

Applying for safety zones around offshore renewable energy installations

Guidance notes

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1.0 Introduction

- 1.1 Section 95 and Schedule 16 of the Energy Act 2004 set out the basic requirements for applying for a safety zone to be placed around or adjacent to an offshore renewable energy installation (OREI). Following public consultation, new regulations - *The Electricity (Offshore Generating Stations) (Safety Zones) (Applications Procedures and Control of Access) Regulations 2007 (SI No 2007/1948)* - were introduced in August 2007 clarifying these requirements so that applicants and other interested parties would fully understand the processes for applying for a safety zone and advertising such applications.
- 1.2 The regulations can be accessed on the HMSO website at <http://www.opsi.gov.uk/si/si2007/20071948.htm>
- 1.3 These guidance notes are intended to be used in conjunction with the regulations and cover a number of matters, including:
 - a) **Scope of the Safety Zone Scheme** - the geographical scope of the scheme and the categories of installation included within the scheme;
 - b) **Processes** - the processes to be followed in applying for a safety zone and in advertising such applications; and
 - c) **Supporting information** - information required to support an application for a safety zone.
- 1.4 These guidance notes are expected to be of interest to businesses which are developing and taking ownership of OREI, as well as to other stakeholders, including navigational interests, the fishing industry and other users of the marine environment.
- 1.5 Applications for safety zones must be made to the relevant regulatory authority. In the majority of cases for OREI in the sea off England, Wales and Scotland the relevant regulatory authority will be the Department of Energy and Climate Change (DECC). However, where the Marine Management Organisation (MMO) has granted a Section 36 consent (under the Electricity Act 1989) for projects in the sea off England and Wales, the MMO will be the relevant regulatory authority.
- 1.6 Copies of these guidance notes may be made without seeking permission. An electronic version can be found at <https://www.og.decc.gov.uk/EIP/pages/offshore.htm> under *Safety zones for offshore renewable energy installations*.
- 1.7 These guidance notes will be updated as necessary. Any comments on the content, including suggestions for improving them, should be emailed to:
Offshore.renewables@decc.gsi.gov.uk

2.0 Scope of the Safety Zone Scheme

Geographical scope

- 2.1 The safety zone scheme, as set out in the Energy Act 2004 and the Electricity (Offshore Generating Stations) (Safety Zones) (Applications Procedures and Control of Access) Regulations 2007 (SI No 2007/1948), applies to territorial waters in or adjacent to England, Scotland and Wales (between the mean low water mark and the seaward limits of the territorial sea, thereby including internal coastal waters and territorial waters) and to waters in the UK Renewable Energy Zone (REZ) (including that part adjacent to Northern Ireland territorial waters). The scheme does not apply to the territorial or internal coastal waters of Northern Ireland.

Categories of installation included in the scope of the scheme

- 2.2 The scheme applies to all OREI, including those which have already been consented. The precise definition of an OREI is set out in Section 104 of the Energy Act 2004. In essence, installations included within the definition (and hence within the scope of the scheme) are those which:
- a) are used (or will be used or, in the case of decommissioning, have been used) for purposes connected with the production of energy from water or winds; and
 - b) permanently rest on, or are permanently attached to, the bed of the waters; and
 - c) are not connected with dry land by a permanent structure providing access at all times for all purposes.
- 2.3 It should be noted, however, that the scheme will not cover export cables or inter-array cables, or parts thereof, located outside an approved safety zone.

3.0 Overall approach to safety zone applications

- 3.1 The process for applying for a safety zone should be flexible, transparent and subject to consultation.
- 3.2 A safety zone can be established either as a result of a successful application by an applicant or, in the absence of such an application, by the relevant regulatory authority if in its view, following consultation with the Maritime and Coastguard Agency's (MCA) Navigation Safety Branch, a safety zone is considered to be necessary.
- 3.3 Subject to an acceptable safety case, safety zones can be established for any phase in the life of an OREI, i.e. construction, operation, extension, major maintenance and decommissioning. However, practical experience of the scheme to date has shown that most developers tend to make combined applications covering construction and major maintenance. Where a safety zone declaration covering all stages of an installation's life was approved as a result of a single, consolidated, application, we would expect such a declaration to be reviewed periodically by the developer in consultation with the relevant regulatory authority and the MCA to consider whether its continuation is relevant to the safety of navigation. This is to ensure that the safety zone arrangements agreed at the time of the original application are still adequate in the light of developments during the considerable passage of time - expected to be around 25 years, though possibly considerably less for demonstration projects - between construction of the relevant project and its decommissioning.
- 3.4 An application can be made in respect of a single installation or several installations making up an array.
- 3.5 Whilst standard dimensions of 500 metres (the maximum permissible under international law) during construction, major maintenance, possible extension and decommissioning will normally apply, all applications will be assessed on a case by case basis taking into account site specific conditions. Whilst the regulations also provide for safety zones of 50 metres during the operational phase of an OREI's life, in practice, very few applicants have to date sought 'operational' safety zones.
- 3.6 In the case of a wave or tidal device, the relevant regulatory authority and MCA will need to consider, in consultation with the developer, whether the standard dimensions for safety zones as set out above are appropriate and,

