



# Wales Act 2017

## 2017 CHAPTER 4

### PART 2

#### LEGISLATIVE AND EXECUTIVE COMPETENCE: FURTHER PROVISION

##### *Planning for electricity generating stations*

### **39 Development consent for generating stations with 350MW capacity or less**

- (1) Section 15 of the Planning Act 2008 (generating stations) is amended as set out in subsections (2) to (6).
- (2) In subsection (1), for ““or (3)”” substitute “, (3), (3A) or (3B)”.
- (3) In subsection (2)(a) omit ““or Wales””.
- (4) After subsection (3) insert—
  - “(3A) A generating station is within this subsection if—
    - (a) it is in Wales,
    - (b) it does not generate electricity from wind, and
    - (c) its capacity is more than 350 megawatts.
  - (3B) A generating station is within this subsection if—
    - (a) it is in waters adjacent to Wales up to the seaward limits of the territorial sea, or in the Welsh zone, and
    - (b) its capacity is more than 350 megawatts.”
- (5) In subsection (4)—
  - (a) in paragraph (a) omit ““or Wales””;
  - (b) in paragraph (b), after ““except”” insert “ the Welsh zone or ”.
- (6) After subsection (4) insert—

---

**Changes to legislation:** *Wales Act 2017, Section 39 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

- “(5) ““Welsh zone”” has the meaning given in section 158 of the Government of Wales Act 2006.”
- (7) Section 36 of the Electricity Act 1989 (consent required for construction etc of generating stations) is amended as set out in subsections (8) to (11).
- (8) In subsection (1), (4) and (5)(a), for ““Secretary of State”” substitute “ appropriate authority ”.
- (9) In subsection (2)—
- (a) in paragraph (a)—
    - (i) at the beginning insert “ in the case of a generating station otherwise than in Wales, ”;
    - (ii) at the end omit ““and””;
  - (b) in paragraph (b), after ““extended”” insert “ otherwise than in Wales ”;
  - (c) after paragraph (b) insert—
    - “(c) in the case of a generating station in Wales, does not exceed the devolved capacity, that is to say, 350 megawatts; and
    - (d) in the case of a generating station which is to be constructed or extended in Wales, will not exceed the devolved capacity when it is constructed or extended;”
- (10) In subsection (7), for ““the Secretary of State”” substitute—
- “(a) the Welsh Ministers, if they are the appropriate authority, or
  - (b) the Secretary of State, in all other cases.”
- (11) After subsection (9) insert—
- “(10) In this section ““appropriate authority”” means—
- (a) the Scottish Ministers, in relation to a generating station in or to be constructed in Scotland;
  - (b) the Welsh Ministers, in relation to a generating station in or to be constructed in Welsh waters that—
    - (i) does not exceed the devolved capacity, that is to say, 350 megawatts;
    - (ii) in the case of a generating station which is to be constructed or extended, will not exceed the devolved capacity when constructed or extended;
  - (c) the Secretary of State, in all other cases.
- (11) In this section—
- ““Scotland”” has the same meaning as in section 32(2) (see section 32(3));
  - ““Welsh waters”” means so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Wales, and the Welsh zone;
  - ““Welsh zone”” has the meaning given in section 158 of the Government of Wales Act 2006.”
- (12) In section 36C of the Electricity Act 1989 (variation of consents under section 36), in subsection (6)—
- (a) in the definition of ““appropriate authority”” —

---

**Changes to legislation:** *Wales Act 2017, Section 39 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

- (i) after paragraph (a) insert—
  - “(ab) the Welsh Ministers, in a case where the section 36 consent relates to a generating station (or proposed generating station) in Welsh waters that does not or will not when constructed or extended exceed 350 megawatts;”;
  - (ii) in paragraph (b), at the end insert “ and does not relate to a generating station (or proposed generating station) in Welsh waters that does not or will not when constructed or extended exceed 350 megawatts ”;
- (b) in the definition of ““regulations””, after paragraph (a) insert—
  - “(aa) the Welsh Ministers, in the case of section 36 consents relating to generating stations (or proposed generating stations) in Welsh waters that do not or will not when constructed or extended exceed 350 megawatts;”;
- (c) in the definition of ““statutory provision””, after ““Scottish Parliament”” insert “ and an Act of the Assembly ”;
- (d) at the end insert—
  - “““Welsh waters”” has the meaning given in section 36.”

- (13) In section 90 of the Town and Country Planning Act 1990 (development with government authorisation), in subsections (2) and (2ZA), after ““the Secretary of State”” insert “ or the Welsh Ministers ”.

---

#### Commencement Information

- I1** S. 39(4)(6) in force for specified purposes at 31.3.2017, see s. 71(2)(e)
- I2** S. 39 in force at 1.4.2018 for specified purposes by [S.I. 2017/1179](#), [reg. 3\(h\)](#)
- I3** S. 39 in force at 1.4.2019 in so far as not already in force by [S.I. 2017/1179](#), [reg. 5\(a\)](#)

**Changes to legislation:**

Wales Act 2017, Section 39 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- specified provision(s) transitional and savings provisions for commencing S.I. 2017/1179 by [S.I. 2018/278](#) [reg. 2](#)[Sch.](#)