
Changes to legislation: Electricity Act 1989, SCHEDULE 9 is up to date with all changes known to be in force on or before 20 June 2024. 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

^{F 1} SCHEDULES

SCHEDULE 9

Section 38.

PRESERVATION OF AMENITY AND FISHERIES.

Preservation of amenity: England and Wales

- 1 (1) In formulating any relevant proposals, a licence holder or a person authorised by exemption to [^{F1}generate, [^{F2}distribute, supply or participate in the transmission of] electricity]—
- (a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archeological interest; and
 - (b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.
- (2) In considering any relevant proposals for which [^{F3}its] consent is required under section 36 or 37 of this Act, the [^{F4}appropriate authority] shall have regard to—
- (a) the desirability of the matters mentioned in paragraph (a) of sub-paragraph (1) above; and
 - (b) the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph (b) of that sub-paragraph.
- (3) In this paragraph—
- [^{F5}“appropriate authority” has the meaning given by section 36(10)(b) or (c) of this Act;]
 - “building” includes structure;
 - “relevant proposals” means any proposals—
 - (a) for the construction or extension of a generating station of a capacity not less than 10 megawatts, or for the operation of such a station in a different manner;
 - (b) for the installation (whether above or below ground) of an electric line; or
 - (c) for the execution of any other works for or in connection with the transmission or supply of electricity.
- (4) The [^{F6}appropriate authority] may by order provide that sub-paragraph (3) above shall have effect as if for the capacity mentioned in paragraph (a) there were substituted such other capacity as may be specified in the order.
- (5) This paragraph and paragraph 2 below extend to England and Wales only.

Changes to legislation: Electricity Act 1989, SCHEDULE 9 is up to date with all changes known to be in force on or before 20 June 2024. 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

Textual Amendments

- F1** Words in Sch. 9 para. 1(1) substituted (1.10.2001) by [S.I. 2001/3264, art. 6](#)
- F2** Words in Sch. 9 para. 1(1) substituted (1.9.2004) by [Energy Act 2004 \(c. 20\), s. 198\(2\), Sch. 19 para. 16; S.I. 2004/2184, art. 2\(2\), Sch. 2](#)
- F3** Word in Sch. 9 para. 1(2) substituted (1.4.2019) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 51\(a\) \(i\)](#) (with [Sch. 7 paras. 1, 6, 8](#)); [S.I. 2017/1179, reg. 5\(b\)](#)
- F4** Words in Sch. 9 para. 1(2) substituted (1.4.2019) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 51\(a\) \(ii\)](#) (with [Sch. 7 paras. 1, 6, 8](#)); [S.I. 2017/1179, reg. 5\(b\)](#)
- F5** Words in Sch. 9 para. 1(3) inserted (1.4.2019) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 51\(b\)](#) (with [Sch. 7 paras. 1, 6, 8](#)); [S.I. 2017/1179, reg. 5\(b\)](#)
- F6** Words in Sch. 9 para. 1(4) substituted (1.4.2019) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 6 para. 51\(c\)](#) (with [Sch. 7 paras. 1, 6, 8](#)); [S.I. 2017/1179, reg. 5\(b\)](#)

Modifications etc. (not altering text)

- C1** [Sch. 9 para. 1\(2\)](#) modified (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 12\(5\)\(b\), 324\(3\); S.I. 2010/298, art. 2, Sch. para. 4](#) (with [art. 4\(1\)](#))

- 2 (1) A licence holder shall within twelve months from the grant of his licence prepare, and from time to time modify, a statement setting out the manner in which he proposes to perform his duty under paragraph 1(1) above, including in particular the consultation procedures which he intends to follow.
- (2) Before preparing or modifying a statement under this paragraph, a licence holder shall consult the [^{F7}Countryside Agency], [^{F8}and—
- (a) where the activities which he is authorised by his licence to carry on include activities in England, [^{F9}Natural England] and the Historic Buildings and Monuments Commission for England; and
 - (b) where those activities include activities in Wales, [^{F10}the Natural Resources Body for Wales] and the [^{F11}National Assembly] for Wales.]
- (3) As soon as practicable after preparing or modifying a statement under this paragraph, the licence holder shall publish the statement as so prepared or so modified in such manner as he considers appropriate.

Textual Amendments

- F7** Words in Sch. 9 para. 2 substituted (20.2.1999) by [S.I. 1999/416, art. 3, Sch. 1 para. 13](#)
- F8** Words in Sch. 9 para. 2(2) substituted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), s. 132\(1\)\(a\), Sch. 9 para. 16\(a\); S.I. 1991/685, art. 3](#)
- F9** Words in Sch. 9 para. 2(2) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 107, Sch. 11 para. 115\(b\); S.I. 2006/2541, art. 2](#) (with Sch.)
- F10** Words in Sch. 9 para. 2(2)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 197](#) (with Sch. 7)
- F11** Words in Sch. 9 para. 2(2)(b) substituted (1.4.2006) by [The Historic Buildings Council for Wales \(Abolition\) Order 2006 \(S.I. 2006/63\), arts. 1\(2\), 3\(4\)](#)

Changes to legislation: Electricity Act 1989, SCHEDULE 9 is up to date with all changes known to be in force on or before 20 June 2024. 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

Preservation of amenity and fisheries: Scotland

- 3 (1) In formulating any relevant proposals, a licence holder or a person authorised by an exemption to [^{F12}generate, [^{F13}distribute, supply or participate in the transmission of] electricity]—
- (a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and
 - (b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.
- (2) In considering any relevant proposals for which his consent is required under section 36 or 37 of this Act, the Secretary of State shall have regard to—
- (a) the desirability of the matters mentioned in paragraph (a) of sub-paragraph (1) above; and
 - (b) the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph (b) of that sub-paragraph.
- (3) Without prejudice to sub-paragraphs (1) and (2) above, in exercising any relevant functions each of the following, namely, a licence holder, a person authorised by an exemption to generate or supply electricity and the Secretary of State shall avoid, so far as possible, causing injuries to fisheries or to the stock of fish in any waters.
- (4) In this paragraph—
- “building” includes structure;
 - “relevant proposals” has the same meaning as in paragraph 1 above and, for the purposes of this paragraph, any such order as is mentioned in sub-paragraph (4) of that paragraph may be made under this sub-paragraph;
 - “relevant functions” means any powers conferred and any duties imposed by or under this Act.
- (5) This paragraph and paragraphs 4 and 5 below extend to Scotland only.

Textual Amendments

F12 Words in Sch. 9 para. 3(1) substituted (1.10.2001) by [S.I. 2001/3264](#), [art. 6](#)

F13 Words in Sch. 9 para. 3(1) substituted (1.9.2004) by [Energy Act 2004 \(c. 20\)](#), s. 198(2), [Sch. 19 para. 16](#); [S.I. 2004/2184](#), [art. 2\(2\)](#), [Sch. 2](#)

Modifications etc. (not altering text)

C2 Sch. 9 para. 3: transfer of certain functions (S.) (1.7.1999) by [S.I. 1999/1750](#), [arts. 1, 2](#), [Sch. 1](#) (with [art. 7](#))

- 4 (1) A licence holder shall within twelve months from the grant of his licence prepare, and from time to time modify, a statement setting out the manner in which he proposes to perform his duty under paragraph 3(1) above, including in particular the consultation procedures which he intends to follow.
- (2) Before preparing or modifying a statement under this paragraph, a licence holder shall consult with [^{F14}Scottish Natural Heritage]^{F15}... [^{F16}and with the National Park authority for any National Park which would be affected by the relevant proposals].

Changes to legislation: Electricity Act 1989, SCHEDULE 9 is up to date with all changes known to be in force on or before 20 June 2024. 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

- (3) As soon as practicable after preparing or modifying a statement under this paragraph, the licence holder shall publish the statement so prepared or so modified in such a manner as he considers appropriate.

Textual Amendments
F14 Words in Sch. 9 para. 4(2) substituted (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), ss. 27(1), 28(2), **Sch. 10 para. 13**; S.I. 1991/2633, **art. 4**
F15 Words in Sch. 9 para. 4(2) repealed (31.5.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#), s. 21(2), **Sch. 4 para. 10**; S.S.I. 2003/219, art. 2(1)(c)
F16 Words in Sch. 9 para. 4(2) inserted (S.) (9.8.2000) by [2000 asp 10](#), s. 36, **Sch. 5 para. 14(2)** (with s. 32); S.I. 2000/312, **art. 2**

Fisheries Committee: Scotland

F175

Textual Amendments
F17 Sch. 9 para. 5 omitted (1.10.2010) by virtue of [Flood and Water Management Act 2010 \(c. 29\)](#), ss. **46(3)**, **49(3)** (with s. 49(1)(6)); S.I. 2010/2169, art. 4, Sch.

Changes to legislation:

Electricity Act 1989, SCHEDULE 9 is up to date with all changes known to be in force on or before 20 June 2024. 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.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(1)(f) and word inserted by [2023 c. 52 s. 186\(3\)\(b\)](#)
- s. 4(1)(ca) inserted by [2023 c. 52 s. 166\(2\)](#)
- s. 4(1)(da) inserted by [2023 c. 52 s. 205\(2\)\(b\)](#)
- s. 4(3H)(3I) inserted by [2023 c. 52 s. 186\(4\)](#)
- s. 4(3CA) inserted by [2023 c. 52 s. 205\(3\)](#)
- s. 4(3EA) inserted by [2023 c. 52 s. 205\(5\)](#)
- s. 6(1)(g) and word inserted by [2023 c. 52 s. 186\(7\)\(b\)](#)
- s. 6(1)(ea) inserted by [2023 c. 52 s. 205\(8\)\(b\)](#)
- s. 6(2C) inserted by [2023 c. 52 s. 186\(8\)](#)
- s. 6(2AA) inserted by [2023 c. 52 s. 205\(9\)](#)
- s. 6(6E) inserted by [2023 c. 52 s. 205\(10\)](#)
- s. 7(3GA) inserted by [2023 c. 52 s. 186\(17\)](#)
- s. 7A(11B) inserted by [2023 c. 52 s. 186\(18\)](#)
- s. 8A(1C) inserted by [2023 c. 52 s. 206\(6\)](#)
- s. 10NA inserted by [2023 c. 52 s. 207\(2\)](#)
- s. 11E(2)(d) and word inserted by [2013 c. 32 s. 138\(5\)\(b\)\(iii\)](#)
- s. 15(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 3(2)(b) (as substituted) by S.I. [2019/1245 reg. 19](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 25(8A) inserted by [2023 c. 52 Sch. 14 para. 7\(3\)](#)
- s. 44A inserted by [1992 c. 43 s. 23](#)
- s. 44A(6)(b)(i) words substituted by [2013 c. 22 Sch. 9 para. 52](#)
- s. 44B(1)(a)(iiia) inserted by [2023 c. 52 Sch. 17 para. 8](#)
- s. 44B(1)(vi) and word inserted by S.I. [2024/706 reg. 3\(11\)\(b\)](#)
- s. 56C(6)(d) and word inserted by [2013 c. 32 s. 138\(5\)\(d\)\(ii\)](#)
- Sch. 6A para. 9ZA and cross-heading inserted by [2023 c. 52 Sch. 14 para. 8](#)
- Sch. 6A para. 4A and cross-heading inserted by S.I. [2024/706 reg. 3\(14\)\(b\)](#)