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SCOTTISH STATUTORY INSTRUMENTS

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**2013 No. 264**

**ELECTRICITY**

**The Overhead Lines (Exemption) (Scotland) Regulations 2013**

*Made - - - - 10th September 2013*  
*Laid before the Scottish*  
*Parliament - - - - 12th September 2013*  
*Coming into force - - 1st November 2013*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 37(2)(c) and 60 of the Electricity Act 1989<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Overhead Lines (Exemption) (Scotland) Regulations 2013 and come into force on 1st November 2013.

**Interpretation**

2. In these Regulations—

“the Act” means the Electricity Act 1989; and

“existing line” means an electric line which—

- (a) has been installed or is kept installed above ground in accordance with a consent granted under section 37(1) of the Act; or
- (b) has been installed above ground and is an electric line to which section 37(1) of the Act does not apply either by virtue of—
  - (i) paragraph 5(4) or (5) of Schedule 17 to the Act; or
  - (ii) these Regulations.

**Exemptions from section 37(1) of the Act**

3.—(1) Subject to paragraphs (2) and (3) and regulation 6(2), section 37(1) of the Act shall not apply in relation to the installation or keeping installed of—

- (a) an electric line which—

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<sup>(1)</sup> 1989 c.29. The functions under sections 37 and 60 of the Electricity Act 1989 (“the 1989 Act”) were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of functions etc.) Order 1999 (S.I. 1999/1750). See section 64(1) of the 1989 Act (read with article 6 of S.I. 1999/1750) for the definition of “prescribed”.

- (i) connects an electric line installed below ground with apparatus mounted on a pole or structure; and
  - (ii) is attached to the pole or structure throughout its length except where it passes through a fuse or other apparatus;
  - (b) a wire or cable (including its casing or coating) which—
    - (i) forms part of electronic communications apparatus (within the meaning given to that expression by paragraph 1 of Schedule 2 to the Telecommunications Act 1984<sup>(2)</sup>); and
    - (ii) is supported, or carried by, or suspended from the supports for an existing line;
  - (c) an electric line—
    - (i) which connects two points on an existing line which are no further apart than the maximum distance so as to provide a diversion for the existing line;
    - (ii) is installed for a period not exceeding six months; and
    - (iii) no part of which is within a protected area;
  - (d) an electric line attached to a building (other than a scheduled monument, listed building or building in a conservation area) where the building in question crosses a road, railway or watercourse and its principal purpose is not the support of the electric line;
  - (e) an electric line—
    - (i) which replaces an existing line (whether or not it is installed in the same position as the existing line in question); and
    - (ii) no part of which is within a protected area; or
  - (f) one or more additional poles or structures to support an existing line.
- (2) The exemptions in paragraphs (1)(e) and (f) are subject to limitations set out in regulation 4.
- (3) The exemptions in paragraphs (1)(c), (e) and (f) are subject to the provisions of regulation 5.
- (4) In this regulation—
- “building” includes structure;
- “conservation area” means an area designated under section 61 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997<sup>(3)</sup> and “listed building” has the same meaning as in section 1(4) of that Act;
- “European site” has the meaning given in regulation 8(1) of the Conservation of Habitats and Species Regulations 2010<sup>(4)</sup>;
- “maximum distance” means—
- (a) in relation to an electric line which has a nominal voltage less than 66 kilovolts, 500 metres; and
  - (b) in relation to any other electric line, 850 metres;
- “protected area” means—
- (a) a European site; or
  - (b) a site of special scientific interest;
- “scheduled monument” has the same meaning as in section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979<sup>(5)</sup>; and

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(2) 1984 c.12 as amended by paragraph 2(2) of Schedule 3 to the Communications Act 2003 (c.21).

(3) 1997 c.9.

(4) S.I. 2010/490.

(5) 1979 c.46.

“site of special scientific interest” has the same meaning as in section 58(1) of the Nature Conservation (Scotland) Act 2004<sup>(6)</sup>.

#### **Limitations on the application of the exemptions contained in regulation 3(1)(e) and (f)**

4.—(1) The limitations referred to in regulation 3(2) are—

- (a) the electric line must not have a nominal voltage greater than the nominal voltage of the existing line;
- (b) where the electric line has a voltage of 220 kilovolts or more it must not exceed 15 kilometres in length;
- (c) any conditions applicable to the existing line which are contained in a consent under section 37(1) of the Act or section 10(b) of the Schedule to the Electric Lighting (Clauses) Act 1899<sup>(7)</sup> must be complied with;
- (d) the height above the surface of the ground of any support for the electric line must not exceed the height of the highest existing support or support which is being replaced by more than 20 per cent;
- (e) where the electric line is installed in a different position from the existing line the distance between—
  - (i) any small support and the existing line must not exceed 30 metres; and
  - (ii) any other support and the existing line must not exceed 100 metres; and
- (f) where the electric line is installed in a different position from the existing line, the existing line is removed within a period of twelve months beginning with the date on which the installation of the electric line which replaces it is completed.

(2) Paragraph (1) applies to an additional pole or support installed by virtue of regulation 3(1)(f) as it applies to a pole or support which replaces an existing support.

(3) In this regulation—

- (a) any reference to the distance between a support and an existing line is a reference to the shortest distance between the centre of the base of that support and an imaginary line through the centre of the base of each support for the existing line; and
- (b) “small support” means a support for an electric line which does not exceed 10 metres in height.

