

Changes to legislation: The Welsh Ministers (Transfer of Functions) (No. 2) Order 2009 is up to date with all changes known to be in force on or before 05 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULE

Article 1 (3)

Definition of “Excepted Energy Building”

1. An excepted energy building is a building that satisfies the first and second conditions set out below.

Commencement Information

I1 Sch. para. 1 in force at 31.12.2011, see **art. 1(2)**

First condition

2. The first condition is that the building falls within one of the following descriptions—
- (a) a generating station whose construction, extension or operation requires or required the consent of the Secretary of State under section 36 of the Electricity Act 1989(1) or any ancillary development;
 - (b) a generating station whose construction or extension requires or required development consent;
 - (c) an electric line whose installation, or continued installation, above ground requires the consent of the Secretary of State under section 37 of the Electricity Act 1989 or any ancillary development;
 - (d) an electric line whose installation above ground requires or required development consent;
 - (e) a pipe-line whose construction requires or required authorisation under section 1(1) of the Pipe-lines Act 1962(2) or development consent; or
 - (f) a facility for the storage of gas underground in natural porous strata by a gas transporter or surface works or pipes associated with such a facility.

Commencement Information

I2 Sch. para. 2 in force at 31.12.2011, see **art. 1(2)**

Second condition

3. The second condition is that the building is not used, or not to be used, entirely as one or more of the following—

- (a) a residence;
- (b) a shop;
- (c) an office;
- (d) a showroom;
- (e) a canteen; or

(1) 1989 c. 29. Part 1 includes interpretation provisions relevant to words and expressions used in the Schedule to this Order: see section 64(1) for the meaning of “electric line” and “generating station”, and section 36(9) for the meaning of “extension”. There have been extensive amendments to Part 1: see in particular the Utilities Act 2000 (c. 27), Part 4; the Energy Act 2004 (c. 20), Part 3; and the Planning Act 2008 (c. 29), section 36 and Schedule 2, paragraphs 31 to 33.

(2) 1962 c. 58. See section 65 for the meaning of “pipe-line” and section 66 for the meaning of “construction”. There have been extensive amendments to the provisions about control of construction of pipe-lines: see in particular the Planning Act 2008 (c. 29), section 36 and Schedule 2, paragraphs 5 and 6.

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- (f) an outbuilding ancillary to a building used, or to be used, entirely for one or more of the purposes set out in sub-paragraphs (a) to (e).

Commencement Information

I3 Sch. para. 3 in force at 31.12.2011, see **art. 1(2)**

Interpretation

4. In this Schedule—

“ancillary development” has the same meaning as in section 90(2) of the Town and Country Planning Act 1990(3);

“development consent” means development consent under the Planning Act 2008(4);

“gas transporter” has the same meaning as in Part 1 of the Gas Act 1986(5);

“outbuilding” means a shed, greenhouse, summerhouse, garage or similar building that is not attached to any other building other than another outbuilding;

“residence” includes—

- (a) a dwelling-house;
- (b) a flat and any common parts;
- (c) a room used for residential purposes and any common parts;

“room used for residential purposes” means a room or a suite of rooms which is not a dwelling-house or a flat and which is used by one or more persons to live and sleep.

Commencement Information

I4 Sch. para. 4 in force at 31.12.2011, see **art. 1(2)**

(3) 1990 c. 8. Section 90 was amended by the Planning and Compensation Act 1991 (c. 34), section 31 and Schedule 6, paragraph 12; the Transport and Works Act 1992 (c. 42), section 16(1); and the Environment Act 1995 (c. 25), section 78 and Schedule 10, paragraph 32(4). For the meaning of “ancillary development” in relation to development consisting of the extension of a generating station, see section 90(5).

(4) 2008 c. 29. See Part 4 for the requirement for development consent.

(5) 1986 c. 44. See section 7(1) for the meaning of “gas transporter”. There have been extensive amendments to Part 1: see in particular the Utilities Act 2000 (c. 27), Part 5, and the Planning Act 2008 (c. 29), section 36 and Schedule 2, paragraphs 11 to 14.

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Changes and effects yet to be applied to :

- art. 2(a) modified by [2015 c. 7 s. 37\(6\)](#)