

Proposed Changes to Fees Charged for Applications under the Electricity Act 1989

**Scottish Government Response to the
Consultation**

October 2022

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Executive Summary

The Scottish Ministers are responsible for determining applications for consent under sections 36, 36C and 37 of the Electricity Act 1989 (“the Electricity Act”). These applications are for onshore generating stations with an installed capacity exceeding 50 megawatts (“MW”) and overhead power lines in Scotland. Such applications are processed on behalf of Scottish Ministers by the Energy Consents Unit (“ECU”). The Scottish Ministers are also responsible for determining applications for consent for generating stations with an installed capacity exceeding 1 MW in Scottish Territorial waters and over 50 MW in the Scottish Renewable Energy Zone (“REZ”). These applications are processed on behalf of Scottish Ministers by Marine Scotland Licensing Operations Team (“MS-LOT”).

The current fee tariff and structure for these applications under the Electricity Act came into force on 30 June 2019 through the introduction of the Electricity (Applications for Consent and Variation of Consent) (Fees) (Scotland) Regulations 2019 (“Fees Regulations 2019”).

We are reviewing application fees due to a shortfall between the cost of running the ECU and MS-LOT and the income from application fees. It is also anticipated that a significant number of new applications are to be submitted in the next one to three years and we wish to ensure the service is fully resourced.

The Scottish Government consulted on proposed revisions to fees for processing applications under the Electricity Act. A written consultation paper was published on 30 March 2022 and the period for written responses closed on 23 June 2022. A total of 25 consultation responses were received and analysed.

This document sets out the Scottish Government’s response to the consultation and details the conclusions Ministers have reached and the changes which will be implemented. We have carefully considered all comments received throughout the consultation process. An analysis of these comments has been carried out, which is published in a separate document entitled “Fees Charged for Applications under the Electricity Act – Analysis of Consultation Responses” (subsequently referred to as the “analysis report”). The analysis report should be read alongside this document.

We are respecting the aims of the Scottish Public Finance Manual on charges for public services, making sure we are adequately resourced to deliver an appropriate level of service that contributes to the delivery of the Energy Strategy. The Scottish Government’s conclusions on changes to be implemented can be summarised as follows:

- fees shall be revised as proposed by the consultation
- the revised fees will be implemented by amendment of the Electricity (Applications for Consent and Variation of Consent) (Fees) (Scotland) Regulations 2019. This would be subject to a negative procedure in the Scottish Parliament. Ministers aim to implement the revised fees from mid December 2022

- monitoring - following the implementation of the revised fee levels the Scottish Government shall monitor the effects of the changes.

1. Introduction

The Scottish Ministers are responsible for determining applications for consent under sections 36, 36C and 37 of the Electricity Act 1989 (“the Electricity Act”). These applications are for onshore generating stations with an installed capacity exceeding 50 megawatts (“MW”) and overhead power lines in Scotland. Such applications are processed on behalf of Scottish Ministers by the Energy Consents Unit (“ECU”). The Scottish Ministers are also responsible for determining applications for consent for generating stations with an installed capacity exceeding 1 MW in Scottish Territorial waters and over 50 MW in the Scottish Renewable Energy Zone (“REZ”). These applications are processed on behalf of Scottish Ministers by Marine Scotland Licensing Operations Team (“MS-LOT”).

The current fee tariff and structure for these applications under the Electricity Act came into force on 30 June 2019 through the introduction of the Electricity (Applications for Consent and Variation of Consent) (Fees) (Scotland) Regulations 2019 (“Fees Regulations 2019”).

We are reviewing application fees due to a shortfall between the cost of running the ECU and MS-LOT and the income from application fees. It is also anticipated that a significant number of new applications are to be submitted in the next one to three years and we wish to ensure the service is fully resourced.

This document sets out the Scottish Government’s response to the consultation on revising fees for processing applications under the Electricity Act. A total of 25 consultation responses were received from the public consultation from a range of stakeholders (Appendix 1: Consultation Respondents). It details the conclusions Ministers have reached and the changes which will be implemented. We have carefully considered all comments received throughout the consultation process. An analysis of these comments has been carried out, which is published in a separate document entitled “Fees Charged for Applications under the Electricity Act – Analysis of Consultation Responses” (subsequently referred to as the “analysis report”). The analysis report should be read alongside this document.

The Scottish Public Finance Manual sets out that the standard approach to setting out charges for public services should be full cost recovery. Our income from fees charged for applications under the Electricity Act has consistently fallen short of the costs of providing the service of determining such applications, which is incompatible with the standard approach to setting charges for public services.

By increasing fees as proposed we are respecting the aims of the Scottish Public Finance Manual on charges for public services, making sure we are adequately resourced to deliver an appropriate level of service that contributes to the delivery of the Energy Strategy.

We have reviewed the fees that we charge and the Scottish Government’s conclusions and changes to be implemented are summarised below at Section 3 - Decisions on the fee levels and arrangements.

A balance has been struck between the policy objectives of the Energy Strategy and the aims of public finance management given by the Scottish Public Finance Manual. Fees shall be revised in manner which takes account of the comments received through the consultation.

We will implement new fees and revised thresholds exactly as proposed. The thresholds for the existing upper fee band for applications with installed capacity over 300 MW will be amended to introduce bands where a development has a capacity exceeding 300 MW but not exceeding 500 MW, where a development has a capacity exceeding 500 MW but not exceeding 750 MW, where a development has a capacity exceeding 750 MW but not exceeding 1000 MW, and where a development has a capacity exceeding 1000 MW.

