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WELSH STATUTORY INSTRUMENTS

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**2019 No. 296 (W. 74)**

**ELECTRICITY, WALES**

**The Electricity (Offshore Generating Stations) (Fees) (Wales) Regulations 2019**

<i>Made</i>	- - - -	<i>18 February 2019</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>20 February 2019</i>
<i>Coming into force</i>	- -	<i>1 April 2019</i>

The Welsh Ministers, in exercise of the powers conferred on them by sections 36(8A) and 60 of the Electricity Act 1989(1), make the following Regulations:

**Title, commencement and interpretation**

1.—(1) The title of these Regulations is the Electricity (Offshore Generating Stations) (Fees) (Wales) Regulations 2019 and they come into force on 1 April 2019.

(2) In these Regulations—

“application” (“*cais*”) means an application to the Welsh Ministers under section 36(2) of the Electricity Act 1989 for consent to construct, extend or operate an offshore generating station, together with any application under section 36A(3) of that Act for a declaration relating to rights of navigation which is made with the application under section 36; and

“column 3” (“*colofn 3*”) means column 3 of the table in the Schedule to these Regulations.

**Fees**

2.—(1) A fee must be paid to the Welsh Ministers by the applicant for making an application.

(2) The fee is the aggregate of—

(a) the initial fee in accordance with regulation 3;

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(1) 1989 c. 29. See section 36(10) for the definition of “appropriate authority”. Section 36(8A) was inserted by paragraph 47 of Schedule 6 to the Wales Act 2017 (c. 4) (“the 2017 Act”). There are amendments to section 60 which are not relevant to these Regulations.

(2) Section 36 was amended by section 93(1) and (3) of the Energy Act 2004 (c. 20) (“the 2004 Act”), paragraph 31 and 32 of Schedule 2 to the Planning Act 2008 (c. 29), section 12(7) and (8) of the Marine and Coastal Access Act 2009 (c. 23) (“the 2009 Act”), section 78 of the Energy Act 2016 (c. 20) and section 39(7) to (11) of, and paragraph 47 of Schedule 6 to, the 2017 Act. Other amendments to section 36 are not relevant to these Regulations.

(3) Section 36A was inserted by section 99 of the 2004 Act and amended by section 12(7) and (8) of the 2009 Act and section 40(1) to (5) of the 2017 Act.

- (b) the fee for examination of an application calculated in accordance with regulation 4; and
- (c) the fee for determination of an application calculated in accordance with regulation 5.

### **The initial fee**

3.—(1) Where an application is made to the Welsh Ministers, an initial fee must be paid to the Welsh Ministers (the “initial fee”).

- (2) The initial fee is the amount stated in row 1 of column 3.
- (3) The initial fee must accompany the application.

### **The examination fee**

4.—(1) A fee must be paid to the Welsh Ministers for examining an application (“the examination fee”).

- (2) The examination fee is to be calculated as the aggregate of—
  - (a) the number of days or part of a day spent examining the application multiplied by—
    - (i) where an application is examined by way of hearing or inquiry, the daily rate set out in row 2 of column 3;
    - (ii) in all other cases, the daily rate set out in the row 3 of column 3; and
  - (b) any costs and disbursements actually incurred by or on behalf of the Welsh Ministers in connection with examining the application.
- (3) The Welsh Ministers must give the applicant as soon as reasonably practicable an estimate in writing of the number of days examination of the application is likely to take.
- (4) The Welsh Ministers may revise the estimate referred to in paragraph (3) at any time.
- (5) The Welsh Ministers may invoice the applicant at reasonable intervals in respect of the number of actual days spent and for any costs incurred in examining the application.
- (6) Any fee due under this regulation must be received by the Welsh Ministers within the period of 21 days beginning with the date the relevant invoice is sent.
- (7) If the applicant fails to pay any fee due under this regulation within the period specified in paragraph (6), the Welsh Ministers need take no further steps in relation to the application until payment has been received by the Welsh Ministers.
- (8) If the applicant fails to pay any fee due under this regulation within the period of 12 weeks beginning on the expiry of the period specified in paragraph (6), the application is deemed to have been withdrawn.
- (9) The examination fee remains payable notwithstanding withdrawal of an application.
- (10) In this regulation, a “day” is deemed to consist of 7.4 hours.

### **The determination fee**

5.—(1) A fee must be paid to the Welsh Ministers for determining an application (“the determination fee”).

- (2) The determination fee is the aggregate of—
  - (a) a fixed fee in the amount set out in row 4 of column 3; and
  - (b) any costs and disbursements actually incurred by or on behalf of the Welsh Ministers in connection with determining the application.

(3) The costs referred to in paragraph (2)(b) include any reasonable legal costs or other disbursements incurred or paid by or on behalf of the Welsh Ministers in connection with determining the application.

(4) The Welsh Ministers may invoice the applicant—

- (a) for the fixed fee at any time after conclusion of examination of the application, and
- (b) in respect of costs and disbursements at reasonable intervals.

(5) Any fee due under this regulation must be received by the Welsh Ministers within the period of 21 days beginning with the date the relevant invoice is sent.

(6) If the applicant fails to pay any fee due under this regulation within the period specified in paragraph (5), the Welsh Ministers need take no further steps in relation to the application until payment has been received by them.

(7) If the applicant fails to pay any fee due under this regulation within the period of 12 weeks beginning on the expiry of the period specified in paragraph (5), the application is deemed to have been withdrawn.

(8) The determination fee remains payable notwithstanding withdrawal of the application.

*Julie James*  
Minister for Housing and Local Government,  
one of the Welsh Ministers

18 February 2019

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE

Regulations 3(2), 4(2)(a)(i), 4(2)(a)(ii) and  
5(2)(a)

## Fixed fees and daily rates

**Table**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Regulation</i>	<i>Subject matter</i>	<i>Fee</i>
3(2)	Initial fee	£15,350
4(2)(a)(i)	Daily rate where an application is examined at a hearing or inquiry	£920 exclusive of value added tax if any
4(2)(a)(ii)	Daily rate in all other cases	£870 exclusive of value added tax if any
5(2)(a)	Determination fee	£14,700

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations provide for the payment of fees in respect of applications for consent under section 36 of the Electricity Act 1989 (c. 29) (“the 1989 Act”) to construct, extend or operate an offshore generating station.

The Welsh Ministers are, from 1 April 2019, the appropriate authority in relation to applications under sections 36 and 36A of the 1989 Act relating to generating stations in Welsh waters which have a capacity not exceeding 350 megawatts.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained at [www.gov.wales](http://www.gov.wales).