
STATUTORY INSTRUMENTS

2017 No. 580

The Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017

PART 1

Preliminary

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017.

(2) These Regulations come into force on 16th May 2017.

(3) These Regulations extend to England and Wales.

Application

2.—(1) These Regulations apply to applications for—

- (a) section 36 consents;
- (b) section 36 variations; and
- (c) section 37 consents,

for development in England or Wales or in relevant waters ^{M1}.

(2) Paragraph (1) is subject to—

- (a) regulation 38 (exemptions for defence and civil emergencies);
- (b) regulation 49 (exemptions where EIA development requires marine licence, etc. for which environmental impact assessment is also required);
- (c) regulation 42 (transitional provision).

Marginal Citations

M1 Functions of the Secretary of State under section 36 of the Electricity Act 1989, in so far as exercisable in or as regards Scotland or in the area of the Renewable Energy Zone designated as the area in relation to which the Scottish Ministers are to have functions, have been transferred to the Scottish Ministers by [S.I. 2006/1040](#). Functions of the Secretary of State under section 37 of the Electricity Act 1989, in so far as exercisable in or as regards Scotland, have been transferred to the Scottish Ministers by [S.I. 1999/1750](#).

Interpretation

3. In these Regulations—

“additional environmental information” has the meaning given in regulation 27(2);

- “application website” must be interpreted in accordance with regulation 28;
- “consultation body” has the meaning given in regulation 4;
- “development” means the carrying out of building, engineering or other operations in, on, over or under land or sea;
- “EIA development” has the meaning given in regulation 5;
- “EIA Directive” means Directive 2011/92/EU of the European Parliament and of the Council of 13th December 2011 on the assessment of the effects of certain public and private projects on the environment;
- “EIA report” must be interpreted in accordance with regulation 17;
- “electric line” has the meaning given in section 64 of the Electricity Act 1989;
- “environmental impact assessment” must be interpreted in accordance with regulation 7;
- “further environmental information” has the meaning given in regulation 26(9);
- “generating station” must be interpreted in accordance with section 64 of the Electricity Act 1989;
- “Habitats Directive” means Council Directive [92/43/EEC](#) of 21st May 1992 on the conservation of natural habitats and of wild fauna and flora ^{M2};
- “local planning authority” has the same meaning as in the Town and Country Planning Act 1990 ^{M3};
- “planning register” means the register kept under—
- (a) article 40(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 ^{M4}; or
 - (b) article 29(1) of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 ^{M5};
- “relevant authority” means—
- (a) the Secretary of State; or
 - (b) in relation to an application for a section 36 consent or for a section 36 variation made (or to be made) to the Marine Management Organisation, the Marine Management Organisation ^{M6}; ^{F1} or
 - (c) in relation to an application for a section 36 consent or for a section 36 variation made (or to be made) to the Welsh Ministers, the Welsh Ministers;]
- “relevant waters” means—
- (a) waters adjacent to England or Wales that are between the mean low water mark and the seaward limits of the territorial sea; and
 - (b) waters within a Renewable Energy Zone within the meaning of section 84(4) of the Energy Act 2004 ^{M7} (other than an area in relation to which the Scottish Ministers have functions);
- “screening decision”, in relation to proposed development, means a decision about whether or not the development is EIA development;
- “section 36 consent” means a consent under section 36 of the Electricity Act 1989 ^{M8};
- “section 36 variation” means a variation of a section 36 consent under section 36C of the Electricity Act 1989;
- “section 37 consent” means a consent under section 37 of the Electricity Act 1989 ^{M9};

“Wild Birds Directive” means Directive 2009/147/EC of the European Parliament and of the Council of 30th November 2009 on the conservation of wild birds^{M10}.