Separately from the statutory arrangements for the charging of fees, the voluntary remuneration to planning authorities in relation to onshore applications shall remain unchanged. The Scottish Government will continue to provide a voluntary contribution to Planning Authorities equivalent to one half of the fee received for every application for onshore electricity generation development under section 36 and 36C of the Electricity Act. The Scottish Government will also continue to provide a voluntary contribution to Planning Authorities equivalent to one half of the application fee received for EIA development applications under section 37 of the Electricity Act.

The service improvements include responding to demands to more proactively project manage application processes to deliver greater certainty around determination timescales. We intend to continue to support discussion with a range of consultees during the assessment of the application, and at pre-application stage to limit the incidence and scope where additional information has to be sought from applicants.

A fixed fee structure for section 37 applications based on installed capacity or length of overhead lines shall be maintained, but with revisions to the bands, thresholds and fee categories, with caps on the fees in recognition of the industry's concerns regarding disproportionate increases for small-scale or very large developments.

The revised fees will be implemented by amendment of the Fees Regulations 2019. This would be subject to a negative procedure in the Scottish Parliament. Ministers aim to implement the revised fees from mid December 2022.

Following the implementation of the revised fee levels the Scottish Government shall monitor the effects of the changes.

Overview of consultation

Fees charged for applications under the Electricity Act are currently set by the Electricity (Applications for Consent) Regulations 1990 and include the following:

Under section 36 of the Electricity Act:

- construction or construction and operation of a generating station
- extension or extension and operation of a generating station

- resulting in an increase in capacity
- by retrofitting of emission control equipment to a nuclear generating station
- any other extension of a generating station
- operation only or change to manner of operation of a generating station

Under section 36C of the Electricity Act:

- a variation of a consent granted under section 36 of the Electricity Act

Under section 37 of the Electricity Act:

- installation of, and/or the keeping installed of, overhead electric lines

A consultation proposing revisions to fees for the above opened on 30 March 2022.

An analysis of all the comments received throughout the consultation has been carried out, which is published in a separate document entitled “Fees Charged for Applications under the Electricity Act – Analysis of Consultation Responses” (subsequently referred to as the “analysis report”). The analysis report should be read alongside this document. The written consultation then closed on 23 June 2022. Details of the consultation respondents are listed in Appendix 1: Consultation Respondents.

On the basis of the consultation responses and feedback during the consultation process, Scottish Ministers have decided on the fee tariffs and arrangements they wish to introduce. Scottish Ministers will implement a fee structure and fee levels as proposed in the consultation document. A comparison of the existing fees with the fees consulted on and to be implemented is set out in tabular form in Section 3 – Decisions on the fee levels and arrangements.

Background

Scottish Ministers are responsible for determining applications for consent for onshore generating stations with installed capacity exceeding 50 MW and overhead power lines in Scotland under sections 36 and 37 of the Electricity Act respectively. The Electricity (Applications for Consent) Regulations 1990 and Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 apply to such applications, which are processed on behalf of Scottish Ministers by the Scottish Government’s ECU. The Scottish Ministers are also responsible for determining applications for consent for generating stations with installed capacity exceeding 1 MW in Scottish Territorial waters and over 50 MW in the Scottish REZ. Such applications are processed on behalf of Scottish Ministers by MS-LOT.

The current fee tariff for applications under sections 36, 36C and 37 of the Electricity Act came into force on 30 June 2019 through the introduction of the Fees Regulations 2019.

To inform the fee increase introduced in 2019, a consultation paper was published in February 2018. At that time a review of the fee levels and structure was required due to a significant shortfall in cost recovery for a number of years, and to address the imbalance between income from application fees under the Electricity Act and the costs of running the service provided by Scottish Ministers. There was widespread

disagreement with the level of increases proposed from industry and they considered that fees proposed were disproportionately high. Taking into account the comments received during the 2018 consultation, the fee tariffs introduced in 2019 were lower than the proposals consulted upon and did not achieve full cost recovery. The 2018 consultation paper and Scottish Government's response is available from [the 2018 consultation website](#).

At that time, the fee tariff introduced in 2019 sought to strike a balance between supporting high priority investment in low carbon generation while making sure we were adequately resourced to deliver an appropriate level of service that contributes to the delivery of the Energy Strategy.

Fee Monitoring

A commitment was made to monitor the fee tariff introduced in June 2019. A Fee Monitoring Report has been prepared and provides an overview of applications and associated fees received under the Electricity Act, and an estimation of processing costs for the period July 2019 to July 2021. The [Fee Monitoring Report](#) has been published.

We are now going to increase the fee tariff to support full cost recovery. Scottish and UK policy mandates a transition to a more decarbonised energy system with increased use of low carbon energy sources. The deployment of new generation and associated grid infrastructure is central to this. At the same time, policies are in place at Scottish and UK level to safeguard the environment. A well-resourced energy consenting regime is vital to achieving a decarbonised energy system.

The Scottish Public Finance Manual sets out that the standard approach to setting out charges for public services should be full cost recovery. Our income from fees charged for applications under the Electricity Act falls short of the costs of providing the service of determining such applications, which is incompatible with the standard approach to setting charges for public services.

Net Zero Commitments

An efficient and effective consenting process is critical to unlocking the potential to deliver renewable energy developments and economic benefits, whilst helping to achieve our net zero targets.

The [Climate Change Plan Update](#) sets out the Scottish Government's pathway to our new and ambitious targets set by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019. It recognises the need to continue to review our energy consenting processes, making further improvements and efficiencies where possible, to reduce determination timescales for complex electricity generation and network infrastructure applications.

