

**EXPLANATORY MEMORANDUM TO**  
**THE ELECTRICITY (APPLICATIONS FOR CONSENT) AMENDMENT (ENGLAND**  
**AND WALES) REGULATIONS 2013**

**2013 No. 495**

1. This explanatory memorandum has been prepared by the Department of Energy and Climate Change and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 This instrument will amend the Electricity (Applications for Consent) Regulations 1990 (S.I.1990/455) to revise the fees payable to the Secretary of State of Energy and Climate Change for applications under Section 37 of the Electricity Act 1989. The amendment replaces a fixed fee for applications for electric lines above ground with fixed fees for different “categories of service” based on the nominal voltage of a line when installed. It also introduces fixed fees for an application to the Secretary of State to determine whether a project should have an Environmental Impact Assessment (EIA development) and an additional fixed fee for examination of an Environmental Statement accompanying an application that is an EIA development.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 This instrument increases the fees payable for applications made to the Secretary of State in respect of electric lines above ground under the Electricity Act 1989. The instrument imposes a fee increase above the rate of inflation. The magnitude of the increase is due to the fact that the fee has not been revised since 1990. The previous fee of £50 did not reflect the cost to Government of providing this service, and did not distinguish between different categories of service. No further fee increases are planned, although level of the fee will be reviewed on an ongoing basis. The proposed fees will not recoup the full cost to Government of providing the different categories of service. The fee regime and level of each fee will be reviewed on a regular basis.

4. **Legislative Context**

4.1 These Regulations are made in exercise of the powers conferred on the Secretary of State by sections 36(8) and 60(3) of, and paragraph 1(3) of Schedule 8 to, the Electricity Act 1989 and section 188 of the Energy Act 2004.

5. **Territorial Extent and Application**

5.1 This instrument applies to England and Wales.

6. **European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 Electric lines above ground require consent from the Secretary of State before they can be constructed. The Electricity (Applications for Consent) 1990 Regulation 3(1) sets a fixed fee of £50 for applications for development consent of electric lines above ground (“overhead lines”).

7.2 The norm for publicly provided goods and services (such as the examination of applications for consents) is to charge the full cost of providing the goods or services, i.e. the cost to Government of examining an application should be matched by the fees charged to applicants for the service. The fixed fee of £50 for an application to the Secretary of State does not reflect the cost to the Government of providing the service; nor has it been revised since its inception in 1990.

7.3 Costs to Government were reviewed and the fees payable are being revised to recover more of the costs to Government of providing the service. However the fee set for each category of service does not attempt to recover the full cost for the category. The level of fees for each category of service has therefore been set below the minimum cost to the Government of providing that service, so that no application will be charged more than the cost to Government of examining an application.

## **8. Consultation outcome**

8.1 There were 5 responses to the consultation. All the respondents agreed in principle with the revision to fees. One respondent queried whether the proposed fee for one category of service – proposals for new overhead lines of 275kV or 400kV nominal voltage – accurately reflected the cost to Government of examining applications in this category. When finalising the amendment to the Regulations, the levels were recalculated to take account of this response.

## **9. Guidance**

9.1 Guidance is issued by DECC on applications for consent for electric lines under Section 37 of the Electricity Act 1989. Because this amendment to the Regulations affects only the fee payable, DECC does not intend to issue specific guidance on it.

## **10. Impact**

10.1 An Impact Assessment is attached to this memorandum.

## **11. Regulating small business**

11.1 The legislation does apply to small business.

11.2 There are no impacts for firms employing up to 20 people as no operator of overhead electricity lines employs 20 or fewer people.

## **12. Monitoring & review**

12.1 Costs to Government will be monitored regularly as part of normal financial activities. When resource costs differ significantly from the receipts generated by the fixed fees, the level of fees will be reviewed.

## **13. Contact**

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