Textual Amendments

- F1** Words in reg. 3 inserted (1.4.2019) by [The Electricity Works \(Environmental Impact Assessment\) \(England and Wales\) \(Amendment\) \(Wales\) Regulations 2019 \(S.I. 2019/292\)](#), regs. 1, **2(2)**

Marginal Citations

- M2** O.J. L 206, 22.7.1992, p. 7.
M3 1990 c.8. See section 336(1) for the definition of “local planning authority”.
M4 [S.I. 2015/595](#).
M5 [S.I. 2012/801](#), to which there are amendments not relevant to these Regulations.
M6 The Marine Management Organisation was established by section 1 of the [Marine and Coastal Access Act 2009 \(c.23\)](#). Certain functions under section 36 of the Electricity Act 1989 were transferred to the Marine Management Organisation by section 12 of that Act.
M7 Section 84(4) was substituted by paragraph 4 of Schedule 4 to the Marine and Coastal Access Act 2009. [S.I. 2005/3153](#), made in exercise of the power in section 84(5) of the Energy Act 2004, sets out the area of the Renewable Energy Zone in relation to which the Scottish Ministers have functions.
M8 Section 36 was amended by section 93 of the Energy Act 2004, Schedule 1 to [S.I. 2006/1054](#), [paragraph 32](#) of Schedule 2 to the [Planning Act 2008 \(c.29\)](#), [section 12](#) of the Marine and Coastal Access Act 2009 and section 78 of the [Energy Act 2016 \(c.20\)](#). Amendments made by section 39 of, and paragraph 47 of Schedule 6 to, the Wales Act 2017 are not yet in force.
M9 Section 37 was amended by paragraph 33 of Schedule 2 to the Planning Act 2008. Amendments made by section 42 of the Wales Act 2017 are not yet in force.
M10 O.J. L 20, 26.1.2010, p. 7.

Meaning of consultation body

- 4.—(1) Each of the following is a consultation body for the purposes of these Regulations—
- (a) every local planning authority for the area in which the development will be carried out and every principal council for that area, if not the local planning authority;
 - (b) in relation to development in England or in relevant waters adjacent to England that are between the mean low water mark and the seaward limits of the territorial sea—
 - (i) the Environment Agency^{M11};
 - (ii) the Historic Buildings and Monuments Commission for England^{M12};
 - (iii) Natural England^{M13};
 - (c) in relation to development in Wales or in relevant waters adjacent to Wales that are between the mean low water mark and the seaward limits of the territorial sea—
 - (i) [^{F2}save where the Welsh Ministers are the relevant authority,] Cadw (that is to say, the executive agency responsible for administering the exercise of functions vested in the National Assembly for Wales relating to the historic environment);
 - (ii) the Natural Resources Body for Wales^{M14};
 - (d) in relation to development in relevant waters beyond the seaward limits of the territorial sea, the Joint Nature Conservation Committee^{M15}.
- (2) In this regulation, “principal council” has the meaning given in section 270(1) of the Local Government Act 1972^{M16}.

Textual Amendments

- F2** Words in reg. 4(1)(c)(i) inserted (1.4.2019) by [The Electricity Works \(Environmental Impact Assessment\) \(England and Wales\) \(Amendment\) \(Wales\) Regulations 2019 \(S.I. 2019/292\)](#), regs. 1, 2(3)

Marginal Citations

- M11** The Environment Agency was established by section 1 of the [Environment Act 1995 \(c.25\)](#).
- M12** The Historic Buildings and Monuments Commission for England was established by section 32 of the [National Heritage Act 1983 \(c.47\)](#).
- M13** Natural England was established by section 1 of the [Natural Environment and Rural Communities Act 2006 \(c.16\)](#).
- M14** The Natural Resources Body for Wales was established by article 3 of [S.I. 2012/1903](#).
- M15** The Joint Nature Conservation Committee was re-constituted in accordance with Schedule 4 of the [Natural Environment and Rural Communities Act 2006](#): see section 31(b) of that Act.
- M16** “Principal council” is defined by reference to “principal area”. The definition of “principal area” in section 270(1) has been amended by paragraph 8 of Schedule 16 to the [Local Government Act 1985 \(c.51\)](#) and section 1(8) of the [Local Government \(Wales\) Act 1994 \(c.19\)](#).

Meaning of EIA development

5. In these Regulations, “EIA development” means any of the following—
- (a) development of a description set out in Schedule 1;
 - (b) development of a description set out in Schedule 2 if—
 - (i) an EIA report is provided to the relevant authority in connection with an application for a section 36 or 37 consent, or a section 36 variation, for the development; or
 - (ii) the relevant authority makes a screening decision that the development is EIA development;
 - (c) development of any other description for which an application for a section 36 or 37 consent, or a section 36 variation, is made (or may be made) if the relevant authority makes a screening decision that the development is EIA development.

Changes to legislation:

There are currently no known outstanding effects for the The Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017, PART 1.