



# Marine (Scotland) Act 2010

## 2010 asp 5

### PART 4

#### MARINE LICENSING

##### *Special provision for certain cases*

#### **35 Special procedure for applications relating to certain electricity works**

- (1) This section applies where—
- (a) a person who proposes to carry out an activity must first make both—
    - (i) an application for a marine licence, and
    - (ii) an application for consent under section 36 of the Electricity Act (consent for construction etc. of generating stations) (a “generating station application”) in relation to the activity or other works to be undertaken in connection with the activity,
  - (b) the person makes both applications, or one of them, and
  - (c) the Scottish Ministers—
    - (i) decide that both applications are to be considered together and, as the case may be, if only one of the applications has been made that it is not to be considered without the other, and
    - (ii) give the person notice of their decision.
- (2) Both of the applications are to be considered together; but this is subject to any provision that may be made in an order under subsection (3).
- (3) The Scottish Ministers may by order do any of the following—
- (a) provide that such procedural provisions of this Part as are specified in the order are not to apply to the person’s application for the marine licence,
  - (b) provide that such procedural provisions of the Electricity Act as are so specified are to apply to the application instead,
  - (c) modify the procedural provisions of the Electricity Act in their application to the marine licence by virtue of paragraph (b),
  - (d) in relation to cases where the Scottish Ministers come to the conclusion that either the application for the marine licence or the generating station

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*Status: This is the original version (as it was originally enacted).*

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application is not going to be made, make additional provision modifying either—

- (i) such procedural provisions of this Part as are specified in the order, or
- (ii) such procedural provisions of the Electricity Act as are specified in the order.

(4) In this section—

“the Electricity Act” means the Electricity Act 1989 (c.29),

“procedural provisions” means any provisions for or in connection with the procedure for determining an application.

### **36 Electronic communications apparatus**

- (1) The Scottish Ministers must not issue a licence to carry out any activity which amounts to or involves the exercise of a right conferred by paragraph 11 of the electronic communications code set out in Schedule 2 to the Telecommunications Act 1984 (c.12) (works in connection with electronic communications apparatus) unless they are satisfied that adequate compensation arrangements have been made.
- (2) For the purposes of subsection (1), adequate compensation arrangements are adequate arrangements for compensating any persons who appear to the Scottish Ministers to be owners of interests in the tidal water or lands on, under or over which the right is to be exercised, for any loss or damage sustained by those persons in consequence of the activity being carried out.

### **37 Submarine cables**

- (1) This section applies where a stretch of exempt submarine cable—
  - (a) is proposed to be laid,
  - (b) is in the course of being laid,
  - (c) has been laid,
 beyond the seaward limits of the territorial sea.
- (2) The Scottish Ministers must grant any application made to them for a marine licence for the carrying on of a licensable marine activity in the course of laying any stretch of the cable in the Scottish marine area.
- (3) The Scottish Ministers have the same powers to attach conditions to a marine licence granted by virtue of subsection (2) as they have in relation to any other marine licence (see section 29(1) to (3)).
- (4) Nothing in this Part applies to anything done in the course of maintaining any stretch of the cable in the Scottish marine area.
- (5) For the purposes of this section a submarine cable is “exempt” unless it is a cable constructed or used in connection with any of the following—
  - (a) the exploration of the UK sector of the continental shelf,
  - (b) the exploitation of the natural resources of that sector,
  - (c) the operations of artificial islands, installations and structures under the jurisdiction of the United Kingdom,
  - (d) the prevention, reduction or control of pollution from pipelines.
- (6) In this section—

“natural resources” means—

- (a) the mineral and other non-living resources of the sea bed and subsoil, together with
- (b) living organisms belonging to sedentary species,

“living organisms belonging to sedentary species” means organisms which, at the harvestable stage, are either—

- (a) immobile on or under the sea bed, or
- (b) unable to move except in constant physical contact with the sea bed or the subsoil,

“UK sector of the continental shelf” means the areas for the time being designated by an Order in Council under section 1(7) of the Continental Shelf Act 1964 (c.29).