

# **Proposed changes to fees charged for applications under the Electricity Act 1989**

**March 2022**



**Scottish Government**  
Riaghaltas na h-Alba  
gov.scot

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## 1. Introduction and about this consultation

### 1.1. Introduction

- 1.1.1 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 Mega Watts (“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 1MW in Scottish Territorial waters and over 50MW in the Scottish Renewable Energy Zone. These applications are processed on behalf of Scottish Ministers by Marine Scotland Licensing Operations Team.
- 1.1.2 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”).
- 1.1.3 We are reviewing application fees due to a shortfall between the cost of running the ECU and Marine Scotland Licensing Operations Team 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.

### 1.2. About this consultation

- 1.2.1 The purpose of this consultation is to seek views on the proposed increases and changes to the current fee tariffs as set out in the Fees Regulations 2019. The proposed increases and changes to the fees for applications under the Electricity Act are set out in Table A on page 9 of this document.

### 1.3. Responding to this consultation

- 1.3.1 We are inviting responses to this consultation by **23 June 2022**.
- 1.3.2 Please respond to this consultation using the Scottish Government’s consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/energy-and-climate-change-directorate/changes-to-fees-electricity-act-applications>. You can save and return to your responses while the consultation is still

open. Please ensure that consultation responses are submitted before the closing date of **23 June 2022**.

- 1.3.3 If you are unable to respond using our consultation hub, please complete the Respondent Information Form published alongside this document - available at <https://consult.gov.scot/energy-and-climate-change-directorate/changes-to-fees-electricity-act-applications> - and send this along with your response to:

Email: [feesreview2022@gov.scot](mailto:feesreview2022@gov.scot)

Or write to us at:

**Energy Consents Unit**

**5 Atlantic Quay**

**150 Broomielaw**

**Glasgow**

**G2 8LU**

- 1.3.4 If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

- 1.3.5 All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

- 1.3.6 To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>

## 1.4. Next steps in the process

- 1.4.1 Where respondents have given permission for their responses to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at: <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

- 1.4.2 Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

## 1.5. Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at [feesreview2022@gov.scot](mailto:feesreview2022@gov.scot)

## 1.6. Scottish Government consultation process

1.6.1 Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

1.6.2 You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

1.6.3 Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

1.6.4 While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

## 2. Consultation

### 2.1. Introduction and Background

2.1.1 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.

2.1.2 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 at the following link:

[Fees Charged for Applications under the Electricity Act 1989 - Scottish Government - Citizen Space](#)

- 2.1.3 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.
- 2.1.4 We are now looking 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.
- 2.1.5 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.

