

2009 No. 640

ELECTRICITY

The Overhead Lines (Exemption) (England and Wales) Regulations 2009

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<i>Made</i>	<i>11th March 2009</i>
<i>Laid before Parliament</i>	<i>13th March 2009</i>
<i>Coming into force</i>	<i>6th April 2009</i>

The Secretary of State, in exercise of the powers conferred by sections 37(2)(c) and 60 of the Electricity Act 1989¹, hereby makes the following Regulations:—

Notes

¹ “prescribed” is defined in section 64(1) of the Act as meaning prescribed by regulations.

Extent

Preamble: England, Wales

 Law In Force

1.— Citation, revocation and commencement

(1) These Regulations may be cited as the Overhead Lines (Exemption) (England and Wales) Regulations 2009.

(2) Subject to the transitional provisions in regulation 6, the Overhead Lines (Exemption) Regulations 1990¹ are revoked except in so far as they extend to Scotland².

(3) These Regulations shall come into force on 6th April 2009.

Notes

¹ Amended by S.I. 2003/2155.

² Functions under section 37, and the relevant functions under section 60, of the Electricity Act 1989, were transferred, in so far as they are exercisable in or as regards Scotland, to the Scottish Ministers, by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750), article 2 and Schedule 1.

Commencement

reg. 1(1)-(3): April 6, 2009

Extent

reg. 1(1)-(3): England, Wales

✓ Law In Force

2. Interpretation

In these Regulations—

“the Act” means the Electricity Act 1989;

“the 1990 Regulations” means the Overhead Lines (Exemption) Regulations 1990;

“an 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 an order granting development consent under the Planning Act 2008]¹ ; 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 paragraph 5(4) or (5) of Schedule 17 to the Act or by virtue of any provision of these Regulations.

Notes

¹ Words inserted by Overhead Lines (Exempt Installations) (Consequential Provisions) Order 2010/29 art.2(2) (March 1, 2010)

Commencement

reg. 2 definition of "the Act"- definition of "an existing line" (b): April 6, 2009

Extent

reg. 2 definition of "the Act"- definition of "an existing line" (b): England, Wales

✓ Law In Force

3.— Exemptions from section 37(1) of the Act

(1) Section 37(1) of the Act shall not apply in relation to—

(a) the installation or keeping installed of an electric line which—

(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) the installation or keeping installed of a wire or cable (including its casing or coating) which forms part of electronic communications apparatus (within the meaning given to that expression in [the electronic communications code set out in Schedule 3A to the Communications Act 2003]^{1 2}) and which is supported, or carried by, or suspended from the supports for an existing line;

- (c) the installation or keeping installed, subject to the provisions of regulation 5, for a period not exceeding six months of an electric line (no part of which is within a European site or an SSSI) 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;
- (d) the installation or keeping installed of 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) the installation or keeping installed, subject to the limitations in regulation 4 and the provisions of regulation 5, of an electric line (no part of which is within a European site or an SSSI) which replaces an existing line whether or not it is installed in the same position as the existing line in question; or
- (f) the installation or keeping installed, subject to the limitations in regulation 4 and the provisions of regulation 5, of one or more additional poles to support an existing line.

(2) In this regulation—

“building” includes structure;

“conservation area” and “listed building” have the same meanings as in section 91 of the Planning (Listed Buildings and Conservation Areas) Act 1990;

“European site” has the same meaning as in regulation 10 of the Conservation (Natural Habitats, &c.) Regulations 1994³;

“the 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;

“scheduled monument” has the same meaning as in section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979; and

“SSSI” means a site of special scientific interest notified under sections 28 to 28D of the Wildlife and Countryside Act 1981⁴.

Notes

¹ Words substituted by Communications Act 2003 and the Digital Economy Act 2017 (Consequential Amendments to Secondary Legislation) Regulations 2017/1011 Sch.4 para.35(2) (December 28, 2017, the day on which 2017 c.30 s.4 and Sch.1 come fully into force)

² The definition of “electronic communications apparatus” was substituted by paragraph 2(2) of Schedule 3 to the Communications Act 2003 (c.21).

³ Regulation 10 was amended in relation to England by S.I. 2000/192, regulation 2(1), (2)(a) and (2)(b), and in relation to England and Wales by S.I. 2007/1843, regulation 5(1), (9)(a) and (9)(b).

⁴ Sections 28 to 28D were substituted by section 75(1) of and paragraph 1 of Schedule 9 to the Countryside and Rights of Way Act 2000 (c.37) and amended by section 105(1) of and Schedule 11, paragraph 79 to the Natural Environment and Rural Communities Act 2006 (c.16).

Commencement

reg. 3(1)-(2) definition of “SSSI”: April 6, 2009

Extent

reg. 3(1)-(2) definition of “SSSI”: England, Wales

✓ Law In Force

4.— Limitations on the exemptions contained in regulation 3

(1) The limitations referred to in regulation 3(1)(e) and (f) are—

(a) that the electric line does not have a nominal voltage greater than the nominal voltage of the existing line;

[(b) that any conditions applicable to the existing line which are contained in—

(i) a consent granted under section 37(1) of the Act or section 10(b) of the Schedule to the Electric Lighting (Clauses) Act 1899; or

(ii) an order granting development consent under the Planning Act 2008,

are complied with;

] ¹

(c) that the height above the surface of the ground of any support for the electric line does not exceed the height of the highest existing support or support which is being replaced by more than 10 per cent;

(d) that where the electric line is installed in a different position from the existing line the distance between any small support and the existing line does not exceed 30 metres and the distance between any other support and the existing line does not exceed 60 metres; and

(e) that where the electric line is installed in a different position from the existing line, the existing line is removed within twelve months from the date on which the installation of the electric line which replaces it is completed.

