

Section 37 Consent



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The Section 37 Consent Process

The legislation governing the consenting of overhead line (OHL) projects in Scotland is the Electricity Act 1989 ('the Act'). Applications for consent to install and keep installed new overhead lines are made under section 37 of the Act. Decisions are made by Scottish Ministers and are referred to as "Section 37 Consents". Permission to grant consent to other, ancillary aspects of a Section 37 consent can be granted by Scottish Ministers under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 and is sometimes referred to as 'deemed permission'.

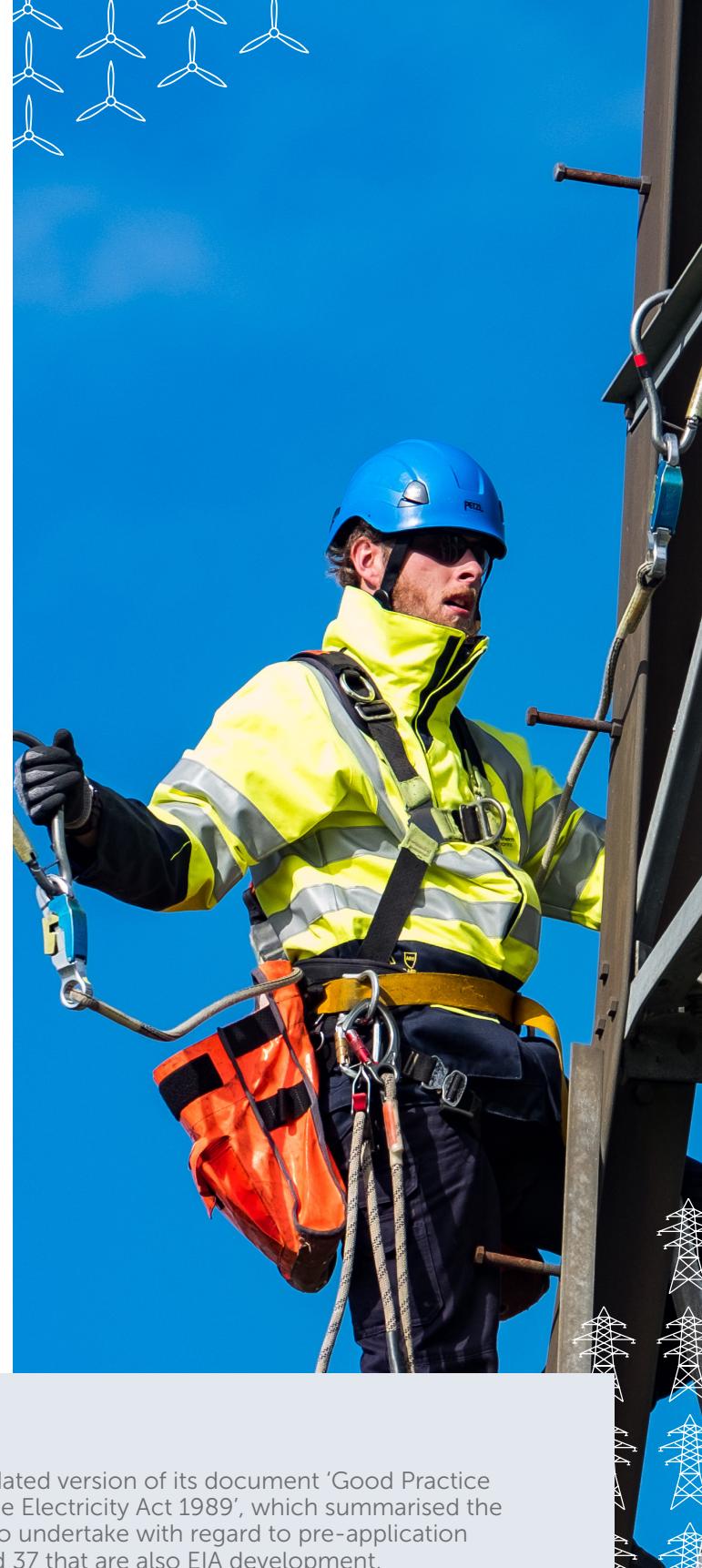
Environmental Impact Assessment

Applications made under section 37 of the Electricity Act 1989 are submitted to the Energy Consents Unit (ECU) of the Scottish Government.

If a proposal meets certain criteria set out in the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (known as the EIA Regulations), it may be classed as an Environmental Impact Assessment (EIA) development. For projects that fall under Schedule 2, developers can ask the ECU for a screening opinion to confirm whether their project needs an EIA. If it does, the application must be accompanied by an EIA Report.

The EIA Regulations specify some required content, however, the full scope of issues to be covered—and the level of detail expected—will be set out in advance through an EIA scoping opinion. Developers request this opinion, and the ECU adopts it after consulting with the local planning authority and other statutory bodies.