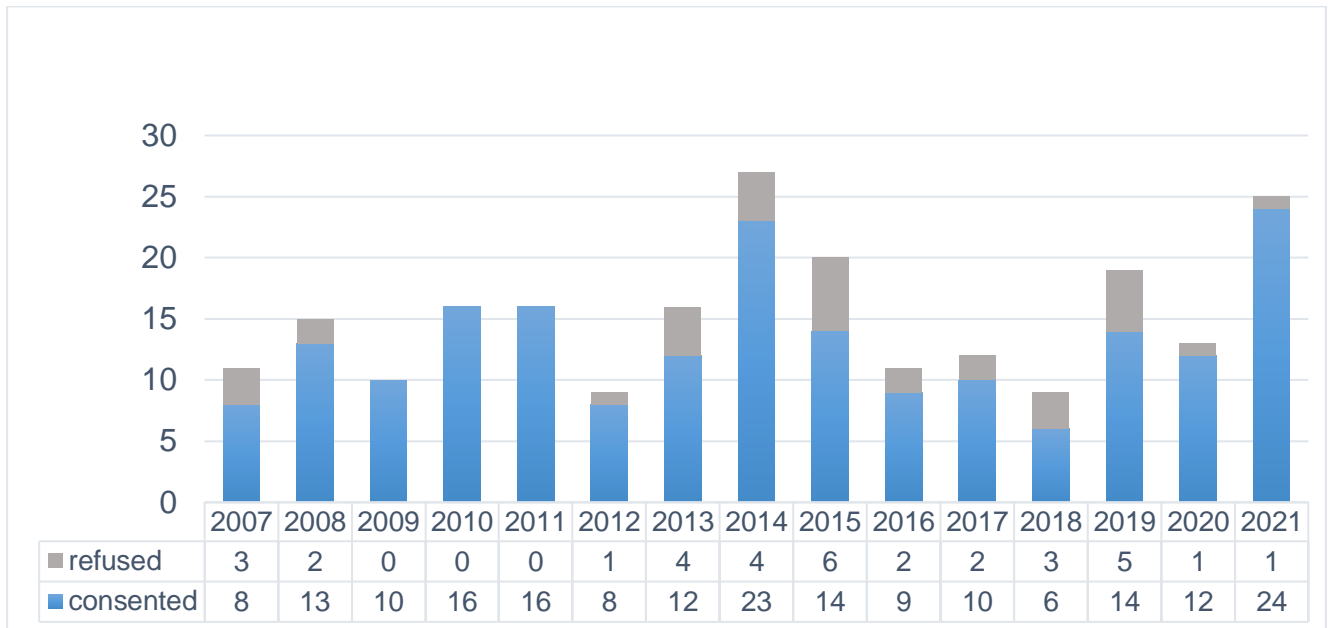
## 2.2. Fee Monitoring

- 2.2.1 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 is available here:  
<https://consult.gov.scot/energy-and-climate-change-directorate/changes-to-fees-electricity-act-applications>

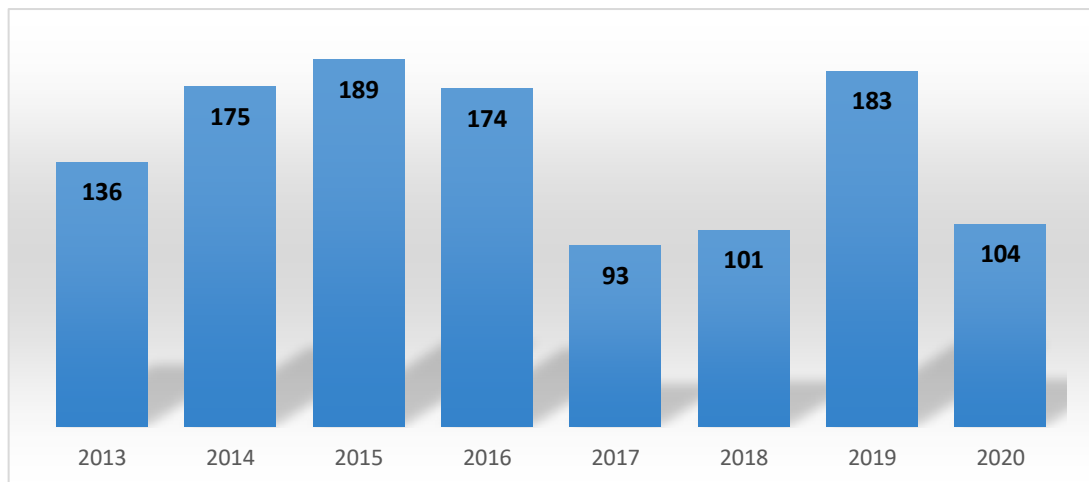
## 2.3. Applications determined and received

- 2.3.1 There has been a steady rise in applications determined under the Electricity Act since 2007. The following figures provide an estimate of Applications determined in recent years.

**Figure 1: Applications determined under the Electricity Act - s.36, s.36C and s.37 (excluding non-EIA grid applications) – 2007 to 2021**



**Figure 2: Applications determined under the Electricity Act - s.37 (non-EIA grid) 2013 - 2020**



2.3.2 The ECU currently has approximately 60 live applications for development proposals such as wind, battery storage, grid, solar and hydro, with approximately 100 further enquiries for future applications to be potentially submitted over the next one to three years. Since 2007, the ECU have received approximately 15 Environmental Impact Assessment (EIA) applications annually. Applications have increased in complexity as technology develops.

2.3.3 Applications received for offshore wind follow sectoral plans produced by Marine Scotland and a leasing round administered by Crown Estate

Scotland. This plan led approach results in clusters of applications being received, rather than a continuous flow of applications.

- 2.3.4 This is evident from the Fee Monitoring Report, which showed that the fees received during the monitoring period were limited because the previous round of offshore wind applications were received and determined by Scottish Ministers prior to June 2019 when the Fees Regulations 2019 were introduced.
- 2.3.5 The Scottish Ministers published the latest Sectoral Marine Plan for Offshore Wind Energy in October 2020. The plan assessed the potential impact of up to 10GW of future projects throughout the Plan Options. The recent Scotwind commercial leasing round, announced on 17 January 2022 by Crown Estate Scotland, awarded lease options with the potential for up to 25GW capacity. Accordingly, the scale and number of applications brought forward may be larger than anticipated. It is critical that the public sector is resourced adequately to meet future offshore wind and other energy rounds.
- 2.3.6 In addition to this significant increase in major infrastructure applications, Marine Scotland has continuing casework responsibilities for existing cases.

