

# SL(5)342 – The Carbon Capture Readiness (Electricity Generating Stations) (Amendment) (Wales) Regulations 2019

## Background and Purpose

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These Regulations are made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and section 58B of the Government of Wales Act 2006.

These Regulations amend the Carbon Capture Readiness (Electricity Generating Stations) Regulations 2013 (“the 2013 Regulations”) as a result of the devolution, by the Wales Act 2017, of energy consenting functions in relation to electricity generating stations in Wales which have or will have a capacity not exceeding 350 megawatts.

The 2013 Regulations implemented Article 36 of Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (Recast) (OJ No. L334, 17.12.2010, p.17).

Regulation 2 inserts new definitions.

Regulation 4 amends regulation 4 of the 2013 Regulations to make provision in respect of the Welsh Ministers’ new functions under Schedule 6 to the Planning Act 2008 in relation to combustion plants in Wales with a rated electrical output of between 300 and 350 megawatts.

Regulation 5 inserts a new regulation 6A. Regulation 6A relates to planning permissions for the construction of combustion plants in Wales with a rated electrical output of between 300 and 350 megawatts (or for extensions to combustion plants in Wales which have the effect of increasing the rated electrical output of the plants to between 300 and 350 megawatts). Before granting such a planning permission the Welsh Ministers or local planning authority (as applicable) must determine whether certain conditions are met relating to the feasibility of carbon capture and storage. If the conditions are met, the planning permission must include conditions for suitable space to be set aside for equipment necessary to capture and compress all the carbon dioxide that would otherwise be emitted from the plant.

## Procedure

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Negative.

## Technical Scrutiny

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No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

## Merits Scrutiny

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The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

### **1. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly**

These Regulations are made under section 2(2) of the European Communities Act 1972. There is a choice of procedure in relation to instruments made under section 2(2) of that Act. The Explanatory Memorandum to these Regulations explains that the negative procedure will be used in this case as the discretion of the Welsh Ministers is limited over the content of the instrument as it is giving effect to EU provisions.



## Implications arising from exiting the European Union

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The 2013 Regulations will become part of retained EU law on exit day, having been made under section 2(2) of the European Communities Act 1972.

## Committee Consideration

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The Committee considered the instrument at its meeting on 11 March 2019 and reports to the Assembly in line with the merits points above.

