EXPLANATORY MEMORANDUM TO

THE INFRASTRUCTURE PLANNING (ONSHORE WIND AND SOLAR GENERATION) ORDER 2025

2025 No. XXXX

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Energy Security and Net Zero ("the Department") and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Michael Shanks, Minister for Energy at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

2.2 Daniel Cox, Deputy Director for Renewable Strategy, at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Simeon Bee at the Department for Energy Security and Net Zero - Telephone: 02072158724 or email: onshorewind@energysecurity.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This Order amends the Planning Act 2008 by bringing onshore wind generating stations with a generating capacity of over 100 megawatts (MW) back into the Nationally Significant Infrastructure Projects (NSIP) regime for England only.

4.2 The NSIP regime provides a route for large scale projects to seek planning consent via the Secretary of State.

4.3 This Order also increases the capacity threshold from 50MW to 100MW above which solar energy projects are consented through the NSIP regime under the Planning Act 2008 in England.

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 The Government made a manifesto commitment to deliver clean power by 2030, and the UK has legally binding net zero and carbon budget targets. These will require the accelerated delivery of several low-carbon technologies, including renewables such as onshore wind and solar. Onshore wind and solar are two of the cheapest electricity generating technologies to build and operate on a levelised costs[1] basis and form a critical part of delivering the government's clean power mission.[2]

5.2 An effective planning system is key to unlocking the new infrastructure the country needs to underpin our energy security and resilience. Planning plays a vital role in ensuring that development proposals are in the right place at the right time, with potential impacts assessed and mitigated as necessary. It is important that planning applications are determined through the appropriate planning route commensurate to a project's size, impact and complexity.

5.3 Therefore, the government considers it appropriate to reintroduce onshore wind into the NSIP regime at a threshold of 100MW. Similarly, due to the advancements in technology, the government considers it appropriate to reconsider the threshold at which solar projects are determined to be Nationally Significant, raising it to 100MW. This will ensure applications are processed efficiently through the appropriate planning regime and will avoid distortionary effects on deployment. This ultimately intends to support future energy security and resilience, alongside 2030 decarbonisation, carbon budgets and net zero targets. The government does not consider there to be alternative non-legislative or legislative options to achieve this.

What was the previous policy, how is this different?

5.4 For onshore wind, planning changes in 2015 and 2016 introduced a de facto ban in England, resulting in the pipeline of projects reducing by over 90%, with less than 40MW consented and becoming operational in the intervening period[3]. Therefore, this technology has not been fully available to support decarbonisation. Reintroducing onshore wind into the NSIP regime will ensure there is a level playing field with other generating technologies (such as solar, offshore wind and nuclear that are already assessed under the NSIP regime). This will provide an appropriate route for large-scale projects seeking planning consent, where local impacts can be carefully balanced against the national benefits and meeting the UK's wider decarbonisation goals.

5.5 For solar, the previous capacity threshold of 50MW set in the Planning Act 2008 has resulted in unintended consequences of constraining the market for 'mid-sized' (50-100MW) projects. The solar sector has indicated that the more expensive and lengthier NSIP process (compared to the local planning process via local authorities for projects up to and below 50MW) has made it financially unviable for developers to build such projects. This resulted in developers artificially capping projects at just below 50MW; applications submitted in England between January 2020 and Oct 2024

[1] Discounted lifetime cost of building and operating a generation asset, expressed as a cost per unit of electricity generated (£/MWh): https://www.gov.uk/government/publications/electricity-generation-costs-2023

[2] See National Energy System Operator's publication: https://www.neso.energy/publications/clean-power-2030 and Government's publication of Clean Power 2030 Action Plan: https://www.gov.uk/government/publications/clean-power-2030-action-plan

[3] Based on data from the Renewable Energy Planning Database (Q3 2024): https://www.gov.uk/government/publications/renewable-energy-planning-database-monthly-extract

saw 40% of capacity (around 10GW) proposed between 48-49.9MW[4]. This has led to potentially inefficient use of limited sites suitable for solar and grid connections. In addition, NSIP thresholds were originally set in 2008 when solar sites were less efficient and more costly, meaning projects that are now captured by the NSIP regime today may not be of a 'nationally significant' scale. Raising the threshold will ensure mid-sized projects have access to a more proportionate planning route via local authorities and should incentivise those projects that would have otherwise capped themselves to develop to a more optimal and efficient capacity.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument amends section 15 of the Planning Act 2008.

6.2 Section 15 sets out criteria establishing which categories of infrastructure project will require consent from the Secretary of State under the NSIP regime as opposed to requiring consent from the Local Planning Authority under the Town and Country Planning Act 1990.

6.3 This Order achieves its aim by amending section 15 of the Planning Act 2008 to remove the exclusion of onshore wind from requiring planning consent under the NSIP regime and adding provision into the Planning Act 2008 reintroducing onshore wind into the NSIP regime, providing that the construction or extension of an onshore wind generating station with a generating capacity over 100MW will be an NSIP and require development consent from the Secretary of State.

6.4 This Order will also seek to change the generating capacity limits by which Solar Energy infrastructure projects require development consent from the Secretary of State under the NSIP regime, so that any Solar Energy infrastructure projects with a generating capacity up to and below 100MW will require planning consent under the Town and Country Planning Act 1990, and any projects with a generating capacity over 100MW will require development consent under the NSIP regime.

Why was this approach taken to change the law?

6.5 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 Government published a consultation on 30 July 2024 seeking views on how national planning policy might be revised to support the government's wider objectives, including on setting appropriate thresholds for onshore wind and solar in the NSIP regime. The consultation ran for 8 weeks, closing 24 September 2024, with the government response published 12 December 2024[5].

