
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to applications to the Secretary of State for Trade and Industry for consent under section 36 of the Electricity Act 1989 (“the 1989 Act”) to construct, extend or operate an offshore generating station, defined as a generating station located either within the Renewable Energy Zone (save for those waters where Scottish Ministers have functions) or within waters in or adjacent to England and Wales between the mean low water mark and the seaward limits of the territorial sea. For the purposes of these Regulations a reference to an application for consent under section 36 includes any application under section 36A of the 1989 Act for a declaration relating to public rights of navigation, which is made with the section 36 application.

These Regulations disapply the Electricity (Applications for Consent) Regulations 1990 (“the 1990 Regulations”) insofar as they previously applied to section 36 applications relating to offshore generating stations.

Regulation 4 identifies those publications within which notice of an application for consent under section 36 should be advertised. Additionally, the notice is required to include a map showing the location of the generating station and to indicate where such map may be inspected.

Regulation 5 identifies those public consultation bodies upon whom notice of an application under section 36 should be served.

Regulation 6 makes provision for service of notice of a section 36 application where no part of the place where the development is due to take place lies within the jurisdiction of a relevant planning authority. Notices shall be served upon planning authorities likely to have an interest in the proposed development. Where, by contrast, the proposed development falls wholly or partly within a relevant planning authority’s jurisdiction, the obligation to serve notice upon a relevant planning authority (defined under paragraph 2(6) of Schedule 8 to the Electricity Act 1989) derives from paragraph 2(1) of Schedule 8, rather than under this regulation.

Regulation 7 requires an applicant when serving notice to state the time within which and the manner in which objections to a proposal should be notified to the Secretary of State. The regulation also requires any objection by a relevant planning authority to be made within four months of service of notice of an application, where a development falls within the jurisdiction of that relevant planning authority.

Regulation 8 makes provision for the publication of notice of any public inquiry to be held. This notice is required to state that a copy of the application, and of the map referred to in it, can be inspected at the same location or locations used to display the map pursuant to regulation 4(2) or, if that is not possible, at a suitable alternative location as near as possible to it.

Regulation 9 makes provision for fees payable upon applications for consent.

Regulation 10 provides that the Electricity (Applications for Consent) Regulations 1990 shall not apply to an application under section 36 relating to an offshore generating station made on or after the date these Regulations come into force.

A Regulatory Impact Assessment is available and can be obtained from the Department of Trade and Industry’s website at: www.dti.gov.uk. Copies of the Regulatory Impact Assessment have been placed in the libraries of both Houses of Parliament.