if so, what part of the device's structure they should be measured from. This is to ensure that the movement of such a device, or part thereof, through the water and any moorings or cables will be adequately covered.

- 3.7 In order to minimise disruption to mariners and other users of the sea, safety zones for the construction, major maintenance and eventual decommissioning phases of an OREI's life will be established on a 'rolling' basis, covering only those areas of the total site in which such activities are actually taking place at a given time. Once that activity has been completed in that specific location, the safety zone will then 'roll on' to cover the next specific location within the site in which such activity is taking place. Depending on the scope of the safety zone application, the area in which work has been completed will, for example when a structure has been completed and commissioned, then have unrestricted access for navigation. However, as a further aid to safety of navigation, the entire site of the development may need to be marked and lit in an appropriate way, as recommended by a general lighthouse authority, to ensure that mariners and other users of the sea are aware that construction, major maintenance or decommissioning activities are taking place within the site.

4.0 Process for applying for a safety zone

Information required

- 4.1 Where planning consent for an OREI is required under section 36 of the Electricity Act 1989 (i.e. for generating stations above 1 MW in internal and territorial waters and above 50 MW and up to 100MW in the UK REZ) or a Development Consent Order (for major infrastructure projects above 100MW) under section 105 of the Planning Act 2008, the relevant regulatory authority needs to be aware of whether a safety zone will be needed as consideration is given to the planning application for the OREI (see section 99 of the Energy Act 2004).
- 4.2 An application for consent under section 36 of the Electricity Act 1989 or section 105 of the Planning Act 2008 must therefore consider whether a safety zone is needed as part of the assessment of the impact of the proposed installation on the safety of navigation. The relevant Marine Guidance Note - currently MGN 371 - issued by the MCA at http://www.mcga.gov.uk/c4mca/mcga-safety_information/nav-com/offshore-renewable_energy_installations.htm sets out the issues which need to be considered when undertaking such an assessment.
- 4.3 DECC's predecessor, the Department of Trade & Industry previously issued a methodology to guide developers when completing their navigation risk assessment of OREI. This can be found at <http://webarchive.nationalarchives.gov.uk/+http://www.berr.gov.uk/files/file22888.pdf>
- 4.4 Any application under section 36 (Electricity Act 1989) or a Development Consent Order section 105 (Planning Act 2008) must also be accompanied by an up to date vessel traffic survey. This information ensures that decisions about whether consent can be granted take into account the potential impacts of any safety zones which may be deemed necessary.

Formal application

- 4.5 Where the relevant regulatory authority, in consultation with the MCA, takes the view on the basis of the information provided in the planning application that a safety zone should be established, the applicant will be expected to submit a formal application to the relevant regulatory authority and serve notice of application on the Navigation Safety Branch of the MCA at:

Navigation Safety Branch
Maritime and Coastguard Agency

Spring Place
105 Commercial Road
Southampton
Hants
SO15 1EG

- 4.6 For applications for safety zones around installations in Scottish or Welsh waters, the applicant will also be required to serve notice of application on Marine Scotland or the Welsh Assembly Government respectively.
- 4.7 In normal circumstances we would anticipate that the formal application for a safety zone would be made after development consent of the installation had been granted. This is because by that stage the applicant (normally expected to be the developer of the installation) will have taken decisions on a range of important technical issues such as foundation type and, in the case of wind farms, the locations of the installations which will make up an array. This is to ensure that decisions about safety zones, and particularly how a safety zone notice should be drawn up, can be taken on the basis of firm and up to date information.
- 4.8 In addition to an accurate map showing where the installation is, or is to be, located and where the safety zone being applied for is to be placed, the applicant will also be required to provide the following information in the application:

