
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Planning Act 2008 (c. 29) (the “Act”) to remove electricity storage facilities (except for pumped hydroelectric storage facilities) from the category of generating stations whose construction or extension requires development consent as a Nationally Significant Infrastructure Project (“NSIP”) under the Act.

Article 3 of this Order amends section 15 of the Act, which sets out the circumstances in which the construction or extension of a generating station will constitute an NSIP, to exclude an exempt storage facility, that is, an electricity storage facility which is not a pumped hydroelectric storage facility. An electricity storage facility is a facility which generates electricity from energy that (a) was converted from electricity by that facility, and (b) is stored within that facility for the purpose of its future reconversion into electricity.

Article 4 provides that article 3 applies subject to transitional and savings provisions set out in articles 5 to 7 of the Order.

Article 5 makes provision relating to applications to develop generating stations which comprise, in whole or in part, an exempt electricity storage facility and which have been submitted and accepted by the Secretary of State in accordance with the procedure set out in the Act (but not decided) before this Order comes into force. For these applications the process continues to go forward under the Act as it would have done if the Order had not been made. The options for challenge provided under the Act will continue to apply to any order made granting development consent, or a decision to refuse consent. If an order is made granting development consent following such an application, its provisions will continue to have effect and any provisions in the Act that would have applied had this Order not been made will continue to have effect in respect of the development consent order and the development itself save that further extensions to the generating station which comprise an exempt electricity storage facility will not require a new application for development consent.

Article 6 makes provision relating to development consent orders for generating stations which comprise, in whole or in part, an exempt electricity storage facility and which have been made before this Order comes into force. The provisions of these development consent orders will continue to have effect and any provisions in the Act that would have applied had this Order not been made will continue to have effect, in respect of the development consent order and the development itself save that further extensions to the generating station which comprise an exempt electricity storage facility will not require a new application for development consent.

Article 7 makes provision relating to applications to develop generating stations which comprise, in whole or in part, an exempt electricity storage facility and which have been refused by the Secretary of State before this Order comes into force. The options for challenge provided under the Act will continue to apply to the decision to refuse consent and, if the refusal is quashed, article 5(2) will apply to any redetermination of the application.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.