

# **LEGISLATION IN RELATION TO THE CREATION OF OFFSHORE SAFETY ZONES FOR RENEWABLE ENERGY INSTALLATIONS IN THE ISLAND'S TERRITORIAL SEA**

## **INTRODUCTION**

The purpose of this consultation exercise is to set out a brief background to the proposed legislation in respect of the creation of safety zones around offshore energy installations, will outline how it is intended that these zones can be achieved, and a series of questions will then follow for your response in respect of the proposals. This consultation is required in order to comply with the principles of the Council of Ministers Public Engagement and Consultation Principles (October 2017) and to provide an opportunity for the wider consideration of these proposals.

This particular piece of legislation that is being proposed is in relation to the creation of safety zones that should surround renewable energy installations in the Island's territorial sea. A safety zone is a designated area surrounding a renewable energy installation (such as an offshore wind turbine, wave, or tidal device). The purpose of a safety zone is to control access and activities around these installations to ensure safety at sea.

The Department is seeking to use the provisions within the Climate Change Act 2021 to provide the necessary vires to enable this legislation to be prepared. It will seek to do this on behalf of the Council of Ministers to use powers within the Act to apply over relevant, similar UK legislation and include a provision which will enable the Department to then prepare Regulations as they relate to the Isle of Man under the applied legislation.

The Climate Change Act 2021 sets out in Section 31 'Application of UK legislation to the Isle of Man':

- (1) The Council of Ministers or the Department<sup>1</sup> may by order apply to the Island as part of the law of the Island, subject to such exceptions, adaptations and modifications as may be specified in the order, any UK legislation to which this section applies.

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<sup>1</sup> Means the Department of Environment, Food and Agriculture under the Climate Change Act 2021.

- (2) An order under this section may include provision repealing or amending any provision of any enactment (other than this section) which is inconsistent with, or is unnecessary or requires modification in consequence of any UK legislation applied to the Island by the order.
- (3) This section applies to:
  - (a) any provision of UK legislation; or
  - (b) any instrument of a legislative character made under UK legislation, which relates, directly or indirectly, to climate change action, or mitigating potentially negative consequences arising from climate change, and to environmental protection.
- (4) For the purposes of subsection (3), provisions that relate to climate change action, or mitigating potentially negative consequences arising from climate change, or to environmental protection, include provisions relating to —
  - (a) the generation and regulation of renewable energy and the technologies associated with renewable energy;
  - (b) the conservation, protection and restoration of biodiversity, ecosystems and improving the natural environment;
  - (c) waste and resource management;
  - (d) air and water quality, including the regulation of air and water pollutants and their sources; and
  - (e) the control of products that fail to meet standards specified for the protection of the environment.
- (5) The Council of Ministers may by order amend subsection (4).
- (6) An order made under this section must have annexed to it a text of the instrument applied by the order, incorporating the exceptions, adaptations and modifications specified in the order.

It is the intention that the Department will request that the Council of Ministers will use this provision of the Climate Change Act 2021 to apply over certain provisions of the Energy Act 2004 (of Parliament) relating to offshore safety zones for renewable energy installations.

The Energy Act 2004 sets out a well-defined, well-established process for offshore safety zones and will provide the ability for a person to apply to the Department of Infrastructure for the establishment of an offshore safety zone for any renewable energy installation. There is currently no vires for the Department to establish offshore safety zones so if this legislation is not pursued, it will not be possible for such safety zones to be established, and they are required for the safety of maritime users in respect of offshore energy installations.

The Department has carefully considered the Energy Act 2004 (of Parliament) and it is the intention to apply the following necessary provisions to the Island —

- (a) section 95 (safety zones around renewable energy installations);
- (b) section 96 (prohibited activities in safety zones);
- (c) section 97 (offences relating to safety zones);
- (d) section 98 (supplementary provisions relating to offences under s.97);
- (e) section 104 (interpretation of chapter 2 of part 2);
- (f) section 188 (power to impose charges to fund energy functions);
- (g) section 192 (powers exercisable by statutory instrument);
- (h) section 195 (timing and location of things done electronically);
- (i) section 196 (general interpretation);
- (j) section 198 (short title, commencement and extent); and,
- (k) schedule 16 (applications and proposals for notices under section 95).