## 2.4. Net Zero Commitments

- 2.4.1 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.
- 2.4.2 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.
- 2.4.3 [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. 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, Scottish Government will set an ambition to achieve between 8GW and 12GW 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 up to 25GW capacity.

## 2.5. Proposed changes to fees

2.5.1 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 500MW, 750MW and 1GW. 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.

2.5.2 The proposed fee tariff increase is to meet the running costs of the service provided by ECU and Marine Scotland 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**

<b>Fees for applications made under section 36 of the Electricity Act to construct, extend or operate a generating station</b>		
<b>Application Type</b>	<b>Current Fees</b>	<b>Proposed Fees</b>
<b>Table 1</b>		
<b>1. Construction, or construction and operation, of a generating station which is not EIA development and has a capacity—</b>		
(a) not exceeding 10 megawatts	£6,500	£7,800
(b) exceeding 10 megawatts but not exceeding 50 megawatts	£25,000	£30,000

<b>Fees for applications made under section 36 of the Electricity Act to construct, extend or operate a generating station</b>		
<b>Application Type</b>	<b>Current Fees</b>	<b>Proposed Fees</b>
(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 <b>(new banding introduced)</b>
(f) exceeding 500 megawatts but not exceeding 750 megawatts <b>(new banding introduced)</b>	£150,000	£216,000 for development which has a capacity exceeding 500 megawatts but not exceeding 750 megawatts <b>(new banding introduced)</b>
(g) Exceeding 750 megawatts but not exceeding one gigawatt <b>(new banding introduced)</b>	£150,000	£264,000 for development which has a capacity exceeding 750 megawatts but not exceeding one gigawatt <b>(new banding introduced)</b>
(h) Exceeding one gigawatt <b>(new banding introduced)</b>	£150,000	£264,000 + £15,000 per every additional 500 megawatts above one gigawatt for development which has a capacity exceeding one gigawatt <b>(new banding introduced)</b>
<b>2. Extension, or extension and operation, of a generating station which is not EIA development, resulting in an increase in capacity—</b>		
(a) not exceeding 10 megawatts	£6,500	£7,800
(b) exceeding 10 megawatts but not exceeding 50 megawatts	£25,000	£30,000

<b>Fees for applications made under section 36 of the Electricity Act to construct, extend or operate a generating station</b>		
<b>Application Type</b>	<b>Current Fees</b>	<b>Proposed Fees</b>
(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 <b>(new banding introduced)</b>
(f) exceeding 500 megawatts but not exceeding 750 megawatts <b>(new banding introduced)</b>	£150,000	£216,000 for development which has a capacity exceeding 500 megawatts but not exceeding 750 megawatts <b>(new banding introduced)</b>
(g) exceeding 750 megawatts but not exceeding one gigawatt <b>(new banding introduced)</b>	£150,000	£264,000 for development which has a capacity exceeding 750 megawatts but not exceeding one gigawatt <b>(new banding introduced)</b>
(h) exceeding one gigawatt <b>(new banding introduced)</b>	£150,000	£264,000 + £15,000 per every additional 500 megawatts above one gigawatt for development which has a capacity exceeding one gigawatt <b>(new banding introduced)</b>
<b>3. Construction, or construction and operation, of a generating station which is EIA development and has a capacity—</b>		
(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

<b>Fees for applications made under section 36 of the Electricity Act to construct, extend or operate a generating station</b>		
<b>Application Type</b>	<b>Current Fees</b>	<b>Proposed Fees</b>
(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 <b>(new banding introduced)</b>
(f) exceeding 500 megawatts but not exceeding 750 megawatts <b>(new banding introduced)</b>	£280,000	£437,000 for development which has a capacity exceeding 500 megawatts but not exceeding 750 megawatts <b>(new banding introduced)</b>
(g) exceeding 750 megawatts but not exceeding one gigawatt <b>(new banding introduced)</b>	£280,000	£548,000 for development which has a capacity exceeding 750 megawatts but not exceeding one gigawatt <b>(new banding introduced)</b>
(h) Exceeding one gigawatt <b>(new banding introduced)</b>	£280,000	£548,000 + £30,000 per every additional 500 megawatts above one gigawatt for development which has a capacity exceeding one gigawatt <b>(new banding introduced)</b>
<b>4. Extension, or extension and operation, of a generating station which is EIA development, resulting in an increase in capacity—</b>		
(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

