

POLICY NOTE

THE SCOTLAND ACT 1998 (TRANSFER OF FUNCTIONS TO THE SCOTTISH MINISTERS ETC.) ORDER 2019

2019 No. [XXXX]

This instrument is made in exercise of the powers conferred by sections 30(3), 63(1)(b) and 113(3) of the Scotland Act 1998 (“the Scotland Act”). The instrument is, by virtue of Schedule 7 to the Scotland Act, subject to Type A procedure and is subject to the affirmative resolution procedure in both Houses of the UK Parliament and in the Scottish Parliament.

<p>Purpose of the instrument. The purpose of this instrument is to confirm the effect of previous legislation with respect to the Scottish part of the Renewable Energy Zone (“REZ”) re the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No.2) Order 2006 (S.I. 2006/1040) (“the 2006 Order”).</p>
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Legislative Context

Developers who plan to construct, extend or operate an electricity generating station must firstly obtain a consent under section 36 of the Electricity Act 1989 (“the 1989 Act”). If they want to vary this consent, they must apply for a variation under section 36C of that Act. The generation, transmission, distribution and supply of electricity are reserved matters under Schedule 5, Part II, section D1 of the Scotland Act. The 2006 Order transfers to the Scottish Ministers consent functions for such generating stations in respect of Scotland including the Scottish part of the REZ.

Before a consent/variation can be granted, Directive 2014/52/EU (amending Directive 2011/92/EU) - “the EIA Directive”, requires there to be an assessment of the environmental effects of the generating station, if these are likely to be significant. This instrument ensures that the Scottish Ministers have EIA Directive functions concurrent with those of a Minister of the Crown in respect of the Scottish part of the REZ.

Policy Objectives

The effect of this instrument is to confirm that Scottish Ministers have certain functions, concurrent with those of a Minister of the Crown, relating to the assessment of environmental effects under the EIA Directive in respect of the Scottish part of the REZ. ensuring that the UK meets its obligations to fully transpose this Directive.

Consultation

There has been no general public consultation specific to this Order as it simply confirms the existing legal position and does not introduce any new measures.

Impact Assessments

There is no, or no significant, impact on business, charities or voluntary bodies. Nor is there any impact, or no significant impact, on the public sector.

An Impact Assessment has not been prepared for this instrument because this instrument does not introduce any new measures.

Financial Effects

A Business and Regulatory Impact Assessment has not been prepared for this Order as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Marine Scotland

February 2019