[A Fairer, Greener Scotland: Programme for Government 2021-22](#) highlights that development of renewable energy presents an immense opportunity for Scotland to lead by example – showing how a clean energy future is possible at home, and as a net exporter of renewable energy, attracting further investment and ensuring our

progress to net zero is environmentally and economically beneficial. The 2022-23 Programme for Government reiterates the commitment to the development of renewable energy. Both onshore and offshore wind energy deployment will play a vital role in delivering our net zero commitments and subject to an ongoing consultation process, the Scottish Government will set an ambition to achieve between 8 GW and 12 GW of installed onshore wind by 2030 and with the ScotWind offshore wind commercial leasing round, Crown Estate Scotland has awarded lease options with the potential of over 25 GW capacity.

Proposed changes to fees

It is within the context of Scottish Government's ambitious renewable energy targets for a just transition to net zero that the fee tariff requires to be increased to ensure full cost recovery of the service to deliver an efficient consenting process. The Scottish Government is proposing to change fee tariffs as set out in Table A below. This includes an increase to all fee categories of approximately 20% as well as proposing new bandings for larger scale applications which include developments that exceed capacities of 500 MW, 750 MW and 1 GW. These additional bandings are to reflect the growing scale of offshore renewable electricity generating stations. The Scottish Government is also proposing to change the variation fee and bandings for applications under section 36C of the Electricity Act. This is to reflect the increased resource needed for variation applications requiring an EIA. The bandings for variation applications which, if granted, would not increase the capacity of the generating station but that do require an EIA, are proposed to increase to reflect the range of resource required for all applications received in that category.

The proposed fee tariff increase is to meet the running costs of the service provided by ECU and MS-LOT in line with the Scottish Public Finance Manual. The increase in fees would also support a well-resourced energy consenting regime, vital to support Scotland's transition to a more decarbonised energy system. The following Table A illustrates the proposed increase to the fee tariff and changes to the structure.

Table A: Current and proposed fees

| Fees for applications made under section 36 of the Electricity Act to construct, extend or operate a generating station | | |
|---|---------------------|--|
| Table 1 | | |
| Application Type | Current Fees | Proposed Fees |
| 1. Construction, or construction and operation, of a generating station which is not EIA development and has a capacity— | | |
| (a) not exceeding 10 megawatts | £6,500 | £7,800 |
| (b) exceeding 10 megawatts but not exceeding 50 megawatts | £25,000 | £30,000 |
| (c) exceeding 50 megawatts but not exceeding 100 megawatts | £70,000 | £84,000 |
| (d) exceeding 100 megawatts but not exceeding 300 megawatts | £100,000 | £120,000 |
| (e) exceeding 300 megawatts but not exceeding 500 megawatts | £150,000 | £180,000 for development which has a capacity exceeding 300 megawatts but not exceeding 500 megawatts (new banding introduced) |
| (f) exceeding 500 megawatts but not exceeding 750 megawatts (new banding introduced) | £150,000 | £216,000 for development which has a capacity exceeding 500 megawatts but not exceeding 750 megawatts (new banding introduced) |
| (g) Exceeding 750 megawatts but not exceeding one gigawatt (new banding introduced) | £150,000 | £264,000 for development which has a capacity exceeding 750 megawatts but not exceeding one gigawatt (new banding introduced) |
| (h) Exceeding one gigawatt (new banding introduced) | £150,000 | £264,000 + £15,000 per every additional 500 megawatts above one gigawatt for development which has a capacity exceeding one gigawatt (new banding introduced) |

Fees for applications made under section 36 of the Electricity Act to construct, extend or operate a generating station

| Table 1 | | |
|--|---------------------|--|
| Application Type | Current Fees | Proposed Fees |
| 2. Extension, or extension and operation, of a generating station which is not EIA development, resulting in an increase in capacity— | | |
| (a) not exceeding 10 megawatts | £6,500 | £7,800 |
| (b) exceeding 10 megawatts but not exceeding 50 megawatts | £25,000 | £30,000 |
| (c) exceeding 50 megawatts but not exceeding 100 megawatts | £70,000 | £84,000 |
| (d) exceeding 100 megawatts but not exceeding 300 megawatts | £100,000 | £120,000 |
| (e) exceeding 300 megawatts but not exceeding 500 megawatts | £150,000 | £180,000 for development which has a capacity exceeding 300 megawatts but not exceeding 500 megawatts (new banding introduced) |
| (f) exceeding 500 megawatts but not exceeding 750 megawatts (new banding introduced) | £150,000 | £216,000 for development which has a capacity exceeding 500 megawatts but not exceeding 750 megawatts (new banding introduced) |
| (g) exceeding 750 megawatts but not exceeding one gigawatt (new banding introduced) | £150,000 | £264,000 for development which has a capacity exceeding 750 megawatts but not exceeding one gigawatt (new banding introduced) |
| (h) exceeding one gigawatt (new banding introduced) | £150,000 | £264,000 + £15,000 per every additional 500 megawatts above one gigawatt for development which has a capacity exceeding one gigawatt (new banding introduced) |