#### **Restrictions on the exemptions contained in regulation 3(1)(c), (e) and (f)**

5.—(1) Where—

- (a) the electric line is to be installed in a different position from the existing line;
- (b) the height above the surface of the ground of any support for the electric line will exceed the height of the highest support which is to be replaced; or
- (c) subject to paragraph (4), the installation will be in a National Park or a National Scenic Area,

the exemptions in regulation 3(1)(c), (e) or (f) only apply if it is determined for the purposes of this paragraph that there is not likely to be a significant adverse effect on the environment as a result of the installation, or keeping installed, of the electric line or additional pole or structure, as the case may be.

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(6) 2004 asp 6. Section 58(1) was relevantly amended by section 37(4)(a) of the Wildlife and Natural Environment (Scotland) Act 2011 (asp 6).

(7) 1899 c.19. Repealed by the Electricity Act 1989. Any consent under section 10(b) is preserved by paragraph 5(2) of Schedule 17 of the Electricity Act 1989.

(2) For the purpose of paragraph (1) it is determined that there is not likely to be a significant adverse effect on the environment if—

- (a) notice of the proposed installation is given by the person proposing to carry out the installation to the planning authority within whose area the installation is to be situated; and
- (b) the planning authority either—
  - (i) notifies that person that, in the opinion of that authority, if the installation were completed in accordance with the proposal it would not be likely to have a significant adverse effect on the environment; or
  - (ii) does not within the period of 6 weeks beginning with the notification date give notice to that person that, in the opinion of that authority, if the installation were completed in accordance with the proposal it would be likely to have a significant adverse effect on the environment.

(3) Paragraph (1) applies to an additional pole or support installed by virtue of regulation 3(1)(f) as it applies to a pole or support which replaces an existing support.

(4) Where it is necessary to make emergency repairs to an existing line in a National Park or a National Scenic Area—

- (a) paragraph (1)(c) does not apply; and
- (b) the person making such emergency repairs must notify the planning authority as soon as practicable that those repairs have been, are being or will be made.

(5) In this regulation—

“National Park” means an area designated as a National Park by a designation order made by the Scottish Ministers under section 6(1) of the National Parks (Scotland) Act 2000<sup>(8)</sup>;

“National Scenic Area” means an area designated as a National Scenic Area by a direction made by the Scottish Ministers under section 263A of the Town and Country Planning (Scotland) Act 1997<sup>(9)</sup>; and

“notification date” means the date on which notice of the proposed installation given in accordance with paragraph (2)(a) is received by the planning authority.

### **Revocations and Transitional Provision**

**6.—**(1) Subject to paragraph (2), the provisions specified in column 1 of the Table in the Schedule are revoked to the extent specified in Column 3 of that Table.

(2) Where by virtue of the Overhead Lines (Exemption) Regulations 1990<sup>(10)</sup> section 37(1) of the Act did not apply before 1st November 2013 in relation to the installation or keeping installed of an electric line installed before that date, section 37(1) of the Act does not apply to the installation or keeping installed of that line.

St Andrew’s House,  
Edinburgh  
10th September 2013

*FERGUS EWING*  
Authorised to sign by the Scottish Ministers

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<sup>(8)</sup> 2000 asp 10.

<sup>(9)</sup> 1997 c.8. Section 263A was inserted by section 50 of the Planning etc. (Scotland) Act 2006 (asp 17).

<sup>(10)</sup> S.I. 1990/2035 as relevantly amended by S.I. 2003/2155 and S.S.I. 2010/469.

## SCHEDULE

Regulation 6

## Revocations

<i>Column (1)</i>	<i>Column (2)</i>	<i>Column (3)</i>
<i>Provisions</i>	<i>References</i>	<i>Extent of Revocations</i>
The Overhead Lines (Exemption) Regulations 1990	<a href="#">S.I. 1990/2035</a>	The whole Regulations
The Communications Act 2003 (Consequential Amendments) Order 2003	<a href="#">S.I. 2003/2155</a>	Paragraph 29 of Schedule 1 as it extends to Scotland
The National Scenic Areas (Scotland) Regulations 2008	<a href="#">S.S.I. 2008/202</a>	Regulation 8
The National Scenic Areas (Consequential Modifications) (Scotland) Order 2010	<a href="#">S.S.I. 2010/460</a>	Article 4

**EXPLANATORY NOTE***(This note is not part of the Regulations)*

These Regulations replace and revoke the Overhead Lines (Exemption) Regulations 1990 (“the 1990 Regulations”) in relation to their application to Scotland.

These Regulations make provision in relation to Scotland for the cases where the consent of the Scottish Ministers is not required under section 37 of the Electricity Act 1989 (“the 1989 Act”) for the installation, or keeping installed, of an electric line above ground. The cases are specified in regulation 3 subject in certain circumstances to the limitations in regulation 4 and to the restriction in regulation 5. These Regulations replicate with minor modifications the 1990 Regulations. The minor changes exclude the application of the exemption contained in regulations 3(1)(c) and (e) where the overhead line is within a European site and, in regulation 3(1)(f) extend the exemptions to include the installation of additional supports for existing lines. Regulation 6(1) revokes the 1990 Regulations but where those Regulations disappplied section 37(1) of the 1989 Act in relation to an electric line installed before 1st November 2013, regulation 6(2) again disappplies that section in relation to that electric line.