

<b>Title:</b> <b>Amendment to electric lines threshold in the Planning Act 2008</b>  <b>IA No: DECC0102</b>  <b>Lead department or agency: DECC</b>  <b>Other departments or agencies: DCLG, PINS</b>	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> 11/3/2013			
	<b>Stage:</b> Final			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Secondary legislation			
<b>Contact for enquiries:</b> Nick Cooper NIC 0300 068 5687				
<b>Summary: Intervention and Options</b>				
<b>RPC: GREEN</b>				

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB in 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as
£0.12m	0	<b>-£0.01m</b>	Yes	OUT

**What is the problem under consideration? Why is government intervention necessary?**

The threshold in the Planning Act 2008 for electric lines of 132kV applies disproportionate consent application requirements to projects for short lengths of new electric lines and minor work to existing electric lines at 132kV nominal voltage or greater that are not nationally significant infrastructure projects (NSIPS). These requirements place resource, timescales and costs on developers that are disproportionate to the scale of minor works and may impact on timely investment in electricity networks infrastructure, or require more expensive alternatives. As the threshold is set in primary legislation, it can only be changed by an amending regulation.

**What are the policy objectives and the intended effects?**

The policy objective is to ensure that the definition of a nationally significant electric line is clearly set out in the Planning Act 2008. The intended effect is to ensure that applications for consent of projects which are not nationally significant are not subject to the Planning Act process for NSIPs for examination by the Planning Inspectorate (PINS) but are subject to the process that already exists for non-nationally significant electric lines under s.37 of the Electricity Act 1989, for examination by the Secretary of State. Proportionate consent application requirements for minor works to electric lines above ground of 132kV nominal voltage and greater would reduce the time taken to prepare an application and therefore developers' costs, facilitating timely investment in electricity networks infrastructure.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

There are two options for resolving the problem:  
Do nothing – The Planning Act, process will continue to apply to electric lines that are not nationally significant with disproportionate procedural requirements.  
Amend the Planning Act 2008 thresholds through secondary legislation. This would amend the definition in section 16 of the Planning Act that sets out whether an electric line is or is not covered by the definition of an NSIP in section 14 of the Act. Following consultation on the options, the Government is implementing an amendment to the threshold to be electric lines of 132kV or greater nominal capacity with a length of 2km or more and to provide that uprating of existing lines will not be classified as an NSIP.

**Will the policy be reviewed? It will not be reviewed. If applicable, set review date: Month / Year**

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro No</b>	<b>&lt; 20 No</b>	<b>Small No</b>	<b>Medium Yes</b>	<b>Large Yes</b>
What is the CO2 equivalent change in greenhouse gas emissions? (Million tonnes CO2 equivalent)			<b>Traded:</b>		<b>Non-traded:</b>

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister:	Greg Barker	Date:	12 June 2013
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# Summary: Analysis & Evidence

# Policy Option 2

Description: Implement amendment through secondary legislation: electric lines of 132kV nominal voltage greater than 2km (and excluding uprating of existing lines where there is no change to physical infrastructure).

## FULL ECONOMIC ASSESSMENT

Price Base Year 2010	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 4.0	High:37.1	Best Estimate: 10.3

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	0	0
High	0	0	0
Best Estimate	0	0	0

### Description and scale of key monetised costs by 'main affected groups'

None – both consents regimes are familiar to developers. There are, therefore, no transition costs or additional costs for developers. PINS allocates resources according to the total number of applications received and decisions as to the resource required for each. It will not, therefore need to alter resources currently used for examination of development consents. Resources in DECC that would consider recommendations by PINS under the Act will instead consider the applications directly.

### Other key non-monetised costs by 'main affected groups'

None

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	£0.46m	£4.0m
High	0	£4.33	£37.14m
Best Estimate	0	£1.20	£10.27

### Description and scale of key monetised benefits by 'main affected groups'

The key benefits to developers would be a reduction in costs owing to the difference in fees payable between the s.37 regime (if revised as proposed) and the Planning Act regime. The sensitivities below demonstrate that the amount of benefit would depend upon the individual applications and would vary according to the mix of simple and complex applications submitted annually.

### Other key non-monetised benefits by 'main affected groups'

Developers would benefit from a reduction in the level of pre-application work required, leading to benefits from reduced time for preparation and submission of an application, with necessary development coming forward without delay or additional costs. However applications for development consent for electric lines would continue to be subject to rigorous scrutiny under an appropriate consenting regime.

### Key assumptions/sensitivities/risks

It is assumed that revised fees for s.37 applications are introduced. The lowest estimate reflects the least time estimated to be taken by PINS to make a recommendation; the highest estimate the longest time estimated to be taken by PINS to make a recommendation.

It is assumed that one of the applications would go to public inquiry.

### Discount rate

3.5

## BUSINESS ASSESSMENT

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 1.2	Net: 1.2	Yes	OUT



## BACKGROUND

### Problem

1. Electric lines above ground must be given development consent by the Secretary of State before construction begins. Applications for development consent of lines with a nominal voltage of less than 132kV are made under Section 37 of the Electricity Act 1989. Applications for development consent of lines with a nominal voltage of 132kV or greater are made under section 31 of the Planning Act 2008.
2. The Planning Act 2008 (“the Act”) is intended to provide a fast-stream process for determining development consent on applications for “nationally significant infrastructure projects” (NSIPs), as defined in section 14 of the Act. However, it has become apparent that the threshold of 132kV nominal voltage has resulted in a number of projects for which applications for development consent must be submitted to the Planning Inspectorate although they cannot be defined as “major infrastructure projects” or NSIPs. This imposes disproportionate requirements on applications for development consent for minor works to existing electric lines or short lengths of new lines.
3. The Act sets out detailed requirements for pre-application consultation and applications, which are implemented through regulations. These statutory requirements, while proportionate for major infrastructure projects that are nationally significant, can cause delays and place burdens on developers that may affect decisions on timing of new infrastructure or investment decisions more generally – for example where an electric line needs diversion to accommodate a road-widening scheme.
4. The current development consent regimes are set out below:

**Table 1: Current consenting regimes for electric lines and cables.**

<b>Infrastructure</b>	<b>Consent process in England and Wales</b>	<b>Proposed change to legislation.</b>
Electric lines above ground with a nominal voltage between 230volts and 66 kilovolts <sup>1</sup> (excluding of under 20kV for a single user and electric lines above ground that are exempted under S.I. 2009/640).	Application to the Secretary of State for development consent under s.37 of the Electricity Act 1989	None.

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<sup>1</sup> Nominal voltages of electric lines above ground in the UK are normally 240V, 400V, 6.6 kilovolts (kV); 11kV, 20kV, 22kV, 33kV; 66kV; 132kV; 275kV and 400kV. Lines of 132kV nominal voltage or less are generally distribution network lines; 275kV and 400kV lines are high voltage transmission lines that form the national electricity grid.

<p>Electric lines above ground of 132kV nominal voltage or greater (excluding electric lines above ground that are exempted under S.I. 2010/277.)</p>	<p>Application to the Secretary of State for development consent under s.31 of the Planning Act 2008</p>	<p>Amend the threshold in the Act to be all lines of 132kV nominal voltage and 2km or more in length, excluding uprating nominal voltage without significant changes to physical characteristics.</p>
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Electric cables, which are underground, of whatever nominal voltage are not required to have development consent.

5. The application procedures under s.37 and the Act set different levels of consultation before an application is submitted. Part 5 Chapter 1 of the Act sets out a detailed pre-application procedure that may take a year or more to complete. It includes agreement of a consultation plan with relevant local authorities, consultation according to the plan with Statutory Consultees and interested parties, followed by a report to the Secretary of State showing how the consultation has been taken into account in the application.

6. The application and examination process under the Act is intended to ensure rigorous scrutiny of major infrastructure projects after an application has been accepted. There is a statutory timetable that can take up to 16 months from formal submission of an application before determination by the Secretary of State.

7. Development consent applications under s.37 are subject to Schedule 8 of the Electricity Act 1989. Schedule 8 does not require pre-application procedures and there is some flexibility as to what information should be provided to the Secretary of State with an application, which means that the requirements for an application can be proportionate to the scale of the project.

8. There are additional requirements in the Electricity (Applications for Consent) Regulations 1990 (SI 1990/455) that specify publication by the developer of an application and on notice of an application to specific parties, including relevant local authorities. However, applicants are not required to undertake consultation before application, nor to demonstrate how they have taken account of such consultation, nor to prepare a separate report on the consultation. If a local authority objects to an application and does not subsequently withdraw its objection, or the Secretary of State decides, a Public Inquiry is held on the application and the Secretary of State will determine the application on the basis of the Inspector's report. The process under s.37 is, therefore, robust and open to public scrutiny.

9. Some minor works to electric lines, for example replacement with no changes to route, supports or capacity, or diversions of 850 metres or less in length for a limited time are exempt from any consents procedures under the Overhead Lines (Exemption) (England and Wales) Regulations 2009 and the Overhead Lines (Exempt Installations) Order 2010 ("the Exemption Regulations"). Diversion of a line for 60m or less from its original route is also exempt. However these exemptions do not apply in all circumstances.

## Argument

10. There is no generally-accepted definition of what constitutes an NSIP. The only definition for electric lines is through sections 14 and 16 of the Act. The White Paper on planning reform, published in 2007 suggested that electricity [*sic*] line NSIPs could be “Projects necessary to the operational effectiveness, reliability and resilience of the electricity transmission and distribution network. This would be subject to further definition in the relevant national policy statement”<sup>2</sup>. It is suggested that this would “avoid drawing in many of the smaller projects that might have more local impacts and benefits.”<sup>3</sup>

11. In the passage of the Planning Bill through Parliament, the threshold was set at 132kV in accordance with the provisions of the electricity consents regulation 5(1) (SI 1990/455), which requires that notifications of applications for consent of electric lines “of not less than 132 kilovolts shall be published by the applicant in two successive weeks in one or more local newspapers”. This regulation is to afford local parties other than a relevant local planning authority the opportunity to object to an application. It is clear that the level of 132kV was intended to facilitate *local* consultation where electric lines might have a significant effect; it was not originally intended to determine whether an electric line was nationally significant.

12. The Government considers that applications for development consent for electric lines that are for projects to divert a line over relatively short distances, replace the line with the addition of a new tower or uprate the nominal voltage capacity of an existing line generally have no national significance. Further, although work on existing transmission lines over 132kV may be to the national grid, such minor works do not have intrinsic national significance – there would be no particular *national* impact if the work was not carried out.

13. There is some evidence that the disproportionate process and costs are beginning to affect developers’ decisions on infrastructure. Several electric lines projects that were notified to PINS as potential applications have been withdrawn. Although it cannot be demonstrated that the reason was to avoid the requirements of the Act, it is likely to have been a factor in the decision. We have also been given evidence that developers are beginning to seek options that avoid having to make an application under the Act, even where that option may be considerably more expensive, or delay investment in new infrastructure projects.<sup>4</sup> In at least one case, the new line was subsequently undergrounded, at considerable additional cost to the developer

## Government intervention

14. Because the definition of electric lines as NSIPs is set out in Sections 14 and 16 of the Planning Act, any change to the threshold to re-define an electric line NSIP could only be made by changes to the Act either through primary legislation or through secondary legislation under Section 14(3)(b) of the Act.

