under section 95) is amended as follows.
- (18) For “Secretary of State” in each place, except in paragraph 7, substitute “ appropriate Minister ”.
- (19) In paragraph 9—
- (a) after “Schedule” insert “—
    - (a) if made by the Secretary of State,”
  - (b) at the end insert “;
    - (b) if made by the Scottish Ministers, are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).”

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(20) In section 13 of the Marine and Coastal Access Act 2009 (safety zones: functions under section 95 of the Energy Act 2004) omit subsection (7).

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**Commencement Information**

**I1** S. 62 in force at 1.4.2017 by S.I. 2017/300, reg. 3 (with regs. 4-6)

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/455, reg. 3 by [S.I. 2019/1438 reg. 2](#)