(i) In respect of the installation

For all types of installation:

- Basic information, supported by drawings, about the installation, both above and below the water line.
- Where safety zones are being applied for around a number of installations in an array, the distances between installations in the array. This information is required because it is important for the regulators to have a clear appreciation of the site as a whole.
- Location of sub-sea cables, including export cables. Although cables cannot be covered by safety zones this would be useful background information.
- Location of electric cable connections and offshore platforms housing connection equipment.
- Details of any navigational marking that has been specified for the installation by a general lighthouse authority.

- Details of marking and lighting of individual devices within the installation as specified by MCA.
- An appropriate navigational risk assessment (prospective applicants for safety zones who have previously provided such an assessment with consent application for the development of an OREI are advised to check with MCA whether additional/new information is required before submitting a formal application for a safety zone).
- An up to date vessel traffic survey (although here again, prospective applicants who have already provided a vessel traffic survey with a development consent application should check with the MCA whether additional/new data is required before submitting a formal safety zone application).

For wave and tidal devices only:

- A description of how the installation operates, including, where appropriate, information about any parts of the installation which move through the water. These details are required to give the regulators clear information about how the installation will operate, so that the safety zone notice can be drawn up appropriately.
 - Information on anchor spread and penetration of devices into different parts of the water column.
 - Extent of the operational movement envelope of the device.
 - Proposed location of moorings and power cables, together with their potential ranges of spread and catenary.
 - For wave devices, details of the anticipated range of sea states in which the devices will be able to operate.
 - For tidal devices, details of anticipated tidal stream rates in the area of the installation, including a description of typical spring and neap tidal data.
- (ii) In respect of the safety zone itself:
- The phase or phases of an installation's life for which the application is being made, i.e. construction, major maintenance, extension, operation, decommissioning.
 - The dimensions of the proposed safety zone.
 - Other supporting information, which, in the applicant's opinion, may be relevant to the relevant regulatory authority's consideration of the

application.

- 4.9 The MCA has requested that the applicant should also provide an undertaking that the applicant will monitor any safety zone approved, together with an outline of the arrangements the applicant intends to put in place to facilitate this.

5.0 Process for advertising an application for a safety zone

5.1 In parallel with the formal application process described above, the applicant will be required to publish notice of an application for a safety zone as follows:

- In two successive weeks in one or more local newspapers which are likely to come to the attention of those likely to be affected by the safety zone.
- In Lloyd's List and in one or more national newspapers.
- In at least one appropriate fishing journal published at intervals not exceeding one month.
- In the London Gazette, unless the safety zone is proposed or located wholly within waters mentioned below.
- In the Edinburgh Gazette in the case of applications relating to a safety zone proposed or located wholly or partly in an area of Scottish waters or an area of waters in the Scottish part of the REZ (see definition of Scottish Waters in Section 104(1) of the Energy Act 2004).
- In the Belfast Gazette in the case of applications relating to a safety zone proposed or located wholly or partly in the part of the UK REZ adjacent to Northern Ireland (see article 3(1) of the Adjacent Waters Boundaries (Northern Ireland) Order 2002 (SI 2002/791)).
- In cases where the location of the development crosses the boundaries between territorial waters the notice will need to be published in more than one of the above-mentioned Gazettes. For example, if the development straddled the boundary between UK and Scottish waters, the notice would need to be published in both the London Gazette and the Edinburgh Gazette.

5.2 At the same time as publishing the notice, the applicant will also be required to send a copy of the notice to:

- the harbour masters of ports whose users are, in the opinion of the applicant, likely to be affected by the application;
- the MCA HQ, plus the Maritime Rescue Co-ordination Centre (MRCC) responsible for operations in the waters in which the safety zone is proposed or located; and
- the local office of the Inshore Fisheries and Conservation Authority

which is responsible for operations in the waters in which the safety zone is proposed or located if appropriate, 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.

- 5.3 The notice must clearly state the period (not less than 28 days from the date of publication of the notice) within which, and the manner in which, any comments on or objections to the application are to be made to the relevant regulatory authority.
- 5.4 As indicated in paragraph 4.7 above, we would not usually expect an application for a safety zone to be made at the same time as an application for a Development Consent Order (Planning Act 2008) or Section 36 (Electricity Act 1989) application. However, in instances where the planning and safety zone applications are made simultaneously, it will be possible to cover both applications in a combined notice.

