

**EXPLANATORY MEMORANDUM TO**  
**THE ONSHORE WIND GENERATING STATIONS (EXEMPTION) (ENGLAND**  
**AND WALES) ORDER 2016**

**2016 No. 605**

**1. Introduction**

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

**2. Purpose of the instrument**

- 2.1 This Order revokes the Onshore Wind Generating Stations (Exemption) (England and Wales) Order 2016 (S.I. 2016/21) and the Onshore Wind Generating Stations (Exemption) (England and Wales) (Amendment) Order 2016 (S.I. 2016/450).

**3. Matters of special interest to Parliament**

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

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 Section 78 of the Energy Act 2016, together with associated saving provisions in the Energy Act 2016 (Commencement No. 1 and Savings Provisions) Regulations 2016, makes similar provision to the Onshore Wind Generating Stations (Exemption) (England and Wales) Order 2016, as amended. Therefore, with the commencement of section 78, there is no need for the earlier Order. Consequently, this Order revokes the earlier Order, as amended.

**5. Extent and Territorial Application**

- 5.1 The extent of this instrument is England and Wales.  
5.2 The territorial application of this instrument is 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**

*What is being done and why*

- 7.1 The overall policy objective is to ensure that the consenting process for onshore wind farms is primarily handled at the local planning level. Consenting decision for large

onshore windfarms, with an electricity capacity of more than 50 MW were made under the Planning Act 2008, through Development Consent Orders, which replaced the consenting process under section 36 of the Electricity Act 1989.

- 7.2 The Infrastructure Planning (Onshore Wind Generating Stations) Order 2016, removed onshore wind generating stations from the Planning Act 2008. The Onshore Wind Generating Stations (Exemptions) (England and Wales) Order 2016, as amended, then removed this consenting process from the Electricity Act 1989 and placed it into the regime of the Town and Country Planning Act 1990.
- 7.3 As the section 78 of the Energy Act 2016, also contains provisions to place the consenting regime into the Town and Country Planning Act 1990, this Order revokes the previous Orders under the Electricity Act 1989.

## **8. Consultation outcome**

- 8.1 No consultation was needed for this revocation nor undertaken.

## **9. Guidance**

- 9.1 Planning applications for onshore windfarms now fall under the National Planning Policy Framework and association practice guidance.

## **10. Impact**

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument. There are no further impacts than those already captured in the assessment of the Order which is being revoked.

## **11. Regulating small business**

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

## **12. Monitoring & review**

- 12.1 We do not consider there to be a need for review.

## **13. Contact**

- 13.1 Emily Briggs at the Department of Energy and Climate Change Telephone: 0300 068 2971 or email: [Emily.briggs@decc.gsi.gov.uk](mailto:Emily.briggs@decc.gsi.gov.uk) can answer any queries regarding the instrument.