<b>Fees for applications made under section 36 of the Electricity Act to construct, extend or operate a generating station</b>		
<b>Application Type</b>	<b>Current Fees</b>	<b>Proposed Fees</b>
(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 <b>(new banding introduced)</b>
(f) exceeding 500 megawatts but not exceeding 750 megawatts <b>(new banding introduced)</b>	£280,000	£437,000 for development which has a capacity exceeding 500 megawatts but not exceeding 750 megawatts <b>(new banding introduced)</b>
(g) exceeding 750 megawatts but not exceeding one gigawatt <b>(new banding introduced)</b>	£280,000	£548,000 for development which has a capacity exceeding 750 megawatts but not exceeding one gigawatt <b>(new banding introduced)</b>
(h) Exceeding one gigawatt <b>(new banding introduced)</b>	£280,000	£548,000 + £30,000 per every additional 500 megawatts above one gigawatt for development which has a capacity exceeding one gigawatt <b>(new banding introduced)</b>
<b>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—</b>		
(a) not exceed 10 megawatts	£6,500	£7,800
(b) exceed 10 megawatts	£25,000	£30,000
<b>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—</b>		
(a) not exceed 10 megawatts	£6,500	£7,800
(b) exceed 10 megawatts	£25,000	£30,000

<b>Fees for applications made under section 37 of the Electricity Act to install or keep installed an electric line above ground</b>		
<b>Application Type</b>	<b>Current Fees</b>	<b>Proposed Fees</b>
<b>Table 2</b>		
<b>1. Overhead line which is not EIA development with a total distance—</b>		
(a) not exceeding 500 metres	£360	£430
(b) exceeding 500 metres but not exceeding 15 kilometres	£600 per kilometre, up to a maximum of £4,000	£720 per kilometre, up to a maximum of £4800
(c) exceeding 15 kilometres	£9,000 + £600 per additional kilometre, up to a maximum of £150,000	£10,800 + £720 per additional kilometre, up to a maximum of £180,000
<b>2. Overhead line which is EIA development with a total distance—</b>		
(a) not exceeding 1 kilometre	£1,500	£1,800
(b) exceeding 1 kilometre	£1,500 per kilometre, up to a maximum of £300,000	£1,800 per kilometre, up to a maximum of £360,000

<b>Fees for variation applications</b>		
<b>Application Type</b>	<b>Current Fees</b>	<b>Proposed Fees</b>
<b>Table 3</b>		
<b>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 —</b>		
(a) not exceed 10 megawatts	£4,875	£5,850
(b) exceed 10 megawatts but not exceed 50 megawatts	£18,750	£22,500

<b>Fees for variation applications</b>		
<b>Application Type</b>	<b>Current Fees</b>	<b>Proposed Fees</b>
(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 <b>(new banding introduced)</b>
(f) exceed 500 megawatts but not exceed 750 megawatts <b>(new banding introduced)</b>	£112,500	£164,400 for development which has a capacity exceeding 500 megawatts but not exceeding 750 megawatts <b>(new banding introduced)</b>
(g) exceed 750 megawatts but not exceed one gigawatt <b>(new banding introduced)</b>	£112,500	£200,500 for development which has a capacity exceeding 750 megawatts but not exceeding one gigawatt <b>(new banding introduced)</b>
(h) exceed one gigawatt <b>(new banding introduced)</b>	£112,500	£200,500 + £15,000 per every additional 500 megawatts above one gigawatt for development which has a capacity exceeding one gigawatt <b>(new banding introduced)</b>
<b>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 —</b>		
(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