A draft application order is included in appendix A of this document, which sets out these provisions with necessary modifications for the Isle of Man context.

**Question 1 – Do you agree that all the proposed provisions of the Energy Act 2004 (of Parliament) as outlined above are applied to the Isle of Man?**

**Question 2 – Are there any other aspects of the Energy Act 2004 (of Parliament) that you think should also be applied to the Isle of Man as part of this application order?**

**Question 3 – Taking into account your responses to Q1 & Q2, what is your rationale for either not supporting the application of some of the proposed provisions or suggestion for broadening the provisions proposed?**

### **DRAFT REGULATIONS IN RESPECT OF OFFSHORE SAFETY ZONES**

If the application order is approved by Tynwald, it is the Department of Infrastructure's intention to make a set of regulations under the Energy Act 2004 (of Parliament). A copy of the draft Regulations can be found in appendix B of this Document. To assist with your responding to this consultation, you will need to review the draft Regulations.

The Regulations will apply in relation to any application to the Department of Infrastructure seeking a declaration of a safety zone relating to an offshore renewable energy installation, under section 95(2) of the Energy Act 2004 (of Parliament) ("the 2004 Act"), as applied to the Island by virtue of the Climate Change (Energy Act 2004) (Application) Order 2026. In addition, the Regulations will prescribe categories of vessels and activities proposed to be permitted in such safety zones.

Applications can be made for the declaration of a safety zone to be located in an area of water around or adjacent to a renewable energy installation, which is defined in section 104(2) and (3) of the 2004 Act, as "an offshore installation used, or that has ceased to be used, for purposes connected with the production of energy from water or winds, and that permanently rests on, or is attached to, the seabed and is not connected to dry land". Thus applications can be made in relation to offshore wind turbines, as well as wave and tidal generating devices. Schedule 16(3) of the 2004 Act sets out certain requirements for applications.

Safety zones may be declared in relation to renewable energy installations located within territorial waters in or adjacent to Island (between the mean high water mark and the seawards limits of the territorial sea).

Draft regulation 4 sets out the additional information that is required to accompany an application to the Department for a declaration under section 95(2) of the 2004 Act. In every case information is required describing any renewable energy installation around

which a safety zone is sought and in relation to the purpose and size of such a safety zone. The Regulations are proposing to require the applicant to provide the following information —

- (a) in relation to any proposed or existing relevant renewable energy installation —
  - (i) a description of the installation and its proposed or existing location and dimensions (including an explanation of how much of it is (or is expected to be) visible above the water line and how much below it), supported by drawings;
  - (ii) a description of how the installation operates (or is to operate);
  - (iii) a description of the location (or proposed location) of —
    - (A) any electric line used (or proposed to be used) for the conveyance of electricity to or from the installation; and
    - (B) any connection to such an electric line;
  - (iv) a description of the location (or proposed location) of any offshore sub-station housing connection equipment;
  - (v) where the zone is sought in respect of more than one relevant renewable energy installation, the proposed or existing distances between such installations; and
  - (vi) details of any navigational marking that has been specified for use with an installation of the description in question by the Commissioners of Northern Lights;
- (b) in relation to any proposed or existing relevant renewable energy installation powered by waves or tides —
  - (i) a description of components located (or to be located) above and below the water line;
  - (ii) details of any moving parts (or proposed parts) and of how far and in which direction such parts may move through waters surrounding the installation;
  - (iii) a description of the extent and location (or proposed extent and location) of anchors, moorings and cables used (or to be used) in relation to the installation;
  - (iv) details of the anticipated range of wave heights in the proposed safety zone, which may be given by reference to any generally accepted scale or code for expressing that information; and
  - (v) a description of typical spring and neap tidal data, and of typical tidal stream speeds and bearings, relating to waters in the proposed safety zone;