Fees for applications made under section 36 of the Electricity Act to construct, extend or operate a generating station

| Table 1 | | |
|---|---------------------|--|
| Application Type | Current Fees | Proposed Fees |
| 3. Construction, or construction and operation, of a generating station which is EIA development and has a capacity— | | |
| (a) not exceeding 10 megawatts | £7,000 | £8,400 |
| (b) exceeding 10 megawatts but not exceeding 50 megawatts | £35,000 | £42,000 |
| (c) exceeding 50 megawatts but not exceeding 100 megawatts | £125,000 | £150,000 |
| (d) exceeding 100 megawatts but not exceeding 300 megawatts | £180,000 | £216,000 |
| (e) exceeding 300 megawatts but not exceeding 500 megawatts | £280,000 | £336,000 for development which has a capacity exceeding 300 megawatts but not exceeding 500 megawatts (new banding introduced) |
| (f) exceeding 500 megawatts but not exceeding 750 megawatts (new banding introduced) | £280,000 | £437,000 for development which has a capacity exceeding 500 megawatts but not exceeding 750 megawatts (new banding introduced) |
| (g) exceeding 750 megawatts but not exceeding one gigawatt (new banding introduced) | £280,000 | £548,000 for development which has a capacity exceeding 750 megawatts but not exceeding one gigawatt (new banding introduced) |
| (h) Exceeding one gigawatt (new banding introduced) | £280,000 | £548,000 + £30,000 per every additional 500 megawatts above one gigawatt for development which has a capacity exceeding one gigawatt (new banding introduced) |

Fees for applications made under section 36 of the Electricity Act to construct, extend or operate a generating station

| Table 1 | | |
|--|---------------------|--|
| Application Type | Current Fees | Proposed Fees |
| 4. Extension, or extension and operation, of a generating station which is EIA development, resulting in an increase in capacity— | | |
| (a) not exceeding 10 megawatts | £7,000 | £8,400 |
| (b) exceeding 10 megawatts but not exceeding 50 megawatts | £35,000 | £42,000 |
| (c) exceeding 50 megawatts but not exceeding 100 megawatts | £125,000 | £150,000 |
| (d) exceeding 100 megawatts but not exceeding 300 megawatts | £180,000 | £216,000 |
| (e) exceeding 300 megawatts but not exceeding 500 megawatts | £280,000 | £336,000 for development which has a capacity exceeding 300 megawatts but not exceeding 500 megawatts (new banding introduced) |
| (f) exceeding 500 megawatts but not exceeding 750 megawatts (new banding introduced) | £280,000 | £437,000 for development which has a capacity exceeding 500 megawatts but not exceeding 750 megawatts (new banding introduced) |
| (g) exceeding 750 megawatts but not exceeding one gigawatt (new banding introduced) | £280,000 | £548,000 for development which has a capacity exceeding 750 megawatts but not exceeding one gigawatt (new banding introduced) |
| (h) Exceeding one gigawatt (new banding introduced) | £280,000 | £548,000 + £30,000 per every additional 500 megawatts above one gigawatt for development which has a capacity exceeding one gigawatt (new banding introduced) |

Fees for applications made under section 36 of the Electricity Act to construct, extend or operate a generating station

| Table 1 | | |
|---|---------------------|----------------------|
| Application Type | Current Fees | Proposed Fees |
| 5. Any other extension of a generating station which does not result in an increase in capacity, where the capacity of the generating station does— | | |
| (a) not exceed 10 megawatts | £6,500 | £7,800 |
| (b) exceed 10 megawatts | £25,000 | £30,000 |
| 6. Operation only or change to manner of operation of a generating station, which does not result in an increase in capacity, where the capacity of the generating station does— | | |
| (a) not exceed 10 megawatts | £6,500 | £7,800 |
| (b) exceed 10 megawatts | £25,000 | £30,000 |

Fees for applications made under section 37 of the Electricity Act to install or keep installed an electric line above ground

| Table 2 | | |
|---|--|---|
| Application Type | Current Fees | Proposed Fees |
| 1. Overhead line which is not EIA development with a total distance— | | |
| (a) not exceeding 500 metres | £360 | £430 |
| (b) exceeding 500 metres but not exceeding 15 kilometres | £600 per kilometre (km), up to a maximum of £4,000 | £720 per km, up to a maximum of £4,800 |
| (c) exceeding 15 kilometres | £9,000 + £600 per additional km, up to a maximum of £150,000 | £10,800 + £720 per additional km, up to a maximum of £180,000 |
| 2. Overhead line which is EIA development with a total distance— | | |
| (a) not exceeding 1 kilometre | £1,500 | £1,800 |
| (b) exceeding 1 kilometre | £1,500 per km, up to a maximum of £300,000 | £1,800 per km, up to a maximum of £360,000 |

| Fees for variation applications | | |
|--|--------------|--|
| Table 3 | | |
| Application Type | Current Fees | Proposed Fees |
| 1. A variation application which is not for EIA development and which, if granted, would increase the capacity of the generating station such that the increased capacity would - | | |
| (a) not exceed 10 megawatts | £4,875 | £5,850 |
| (b) exceed 10 megawatts but not exceed 50 megawatts | £18,750 | £22,500 |
| (c) exceed 50 megawatts but not exceed 100 megawatts | £52,500 | £63,000 |
| (d) exceed 100 megawatts but not exceed 300 megawatts | £75,000 | £90,000 |
| (e) exceed 300 megawatts but not exceed 500 megawatts | £112,500 | £135,000 for development which has a capacity exceeding 300 megawatts but not exceeding 500 megawatts (new banding introduced) |
| (f) exceed 500 megawatts but not exceed 750 megawatts (new banding introduced) | £112,500 | £164,400 for development which has a capacity exceeding 500 megawatts but not exceeding 750 megawatts (new banding introduced) |
| (g) exceed 750 megawatts but not exceed one gigawatt (new banding introduced) | £112,500 | £200,500 for development which has a capacity exceeding 750 megawatts but not exceeding one gigawatt (new banding introduced) |
| (h) exceed one gigawatt (new banding introduced) | £112,500 | £200,500 + £15,000 per every additional 500 megawatts above one gigawatt for development which has a capacity exceeding one gigawatt (new banding introduced) |