(2) 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) “a small support” means a support for an electric line which does not exceed 10 metres in height.

Notes

¹ Substituted by Overhead Lines (Exempt Installations) (Consequential Provisions) Order 2010/29 art.2(3) (March 1, 2010)

Commencement

reg. 4(1)-(2)(b): April 6, 2009

Extent

reg. 4(1)-(2)(b): England, Wales

✓ Law In Force

5.— Further restrictions on the exemptions contained in regulation 3

(1) The exemptions in regulation 3(1)(c), (e) and (f) shall not apply where—

(a) the electric line is to be installed in a different position from the existing line; or

(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 sub-paragraph (3), the installation will be in a National Park or an area of outstanding natural beauty,
and it is determined for the purposes of this regulation that there is likely to be a significant adverse effect on the environment.

(2) For the purposes of this regulation it shall be determined that there is likely to be a significant adverse effect on the environment if—

(a) notice is given by the person proposing to carry out the installation to the relevant planning authority of that proposal; and

(b) the relevant planning authority, within six weeks of receiving that notice—

(i) determines that if the installation were completed in accordance with the proposal it would in the opinion of that authority be likely to have a significant adverse effect on the environment; and

(ii) notifies the person by whom the notice was given and the Secretary of State of that determination.

(3) Where it is necessary to make emergency repairs to an existing line in a National Park or an area of outstanding natural beauty—

(a) sub-paragraphs (1) and (2) do not apply; and

(b) the person making those emergency repairs shall notify the relevant planning authority as soon as practicable that those repairs have been, are being or will be made.

(4) In this regulation—

“area of outstanding natural beauty” means an area designated as such by order under section 82 of the Countryside and Rights of Way Act 2000¹;

“National Park” means an area designated as such by an order under section 5 of the National Parks and Access to the Countryside Act 1949² as confirmed by the Minister; and

“relevant planning authority” has the same meaning as in paragraph 2(6) of Schedule 8 to the Act³.

Notes

¹ Section 82 (areas of outstanding natural beauty) was amended by section 105(1) of and Schedule 11, paragraph 163(a) to the Natural Environment and Rural Communities Act 2006 (c.16).

² Section 5 (National Parks) was amended by section 61 of the Environment Act 1995 (c.25), by section 130 of and Schedule 8, paragraph 1(5) to the Environmental Protection Act 1990 (c.43) and by sections 59(1) and 105(1) of and Schedule 11, paragraph 10(a) to the Natural Environment and Rural Communities Act 2006 (c.16). Section 4A applies section 5 to land in Wales. Functions of the Minister, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1.

³ Schedule 8, paragraph 2(6) (meaning of “relevant planning authority”) was amended by section 4 of and Schedule 2, paragraph 83(1) to the Planning (Consequential Provisions) Act 1990 (c.11), by sections 20(4) and 66(8) of and Schedule 6, paragraph 22 and Schedule 18 to the Local Government (Wales) Act 1994 (c.19) and by sections 78 and 120 of and Schedule 10, paragraph 30(3)(a),(b) and (c) and (6) and Schedule 24 to the Environment Act 1995 (c.25).

Commencement

reg. 5(1)-(4) definition of "relevant planning authority": April 6, 2009

Extent

reg. 5(1)-(4) definition of "relevant planning authority": England, Wales

✔ Law In Force

6. Transitional provisions

The 1990 Regulations shall continue to have effect in relation to a proposal to install an electric line or additional pole or poles where—

- (a) the proposal has been notified to the relevant planning authority in accordance with regulation 5(2)(a) of those Regulations on or before 5th April 2009; and
- (b) the relevant planning authority has not made its determination in accordance with regulation 5(2)(b) of those Regulations before 6th April 2009.

Commencement

reg. 6(a)-(b): April 6, 2009

Extent

reg. 6(a)-(b): England, Wales

✔ Law In Force

Mike O' Brien
Minister of State,
Department of Energy and Climate Change

11th March 2009

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke, in England and Wales, the Overhead Lines (Exemption) Regulations 1990 (S.I. 1990/2035) (“the 1990 Regulations”) and introduce replacement regulations in those areas. Although the 1990 Regulations extend also to Scotland, the relevant legislative powers were transferred to the Scottish Ministers in 1999.

These Regulations replicate, with minor deregulatory changes, the 1990 Regulations. They provide for exemptions from the requirement for the consent of the Secretary of State under section 37 of the Electricity Act 1989 to the installation or keeping installed of an electric line above ground. The exemptions are specified in regulation 3, subject in certain circumstances to the limitations in regulation 4 and the restrictions in regulation 5. The main changes from the 1990 Regulations is that broader exemptions for minor works are now provided for in regulation 3(1)(c), (e) and (f) and

emergency repairs in National Parks and areas of outstanding natural beauty can be made without prior notification to the relevant planning authority (regulation 5(3)).

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

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