For section 37 applications that don't require a full EIA, we normally include an Environmental Appraisal (EA) instead. This follows a similar format to an EIA Report, but is proportionate to the scale of the project.



The public consultation process

In July 2022, the Scottish Government published an updated version of its document 'Good Practice Guidance for Applications under Section 36 and 37 of the Electricity Act 1989', which summarised the voluntary actions that the ECU encourages developers to undertake with regard to pre-application consultation (PAC) for applications under Section 36 and 37 that are also EIA development.

In May 2025, the Scottish Government published 'Electricity Act 1989 - transmission line projects and environmental impact assessment: pre-application consultation and engagement guidance', which is specific to the work of Transmission Owners (including SSE Transmission) applying for section 37 consents. It expands upon earlier guidance and places an emphasis on the provision of feedback across two stages consisting of Routing and Alignment. It also introduces new expectations in earlier stages of project development, such as the submission of a PAC Strategy and a PAC Notice and includes further details regarding publicity and online consultation.

The guidance requires that specific consultation activities are documented in a PAC Report, to be submitted with the section 37 application. This report must show how the consultation was carried out, what feedback was received, and how it influenced the final plans. Where comments are received that cannot be addressed in the final proposals, we will also explain why this is the case.

Submitting a Section 37 application

When a section 37 application is submitted, the ECU will consult with the local planning authority (or authorities) and statutory and non-statutory consultees. For section 37 applications accompanied by an EIA Report, under the EIA Regulations, we are also obliged to publish notices in certain newspapers and the Edinburgh Gazette to inform the public of the application being made to the Scottish Ministers. We will also make a printed version of the EIA Report available for inspection at a venue open to the public.

Alongside an EIA Report we will also normally submit a variety of standalone reports, such as a planning statement and PAC Report, as well as design drawings. The application also needs to include information about the status of wayleave agreements with the owners and occupiers of land proposed to be crossed by the line.

Determining a Section 37 application

Section 37 applications are determined on a case-by-case basis by Scottish Ministers, taking into account the application documentation, EIA Report or EA, responses from consultees, representations from members of the public, and an assessment of the material considerations, including but not limited to the Development Plan (National Policy Framework 4 and relevant local plans).

If within two months of receipt of a section 37 application the local planning authority or authorities hosting the proposed infrastructure objects and notifies the ECU, this will cause a Public Local Inquiry (PLI) to be held. In these circumstances the application is passed on to the Scottish Government Planning and Environmental Appeals Division (DPEA) to undertake the PLI and produce an inquiry report with a recommendation, which is then considered and determined by Scottish Ministers.

When a decision is made the ECU will send a decision notice to the applicant, copying in the local planning authority and other consultation bodies. The decision notice is a record of the reasons for the decision and, if the application is approved, notes the conditions that must be satisfied in implementing the consent. The ECU and local planning authority will publish the decision notice via their own channels, and the applicant is obliged to publicise the outcome of the determination on the application website, in the Edinburgh Gazette, and in a newspaper circulating in the locality of the proposed development.

Determining Section 37 applications for Priority Projects

In February 2025, the Scottish Government published 'Priority Applications for Transmission Infrastructure guidance: Section 37 of the Electricity Act 1989', which includes details of 'priority projects' eligible to be considered to benefit from a 52-week determination period.

Priority projects must be for overhead lines with a nominal voltage of 132kV or more, and fall into one of two categories: Strategic Transmission Infrastructure, or Generation connections.

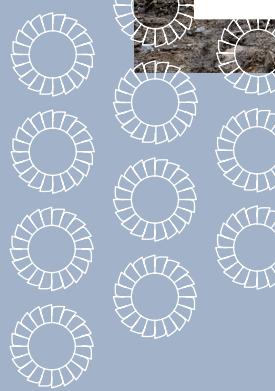
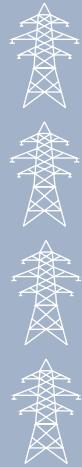
The Strategic Transmission Infrastructure category includes projects that facilitate large scale power transfer at a strategic scale supporting the delivery of net zero ambitions and ensuring energy security. The Generation connections category includes projects connecting generation infrastructure where the connection would be for multiple generation sites, or for single generation sites where section 36 consent or planning permission for the generating station has been granted.

The Scottish Ministers have described in this guidance a step-by-step process that aims to ensure determinations of priority projects within a 52-week period, with or without a PLI, by working closely with the DPEA in cases where a PLI is required, to deliver an inquiry report to Scottish Ministers to consider.

Disclaimer

Please note that any feedback provided to us through the pre-application public consultation process, which will be carefully considered to help inform the development of our overhead lines, is not a formal representation on the application. There will be an opportunity to make representations directly to Scottish Ministers via the ECU once the application has been submitted.





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