| Fees for variation applications | | |
|--|--------------|--|
| Table 3 | | |
| Application Type | Current Fees | Proposed Fees |
| 2. A variation application which is for EIA development and which, if granted, would increase the capacity of the generating station such that the increased capacity would - | | |
| (a) not exceed 10 megawatts | £5,250 | £6,300 |
| (b) exceed 10 megawatts but not exceed 50 megawatts | £26,250 | £31,500 |
| (c) exceed 50 megawatts but not exceed 100 megawatts | £93,750 | £112,500 |
| (d) exceed 100 megawatts but not exceed 300 megawatts | £135,000 | £162,000 |
| (e) exceed 300 megawatts but not exceed 500 megawatts | £210,000 | £252,000 for development which has a capacity exceeding 300 megawatts but not exceeding 500 megawatts (new banding introduced) |
| (f) exceed 500 megawatts but not exceed 750 megawatts (new banding introduced) | £210,000 | £310,000 for development which has a capacity exceeding 500 megawatts but not exceeding 750 megawatts (new banding introduced) |
| (g) exceed 750 megawatts but not exceed one gigawatt (new banding introduced) | £210,000 | £367,000 for development which has a capacity exceeding 750 megawatts but not exceeding one gigawatt (new banding introduced) |
| (h) exceed one gigawatt (new banding introduced) | £210,000 | £367,000 + £30,000 per every additional 500 megawatts above one gigawatt for development which has a capacity exceeding one gigawatt (new banding introduced) |

| Fees for variation applications | | |
|---|---------------------|--|
| Table 3 | | |
| Application Type | Current Fees | Proposed Fees |
| 3. A variation application which is not for EIA development and which, if granted, would not increase the capacity of the generating station, where the generating station has a capacity— | | |
| (a) not exceeding 10 megawatts | £4,875 | £5,740 |
| (b) exceeding 10 megawatts | £18,750 | £22,500 |
| 4. A variation application which is for EIA development and which, if granted, would not increase the capacity of the generating station, where the generating station has a capacity— | | |
| (a) not exceeding 10 megawatts | £4,875 | £6,300 |
| (b) exceeding 10 megawatts but not exceeding 50 megawatts | £18,750 | £31,500 |
| (c) exceeding 50 megawatts but not exceeding 100 megawatts | | £112,500 |
| (d) exceeding 100 megawatts but not exceeding 300 megawatts | | £162,000 |
| (e) exceeding 300 megawatts but not exceeding 500 megawatts | | £252,000 for development which has a capacity exceeding 300 megawatts but not exceeding 500 megawatts |
| (f) exceeding 500 megawatts but not exceeding 750 megawatts | | £310,000 for development which has a capacity exceeding 500 megawatts but not exceeding 750 megawatts |
| (g) exceeding 750 megawatts but not exceeding one gigawatt | | £367,000 for development which has a capacity exceeding 750 megawatts but not exceeding one gigawatt |
| (h) exceeding one gigawatt | | £367,000 + £30,000 per every additional 500 megawatts above one gigawatt for development which has a capacity exceeding one gigawatt |

2. Review of the fee levels and arrangements

This section sets out the Scottish Government's review for the fee levels and arrangements taking into account all feedback received through the consultation process. During the consultation process, four questions were asked. Further details of the responses together with an analysis are provided in the analysis report. The questions asked were:

| | |
|------------|---|
| Question 1 | Do you agree or disagree with the proposed application fees as set out at Table A? Please say why you have arrived at this view. |
| Question 2 | Do you agree or disagree with the new bandings for developments with a capacity greater than 500 MW as set out at Table A? Please say why you have arrived at this view. |
| Question 3 | Do the proposed application fees set out in this consultation have any financial, regulatory or resource implications for you and/or your business (if applicable)? If so please explain these. |
| Question 4 | Do you have any other comments? |

The Scottish Government's key objective was to meet the running costs of the service provided by ECU and MS-LOT in line with the Scottish Public Finance Manual. The increase in fees will support a well-resourced energy consenting regime, vital to support Scotland's transition to a more decarbonised energy system.

Question 1

The consultation asked, in Question 1, whether respondents agree or disagree with the proposed application fees as set out in Table A.

Respondents were divided on this, eight agreed with the proposed application fees, eight disagreed, and nine were unsure or unclear. The respondent types showing most widespread agreement with the proposal in Question 1 were an electricity networks company, the other membership body, some electricity generation developers and individuals. There was also a demonstration of support in principle for proposed fee increases from planning authorities in their responses. The respondent types showing most widespread disagreement with the proposal in Question 1 were electricity generation developers. Nine respondents were unsure or unclear, the majority of which were planning and other public sector bodies.

Some of the most frequently made points (apart from general disagreement or agreement) were that there should be improvements and efficiencies in the consenting process; funding and resourcing provided to planning authorities should be adequate to reflect the costs to planning authorities of processing the applications as statutory consultees; the proposed fees for variation applications, particularly those that do not increase capacity, are too high; the threshold of projects requiring

section 36 consents should be increased to 100 MW capacity; impacts on business of the proposed fees cannot be accurately stated without understanding how the Scottish Government arrived at its figures.

Scottish Government Response to Question 1

The consultation paper set out the proposed fees and the monitoring report demonstrated the current fees do not achieve full cost recovery for ECU. The majority of respondents raise no concerns with uplift of fees for network applications and generating stations up to 500 MW which equates to approximately 20% increase. Where developments of 500 MW or more are proposed, new fee bandings will be introduced. Some of the respondents agree with this in principle though request that further information is provided to explain the structure and increase.