<b>Fees for variation applications</b>		
<b>Application Type</b>	<b>Current Fees</b>	<b>Proposed Fees</b>
(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 <b>(new banding introduced)</b>
(f) exceed 500 megawatts but not exceed 750 megawatts <b>(new banding introduced)</b>	£210,000	£310,000 for development which has a capacity exceeding 500 megawatts but not exceeding 750 megawatts <b>(new banding introduced)</b>
(g) exceed 750 megawatts but not exceed one gigawatt <b>(new banding introduced)</b>	£210,000	£367,000 for development which has a capacity exceeding 750 megawatts but not exceeding one gigawatt <b>(new banding introduced)</b>
(h) exceed one gigawatt <b>(new banding introduced)</b>	£210,000	£367,000 + £30,000 per every additional 500 megawatts above one gigawatt for development which has a capacity exceeding one gigawatt <b>(new banding introduced)</b>
<b>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—</b>		
(a) not exceeding 10 megawatts	£4,875	£5,740
(b) exceeding 10 megawatts	£18,750	£22,500
<b>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—</b>		



<b>Fees for variation applications</b>		
<b>Application Type</b>	<b>Current Fees</b>	<b>Proposed Fees</b>
(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

### 3. Impact Assessments

#### 3.1. Partial Business and Regulatory Impact Assessment (BRIA)

- 3.1.1 A Partial BRIA is included at **Annex A**. The responses to this consultation will be used to inform an updated final BRIA.

#### 3.2. Equalities Impact Assessment

- 3.2.1 After considering the requirement for an Equalities Impact Assessment it was concluded that there would be no disadvantage created between equalities groups and no assessment was considered necessary.

### 4. Consultation Questions

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.
2. Do you agree or disagree with the new bandings for developments with a capacity greater than 500MW as set out at Table A? Please say why you have arrived at this view.
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.
4. Do you have any other comments?



## Proposed changes to Fees Charged for Applications under the Electricity Act 1989

### RESPONDENT INFORMATION FORM

**Please Note** this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our [privacy policy](#).

Are you responding as an individual or an organisation?

- Individual  
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

**Information for organisations:**

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

- Publish response with name
- Publish response only (without name)
- Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
- No

# Annex A – Partial Business and Regulatory Impact Assessment (BRIA)

## **Title of Proposal**

Increase to the fee tariffs under the Electricity (Applications for Consent and Variation of Consent) (Fees) (Scotland) Regulations 2019 (“the Fees Regulations 2019”)

## **Purpose and intended effect**

### Background

The Fees Regulations 2019 came into force on 30 June 2019. A review of the fee levels and structure at that time 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.

Taking into account the comments received during the consultation period in 2018 the fee tariffs introduced in 2019 were lower than the proposals consulted upon, and did not achieve full cost recovery. The circumstances at that time led to widespread disagreement with the level of increases proposed from the onshore wind industry.

We are now looking to increase the fee tariffs to support full cost recovery in line with the Scottish Public Finance Manual and introduce a new fee structure for generating stations with a capacity greater than 500MW. This will aid the delivery of a well-resourced energy consenting regime for onshore and offshore developments, which is vital to deliver policy objectives around a transition to a more decarbonised energy system.

### Objectives and rationale for Government Intervention

- To achieve cost recovery for processing applications received under the Electricity Act 1989.
- To support a well-resourced energy consenting regime, vital to Scotland’s transition to a more decarbonised energy system and our net zero targets as mandated by Scottish and UK policy.

The proposed increase to fee tariffs contributes to the following National Performance Framework – Purpose, Values and National Outcomes:

- To focus on creating a more successful country with opportunities for all of Scotland to flourish through increased wellbeing, and sustainable and inclusive economic growth.
- We are a society which treats all our people with kindness, dignity and compassion, respects the rule of law, and acts in an open and transparent way.

- We have a globally competitive, entrepreneurial, inclusive and sustainable economy.
- We value, enjoy, protect and enhance our environment.
- We have thriving and innovative businesses with quality jobs and fair work for everyone.

The increase in fee tariffs and changes to the fee structure would also contribute to the four priorities of the Scotland's Economic Strategy: Investment, innovation, internationalisation and inclusive growth.

## **Consultation**

### Within Government

The following Government directorates have been engaged in the development of proposals as formulated: Marine Scotland; Planning and Architecture Division, Scottish Government Legal Directorate and Directorate For Energy And Climate Change.

### Public Consultation

Public consultation will run for 12 weeks. It is our intention to use the proposed full public consultation to produce a final BRIA from this partial BRIA.

### Business

The Scottish Government is proposing to contact those who are likely to be impacted by the proposals including energy industry (such as Scottish Renewables and developers) as well as those engaged in applications for consent (such as Planning Authorities through the Heads of Planning Scotland Climate Change, Energy and resource sub-group).

