Draft Order laid before Parliament under section 232(6) of the Planning Act 2008 (c. 29), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2025 No. ****

INFRASTRUCTURE PLANNING

The Infrastructure Planning (Onshore Wind and Solar Generation) Order 2025

Made - - - -	***
Coming into force - -	*31st December 2025*

The Secretary of State makes this Order in exercise of the powers conferred by sections 14(3) and (4) and 232(3) of the Planning Act 2008(**a**).

A draft of this Order was laid before Parliament and approved by a resolution of each House of Parliament, in accordance with section 232(6) of that Act.

Citation and commencement and extent

1.—(1) This Order may be cited as the Infrastructure Planning (Onshore Wind and Solar Generation) Order 2025.

(2) This Order comes into force on 31st December 2025.

(3) This Order extends to England and Wales only.

Interpretation

2. In this Order—

"the 1990 Act" means the Town and Country Planning Act 1990(**b**);

"the 2008 Act" means the Planning Act 2008.

Amendments to the 2008 Act

3.—(1) Section 15 of the 2008 Act (generating stations) is amended as follows.

(2) In subsection (1), after "(2)" insert ", (2A)".

(3) In subsection (2)—

(a) for paragraph (aa) substitute—

(**a**) 2008 c. 29.
(**b**) 1990 c. 8.

"(aa) it generates electricity from wind or directly from sunlight,";

(b) in paragraph (c), for "50" substitute "100".

(4) After subsection (2) insert—

"(2A) A generating station is within this subsection if—

(a) it is in England,

(b) it does not generate electricity from wind or directly from sunlight,

(c) it is not an offshore generating station, and

(d) its capacity is more than 50 megawatts.".

(5) In subsection (3C), after "(2)," insert "(2A),".

Transitional and savings provisions

4. Article 3 applies subject to the transitional and savings provisions provided for in articles 5 to 10 below.

Development consent applications made before 31st December 2025

5.—(1) Paragraph (2) applies to an application for an order granting development consent for the construction or extension of an electricity generating station which—

(a) has been accepted in accordance with section 55 of the 2008 Act (acceptance of applications) but not decided before 31st December 2025, and

(b) generates electricity directly from sunlight and its capacity when constructed or extended is not more than 100 megawatts.

(2) In such a case—

(a) the application must continue to be considered in accordance with the provisions of the 2008 Act as if the amendments in article 3 had not been made,

(b) the provisions of the 2008 Act are to continue to apply to any order granting development consent that is made as a result of the application or to any refusal of development consent resulting from the application as if the amendments in article 3 had not been made,

(c) any such order is to have effect, and the provisions of the 2008 Act are to continue to apply, in relation to—

(i) the development in respect of which the order is made, and

(ii) anything else authorised or required by the order,

as if the amendments in article 3 had not been made,

(d) where any such order is amended or changed under the provisions of Schedule 4 or 6 to the 2008 Act, the order is to have effect, and the provisions of the 2008 Act are to continue to apply, in relation to—

(i) the development in respect of which the order as amended or changed has effect, and

(ii) anything else authorised or required by the order as amended or changed,

as if the amendments in article 3 had not been made, and

(e) where a new or replacement order is made as a result of a judicial review, that order is to have effect, and the provisions of the 2008 Act are to continue to apply, in relation to—

(i) the development in respect of which the new or replacement order has effect, and

(ii) anything else authorised or required by the new or replacement order,

as if the amendments in article 3 had not been made.

Development consent orders made before 31st December 2025

6.—(1) Paragraph (2) applies to an order granting development consent for the construction or extension of a generating station which—

(a) generates electricity directly from sunlight, and

(b) when constructed or extended its capacity is not more than 100 megawatts,

where the order has been made before 31st December 2025.

(2) In such a case—

(a) the provisions of the 2008 Act are to continue to apply to the order as if the amendments in article 3 had not been made,

(b) the order is to have effect, and the provisions of the 2008 Act are to continue to apply, in relation to—

(i) the development in respect of which the order has been made, and

(ii) anything else authorised or required by the order,

as if the amendments in article 3 had not been made,

(c) where the order is amended or changed under the provisions of Schedule 4 or 6 to the 2008 Act, the order is to have effect, and the provisions of the 2008 Act are to continue to apply, in relation to—

(i) the development authorised by the order as amended or changed, and

(ii) anything else authorised or required by the order as amended or changed,

as if the amendments in article 3 had not been made, and

(d) where a new or replacement order is made as a result of judicial review, that order is to have effect, and the provisions of the 2008 Act are to continue to apply, in relation to—

(i) the development in respect of which the new or replacement order has effect, and

(ii) anything else authorised or required by the new or replacement order,

as if the amendments in article 3 had not been made.

Development consent applications refused before 31st December 2025

7.—(1) Paragraph (2) applies where, before 31st December 2025, an application for an order granting development consent for the construction or extension of a generating station which—

(a) generates electricity directly from sunlight, and

(b) when constructed or extended has a capacity more than 100 megawatts,

has been refused.