In terms of improvements to the consenting process, MS-LOT has recently increased resources significantly within its consenting team to meet the demands of offshore wind expansion and has also established a specific streamlining team to identify and implement efficiencies in licencing and consenting processes. The Scottish Ministers are aligning with the aims of the public finance management given by the Scottish Public Finance Manual.

Question 2

The consultation asked in Question 2 if respondents agree or disagree with the new bandings for developments with a capacity greater than 500 MW as set out at Table A.

Eleven agreed, seven disagreed, and the remaining seven were unsure, unclear or did not respond. The respondent types showing most widespread agreement with the proposal in Question 2 were planning authorities, the other membership body and individuals. The respondent types showing most widespread disagreement with the proposal in Question 2 were electricity generation developers. 5 respondents were unsure or unclear from various group types.

Some of the most frequently made points (apart from general disagreement or agreement) were that the proposed increases appear arbitrary and are not supported by a robust evidence base; planning authorities should receive an adequate proportion of the application fees for offshore projects; the outcome of the 2019 fees consultation was to not introduce bandings for projects over 300 MW on the basis that costs do not significantly increase once a threshold of 300 MW is crossed, and the level of resources required to assess them are likely to remain similar.

Scottish Government Response to Question 2

The fees put out to consultation were based on the projected increased running costs of both the ECU and MS-LOT. The fees monitoring report recognises that there is a continuing shortfall to achieve the aim of full cost recovery. The Scottish Government has determined that the fee structure should broadly be maintained, with the introduction of additional bands for larger electricity generation projects as proposed. The fees shall be revised or set as consulted on.

The increases from 500 MW and above are to reflect the growing scale of offshore wind developments expected through the ScotWind process and the resources required to handle those applications. ScotWind is the first leasing round in Scottish waters for a decade, and is estimated to have a potential capacity of around 28 GW across 20 projects. The additional bandings from 300 MW and above and increased fees were thought to be necessary for this scale of development. The fee levels relating to these bandings correlate to the increase in scale, likely complexity, and therefore the predicted increase in resource demand.

The Scottish Government did not propose any change to the voluntary arrangements where planning authorities receive ex-gratia payments from the Scottish Government. Such payments are outwith the scope of the Electricity Act and regulations made under the Electricity Act. We note that planning authorities have suggested they should receive additional payments to reimburse some of the costs they incur in their work in relation to offshore applications. The Scottish Government shall invite planning authorities to provide more information on their costs in this regard as a consideration separate to this fee consultation. While no change will be implemented as a direct result of this consultation, having further information from, and discussion with, planning authorities in due course will allow us to review this in future on the basis of detailed evidence provided.

Question 3

The consultation asked in Question 3 if the proposed application fees set out in this consultation have any financial, regulatory or resource implications for the respondent and/or their business (if applicable)?

Eighteen agreed, four disagreed and three were unsure, unclear or did not respond. The respondent types showing most widespread agreement with Question 3 were electricity generation developers, developer membership organisations, planning authorities, the other membership body and individuals. Individuals and electricity networks companies were divided. Three respondents were unsure, unclear or did not respond from various group types.

Some of the most frequently made points were that the proposed increases have considerable financial implications for developers as they would increase the budget required for projects; and, the financial implications for planning authorities in responding to applications are significant and revised fees will not cover costs particularly where a public inquiry is triggered.

Scottish Government Response to Question 3

We recognise, from the feedback, that the fees levels consulted on would add to the costs met by the developers of proposals, with a possibility in some extremely borderline viable projects that developers may not wish to proceed. However, the current position is that the Scottish Government is effectively subsidising developers as the current costs of applications are not meeting the cost of providing the service to determine the applications. The Scottish Government considers that the increases will not undermine policy objectives of the growth of low carbon energy and

infrastructure and that properly resourced energy consenting functions support the economic growth of the relevant business sectors.

We did not propose or consult on changes to the payments made to planning authorities as these payments are outwith the scope of the regulations made under the Electricity Act which we intend to amend. The current payments to planning authorities are voluntary, ex-gratia payments for processing the application. While we were not presented with detailed evidence and proposals for change from planning authorities we welcome further discussion on this in future.

Question 4

In response to the final question, Question 4, asking if respondents have any other comments, there were many points made by respondents which are listed in the analysis report. Frequently made points (from more than two respondents) included the following:

- legislation should be amended to increase the threshold for projects requiring section 36 consents rather than the threshold remaining at 50 MW, so that a greater proportion of applications are processed as planning applications and dealt with by planning authorities. (6)
- increased fees should result in improvements to the consenting service and timeframes/there should be clear goals or key performance indicators set on improvements (5)
- further information is required to justify the magnitude of the proposed fee increases (3)
- a separate fund could be established to support planning authorities, and perhaps community groups, to take part in public inquiries (3)
- the fees paid to planning authorities should be used to contribute towards improving the planning authorities' role in the energy consenting regime and should be tied to the performance of each planning authority (3)

Scottish Government Response to Question 4

The comment with regards to the Scottish Government exploring the benefits or disadvantages of altering the 50 MW threshold for renewable energy developments is not a matter for this fee consultation. Given that the matter has been raised, the 50 MW threshold shall be considered further by the Scottish Government.

The Scottish Government is committed to delivering an efficient and effective consenting process that is critical to unlocking the potential to deliver renewable energy development and economic benefits to contribute to achieving net zero targets. ECU and MS-LOT are continuing to review the consenting process to streamline processes and consider the comment that payment to planning authorities should be performance related.