6.0 Consultation

- 6.1 It is strongly recommended that applicants for safety zones should bring their intention to make an application to the attention of all interested parties at the earliest possible opportunity. All applications to DECC can be lodged on its Energy Infrastructure Portal www.og.decc.gov.uk/EIP.htm and DECC will endeavour to coordinate its consultation through the portal. By following a simple registration process anyone with an interest can view live applications on the portal.
- 6.2 All applications to the MMO can be made online at <http://www.marinemangement.org.uk/licensing/marine/apply.htm> or further advice can be sought by emailing offshore.renewables@marinemangement.org.uk
- 6.3 On receipt of an application for a safety zone, the relevant regulatory authority will contact a range of organisations likely to have an interest in such applications seeking their views. Normally a deadline of eight weeks will be set for responses. To facilitate this consultation process, the applicant will be required to provide the organisations listed at Annex B to this guidance note with a copy of the safety zone application and will be encouraged to do so via DECC's Energy Infrastructure Portal.
- 6.4 It is also recommended that the applicant should forward details of the application to the Kingfisher Information Service with a request for details to be published in the Kingfisher fortnightly bulletin.

7.0 Establishing a safety zone

- 7.1 The process for establishing a safety zone has a number of separate elements. The processes for applying for a safety zone and publicising such applications have been described in detail in preceding sections of this guidance note, but in summary:
- The applicant makes an application to the relevant regulatory authority and serves notice of application on the MCA and, as appropriate, Marine Scotland or Welsh Government, providing information as necessary to support the case for the safety zone.
 - In parallel, the applicant publicises the fact that an application is being made to give an opportunity to anyone who wishes to comment on the application to make their views known to the relevant regulatory authority.
 - The relevant regulatory authority then takes a decision on the application, taking into account any comments it has received and all other material considerations.
- 7.2 The relevant regulatory authority then has four options. It can accept or reject the application; propose that a safety zone notice should be established which is materially different from that applied for; or, in exceptional circumstances, decide that the application should be considered by a public inquiry.
- 7.3 In all cases, the relevant regulatory authority will write to the applicant to inform them of its decision.
- 7.4 In cases where the relevant regulatory authority accepts the application, or proposes the establishment of a safety zone materially different from that applied for, the relevant regulatory authority will issue and publish a safety zone notice setting out prohibited activities and/or permitted activities for certain vessels or classes of vessels to enter or remain within a safety zone. Standard lists of these prohibitions and permissions are contained in the safety zone regulations. The safety zone notice is published so that those who are likely to be affected by the prohibitions on entering the zone or the carrying out of activities within the zone are aware of the restrictions.
- 7.5 In cases where the relevant regulatory authority rejects the application, the applicant may lodge an appeal with the relevant regulatory authority within 28 days of the date of the letter rejecting the application. Any appeals will be considered in consultation with the MCA.
- 7.6 The process to be followed if the relevant regulatory authority decides that the application should be considered by a public inquiry is set out in *The Electricity Generating Stations and Overhead Lines (Inquiries Procedure) (England and Wales) Rules 2007 (SI 2007 No 841)*. In essence, the