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<sup>2</sup> “Planning for a Sustainable Future – White Paper 2007 Box 5.1, page 75

<sup>3</sup> Ibid p76.

<sup>4</sup> Letter from the Electricity Networks Association to the Minister of State DECC 21 February 2011.

15. The Government considered amending the threshold through a clause in the Localism Bill. Having examined the possibilities, Ministers decided that it would be more efficient and cost-effective to make an amendment to the Act through secondary legislation, because the Parliamentary process to prepare and approve primary legislation, even where such legislation is an addition to a Bill already before Parliament, requires more Parliamentary time and resource than drafting a simple Statutory Instrument to make a small amendment to an existing Act. Without Government intervention, developers will continue to be required to submit applications for minor works on electric lines under the Planning Act regime.

## Options

16. There are two options for resolving the problem:

(1) Do nothing – developers will continue to apply to under the Act, with disproportionate requirements on developers for consent of electric lines that are not nationally significant.

(2) Amend the Planning Act 2008 thresholds through secondary legislation. Ministers consider that this is the most cost-effective way of changing thresholds and returning determination of electric lines of less than 2km and uprating of existing lines from the Planning Act 2008 to the Electricity Act 1989.

## Consultation

17. The Government consulted between 18 October 2012 and 28 November 2012 on whether the Planning Act 2008 should be amended and if so which of three options would best achieve the aim to remove minor works from the scope of the Act. These options were::

(1) Amend the threshold to all lines greater than 132kV nominal voltage;

(2) Amend the threshold to all lines of 132kV nominal voltage and more than 2km, excluding uprating voltages where there are no physical changes to infrastructure;

(3) Amend the threshold to be 132kV nominal voltage or greater for lines that are “EIA Development” (as defined in the EIA directive and implementing regulations)<sup>5</sup>.

18. We received 19 responses. They all agreed that the Planning Act should be amended on the lines of Option 2. Some respondents suggested that we should

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<sup>5</sup> Major projects that have potential significant effects are regulated under the EU Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment. Such projects are described as “EIA Development”. The EIA Directive is implemented in England and Wales by secondary legislation. Where development is determined to be EIA development, it will require an environmental statement (ES), the contents of which are prescribed by the regulations. For electric lines, all lines of 220kV nominal voltage and more than 15km in length are EIA development. Other projects may be determined to be EIA development by the Secretary of State.

consider removing uprating voltages where there were some minor variations in route or supports, as these projects are not covered by the exemptions in S.I. 2009/ and S.I. 2010/277.

19. The Government is therefore amending the Planning Act threshold for electric lines above ground to be lines with a nominal voltage of 132kV or greater and 2km or greater in length, excluding work to uprate the nominal voltage of lines where there is no significant change to existing infrastructure. Implementing legislation will set out what constitutes significant change, based on existing exemptions.

## **Costs & Benefits**

### Costs

20. The estimated costs for amendment to the Act are:

- Costs to PINS through a reduction in fees received for examination of electric line development consent applications; and
- Costs to DECC incurred in handling an increased number of development consent applications.
- Potential costs to developers for public inquiries under s.37.

21. As a Government Agency, PINS operates as a not-for-profit body and its primary funding is a grant from the Department of Communities and Local Government. Fees payable for examination of applications under the Act are prescribed in The Infrastructure Planning (Fees) Regulations 2010<sup>6</sup>.

22. DCLG have indicated that the transfer of a small number of electric line development consent applications from the Act to s.37 would not affect PINS resourcing, which is predicated on an estimate of the number of major projects (e.g. major motorway schemes, large electricity generating stations, major rail improvements) that might be submitted annually. As fees under the Planning Act are set by statute and resource levels calculated on the overall resourcing requirements of PINS, not on the potential cost of determination of individual infrastructure types, there would be no change to either fees or resource levels.

23. In providing advice to Ministers on an application for development consent under s.37, DECC uses staff resources equivalent to 1 full-time equivalent (FTE) SEO, 1 FTE G7, 0.5 FTE AO and some input from senior officials and legal advisers. Using average DECC costs for staff and the time taken to consider individual applications, it is possible to estimate an average cost for different voltages of electric lines.

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<sup>6</sup> Statutory Instrument 2010 No.106



**Table 2: DECC costs for examining applications 2011**

	<b>132kV &amp; below - all</b>	<b>275kV/400kV (&lt;2km)</b>	<b>SoS EIA determination</b>	<b>Examination of ES accompanying an application</b>
Average cost per application	£302	£4,010	£196	£1,781

24. There could be a theoretical increase in notional costs could be up to £36k annually (as set out in Annex B table 12), depending on the precise mix of applications. At present, DECC determines between 20 and 290 applications under s.37 annually for electric lines with nominal voltages of less than 132kV. DECC resources are able to consider the maximum potential number of applications, although the expected annual number is around 270. The preferred amendment alternative would increase the potential number of applications to around 285 annually, which is within current potential maximum.

25. Further, because the Secretary of State is the determining authority for applications submitted under the Act as well as for applications submitted under s.37, there is a resource cost to DECC in examining reports from PINS on applications. Since the cost is incurred either under s.37 for examining an application or under the Act for examining the PINS report and advising the Secretary of State the net resource effect is zero.

26. There is a theoretical cost to developers for public inquiries under s.37, because local authorities may object to a proposal, or the Secretary of State may decide that there are grounds for an inquiry, leading to a Public Inquiry. For electric lines, if an application goes to Public Inquiry a developer would be charged for the cost of the Inquiry, at around £25k. However, the fees payable for examination of applications under the Act include an element for Public Hearings that are required under the Act. This means that the potential increased cost to developers for Public Inquiries under s.37 is offset by the reduction in fees that would otherwise be payable for applications that are required to have Public Hearings under the Act.

