

POLICY NOTE

THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) AMENDMENT REGULATIONS 2017

SSI 2017/451

The above instrument was made in exercise of the powers conferred by Section 2(2) of the European Communities Act 1972. The instrument is subject to negative procedure.

Section 2(2) of the 1972 Act is the enabling power for the provisions in these Regulations relating to variation applications under the Electricity Act 1989.

Policy Objectives

Introduction

The purpose of these regulations is to update The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended in 2017) (“the 2017 Regulations”) in order to clarify the 2017 Regulations as far as they apply to variation applications under the Electricity Act 1989.

Directive 2011/92/EU (the “EIA Directive”) aims to ensure the authority giving the primary consent for a particular project makes its decision in full knowledge of any likely significant effects on the environment. The 2017 Regulations currently go beyond the requirements of the EIA Directive and require that an EIA is carried out in respect of any variation to section 36 consent, even if the variation will have no additional environmental effects, or where the variation may make the development more efficient or environmentally beneficial. This places unnecessary regulatory burden on Scottish Ministers, consultation bodies and developers. The amendment will ensure that the scope of the EIA process is the same in both the 2017 Regulations and the EIA Directive. As a result of the amendment, only variation applications where the changes proposed by the variation may cause significant adverse environmental effects will require an EIA is carried out.

Therefore it is necessary to make this amending instrument and bring it into force early, to unify the scope of the EIA process within the 2017 Regulations and the EIA Directive as soon as possible, reduce regulatory burden, avoid additional delays to offshore wind development and thus allow Scottish Government to achieve its policy of reducing carbon emissions and promoting economic growth.

Key changes

The following is a summary of the main changes made to the 2017 Regulations.

Environmental Impact Assessment Process

Changes to Regulations 2 and 28 within the 2017 Regulations will ensure variation applications under the Electricity Act 1989, which do not pose a likely significant adverse impact on the environment, can be processed outwith the EIA process as they do not constitute projects which may require EIA process under Annex II of the EIA Directive.

Changes to Regulation 36(2) to update the reference to the Conservation of Habitats and Species Regulations 2010 which have been revoked and replaced by the Conservation of Habitats and Species Regulations 2017.

Consultation

The Scottish Government did not consult on proposals for amending the 2017 Regulations as the changes being brought forward are considered minimal and are being made to simply align the 2017 Regulations with the purpose of the EIA Directive. These Amendments improve consistency between the 2017 Regulations and the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 and will prevent significant consequences for development of national significance. There will be no negative or environmental consequences as a result of the Amendments.

Scottish Government
Directorate of Marine Scotland
14 December 2017