(2) In such a case—

(a) the provisions of the 2008 Act are to continue to apply to the refusal as if the amendments in article 3 had not been made, and

(b) if the refusal is quashed on a judicial review, article 5(2) of this Order applies to any redetermination of the application.

Planning permission applications made before 31st December 2025

8.—(1) Paragraph (2) applies to an application for planning permission for the construction or extension of a generating station which—

(a) has been made in accordance with section 57 of the 1990 Act (planning permission required for development) but not decided before 31st December 2025, and

(b) generates electricity from wind and when constructed or extended its capacity is more than 100 megawatts.

(2) In such a case—

(a) the application must continue to be considered in accordance with the provisions of the 1990 Act as if the amendments in article 3 had not been made,

(b) the provisions of the 1990 Act are to continue to apply to any decision to grant or refuse planning permission resulting from the application as if the amendments in article 3 had not been made,

(c) any such decision is to have effect, and the provisions of the 1990 Act are to continue to apply, in relation to—

(i) the development in respect of which the decision is made, and

(ii) anything else authorised or required by the decision,

as if the amendments in article 3 had not been made,

(d) where any such decision is amended or changed under the 1990 Act, the decision is to have effect, and the provisions of the 1990 Act are to continue to apply, in relation to—

(i) the development in respect of which the decision as amended or changed has effect, and

(ii) anything else authorised or required by the decision as amended or changed,

as if the amendments in article 3 had not been made, and

(e) where a new or replacement decision is made as a result of an appeal to the Secretary of State or following an application to the High Court, that decision is to have effect, and the provisions of the 1990 Act are to continue to apply, in relation to—

(i) the development in respect of which the new or replacement decision has effect, and

(ii) anything else authorised or required by the new or replacement decision,

as if the amendments in article 3 had not been made.

Planning permission applications granted before 31st December 2025

9.—(1) Paragraph (2) applies to a decision granting planning permission for the construction or extension of a generating station which—

(a) generates electricity from wind, and

(b) when constructed or extended has a capacity of more than 100 megawatts,

where the decision has been made before 31st December 2025.

(2) In such a case—

(a) the provisions of the 1990 Act are to continue to apply to the decision as if the amendments in article 3 had not been made,

(b) the decision is to have effect, and the provisions of the 1990 Act are to continue to apply, in relation to—

(i) the development in respect of which the decision has been made, and

(ii) anything else authorised or required by the decision,

as if the amendments in article 3 had not been made,

(c) where the decision is amended or changed under the relevant provisions of the 1990 Act, the decision is to have effect and the provisions of the 1990 Act are to continue to apply, in relation to—

(i) the development authorised by the decision as amended or changed, and

(ii) anything else authorised or required by the decision as amended or changed,

as if the amendments in article 3 had not been made,

(d) where a new or replacement decision is made as a result of an appeal to the Secretary of State or following an application to the High Court, that decision is to have effect and the provisions of the 1990 Act are to continue to apply, in relation to—

(i) the development in respect of which the new or replacement decision has effect, and

(ii) anything else authorised or required by the new or replacement decision,

as if the amendments in article 3 had not been made.

Planning permission applications refused before 31st December 2025

10.—(1) Paragraph (2) applies where, before 31st December 2025, an application for planning permission for the construction or extension of a generating station which—

(a) generates electricity from wind, and

(b) when constructed or extended has a capacity of more than 100 megawatts,

has been refused.

(2) In such a case—

(a) the provisions of the 1990 Act are to continue to apply to the refusal as if the amendments in article 3 had not been made, and

(b) if the refusal is reversed on appeal to the Secretary of State or quashed following an application to the High Court, article 8(2) of this Order applies to any appeal decision or redetermination of the application.

Minister of State
Department for Energy Security and Net Zero

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Planning Act 2008 (c.29) ("the 2008 Act") to reintroduce onshore wind generating stations into the definition of nationally significant infrastructure projects under the 2008 Act. It also sets the capacity threshold at which onshore wind and solar projects are nationally significant infrastructure projects at more than 100 megawatts.

Article 3 amends section 15(2) of the 2008 Act to remove the exclusion of onshore wind from the nationally significant infrastructure projects regime, and sets the threshold for onshore wind and solar projects to be considered under the 2008 Act regime to more than 100 megawatts.

Articles 4 to 10 make transitional and saving provisions in relation to—

- solar farms that are already in the 2008 Act process when this Order comes into force; and
- onshore wind farms that are already in the Town and Country Planning Act 1990 (c.8) process when this Order comes into force.

Articles 5 to 7 provide transitional and savings provisions for solar projects with a capacity of between 50 and 100 megawatts that have had their application accepted for examination or had their application approved or refused under the 2008 Act regime, to allow them to remain in that regime for the purposes of any subsequent decisions, including any amendments to those decisions, or appeals.

Articles 8 to 10 provide transitional and savings provisions for onshore wind projects that have either made an application or had their application approved or refused under the 1990 Act regime, to allow them to remain in that regime for the purposes of any subsequent decisions, including any amendments to those decisions, or appeals.

This Order will ensure that these projects which have already started the process in one legislative regime, are not prejudiced by the change made by this Order by being moved to a different legislative regime.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector will be published separately.

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