27. Data provided by developers indicates that there is a substantial cost for communications (including consultation on proposed projects), legal and environmental work to meet the Act requirements. It has not been possible, however, to obtain accurate breakdowns of comparable costs under the s.37 regime. Given the requirement for consultation and the voluntary preparation of environmental statements for electric lines of more than 2km, together with legal fees for negotiation of e.g. wayleaves, the Government considers that a significant proportion of the costs associated with preparation of an application are likely to be incurred at some time during the application process.

28. Some details of costs for 400kV electric lines are set out in Annex A. These were confirmed by respondents to the consultation, but developers were not able to provide more detailed cost comparisons. These costs cannot therefore be

assessed in the cost/benefit analysis, but do provide some evidence that the requirements of the s.37 process are less costly than the Act process.

29. Similarly, it is not possible to analyse the monetary value to developers of a process for minor works to existing electricity lines that might take only 3 or 4 months, compared with the statutory timetable of 16 months for the Act.

30. Developers have been submitting applications for development consent under s.37 of the Electricity Act 1989 since it came into force in 1990 and are fully conversant with the application process. Developers are also conversant with the process for applications under the Planning Act 2008 for lines of 132kV and greater, which came into force on 1 March 2010. Because this amendment would not change any of the processes for applications, but merely change the voltage and length of line criteria for projects that should be submitted for development consent to the Secretary of State under s.37 or under the Act, there would be no transition costs.

### *Benefits*

31. The benefits of an amendment to the Act would accrue to the nine Distribution Network Operators (DNOs) and the Transmission Network Operator (TNO). These benefits may be identified as:

- A reduction in time taken to prepare an application for minor projects under s.37 minor projects; and
- A reduction in the fees payable for determination of an application because there are fee differentials between s.37 and the Act.

32. The principal benefit would be the greater flexibility to provide information proportionate to the scale of minor works or short lengths of new electric lines. As discussed above, because the Act pre-application process requires a number of steps for consultation, each with a minimum period, it can take up to a year. Under the s.37 regime, developers may undertake appropriate and proportionate consultation during the period that an application is being examined. If the application is not subject to Public Inquiry the timescale for examination and determination may therefore be much less than the prescribed period under the Act.

33. The effect of proportionate timescales for examination of minor works will mean that developers are more willing to invest in new electricity networks infrastructure in a timely fashion. Further, as developers are obliged by regulation to provide connection to the grid for electricity generators and may be obliged to make diversions to existing lines to accommodate other infrastructure – e.g. road-widening or new buildings – it is likely that costs for other infrastructure projects arising from delays for an application under the Act may be avoided. The more proportionate s.37 consents regime for this minor work will enable the developer to use the optimal solution for the minor work. It is not possible, however, to quantify these benefits in monetary terms as each potential application would have a unique resource and time requirement.

The average number of applications that will be transferred from the Act to the s.37 regime, based on data from 2008 – 2012, is shown below.

**Table 3: Applications and notifications of applications received 2008 – 2012.**

	Col 1	Col 2	Col 3	Col 4	Col 5
	132kv new <2km	132kv existing <2km	275kv&400kV new<2km	275kV & 400kV existing <2km	Total <2km
No of applications 2008 – 2012	3	32	9	15	59
Annual average	1	8	2	4	15

(Data from applications to DECC and PINS website)

34. Under the Planning Act 2008 Chapter 2 Section 46, developers are required to notify PINS (acting on behalf of the Secretary of State) at the beginning of the pre-application process.<sup>7</sup> Because the pre-application period may last for over a year, there was only one formal application to PINS up to 31 December 2011. Notifications under s.46 provide advance information on applications that are likely to be made when the pre-application procedures required under the Act have been completed. Further, the applications for projects under s.37 were slightly increased in the 6 months up to 28 February 2010 as developers brought forward applications to avoid uncertainties around the commencement of the Act on 1 March 2010. If this had not been the case, the “pre-application” notification to PINS would have been commensurately increased. It is therefore reasonable, when considering potential applications in future years, to use the average of 2008-2010 applications and 2011-12 notifications to PINS as an indication of the likely number.

35. There would be some reduction in the identifiable administrative burdens for applications under Section 37 instead of the Planning Act. To estimate the administrative burdens reduction, identifiable Information Obligations (IOs) in the Planning Act and Pre-Application Statutory Instrument were mapped onto the IOs for s.37 of the Electricity Act 1989 identified in the 2005 Administrative Burdens exercise. Where there is no equivalent IO in the Electricity Act, the costs of the nearest equivalent were used in the estimates. The costs were adjusted for inflation at the HMT Red Book rate of 2.5% per annum to set an indicative 2012 cost. Over