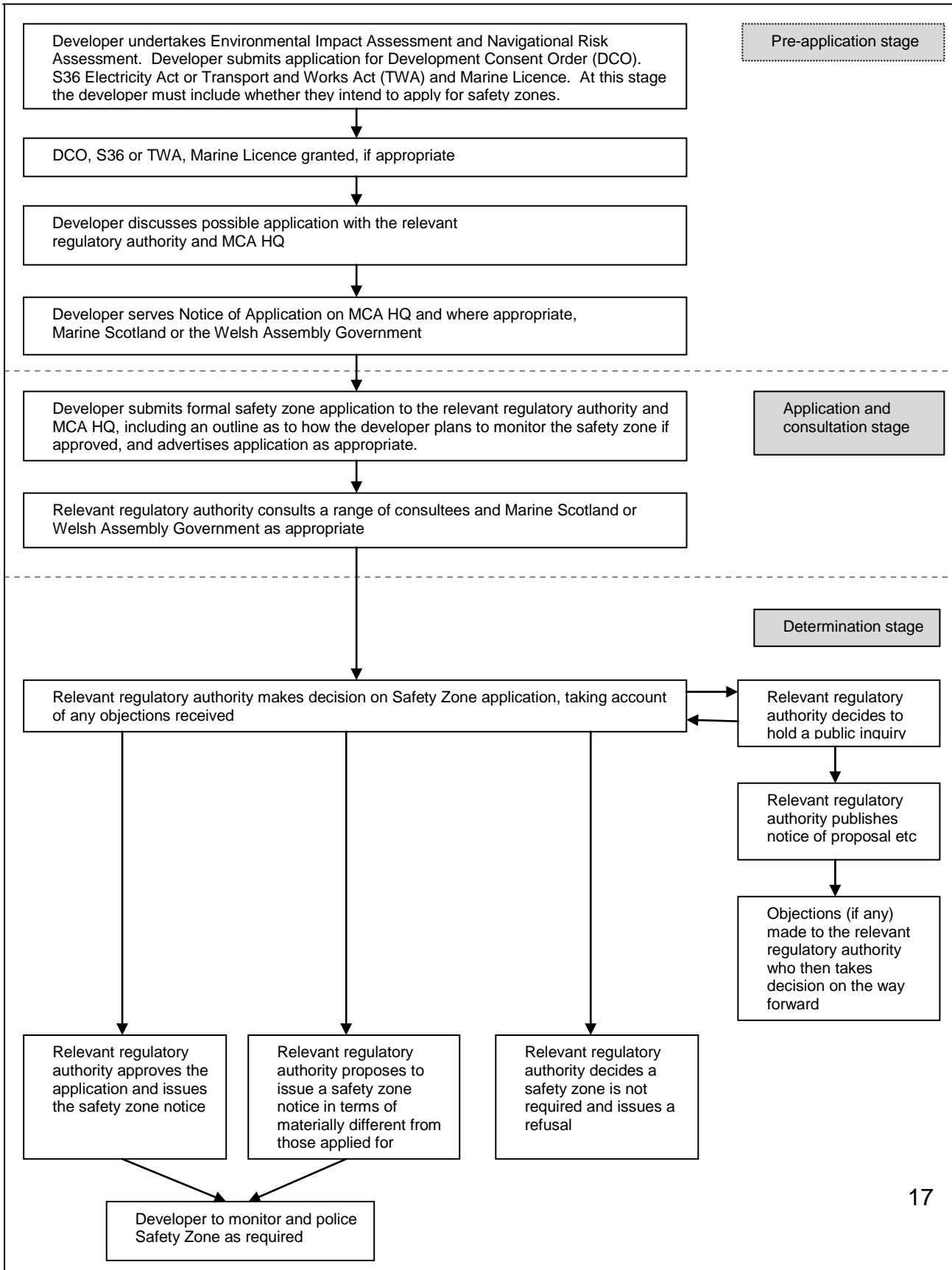
applicant is required to make known where a copy of the safety zone application and a map of the proposed development showing the intended position of the safety zone can be inspected. As far as possible these documents are to be made available for inspection in the same place as the map was displayed when the application for the safety zone was made. Similarly, wherever possible the notice regarding the public inquiry is to be published in newspapers in the same area as the original notice publicising the fact that a safety zone application was being made.

8.0 Fees

- 8.1 A standard charge of £2000 (payable to the relevant regulatory authority) will be made for each application. This is necessary to cover the administrative costs of processing the application.

Annex A

Safety zone application flow diagram



Annex B

Safety zone application consultee list

British Marine Aggregate Producers Association*
Chamber of Shipping*
Local Port Authority (<i>where appropriate</i>)
Local Inshore Fisheries and Conservation Authority (<i>where appropriate</i>)
Maritime and Coastguard Agency HQ*
National Federation of Fishermen's Organisations (<i>where appropriate</i>)
Northern Lighthouse Board (<i>where appropriate</i>)
Royal Yachting Association*
Trinity House Lighthouse Services (<i>where appropriate</i>)
Scottish Fishermen's Federation (<i>where appropriate</i>)
Marine Scotland (<i>where appropriate</i>)
Scottish Natural Heritage (<i>where appropriate</i>)
Welsh Assembly Government (<i>where appropriate</i>)

* Notice of application to be served for all applications

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