By increasing fees as proposed we are respecting the aims of the Scottish Public Finance Manual on charges for public services. Our current fees fall short of the costs of providing the service to determine the energy infrastructure developments applications. The additional bandings and increase in fees above 500MW reflects the scale of offshore wind development expected to be submitted. Our resources need to be able to meet the rapid growth in complexed applications and provide the adequately resourced unit to deliver an appropriate level of service that contributes to the delivery of the Energy Strategy.

The response to the points in relation to improvements to the consenting service / timeframe have been set out above. As indicated above, we did not propose or consult on changes to the payments made to planning authorities or introduction of payments to community groups or other consultees. The payments to planning authorities are outwith the scope of the regulations made under the Electricity Act. While we were not presented with detailed evidence and proposals for change from planning authorities or community groups in relation to applications where a public inquiry is caused, we welcome further discussion on this in future. Regarding the suggestions that the payments should contribute towards specific performance improvement within planning authorities, local authorities are responsible for their own administration of their planning functions and it would not be appropriate for the Scottish Government to intervene.

3. Decisions on the fee levels and arrangements

This section sets out details of the decisions we have reached on fee levels to be implemented. These are exactly as consulted on.

| Fees for electricity generating stations | |
|--|--|
| Application Type | Fees |
| Table 1 | |
| 1. Construction, or construction and operation, of a generating station which is not EIA development and has a capacity— | |
| (a) not exceeding 10 megawatts | £7,800 |
| (b) exceeding 10 megawatts but not exceeding 50 megawatts | £30,000 |
| (c) exceeding 50 megawatts but not exceeding 100 megawatts | £84,000 |
| (d) exceeding 100 megawatts but not exceeding 300 megawatts | £120,000 |
| (e) exceeding 300 megawatts but not exceeding 500 megawatts | £180,000 |
| (f) exceeding 500 megawatts but not exceeding 750 megawatts | £216,000 |
| (g) Exceeding 750 megawatts but not exceeding one gigawatt | £264,000 |
| (h) Exceeding one gigawatt | £264,000 + £15,000 per every additional 500 megawatts above one gigawatt |
| 2. Extension, or extension and operation, of a generating station which is not EIA development, resulting in an increase in capacity— | |
| (a) not exceeding 10 megawatts | £7,800 |
| (b) exceeding 10 megawatts but not exceeding 50 megawatts | £30,000 |
| (c) exceeding 50 megawatts but not exceeding 100 megawatts | £84,000 |
| (d) exceeding 100 megawatts but not exceeding 300 megawatts | £120,000 |
| (e) exceeding 300 megawatts but not exceeding 500 megawatts | £180,000 |
| (f) exceeding 500 megawatts but not exceeding 750 megawatts | £216,000 |
| (g) exceeding 750 megawatts but not exceeding one gigawatt | £264,000 |

| Fees for electricity generating stations | |
|--|--|
| Application Type | Fees |
| (h) exceeding one gigawatt | £264,000 + £15,000 per every additional 500 megawatts above one gigawatt |
| 3. Construction, or construction and operation, of a generating station which is EIA development and has a capacity— | |
| (a) not exceeding 10 megawatts | £8,400 |
| (b) exceeding 10 megawatts but not exceeding 50 megawatts | £42,000 |
| (c) exceeding 50 megawatts but not exceeding 100 megawatts | £150,000 |
| (d) exceeding 100 megawatts but not exceeding 300 megawatts | £216,000 |
| (e) exceeding 300 megawatts but not exceeding 500 megawatts | £336,000 |
| (f) exceeding 500 megawatts but not exceeding 750 megawatts | £437,000 |
| (g) exceeding 750 megawatts but not exceeding one gigawatt | £548,000 |
| (h) Exceeding one gigawatt | £548,000 + £30,000 per every additional 500 megawatts above one gigawatt |
| 4. Extension, or extension and operation, of a generating station which is EIA development, resulting in an increase in capacity— | |
| (a) not exceeding 10 megawatts | £8,400 |
| (b) exceeding 10 megawatts but not exceeding 50 megawatts | £42,000 |
| (c) exceeding 50 megawatts but not exceeding 100 megawatts | £150,000 |
| (d) exceeding 100 megawatts but not exceeding 300 megawatts | £216,000 |
| (e) exceeding 300 megawatts but not exceeding 500 megawatts | £336,000 |
| (f) exceeding 500 megawatts but not exceeding 750 megawatts | £437,000 |
| (g) exceeding 750 megawatts but not exceeding one gigawatt | £548,000 |
| (h) Exceeding one gigawatt | £548,000 + £30,000 per every additional 500 megawatts above one gigawatt |
| 5. Any other extension of a generating station which does not result in an increase in capacity, where the capacity of the generating station does— | |
| (a) not exceed 10 megawatts | £7,800 |

| Fees for electricity generating stations | |
|---|-------------|
| Application Type | Fees |
| (b) exceed 10 megawatts | £30,000 |
| 6. Operation only or change to manner of operation of a generating station, which does not result in an increase in capacity, where the capacity of the generating station does— | |
| (a) not exceed 10 megawatts | £7,800 |
| (b) exceed 10 megawatts | £30,000 |

| Fees for overhead electric lines | |
|---|---|
| Application Type | Fees |
| Table 2 | |
| 1. Overhead line which is not EIA development with a total distance— | |
| (a) not exceeding 500 metres | £430 |
| (b) exceeding 500 metres but not exceeding 15 kilometres | £720 per kilometre, up to a maximum of £4800 |
| (c) exceeding 15 kilometres | £10,800 + £720 per kilometre, up to a maximum of £180,000 |
| 2. Overhead line which is EIA development with a total distance— | |
| (a) not exceeding 1 kilometre | £1,800 |
| (b) exceeding 1 kilometre | £1,800 per kilometre, up to a maximum of £360,000 |