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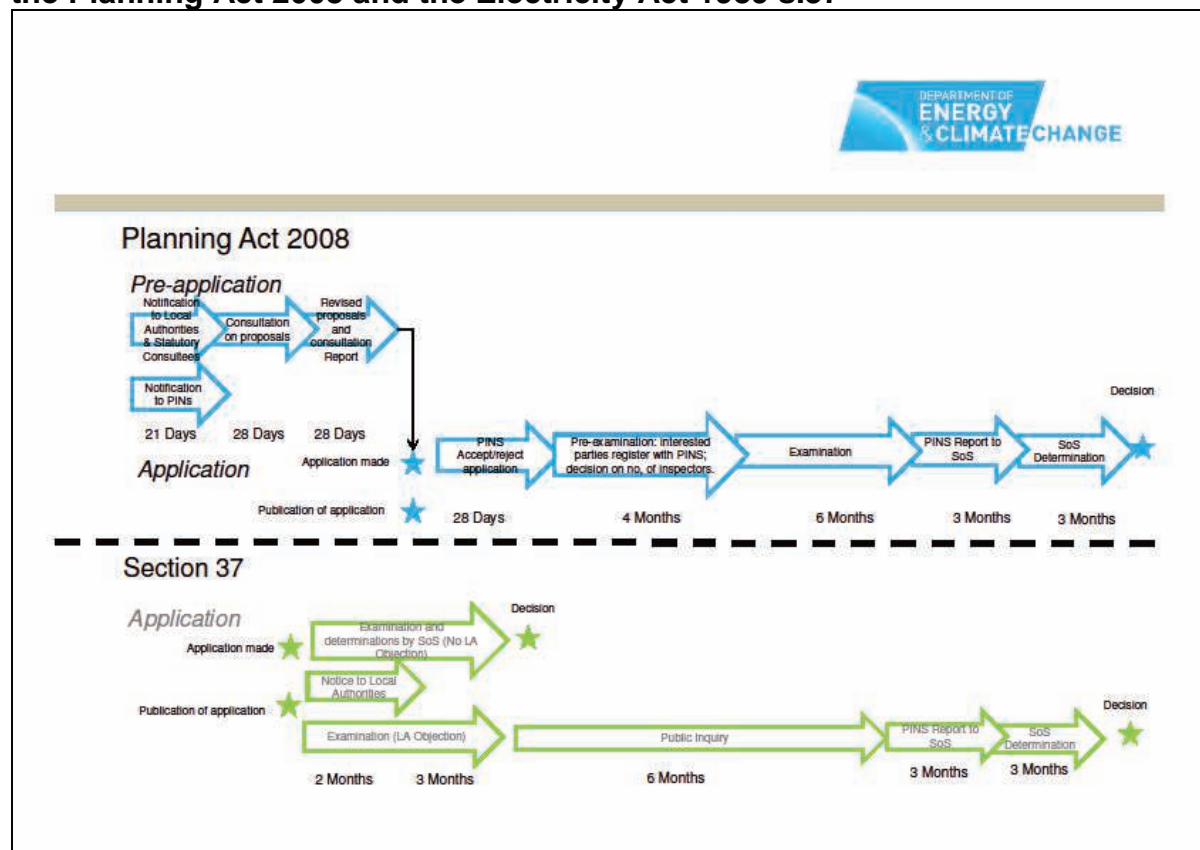
<sup>7</sup> **“46 Duty to notify Commission of proposed application**

- (1) The applicant must supply the Commission with such information in relation to the proposed application as the applicant would supply to the Commission for the purpose of complying with section 42 if the applicant were required by that section to consult the Commission about the proposed application.
- (2) The applicant must comply with subsection (1) on or before commencing consultation under section 42.

10 years, it is estimated that the total reduction in administrative burdens for this amendment would be £0.12m, as shown in Table 14 Annex B. Unlike the s.37 IOs, all IOs under the Planning Act 2008 apply to all applications except one IO relating to production of an environmental statement. It is estimated that this IO would apply to 2 applications.

36. Although the IOs are very similar, the administrative burdens reduction estimate cannot take account of the time taken to complete each separate stage, which is estimated at 17 months from acceptance for the Planning Act, compared with 3 months for s.37 Electricity Act. This is because the time is principally taken up by statutory periods for consultation and examination of an application by the Planning Inspectorate, The comparative timelines are shown in Diagram 1 below. Although minor projects will take much longer to be determined under the Planning Act, the precise cash value cannot be quantified, as the activities by the developers are substantially the same, as demonstrated by the comparison of IOs.

**Diagram 1: Indicative timescales for development consent applications under the Planning Act 2008 and the Electricity Act 1989 s.37**



37. It should be noted that in the Diagram above there are pre-application processes shown for consultation with Local Authorities, scoping of general consultations and revision of proposed projects, with a consultation report, which do not appear in the timeline for s.37 applications. Under the s. 37 regime views are gathered on a particular overhead power line proposal that has been submitted to DECC for consent by a network operator (i.e during, not before, the application process). In gathering views, some s.37 IOs are similar, in whole or in part, to the pre-application statutory requirements under the Planning Act.

38. The principal monetary benefits to developers would derive from the potential reduction in costs of fees payable under the Act. DECC is consulting separately on a proposed revision to fees payable under s.37 with the intention of moving to “full-cost recovery”.<sup>8</sup> The monetary benefits have therefore been calculated on the assumption that that revised s.37 fees would come into effect in April 2013. Depending on the alternative that is implemented, it is estimated that the benefit in fees cost reduction to developers could be between £441k and £4.3mn annually (Table 12, Annex B). However, as there have not yet been any applications for development consents of electric lines above ground determined under the Act, these figures are at present indicative using an estimated time for examination for either simple applications that are examined by one Inspector or complex applications that are examined by a panel of 3 or more Inspectors. Based on the time taken by DECC consents officers, it is estimated that a simple application would take around 10 working days to examine and a complex application would take around 60 working days. Detailed cost/benefit tables are at Annex B.

**Table 4: Annual Reduction in Fees Benefits (£000s).**

	Applications	Act fees low† @ 32k	Act fees high★ @294k	Act: Best estimate ◆	s.37 fees	Benefit low	Benefit high	Best estimate
	15	£46	£4,341	£865	£7	£462	£4,334	£1200

† One Inspector, 10 days’ examination;★ Panel of Inspectors, 60 days’ examination, calculated on fees set out in SI 2010/106.

