

**2016 No. 21**

**ELECTRICITY**

**The Onshore Wind Generating Stations (Exemption) (England and Wales) Order 2016**

<i>Made</i>	- - - -	<i>12th January 2016</i>
<i>Laid before Parliament</i>		<i>14th January 2016</i>
<i>Coming into force</i>	- -	<i>1st March 2016</i>

The Secretary of State for Energy and Climate Change, in exercise of the powers conferred by section 36(4) of the Electricity Act 1989(a), makes the following Order:

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Onshore Wind Generating Stations (Exemption) (England and Wales) Order 2016 and comes into force on 1st March 2016.

(2) This Order extends to England and Wales only.

**Interpretation**

2. In this Order—

“the 1989 Act” means the Electricity Act 1989; and

“onshore wind generating station” means a generating station which—

- (a) generates electricity from wind; and
- (b) is situated in England or Wales but not in waters adjacent to England or Wales up to the seaward limits of the territorial sea.

**Exemption for onshore wind generating stations**

3. Subject to article 4, section 36(1) of the 1989 Act (consent for construction, extension or operation of generating stations) does not apply to an onshore wind generating station.

4. Article 3 does not affect the continuing application of—

- (a) section 36(1) of the 1989 Act,
- (b) section 36C of the 1989 Act (variation of consents under section 36), and

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(a) 1989 c. 29. Relevant amendments to section 36 were made by: the Planning Act 2008 (c. 29) (section 36 and Schedule 2, paragraphs 31, 32(1) to (3)); the Marine and Coastal Access Act 2009 (c. 23) (section 12(7)(a), (8)); and the Energy Act 2004 (c. 20) (section 93(3)). Functions under section 36, in so far as exercisable in or as regards Scotland, transferred to the Scottish Ministers, by S.I. 2006/1040 (articles 2, 3 and 6).

(c) section 90 of the Town and Country Planning Act 1990<sup>(a)</sup> (deemed planning permission), in the case of an onshore wind generating station in respect of which consent under section 36(1) of the 1989 Act was granted before 1st March 2016.

12th January 2016

*Bourne*  
Parliamentary Under Secretary of State  
Department of Energy and Climate Change

### **EXPLANATORY NOTE**

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

Section 36 of the Electricity Act 1989 (c. 29) (the “Act”) provides that generating stations may not be constructed, extended or operated without a consent under section 36(1).

This Order makes a direction under section 36(4) of the Act to provide that the requirement for consent does not apply to a class of generating stations, described in article 2. That class comprises wind powered generating stations which are onshore in England or Wales and which have not already received consent under section 36(1) of the Act before this Order comes into force. Article 3 provides for the exemption, and article 4 ensures that the provisions of section 36 of the Act continue to apply so far as existing consents are concerned, including where those consents are varied.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is annexed to the Explanatory Memorandum for this Order on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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<sup>(a)</sup> 1990 c. 8.



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