| Application Type | Fees |
|--|--|
| Table 3 | |
| 1. A variation application which is not for EIA development and which, if granted, would increase the capacity of the generating station such that the increased capacity would — | |
| (a) not exceed 10 megawatts | £5,850 |
| (b) exceed 10 megawatts but not exceed 50 megawatts | £22,500 |
| (c) exceed 50 megawatts but not exceed 100 megawatts | £63,000 |
| (d) exceed 100 megawatts but not exceed 300 megawatts | £90,000 |
| (e) exceed 300 megawatts but not exceed 500 megawatts | £135,000 |
| (f) exceed 500 megawatts but not exceed 750 megawatts | £164,400 |
| (g) exceed 750 megawatts but not exceed one gigawatt | £200,500 |
| (h) exceed one gigawatt | £200,500 + £15,000 per every additional 500 megawatts above one gigawatt |

| Application Type | Fees |
|---|--|
| 2. A variation application which is for EIA development and which, if granted, would increase the capacity of the generating station such that the increased capacity would — | |
| (a) not exceed 10 megawatts | £6,300 |
| (b) exceed 10 megawatts but not exceed 50 megawatts | £31,500 |
| (c) exceed 50 megawatts but not exceed 100 megawatts | £112,500 |
| (d) exceed 100 megawatts but not exceed 300 megawatts | £162,000 |
| (e) exceed 300 megawatts but not exceed 500 megawatts | £252,000 |
| (f) exceed 500 megawatts but not exceed 750 megawatts | £310,000 |
| (g) exceed 750 megawatts but not exceed one gigawatt | £367,000 |
| (h) exceed one gigawatt | £367,000 + £30,000 per every additional 500 megawatts above one gigawatt |
| 3. A variation application which is not for EIA development and which, if granted, would not increase the capacity of the generating station, where the generating station has a capacity— | |
| (a) not exceeding 10 megawatts | £5,740 |
| (b) exceeding 10 megawatts | £22,500 |
| 4. A variation application which is for EIA development and which, if granted, would not increase the capacity of the generating station, where the generating station has a capacity— | |
| (a) not exceeding 10 megawatts | £6,300 |
| (b) exceeding 10 megawatts but not exceeding 50 megawatts | £31,500 |
| (c) exceeding 50 megawatts but not exceeding 100 megawatts | £112,500 |
| (d) exceeding 100 megawatts but not exceeding 300 megawatts | £162,000 |
| (e) exceeding 300 megawatts but not exceeding 500 megawatts | £252,000 |
| (f) exceeding 500 megawatts but not exceeding 750 megawatts | £310,000 |
| (g) exceeding 750 megawatts but not exceeding one gigawatt | £367,000 |
| (h) exceeding one gigawatt | £367,000 + £30,000 per every additional 500 megawatts above one gigawatt |

4. Implementation

The revised fees will be implemented by amendment of the Electricity (Applications for Consent and Variation of Consent) (Fees) (Scotland) Regulations 2019. This would be subject to a negative procedure in the Scottish Parliament. Ministers aim to implement the revised fees from mid December 2022.

Monitoring

It is our intention that the implementation of fees will be monitored by the Scottish Government and the fees will be reviewed again after 3 years. The fees to be implemented will be monitored to help ensure full cost recovery is achieved. This will allow detailed data to be gathered to inform future analysis of the fees, before any further consideration is given to adjusting the cost recovery mechanism to meet future requirements.

Appendix 1: Consultation Respondents

Table 1: Consultation Respondents

| Organisation or Individual | Organisation group | Name of organisation or individual |
|----------------------------|---|------------------------------------|
| Organisation | Electricity generation developers | BayWa r.e. UK Ltd |
| Organisation | Electricity generation developers | Community Windpower |
| Organisation | Electricity generation developers | EDF |
| Organisation | Electricity generation developers | ERG UK |
| Organisation | Electricity generation developers | Floating Energy Alliance 1 Ltd |
| Organisation | Electricity generation developers | Red Rock Power Limited |
| Organisation | Electricity generation developers | Renewable Energy Systems Limited |
| Organisation | Electricity generation developers | ScottishPower Renewables |
| Organisation | Electricity generation developers | SSE Renewables |
| Organisation | Electricity generation developers | Statkraft UK |
| Organisation | Electricity networks companies | SP Energy Networks |
| Organisation | Electricity networks companies | SSEN Transmission |
| Organisation | Developer membership organisations | Scottish Renewables |
| Organisation | Planning authorities / other public sector bodies | Heads of Planning Scotland |
| Organisation | Planning authorities / other public sector bodies | Comhairle nan Eilean Siar |
| Organisation | Planning authorities / other public sector bodies | Glasgow City Council |
| Organisation | Planning authorities / other public sector bodies | The Highland Council |
| Organisation | Planning authorities / other public sector bodies | Moray Council |
| Organisation | Planning authorities / other public sector bodies | Scottish Borders Council |
| Organisation | Planning authorities / other public sector bodies | West Dunbartonshire Council |
| Organisation | Planning authorities / other public sector bodies | Historic Environment Scotland |
| Organisation | Other membership bodies | RTPI Scotland |
| Individual | | (Withheld) |
| Individual | | (Withheld) |
| Individual | | Tony Kime |



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