◆The “best estimate” uses application data to assess whether a potential application could be simple or complex and calculates the Act and s.37 fees accordingly. See Annex B.

39. Some 132kV lines will continue to be submitted under the Act because their length indicates that they would be of sufficient importance to be deemed to be “nationally significant”. It is estimated that the range of benefit to developers would be between £0.46m and £4.3m annually, although the probability is that the benefits would be at the bottom of this range, as the more complex projects are also likely to be more than 2km long. This would give net benefits of around £1.2m annually.

### One In One Out

40. This regulation to amend the Planning Act 2008 threshold for electric lines is considered to be within the scope of the Government’s “One In One Out” policy, as it will deliver administrative burdens reductions of up to £12,000 over 10 years and have a non-monetised burdens reduction effect. However this regulation neither removes, nor adds any regulation. It does not change implementation of the Planning Act 2008, nor implementation of the Electricity Act 1989 and does not remove any obligation for developers to have development consent for electric lines.

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<sup>8</sup>Consultation on revision of fees payable for applications under Section 37 of the Electricity Act 1989, [http://www.decc.gov.uk/en/content/cms/consultations/12d\\_311/12d\\_311.aspx](http://www.decc.gov.uk/en/content/cms/consultations/12d_311/12d_311.aspx)

41. As set out in the Costs and Benefit Analysis section, there are no costs to developers in complying with this regulation, since the regulations applying to applications for development consent are not being changed and developers use one or other process dependent on whether the electric line proposal is defined as a “Nationally Significant Infrastructure Project” (NSIP) in the Planning Act 2008.

### **Equality Impact Assessment**

42. Government has considered potential equality impacts of the proposed amendment to the Planning Act 2008 threshold. The effect of the proposed changes to the threshold for electric lines would be to that some projects are considered under s.37 rather than under the Act. The Government considers that, with regard to its duties under section 149 of the Equality Act 2010 in respect of people with certain protected characteristics identified in that Act, that there is no effect on any such group as a result of this proposal. (An initial screening EqIA has previously been carried out in respect of the consenting process under s.37.)

### **Specific Impact Tests**

#### Competition assessment

43. There is no impact on competition from this proposal.

#### Small Firms’ Impact Test / Micro businesses

44. There are no small firms that install or keep installed electric lines that require development consent under s.37. The proposed revision of fees will therefore have no impact on small firms directly. It is not considered likely that indirect impacts on customers of DNOs would create a disproportionate burden for smaller firms and micro businesses.

#### Legal Aid Impact Test

45. There will be no legal aid impact from this proposal.

#### Sustainable Development, Carbon Assessment, other Environment

46. This proposal will not have negative economic, environmental or social impacts and will not have a negative impact on future generations.

47. This proposal will not lead to increased carbon and other green house gas emissions, nor have a negative impact on the Environment.

#### Health Impact Assessment

48. There are no detrimental health impacts from this proposal.

#### Rural Proofing

49. There are no impacts on rural areas.

## Evidence

50. In the two years prior to the Planning Act 2008 coming into force in March 2010, there were 65 applications for development consent for electric lines above ground of 132kV nominal capacity and over. During the same period, there were approximately 500 applications for projects of less than 132kV nominal capacity. Most of the applications for consent were for changes to existing lines such as diversions or additional supports (wooden poles or pylons). The data for 132kV lines are set out in Table 5 below:

**Table 5: Applications for 132kV lines 2008-2010**

New Lines:	9
Diversion	3
Replacement support (tower)	14
Diversion + replacement tower	5
Maintenance	13
<b>Total Applications</b>	<b>44</b>

(Source: National Grid & DNOs)

51. The time taken for an application to be determined under s.37 varies between 1 month for simple changes to over 2 years if a Public Inquiry is held. Government considered whether the type of construction and the time taken to determine development consent for a 132kV could indicate that an electric line should be defined as an NSIP. However, there is no correlation between the time taken for an application to be consented and whether it is on wooden poles (normally 132kV lines) or pylons. The determining factor in the majority of cases appears to be negotiation between the developer and third parties on Wayleave and Easement rights that allow the developer access to a line over land owned by a third party.

52. There is a stronger correlation between the length of line and whether a project is work on existing lines or construction of new lines, which could form the basis of an NSIP definition. Table 6 sets out the bands into which project applications fell.

**Table 6: Length of 132kV lines in applications for consent 2008-2010**

<2km		2-<5km		5-<15km		≥15km		Not shown	
Existing	New	Existing	New	Existing	New	Existing	New	Existing	New
12	2	3	0	1	5	0	3	18	0

53. Reviewing the stated purpose and work in the applications to the Secretary of State for development consent, of these lines, it became apparent that the projects were to build new distribution networks; for routine maintenance, such as replacing the conductors (i.e. the cable itself) or supports (pylons or poles); or to divert a line outside the parameters set in the Exemption Regulations, e.g. to facilitate a road-widening scheme.

54. The applications for development consent for 275kV and 400kV lines show a similar purpose, although there were fewer applications in total. As with 132kV lines, the majority were projects to change existing lines (either to replace supports or divert the line outside variation distances under the Exemption Regulations) or to upgrade lines from one nominal voltage capacity to another. Table 7 below sets out the data.