All consultation and engagement events undertaken shall be documented and any feedback shall be taken into account.

## **Options**

### Do nothing

Doing nothing would result in a continued deficit and gap in resources between the income received from Electricity Act applications and the cost of processing and making decisions. The do nothing option would not be in line with the principle that there should be full cost recovery for all public services as set out in the Scottish Public Finance Manual.

### Proposed Approach

Our proposed approach includes an increase to the fee categories of approximately 20% as well as proposing new bandings for larger scale applications which include developments that exceed capacities of 500MW, 750MW and 1GW. These additional bandings are to reflect the growing scale of offshore renewable electricity generating stations. The proposal also includes a change to the fee and bandings for variation applications to reflect the increased resource needed for such applications requiring EIA.

### Sectors and groups affected

The sectors most likely to be affected by the proposals are:

- Electricity generation developers and electricity network companies, who will experience increased costs in making an application under the Electricity Act.
- Planning authorities, who may experience greater remuneration for the work they carry out on onshore applications as statutory consultees for the Scottish Government.
- New electricity grid connection customers, who may experience a pass-through of increased application costs by the electricity networks companies.

#### Benefits

The proposed increase to fee tariffs and new fee structure is intended to support a well-resourced, efficient and effective consenting process critical to unlocking the potential delivery of renewable energy developments and economic benefits, whilst helping to achieve our net zero targets.

#### Costs

The proposed increase to fee tariffs involve an increase in fees payable for all applications under the Electricity Act and new bandings for larger scale applications.

The costs to applicants as a result of implementing a fee increase, and new bands for larger scale applications, are financial. The level of the increased cost for renewable energy developers may impact on the viability of future renewable energy projects and narrow the scope of their economic activity.

The policy and environmental cost of the above would be to hinder the timely achievement of targets for low carbon energy and decarbonisation of the energy system.

#### **Scottish Firms Impact Test**

The Scottish Firms Impact Test will be carried out following consultation and in consideration of the response to the published consultation.

#### **Competition Assessment**

We do not consider that the proposed increase to fee tariffs or the proposed new bandings for larger scale applications would impact more significantly on some firms than others, nor restrict new entrants to the market as a set percentage increase across all categories is not expected to impact significantly more on some firms than others.

#### **Consumer Assessment**

The proposals are not intended to impact one set of consumers over another.

#### **Test Run of Business Forms**

No new forms are proposed at this stage.

#### **Digital Impact Test**

Currently Electricity Act applications are submitted electronically via the ECU portal, whilst offshore applications are submitted directly to the Marine Scotland-Licensing Operations Team. The practical implementation of any fee changes will be carefully considered to avoid any adverse impacts.

#### **Legal Aid Impact Test**

The proposal does not create a new procedure or right of appeal to a court or tribunal, any change in such a procedure or right of appeal, or any change of policy or practice which may lead people to consult a solicitor. It is also not considered likely to result in additional people seeking legal assistance or being taken through the courts.

#### **Enforcement, sanctions and monitoring**

Payment of fees will be monitored by the ECU and Marine Scotland Licensing Operations Team. If an application is submitted without the required fees having been paid, it will not be a valid application and will not be capable of being determined.

#### **Implementation and delivery plan**

Amendments will be made to the Fees Regulations 2019 and implementation and delivery of amendments will consist of:

- Completion of the legal drafting
- Legislation to be laid in Scottish Parliament (40 days)
- Implementation (Q4 2022)

#### Post-implementation review

It is our intention that the implementation of our proposals will be monitored by the ECU and the fees will be reviewed again after 3 years. This timescale is considered appropriate as it is closely aligned with the project development cycle for such long term EIA projects and will allow a variety of applications to come forward allowing detailed data to be gathered to inform future analysis.

#### **Summary and recommendation**

It is recommended that the increase to the fee tariff is implemented to help ensure that the fees from Electricity Act applications meet full cost recovery for public services. It is also recommended as an efficient and effective consenting system is critical to unlocking the potential to deliver renewable energy development and economic benefits, whilst helping to achieve our net zero targets.



**Declaration and publication**

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed:**A handwritten signature in blue ink, appearing to read 'Michael Matheson', with a stylized flourish at the end.**Date: 28 March 2022****Michael Matheson****Cabinet Secretary for Net Zero, Energy and Transport****Scottish Government Contact point:**

Energy Consents Unit

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