

Draft Regulations laid before the National Assembly for Wales under section 333 of the Town and Country Planning Act 1990, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2016 No. (W.)

**TOWN AND COUNTRY
PLANNING, WALES**

**The Developments of National
Significance (Specified Criteria and
Prescribed Secondary Consents)
(Wales) (Amendment) Regulations
2016**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016 (“the Principal Regulations”). The Principal Regulations provide that the construction of an onshore wind generating station (an onshore wind farm) with a generating capacity of between 10 and 50 megawatts is of national significance for the purposes of section 62D of the Town and Country Planning Act 1990. They also provide that the extension or alteration of an onshore wind farm is of national significance if the effect of the extension or alteration will increase the generating capacity by at least 10 megawatts but not so that the installed generating capacity exceeds 50 megawatts.

These Regulations amend the criteria for the construction, extension or alteration of an onshore wind farm to be development of national significance.

The amendments made to the Principal Regulations do not take effect until the Onshore Wind Generating Stations (Exemption) (England and Wales) Order 2016 and the Infrastructure Planning (Onshore Wind Generating Stations) Order 2016 have come into force.

The effect of the Onshore Wind Generating Stations (Exemption) (England and Wales) Order 2016 is that onshore wind farms in England and Wales do not require consent from the Secretary of State under section 36(4) of the Electricity Act 1989, subject to saving provisions.

The effect of the Infrastructure Planning (Onshore Wind Generating Stations) Order 2016 is that the construction, alteration or extension of onshore wind farms in England and Wales no longer requires development consent under the Planning Act 2008 (“the 2008 Act”).

Regulation 3 amends regulation 4 of the Principal Regulations. It amends the definition of “generating station” and inserts definitions for “onshore wind generating station” and “the Orders”.

Regulation 3 also inserts a new regulation 4A. The new regulation sets out the criteria for the construction, extension or alteration of an onshore wind farm to be development of national significance.

The effect of the amendments in regulation 3 is that applications for planning permission for (a) the construction of onshore wind farms with a generating capacity of 10 megawatts or above, and (b) the extension or alteration of an onshore wind farm with an expected increased generating capacity of 10 megawatts or above, in Wales must be made to the Welsh Ministers.

Savings provisions are made for consents under the Electricity Act 1989, development consents under the 2008 Act and applications for development consent under the 2008 Act which have been accepted by the Secretary of State.

An impact assessment has been prepared in relation to these Regulations. Copies are available from the Planning Directorate of the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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**The Developments of National
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(Wales) (Amendment) Regulations
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Made ***2016

Coming into force ****

The Welsh Ministers, in exercise of the powers conferred on them by section 62D of the Town and Country Planning Act 1990(1) and conferred on the Secretary of State by section 333 of that Act(2) now exercisable by them(3), make the following Regulations.

Title, commencement and application

1.—(1) The title of these Regulations is the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales)

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- (1) 1990 c.8. Section 62D was inserted by section 19 of the Planning (Wales) Act 2015 (anaw 4).
- (2) Section 333 of the Town and Country Planning Act 1990 was amended by section 55 of, and paragraph 3 of Schedule 7 to, the Planning (Wales) Act 2015. There are other amendments to section 333 not relevant to these Regulations.
- (3) The functions of the Secretary of State were transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), see the entry in Schedule 1 for the Town and Country Planning Act 1990. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 30 and 32 of Schedule 11 to, the Government of Wales Act 2006 (c.32).

(Amendment) Regulations 2016 and they come into force on the day after the day on which they are made.

(2) These Regulations apply to all land in Wales.

Amendment of the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016

2.—(1) The Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016(1) are amended as set out in regulation 3.

(2) If —

- (a) the Onshore Wind Generating Stations (Exemption) (England and Wales) Order 2016(2); and
- (b) the Infrastructure Planning (Onshore Wind Generating Stations) Order 2016(3).

have not come into force on the day these Regulations come into force, the amendments made by regulation 3 do not have effect until those Orders have come into force.

3.—(1) In regulation 2 (Interpretation) at the appropriate place insert “the 2008 Act” (“*Deddf 2008*”) means the Planning Act 2008(4).

(2) In regulation 3(1)(a) after “generating station” insert “other than an onshore wind generating station”;

(3) After regulation 3(1)(a) insert—

“(aa) the construction, extension or alteration of an onshore wind generating station that generates electricity”;

(4) In regulation 4(3) (Generating stations)—

(a) in the definition of “generating station” (“*gorsaf gynhyrchu*”) after “that generate electricity” insert “but does not include an onshore wind generating station”;

(b) at the appropriate place insert—

““onshore wind generating station” (“*gorsaf cynhyrchu trydan o ynni'r gwynt ar y tir*”) means a generating station which—

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

(1) ****

(2) ****

(3) ****

(4) c. 29

- (c) is not a generating station in respect of which a consent—
 - (i) under section 36(1) of the Electricity Act 1989(1); or
 - (ii) under section 114 of the 2008 Act, was granted prior to the respective coming into force of the Orders and remains in force.
- (d) is not a generating station in respect of which—
 - (i) an application for an order granting development consent has been accepted by the Secretary of State under section 55 of the 2008 Act (Acceptance of applications) but not decided before the day on which the Orders come into force; or
 - (ii) following a judicial review of any decision to refuse to accept an application for development consent or to refuse development consent, an application for an order granting development consent has been accepted by the Secretary of State, but not decided before the day on which the Orders come into force.

- (c) at the appropriate place insert—
 - ““the Orders” (“*y Gorchmyinion*”) means—
 - (a) the Onshore Wind Generating Stations (Exemption) (England and Wales) Order 2016(2); and
 - (b) the Infrastructure Planning (Onshore Wind Generating Stations) Order 2016(3).”
- (d) After regulation 4 insert—

“Onshore Wind Generating Stations

4A.—(1) The construction of an onshore wind generating station is within regulation 3(1)(aa) only if the onshore wind generating station is expected to have (when constructed) an installed generating capacity of 10 megawatts or above.

(2) The extension or alteration of an onshore wind generating station is within regulation 3(1)(a) only if the effect of the extension or

(1) c. 29
 (2) ****
 (3) ****

alteration is expected to increase the installed generating capacity by at least 10 megawatts.

(3) In this regulation “onshore wind generating station” and “installed generating capacity” have the meanings given in regulation 4(3).”

Name

Minister for Natural Resources, one of the Welsh Ministers

Date