**Table 7: Applications for 275kV & 400kV 2008-2010**

New Lines	6
Diversion	7
Replacement	1
Replacement support (tower)	1
Diversion + replacement tower	3
Upgrading 275 – 400kv	3
<b>Total Applications</b>	<b>21</b>

55. Similarly the majority of applications were for changes to lines of under 2km in length as sent out in table 8 below:

**Table 8: Length of 275kV & 400kV lines in applications for consent 2008-2010**

<2km		2-<5km		5-<15km		≥15km		Not shown	
Existing	New	Existing	New	Existing	New	Existing	New	Existing	New
12	6	1	0	1	1	2	0	3	1

56. Although there is a large number of applications that do not show the length of line, the information on these shows that in most instances the work on existing lines does not involve any extension – for example, it may be a requirement to replace the supports or move them to take account of changes to the environment, such as to provide additional clearance for new buildings. It is very unusual for applications with extensions to existing lines of more than a few metres not to state specifically how long the extension, or work on existing lines, will be. For new lines, it may be that the application covers a range of lines (for example some applications cover



more than one new line as part of the same project, with lengths between 500m and 2km) so a definitive statement of length is not possible. In considering the application data, therefore, it is assumed that the applications for 132kV lines and existing 275kV and 400kV for which a length is not shown are likely to be under 2km, while new 275kV or 400kV lines are likely to be over 2km.

57. The applications data between 2008 and 2011 for lines of 132kV nominal voltage or greater show that a high proportion – over 70% - were for electric lines that were less than 2km long. Of these, 70% were for work on existing electric lines.

58. It is estimated that the annual average number of applications that would be transferred to the s.37 regime, based on a 132kV and 2km threshold would be 15, with a range between 5 and 20.

59. Fees for applications for consent under s.37 of the Electricity Act 1989 are £50. Fees for submission of consents to the PINS under the Planning Act vary according to the scale of the application, time taken to examine the application and the number of Inspectors examining it. Because the PINS has only examined a very small number of applications and so far has received only 11 notifications of possible applications (2 of which were subsequently withdrawn), it is not possible to make an assessment of the costs of a “typical” application fee.

60. Fees payable for applications for development consent of NSIPs to PINS are set by regulation<sup>9</sup>. We have estimated “lowest” and “highest” indicative costs, as are out in table 9 below. These demonstrate that the variation for fees between the smallest and largest projects is likely to be between £32k and £294k.

**Table 9: PINS Application fees (£000s)**

Application average 10 day min	Application Average 10 day max	Application average 60 day min	Application Average 60 day max
£32	£90	£93	£294
<p>Assumptions:</p> <p>The average number of applications is based on past data. Upper and Lower bounds are set according to the highest and lowest numbers received in a year over the past 5 years.</p> <p>The minimum cost is predicated on 1 Inspector and 10 days FTE examination; the maximum cost is predicated on a panel of 3 Inspectors and 60 days FTE examination.</p>			

61. Representations to DECC from industry stakeholders assert that the indicative cost of consent for an electric line of 132kV nominal capacity under the Act is

<sup>9</sup> Statutory Instrument 2010 No.106 The Infrastructure Planning (Fees) Regulations 2010

approximately £200k in respect of projects for which the construction cost is around £100k. This would depend on whether the project was for work to an existing line or for an entirely new line, since the costs of construction can vary considerably.

62. The latest available data on costs was published in a report on transmission line costs by Parsons Brinckerhoff in January 2012<sup>10</sup>. This examined the comparative costs of constructing high voltage electricity lines either above ground or by several different methods of undergrounding. Although it confines itself 400kV lines, it gives an indication of the range of costs involved for lines of 3km and 15km. It may be assumed that costs for 132kV or 275kV lines on pylons would not be dissimilar, but would certainly not be more. For the purposes of this analysis, it is presumed that the “variable cost operation and maintenance” would include – but not be limited to – some work to existing lines that would require development consent, e.g. a short diversion. The lowest and highest costs are set out in the table below.

**Table 10: Construction costs of electric lines above ground**

<b>400kV lines of 3km</b>	<b>Low capacity (£m)</b>	<b>Act fees @£32k: % of costs</b>	<b>Act fees @£294k: % of costs</b>	<b>High capacity (£m)</b>	<b>Act fees @£32k: % of costs</b>	<b>Act fee @£294k: % of costs</b>
Fixed Build costs	0.5	6.4%	58.8%	0.6	5.3%	49%
Variable Build costs	4	0.8%	7.4%	5.4	0.6%	5.4%
Total build	4.5	0.7%	6.5%	6	0.5%	4.9%
Variable Operating & Maintenance (Lifetime costs)	0.16 – 0.2	17.8%	163.3%	0.16 – 0.2	17.8%	163.3%
<b>400kV lines of 15km</b>						
Fixed Build costs	1.9	1.7%	15.5%	2.2	1.5%	13.4%
Variable Build costs	23.3	0.1%	1.3%	26.2	0.1%	1.1%
Total build	25.2	0.1%	1.2%	28.4	0.1%	1%

<sup>10</sup> “Electricity Transmission Costing Study, endorsed by the Institute of Engineering and Technology”, Parsons Brinckerhoff, 31 January 2012.

Variable Operating & Maintenance (Lifetime costs)	0.7 - 0.9	4%	36.8%	0.8 - 1.0	3.6%	32.7%
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Costs extrapolated from Parsons Brinckerhoff Report on Transmission costs.

Variables for operating & maintenance in this table = length, route & significant crossings

63. It should be noted that the “variable operation and maintenance” cost is for the *lifetime* of an electric line and is likely to overstate the cost of a single project. This would commensurately understate the percentage of costs that an Act application might represent. Further, Parsons Brinckerhoff’s costings are for construction and maintenance only; they do not include costs associated with applications for development consent. The table is, therefore, an approximate indication only.

64. Although these figures are indicative only, they give some weight to industry assertions that for minor projects (e.g. 3km or less in length) the development consent application fees under the Act may be a up to 7% of total project costs – or even exceed project costs if a project is for maintenance but a panel of Inspectors is appointed and the process of examination takes up to 60 days.

