



Energy Act 2004

2004 CHAPTER 20

PART 2

SUSTAINABILITY AND RENEWABLE ENERGY SOURCES

CHAPTER 2

OFFSHORE PRODUCTION OF ENERGY

Renewable Energy Zones

84 Exploitation of areas outside the territorial sea for energy production

- (1) The rights to which this section applies shall have effect as rights belonging to Her Majesty by virtue of this section.
- (2) This section applies to the rights under Part V of the Convention that are exercisable by the United Kingdom in areas outside the territorial sea—
 - (a) with respect to the exploitation of those areas for the production of energy from water or winds;
 - (b) with respect to the exploration of such areas in that connection; or
 - (c) for other purposes connected with such exploitation.
- (3) The other purposes so connected include, in particular, the transmission, distribution and supply of electricity generated in the course of such exploitation.
- (4) Her Majesty may by Order in Council designate an area as an area within which the rights to which this section applies are exercisable (a “Renewable Energy Zone”).
- (5) The Secretary of State may by order designate the whole or a part of a Renewable Energy Zone as an area in relation to which the Scottish Ministers are to have functions.

Status: This is the original version (as it was originally enacted).

(6) Orders in Council under this section, and orders under subsection (5), are subject to the negative resolution procedure.

(7) In this section—

“the Convention” means the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) and any modifications of that Convention agreed after the passing of this Act that have entered into force in relation to the United Kingdom;

“exploration” includes the doing of anything (whether by way of investigations, trials or feasibility studies or otherwise) with a view to ascertaining whether the exploitation of an area is, in a particular case, practicable or commercially viable, or both.

85 Application of criminal law to renewable energy installations etc.

(1) Her Majesty may by Order in Council provide that acts and omissions which—

- (a) fall within subsection (2), and
- (b) would, if they took place in a part of the United Kingdom, constitute an offence under the law in force in that part,

are to be treated for the purposes of that law as taking place in that part.

(2) An act or omission falls within this subsection if it takes place on, under or above—

- (a) a renewable energy installation situated in waters to which this section applies; or
- (b) waters to which this section applies that are within a safety zone.

(3) Her Majesty may by Order in Council provide that a constable is to have—

- (a) on, under and above a renewable energy installation situated in waters to which this section applies, and
- (b) on, under and above any waters to which this section applies that are within a safety zone,

all the powers and privileges that he has in the area of the force of which he is a member.

(4) Subsection (3) is in addition to any other enactment or any rule of law or subordinate legislation conferring a power or privilege on constables; and this section is to be disregarded in determining the extent of those other powers and privileges.

(5) The waters to which this section applies are—

- (a) tidal waters and parts of the sea in or adjacent to Great Britain up to the seaward limits of the territorial sea; and
- (b) waters in a Renewable Energy Zone.

(6) Proceedings for anything that is an offence by virtue only of an Order in Council under this section may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.

(7) In this section “subordinate legislation” includes an instrument made under an Act of the Scottish Parliament.

86 Prosecutions

- (1) Subject to subsection (2), this section applies to an offence alleged to have been committed on, under or above—
 - (a) a renewable energy installation situated in waters to which section 85 applies; or
 - (b) waters to which section 85 applies that, at the time of the alleged offence, were within a safety zone.
- (2) This section does not apply to an offence created by or under—
 - (a) the Health and Safety at Work etc. Act 1974 (c. 37);
 - (b) the Customs and Excise Acts 1979, or any enactment that has to be construed as one with those Acts or any of them;
 - (c) the Civil Aviation Act 1982 (c. 16) or any enactment that has to be construed as one with that Act;
 - (d) section 23 of the Petroleum Act 1987 (c. 12);
 - (e) the Pilotage Act 1987 (c. 21);
 - (f) section 4, 29, 35, 36, 37 or 59 of the 1989 Act, or paragraph 3 of Schedule 7 to that Act;
 - (g) the Value Added Tax Act 1994 (c. 23) or any enactment that has to be construed as one with that Act;
 - (h) the Merchant Shipping Act 1995 (c. 21);
 - (i) section 97 of this Act or Chapter 3 of this Part.
- (3) No proceedings for an offence to which this section applies shall be instituted—
 - (a) in England and Wales, except by or with the consent of the Director of Public Prosecutions; or
 - (b) in Northern Ireland, except by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- (4) Subsection (3) does not require the consent of the Director of Public Prosecutions, or of the Director of Public Prosecutions for Northern Ireland, where the proceedings in question are proceedings for which the consent of the Attorney General, or of the Advocate General for Northern Ireland, is required apart from this section.
- (5) In relation to times before the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002 (c. 26), the reference in subsection (4) to the Advocate General for Northern Ireland is to be read as a reference to the Attorney General for Northern Ireland.
- (6) Section 3 of the Territorial Waters Jurisdiction Act 1878 (c. 73) (consents to prosecution of offences committed on the open sea by persons who are not British citizens) does not apply to proceedings for an offence to which this section applies.

87 Application of civil law to renewable energy installations etc.

- (1) Her Majesty may by Order in Council provide that questions arising out of—
 - (a) acts or omissions taking place on, under or above a renewable energy installation situated in waters to which this section applies, or
 - (b) acts or omissions taking place on, under or above such waters in relation to a related line,

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are to be determined in accordance with the law in force in such part of the United Kingdom as may be specified in the Order.

- (2) An Order in Council under this section may also make provision for conferring jurisdiction in proceedings with respect to questions of the kind mentioned in subsection (1) on courts in one or more parts of the United Kingdom.
- (3) Jurisdiction conferred on a court by an Order in Council under this section is in addition to any jurisdiction exercisable apart from that Order by that or any other court; and this section is to be disregarded in determining the extent of any jurisdiction so exercisable.
- (4) The waters to which this section applies are—
 - (a) tidal waters and parts of the sea in or adjacent to Great Britain up to the seaward limits of the territorial sea; and
 - (b) waters in a Renewable Energy Zone.
- (5) In section 410(3) of the Communications Act 2003 (c. 21) (which enables Orders in Council under section 11 of the Petroleum Act 1998 (c. 17) to extend certain communications legislation to offshore installations), after “1998” insert “or section 87 of the Energy Act 2004”.
- (6) In this section—

“court” includes any tribunal or regulatory authority;

“related line” means an electric line, or a part of an electric line, which—

 - (a) falls within subsection (7); but
 - (b) is not an electricity interconnector (within the meaning of Part 1 of the 1989 Act).
- (7) An electric line, or a part of an electric line, falls within this subsection if it—
 - (a) is used for the conveyance of electricity to or from a renewable energy installation;
 - (b) is in the course of construction at a place where it is to be so used; or
 - (c) has ceased to be so used (whether or not it is being decommissioned) and since ceasing to be so used has not been used for any other purpose.

88 Orders in Council under ss. 85 and 87

- (1) An Order in Council under section 85 or 87 that makes provision falling within subsection (3) is subject to annulment in pursuance of a resolution of the Scottish Parliament (but may by virtue of subsection (2) be subject also to the negative resolution procedure).
- (2) An Order in Council under section 85 or 87 that makes provision not falling within subsection (3) is subject to the negative resolution procedure.
- (3) Provision falls within this subsection so far as it is provision that would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament.