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STATUTORY INSTRUMENTS

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**2010 No. 1889 (C. 98)**

**ENERGY**

**The Energy Act 2004 (Commencement No. 10) Order 2010**

*Made*       -   -   -   -                      *22nd July 2010*

The Secretary of State makes the following Order in exercise of the powers conferred by section 198(2) of the Energy Act 2004(1).

**Citation and interpretation**

1.—(1) This Order may be cited as the Energy Act 2004 (Commencement No. 10) Order 2010.

(2) In this Order—

“the Act” means the Energy Act 2004;

“electrical plant”, “electric line” and “generating station” have the meanings given by section 64(1) (interpretation etc of Part 1) of the Electricity Act 1989(2);

“offshore waters” means waters in or adjacent to Great Britain which are—

- (a) between the mean low water mark and the seaward limits of the territorial sea; and
  - (b) waters within an area designated under section 1(7) of the Continental Shelf Act 1964(3);
- and

“tender exercise” means a competitive tender exercise undertaken in accordance with regulations made under section 6C (competitive tenders for offshore transmission licences) of the Electricity Act 1989(4).

**Commencement**

2. Section 89 (activities offshore requiring Electricity Act 1989 licences) and section 180(1) (meaning of ‘high voltage line’) of the Act come into force on 29th July 2010—

- (a) in relation to assets which—
  - (i) have been the subject of a tender exercise;

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(1) 2004 c.20.  
(2) 1989 c.29. The definition of “electrical plant” was amended by section 108 of, and Schedule 6, Part 2, paragraphs 24, and 38(1), (3) to, the Utilities Act 2000 (c.27).  
(3) 1964 c.29. Section 1(7) was amended by section 37 of, and paragraph 1 of Schedule 3 to, the Oil and Gas (Enterprise) Act 1982 (c.23).  
(4) Section 6C was inserted into the Electricity Act 1989 by section 92 of the Energy Act 2004 (c.20). Section 6D (supplemental provision to section 6C) and section 6E (property schemes in respect of offshore transmission licences) were inserted into the Electricity Act by section 44(2) of, and Schedule 2 to, the Energy Act 2008 (c.32).

- (ii) have been transferred to the person who was the successful bidder in relation to that tender exercise; and
  - (iii) were not constructed or installed by that person;
- (b) in relation to any electric line and associated electrical plant which—
  - (i) is located partly in an area of offshore waters; and
  - (ii) is used in the conveyance of electricity generated only by a generating station located otherwise than in an area of offshore waters.

22nd July 2010

*Charles Hendry*  
Minister of State,  
Department of Energy and Climate Change

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force on 29th July 2010 sections 89 (activities offshore requiring Electricity Act 1989 licences) and 180(1) (meaning of ‘high voltage line’) of the Energy Act 2004 (the Act) in relation to electrical infrastructure as specified in article 2.

Section 89 of the Act inserts definitions in relation to ‘generate’, ‘relevant place’ and ‘system’ into section 4(4) (prohibitions on unlicensed supply etc) of the Electricity Act 1989 (c.29) and applies the definition of ‘premises’ from section 4 of that Act to section 6 (licences authorising supply etc) of that Act. Section 180(1) of the Act substitutes new definitions for ‘high voltage line’ and ‘low voltage line’ into section 64(1) (interpretation of Part 1) of the Electricity Act 1989.

Section 44(3) (definition of ‘relevant offshore line’) of the Energy Act 2008 (c.32) is being commenced by the Energy Act 2008 (Commencement No. 5) Order 2010 for the same purposes as sections 89 and 180(1) of the Act. Section 44(3) of the Energy Act 2008 inserts a new definition in relation to ‘relevant offshore line’ for the purposes of the definition of ‘high voltage line’ in section 64(1) of the Electricity Act 1989.

Article 2(a) of this Order commences sections 89 and 180(1) of the Act in relation to certain assets. The assets are those that have been the subject of a tender exercise undertaken in accordance with the offshore tender regulations made under section 6C (competitive tenders for offshore transmission licences) of the Electricity Act 1989, where they have transferred to the successful bidder of that tender exercise and where that bidder did not construct or install them. The effect is that a system for the conveyance of electricity means a system, the whole or part of which is in Great Britain, the territorial sea adjacent to Great Britain or in a Renewable Energy Zone and which consists of such assets. Operation of these assets will require a licence to be granted authorising the participation in transmission of electricity under section 6(1)(b) (licences authorising supply etc) of that Act.