65. Additionally, estimated application costs in the table above do not include pre-application work necessary under the Act. Indications from the industry are that such costs, including preparation of an Environmental Statement, may be extremely high, ranging from £100k to over £2m for a more complex project.

**Table 11: Number of applications 2008 – 2011 and estimated fees s.37 and Acts.**

(£,000s rounded to nearest £1,000)	132kv new <2km	132kv existing <2km	275kV & 400kV new<2km	275kV & 400kV existing <2km	EIA determination	EIA Development	Total <2km
No of applications 2008 – 2011	3	32	9	15	1	n/a	59
Annual average	1	8	2	4	1	5	15
s.37 fees (revised)	£0	£2	£2	£4	£0	£1	£7
Act (lowest) (@£32k)	£24	£254	£72	£119	-	-	£469
Act fees (highest) (@£294k)	£221	£2,354	£662	£1,104	-	-	£4,341

Note – there were no further notifications of proposed works to electric lines above ground to PINS up to December 2012. This is considered to be an anomalous situation arising from developers' uncertainties about the operation of the Planning Act 2008 and the timescale for revising the threshold.

Table 12: Costs &amp; Benefits –

Amendment to Planning Act 2008 Threshold: 132kV >2km less uprating where no significant change to infrastructure											
<i>£000s/15 applications annually.</i>	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	Total
Additional staff costs	-£10	-£10	-£10	-£9	-£9	-£9	-£8	-£8	-£8	-£7	-£88
S.37 fees (revised scales)	-£7	-£7	-£6	-£6	-£6	-£6	-£6	-£5	-£5	-£5	-£59
Reduction in staff costs because not assessing PINS reports	£10	£10	£10	£9	£9	£9	£8	£8	£8	£7	£88
Reduction in Act examination fees – Lowest	£469	£453	£437	£422	£407	£393	£379	£366	£353	£340	£4,017
Reduction in Act examination fees – Best estimate	£1,233	£1,190	£1,148	£1,108	£1,069	£1,032	£996	£961	£927	£895	£10,561
Reduction in Act examination fees – Highest	£4,341	£4,189	£4,042	£3,901	£3,764	£3,633	£3,505	£3,383	£3,264	£3,150	£37,173
Total potential NPV Benefit (lowest Act fees)	£462	£446	£430	£415	£401	£387	£373	£360	£348	£335	£3,958
Total potential NPV Benefit (Best estimate)	£1,200	£1,158	£1,117	£1,078	£1,040	£1,004	£969	£935	£902	£871	£10,274
Total NPV Benefit (highest Act fees)	£4,334	£4,182	£4,036	£3,895	£3,758	£3,627	£3,500	£3,377	£3,259	£3,145	£37,114



**ANNEX B**

<b>Variance</b>											
	£0.01	£0.01	£0.01	£0.01	£0.01	£0.01	£0.01	£0.01	£0.01	£0.01	£0.12

Source: DTI Administration Burdens 2005 & DECC extrapolation.

**Notes:**

The HMT Red Book of 2.5% inflation applies annually to the returns from 2005 to 2012.

S.37 IOs have, where possible, been mapped onto Planning Act 2008 obligations. Where there is no direct match, an equivalent IO (or sum of equivalent IOs) has been used.

Because the Administrative Burdens exercise uses numbers of applications to which each IO applies, the burdens on developers do not need to be separated into different categories of electric lines above ground; these are inherent in the Standard Cost Model calculations.

## Table of Legislation

Reference Number	Title	Description
	The Electricity Act 1989	Primary legislation that <i>inter alia</i> requires that developers have consent for energy infrastructure development, determined by the Secretary of State.
	The Planning Act 2008	Primary legislation that <i>inter alia</i> transfers examination and determination of consents for certain types of energy infrastructure from the Secretary of State to the Infrastructure Planning Commission
	The Localism Act 2011	Primary legislation that <i>inter alia</i> transfers determination (but <i>not</i> examination) of applications for energy infrastructure consent from the IPC to the Secretary of State. The Planning Inspectorate (PINS) is responsible for submitting a recommendation to the Secretary of State on determination of an application.
Statutory Instrument 1990 No. 455	The Electricity (Applications for Consent) Regulations 1990	Secondary legislation that regulates publication of applications, timescales for objections and fees to be paid for consent applications under Sections 36 and 37 of the Electricity Act 1989
Statutory Instrument 2000 No. 1927	The Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000	Secondary legislation that implements the EU directive on environmental impact assessment <i>inter alia</i> for electric lines.
Statutory Instrument 2009 No. 2263	Infrastructure Planning (Environmental Impact Assessment) Regulations 2009	Secondary legislation that implements the EU directive on environmental impact assessment in respect of applications for consent to the IPC and (on coming into force of the Localism Bill) PINS.
Statutory Instrument 2009 No. 640	The Overhead Lines (Exemption) (England and Wales) Regulations 2009	Secondary legislation that exempts certain specified electric lines from the provisions of the Electricity Act 1989, Section 37.
Statutory Instrument 2010 No.106	The Infrastructure Planning (Fees) Regulations 2010	Secondary legislation that sets fees payable for applications for development consent under the Planning Act 2008
Statutory	The Overhead Lines	Secondary legislation that includes



## ANNEX C

Instrument 2010 No.29	(Exempt Installations) (Consequential Provisions) Order 2010	Development Consent Orders under the Planning Act in the provisions of S.I.2009/640
Statutory Instrument 2010 No. 277	The Overhead Lines (Exempt Installations) Order 2010	Secondary legislation that extends the provisions of S.I.2009/640 to PINS