

SL(5)345 – The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019

Background and Purpose

These Regulations make provision about the grant of consents under section 36 of the Electricity Act 1989 (the “1989 Act”) to construct, extend or operate an offshore generating station in respect of which the Welsh Ministers are the appropriate authority.

For the purposes of these Regulations, a reference to an application for consent under section 36 of the 1989 Act includes any application made under section 36A for a declaration relating to public rights of navigation which is made with an application for consent under section 36 of the 1989 Act.

The Welsh Ministers are the appropriate authority in relation to applications made after 1 April 2019 under section 36 of the 1989 Act, relating to generating stations (or proposed generating stations) in Welsh waters which have or will have a capacity not exceeding 350 megawatts.

These Regulations make provision about:

- the making of applications;
- service and publicity requirements;
- the circumstances in which public inquiries are to be held; and
- the scope of public inquiries where there are one or more relevant planning authorities.

These Regulations also make provision for the circumstances in which a notice required by these Regulations may be combined with a notice required by or under Schedule 16 to the Energy Act 2004.

Additionally, these Regulations make a consequential amendment to the Conservation of Habitats and Species Regulations 2017.

Procedure

Negative.

Technical Scrutiny

One point are identified for reporting under Standing Order 21.2 in respect of this instrument.

Standing Order 21.2(v) - that for any particular reason its form or meaning needs further explanation

Regulation 7(1)(b) notes that a notice of application must be published “...in one or more national newspapers”. However, the Regulations does not specify whether “national” refers to a Welsh national newspaper or a UK newspaper.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.



Standing Order 21.3(ii) that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

Regulation 5 provides that, where an applicant (regulation 5(2)), or the Welsh Ministers (regulation 5(4)) consider that a local planning authority in England and Wales or the Department of the Environment in Northern Ireland is likely to have an interest in the application, the applicant must serve notice of an application of that body (regulation 5(2)) or the Welsh Ministers may direct the applicant to do so (regulation 5(4)). These provisions do not include references to appropriate corresponding bodies in Scotland or the Isle of Man. We understand that the reason for not including Scotland in these provisions is due to the distance between Welsh waters and Scotland. However, the reasoning as to why the Isle of Man has not been included within these provisions is unclear.

Implications arising from exiting the European Union

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

A government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

14 March 2019