In addition, article 2(b) of this Order commences sections 89 and 180(1) of the Act in relation to electrical infrastructure located partly in an area of offshore waters that is used to convey electricity generated only otherwise than in an area of offshore waters. The effect is that the operation of such electrical infrastructure will require a licence authorising the participation in transmission (or distribution as the case may be) of electricity under section 6(1)(b) or (c) of the Electricity Act 1989.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the Energy Act 2004 have been brought into force by commencement orders made before the date of this Order—

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1, 2, 10, 72, 73, 74 and 75 and Schedules 1 and 15	27th July 2004	<a href="#">2004/1973 (C. 87)</a>
Sections 3, 4, 5(1), 6, 9, 13 and 22. Sections 36 and 37 (partially). Sections 133 and 134. Section 135 (partially). Sections 137(1) to (4) and (7), 138, 140(2) to (4), 142 and 144.	24th August 2004	<a href="#">2004/2184 (C. 95)</a>

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 190 to 196 (partially). Schedules 3 and 17		
Section 135 in so far as it was not already in force. Sections 136, 137(5) and (6), 141, 143 and 197(8). Section 197(9) (partially). Schedules 18 and 19. Schedule 23 (partially)	1st September 2004	<a href="#">2004/2184 (C. 95)</a>
Sections 5(2) to (9), 7, 8, 14 to 21 and 23 to 35. Sections 36 and 37, in so far as they were not already in force. Sections 38 to 50, 76 to 88, 94, 101, 102(1) and (4), 103(2) and (4), 104, 115 to 132, 154 to 176, 178, 181 and 183 to 189. Sections 190 to 196, in so far as they were not already in force. Section 197(1) to (7). Section 197(9) and (10) (partially). Schedules 4 to 9, 20 to 22 and Part 1 of Schedule 23 (partially). Schedule 23 Part 2, paragraph 2	5th October 2004	<a href="#">2004/2575 (C. 110)</a>
Sections 145(1), (3) and (5) to (7), 146(1) to (5) and (7), 147(1) to (4) and (6) to (8), 148, 149(1), (3), (5) to (9) and (11), 150(1) to (5) and (7) to (10) and 152. Section 197(9) (partially) and Part 1 of Schedule 23 (partially)	1st December 2004	<a href="#">2004/2575 (C. 110)</a>
Section 51(1). Section 51(2) (partially). Sections 52(1) and (6), 53(1), (2), (4) and (5) and 63. Section 69(1) (partially). Sections 69(2) and (3) and 71. Section 89 (partially). Section 93. Section 99 (partially). Paragraphs 1 to 5 and 10 to 18 of Schedule 10. Schedules 11 and 13. Paragraphs 1, 2, 4, 6 and 7 of Schedule 14	1st March 2005	<a href="#">2005/442 (C. 20)</a>
Sections 11 and 12 and Schedule 2	31st March 2005	<a href="#">2005/442 (C. 20)</a>
Section 51(2) (partially). Sections 52(2) to (5) and (7), 53(3), 54 to 62 and 64 to 68. Section 69(1) (partially). Sections 70, 102(5), 103(3), 146(6) and 150(6). Section 197(9) and (10) (partially). Paragraphs 6 to 9 of Schedule 10. Schedule 12. Paragraphs 3, 5 and 8 to 11 of Schedule 14. Part 1 of Schedule 23 (partially). Paragraphs 1 and 3 of Part 2 of Schedule 23	1st April 2005	<a href="#">2005/877 (C. 38)</a>
Section 99(1) (partially). Section 100	1st September 2005	<a href="#">2005/442 (C. 20)</a>
Sections 95 to 98. Section 99(1) in so far as it was not already in force. Sections 102(2) and (3) and 105 to 114. Schedule 16 (partially)	1st October 2005	<a href="#">2005/877 (C. 38)</a>
Section 177	1st November 2005	<a href="#">2005/2965 (C. 127)</a>
Section 103(1). Section 197(9) and Part 1 of Schedule 23 (partially)	1st January 2006	<a href="#">2005/877 (C. 38)</a>
Sections 179 and 197(9) and Part 1 of Schedule 23 (partially)	1st April 2006 for certain purposes; 1st April	<a href="#">2005/2965 (C. 127)</a>

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
	2010 for the remaining purposes	
Sections 145(2) and (4), 147(5), 149(2), (4) and (10), 151 and 153	14th August 2006	<a href="#">2006/1964 (C. 66)</a>
Section 182. Paragraph 7 of Schedule 16.	6th April 2007	<a href="#">2007/1091 (C. 47)</a>
Section 92	20th May 2009	<a href="#">2009/1269 (C. 67)</a>
Sections 90 and 91	20th June 2009	<a href="#">2009/1269 (C. 67)</a>