



Energy Act 2008

2008 CHAPTER 32

[^{F1}PART 4A

WORKS DETRIMENTAL TO NAVIGATION

[^{F1}Consent required for carrying out of certain operations

Textual Amendments

- F1** Pt. 4A inserted (12.11.2009 for specified purposes, 6.4.2011 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. [314\(1\)](#), [324\(1\)\(c\)](#), [324\(1\)\(d\)](#); S.I. 2011/556, art. 3(2)(c)

82A Restriction of works detrimental to navigation

- (1) A person must not, without the written consent of the Secretary of State, carry out in the regulated zone (see section 82Q) any operation to which this subsection applies (see subsections (2) and (3)).
- (2) Subsection (1) does not apply to an operation if a marine licence under Part 4 of the Marine and Coastal Access Act 2009 is needed to carry out the operation.
- (3) Subject to that, subsection (1) applies to an operation if—
 - (a) it causes, or is likely to result in, obstruction or danger to navigation (whether while the operation is being carried out or subsequently),
 - (b) it is of a description falling within subsection (4), and
 - (c) it may be carried out only with a permission falling within subsection (5).
- (4) The descriptions of operations are—
 - (a) the construction, alteration, improvement, dismantlement or abandonment of any works;
 - (b) the deposit of any object or materials;
 - (c) the removal of any object or materials.

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- (5) The permissions are—
- (a) a licence under section 3 of the Petroleum Act 1998 or section 2 of the Petroleum (Production) Act 1934,
 - (b) a licence under section 4 or 18 of this Act (gas storage and gas unloading, and carbon capture and storage licences),
 - (c) a works authorisation under Part 3 of the Petroleum Act 1998 (construction etc of submarine pipelines),
- and see also subsection (6).
- (6) For the purposes of this Part, the operations which may be carried out only with a permission falling within subsection (5) include operations which, by virtue of a permission falling within paragraph (a) or (b) of that subsection, may be carried out only with the consent of the Secretary of State or another person.
- (7) In the case of an authorised exploration or exploitation operation (see subsection (8))—
- (a) the reference in subsection (3) to an operation being likely to result in obstruction or danger to navigation, includes
 - (b) a reference to the operation being likely to result in obstruction or danger to navigation by reason of any use intended to be made of the works in question when constructed, altered or improved.
- (8) In this Part “ authorised exploration or exploitation operation ” means any operation—
- (a) which is of a description falling within subsection (4)(a), and
 - (b) which may be carried out only with a permission falling within subsection (5).

82B Applications for consent under section 82A

- (1) The Secretary of State may, as a condition of considering an application for consent under section 82A, require to be furnished with such plans and particulars of the proposed operation as the Secretary of State may consider necessary.
- (2) On receipt of any such application, the Secretary of State may cause to be published notice of—
 - (a) the application, and
 - (b) the time within which, and the manner in which, objections to the application may be made.
- (3) Any such notice is to be published in such a manner as to be likely to come to the attention of those likely to be interested in, or affected by, the application.
- (4) The Secretary of State may cause an inquiry to be held in connection with the determination of an application for consent.

82C Determination of applications for consent under section 82A

- (1) If the Secretary of State is of the opinion that any operation in respect of which an application is made for consent under section 82A will cause, or is likely to result in, obstruction or danger to navigation, subsection (2) applies.
- (2) In any such case, the Secretary of State must either—
 - (a) refuse to give consent, or

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- (b) give consent subject to such conditions as the Secretary of State considers appropriate.
- (3) In exercising functions under subsection (2), the Secretary of State must have regard to the nature and extent of the obstruction or danger which it appears to the Secretary of State would otherwise be caused or be likely to result.
- (4) In the case of an authorised exploration or exploitation operation—
 - (a) any reference in subsection (1) or (3) to an operation being likely to result in obstruction or danger to navigation, includes
 - (b) a reference to the operation being likely to result in obstruction or danger to navigation by reason of any use intended to be made of the works in question when constructed, altered or improved.
- (5) A consent of the Secretary of State under section 82A may be given so as to continue in force, unless renewed, only if the operation for which the consent is given is begun or completed within such period as may be specified in the consent.
- (6) Subsection (5) applies in relation to the renewal of a consent as it applies in relation to the giving of consent.

82D Authorised exploration or exploitation operations: consent conditions

- (1) This section applies where the Secretary of State has given consent for an authorised exploration or exploitation operation, but subject to a condition (a “consent condition”).
- (2) A consent condition shall either—
 - (a) remain in force for a specified period, or
 - (b) remain in force without limit of time,but this is subject to subsection (5).
- (3) A consent condition, in addition to binding the person to whom the consent is given, also binds, so far as is appropriate, any other person who for the time being owns, occupies, or enjoys any use of, the works in question.
- (4) Where—
 - (a) a consent condition relates to the taking of navigational precautions, and
 - (b) the Secretary of State considers it appropriate to vary the condition in the interests of the safety of navigation (whether or not the operation has been completed),the Secretary of State may vary the condition for the purpose of enhancing the effectiveness of the aids to navigation which are to be provided or the other measures which are to be taken.
- (5) The Secretary of State may revoke any consent condition.
- (6) In this section “taking of navigational precautions” means any of the following—
 - (a) the provision of any lights, signals or other aids to navigation;
 - (b) the stationing of guard ships in the vicinity of the works in question;
 - (c) the taking of any other measures for the purpose of, or in connection with, controlling the movements of ships in the vicinity of those works.]

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