7.2 Government received views from a broad range of respondents on the NSIP thresholds, including developers, local planning authorities, neighbourhood planning

[4] Based on data from the Renewable Energy Planning Database (Q3 2024): https://www.gov.uk/government/publications/renewable-energy-planning-database-monthly-extract

[5] The consultation and government response can be found on gov.uk: https://www.gov.uk/government/consultations/proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system/outcome/government-response-to-the-proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system-consultation#introduction

groups/town or parish councils, private individuals, private sector organisations, interest/voluntary organisations and professional bodies.

7.3 The government asked for views on reintroducing onshore wind into the NSIP regime, with over twice as many respondents supporting reintroduction than opposing. There was support across all groups. Developers, local authorities, other private sector organisations and professional bodies had a particularly high proportion of respondents that supported rather than opposed. The government also asked for views on setting the NSIP threshold for onshore wind projects at 100MW, with around 50% more respondents supporting a 100MW threshold than opposing. There was support across most groups of stakeholders. Local planning authorities and professional bodies had a particularly high proportion of respondents that supported rather than opposed.

7.4 There were concerns from some respondents that the NSIP process might overly centralise decision-making power for onshore wind projects, bypassing local authorities and communities. However, the government considers it important to ensure the planning system is efficient with appropriate routes available for large-scale projects. Creating a level playing field for larger scale onshore wind, putting it on the same footing as offshore wind and nuclear, will provide greater certainty to the industry and help deliver the government's clean power mission. The government considers that a 100MW threshold would better reflect the technological advances in turbine technology with such projects likely to be of a scale, impact or complexity that is proportionate to using the NSIP regime.

7.5 The government also asked for views on raising the solar threshold to 150MW. Around 25% more respondents supported an increase in the threshold than those who opposed. There was support across most groups of stakeholders. Local authorities had a particularly high proportion of respondents that supported the proposal rather than opposed. However, across most other stakeholder groups there was a more even split.

7.6 Some respondents considered that the existing 50MW threshold should remain, suggesting an increased threshold would lead to delays or inconsistent decisions, impacted by local politics or opposition. Others supported an increased threshold but questioned the evidence for raising to 150MW, suggesting 100MW as a more appropriate threshold, aligning with onshore wind and other renewables.

7.7 The government considers that it is appropriate to raise the threshold to better reflect the technological advances in solar technology since 2008, when the original 50MW threshold was set. Solar projects at the current threshold of 50MW are unlikely to be of a scale, impact or complexity that is proportionate to using the NSIP regime. However, after further assessment, the government considers that a 100MW threshold would better reflect modern technology and are appropriate to enter the NSIP regime.

8. Applicable Guidance

8.1 This Order does not implement or require guidance.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

9.2 The main monetised impacts are expected to be felt by businesses. Limited evidence is available to provide a clear net present social value (NPSV) or Equivalent Annual

Net Direct Cost to Business (EANDCB). We have elected to present a negative impact of an NPSV of –£0.3 million (2024 prices, 2025 present value) based on the familiarisation costs associated with businesses understanding how the changes may impact their future projects. However, despite the negative monetised impact, analysis suggests that there is likely to be an overall positive impact on total welfare, namely driven by the non-monetised benefits of improved efficiency in site sizing and reduced system emissions.

Impact on businesses, charities and voluntary bodies

9.3 There is no significant impact on business, charities or voluntary bodies, with a small negative cost to business based on the familiarisation costs noted in section 9.2.

9.4 We do not expect there to be significant disproportionate impacts on small and micro businesses. However, identifying impacts by business size is highly complicated within the energy industry with a variety of different operating models. These include large vertically integrated energy companies, global renewable players, special purpose vehicles as well as small and micro businesses. Many of these businesses contract out pre-development, planning, and construction work to consultancies and engineering, procurement and construction (EPC) companies. These specialist organisations will be familiar with both the NSIP and local planning routes, so will be well placed to adjust to changes in the policy.

9.5 The government is also mindful that large scale solar and onshore wind projects are preparing to enter, or are already in, the planning system and changes to the NSIP threshold may impact these. There will be projects that have invested and undertaken steps with the intention of entering the NSIP regime or local planning process, or projects that are seeking a decision on their planning consent. Changing the thresholds may mean that projects fall out of a particular regime or are required to enter a different one than intended, with the potential to increase costs or cause delays. Therefore, the SI introduces a transitional window until the end of 2025 when the changes formally come into effect. The transitional window will also support businesses by allowing time to familiarise themselves with the changes.

9.6 We do not expect there to be significant disproportionate impacts on the public sector. Our assessment of the expected impacts on local government and central government focus on two key impacts: administrative burdens of dealing with applications, and potential local and environmental impacts associated with changing the thresholds. Both impacts are highly dependent on the number of applications which come through local planning and NSIP routes as a result of changes to the legislation, which is uncertain. As such, we have not sought to quantify the impacts.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to conduct a post-implementation review within five years, aligning with the government's mission for clean power by 2030. However, the post-implementation review will be informed by monitoring and evaluation activity across this five-year period including baseline evidence gathering, monitoring of the pipeline, and process and impact evaluation.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Michael Shanks has made the following statement:

"In my view, given there are no significant impacts on business, charities or voluntary bodies, it is appropriate that The Infrastructure Planning (Onshore Wind and Solar Generation Capacity Limits) Order 2025 does not contain a statutory review clause."

10.3

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Minister for Energy has made the following statement regarding Human Rights:

"In my view the provisions of The Infrastructure Planning (Onshore Wind and Solar Generation Capacity Limits) Order 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").