- (c) in relation to the proposed safety zone —
  - (i) whether the zone relates to the construction, extension, operation or decommissioning of the relevant renewable energy installation;
  - (ii) whether the applicant seeks the declaration of a standard safety zone, or if not, what dimensions are sought for that zone;
  - (iii) a description of those works or operations in respect of which the zone is being applied for and their estimated date and duration;
  - (iv) whether the applicant proposes that the area of the zone will vary and any factors or determinations by reference to which the applicant proposes that such variation may take place;
  - (v) whether the zone relates to major maintenance works in respect of a relevant renewable energy installation which has become operational;
  - (vi) a statement setting out what steps, if any, the applicant proposes to take to monitor vessels and activities within the zone; and
  - (vii) except where the Department has notified the applicant that it is not required, an up to date shipping traffic survey for the waters comprising the zone; and
- (d) an assessment of the extent to which navigation might be possible or should be restricted, and whether restrictions would cause navigational problems, within or near waters where the relevant renewable energy installation is to be, or is being, constructed, extended, operated or decommissioned, as the case may be.

In addition, draft regulation 9 also sets a fee payable to the Department upon an application for a safety zone declaration. The Department is proposing a £2000 fee, which is comparable with such a fee in the UK.

**Question 4 – Do you agree with the proposed level of detail required to support an application for an offshore safety zone?**

**If not, please provide your reason.**

Draft regulation 5 identifies those publications in which notice of an application for a safety zone should be advertised by the applicant, as well as locations where such notices should be displayed. The Regulations are proposing to require the applicant to publish a notice of the application in the following publications —

- (a) in one or more local newspapers which are likely to come to the attention of those likely to be affected by the safety zone;
- (b) in Lloyd's List; and
- (c) if there are in circulation one or more appropriate fishing trade journals which are published at intervals not exceeding one month, in at least one such trade journal.

In addition, an applicant would be required to publish a copy of the notice on a website maintained by them and provide a copy of the notice to the Department requesting that the notice be displayed for a period of not less than 14 days at an address accessible during normal office hours to members of the public likely to be affected by the application.

**Question 5 – Do you agree that the applicant must publish a notice of application in the manner set out in the Regulation?**

**If not, please provide your reason.**

**Question 6 – Do you agree with the methods of publication of such a notice?**

**If not, please provide your reason.**

Draft regulation 6 lists public and other consultation bodies upon whom notice of an application for a safety zone declaration should be served. This provision will require the applicant to serve notice of an application on the —

- (a) Department of Environment, Food and Agriculture; and
- (b) owner (and operator, if a different person) of the relevant renewable energy installation where that person is not the applicant,

to ensure they are aware of the application.

**Question 7 – Do you agree that the applicant must serve a notice on those persons?**

**If not, please provide your reasons?**

Draft regulation 7 requires an applicant, when advertising and serving notice of an application, to state the time (which must not be less than 28 days from the date or latest date of publication of the notice, or less than 28 days from the service of the notice) within which, and the manner in which, objections to an application are to be made to the Department.

**Question 8 – Do you agree with the time limits specified in the draft regulation in respect of objections to the requested safety zone?**

**If not, please provide your reason.**

Draft regulation 8 makes provision for the publication of notice of any public inquiry to be held.

It is proposed that the notice be published in a local newspaper used to publicise the notice of application under regulation 5(1), and to the place where a copy of the application for a safety zone, and of the map referred to in it, can be inspected free of charge. This must be at an address accessible during normal office hours to members of the public likely to be affected by the application.

**Question 9 – Do you agree with the proposed publication requirements?**

**If not, please provide your reason.**

Draft regulation 10 makes provision for standard exemptions to the prohibition upon entry into and activities in a safety zone deriving from section 96(1) and (2) of the 2004 Act. Specified categories of vessels, belonging to or acting on behalf of government departments, as well as other public and licensed bodies, and in connection with emergencies such as lifesaving, are permitted in safety zones. This regulation also permits certain activities in safety zones connected with the undertaking of development works and the undertaking of scientific monitoring requirements.

**Question 10 – Do you agree with the type of vessels, and purpose of that vessel, that may enter into a safety zone?**

**If not, please provide your reason.**

**Appendix A – Draft of the Climate Change (Energy Act 2004) (Application) Order 2026**

**Appendix B – Draft of the Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) Regulations 2026.**