

EXEMPTION FROM THE REQUIREMENT FOR A LICENCE TO GENERATE ELECTRICITY: PROPOSAL TO MAKE THE ELECTRICITY (INDIVIDUAL EXEMPTIONS) ORDER 2011

4 March 2011

EXEMPTION FROM THE REQUIREMENT FOR A LICENCE TO GENERATE ELECTRICITY: PROPOSAL TO MAKE THE ELECTRICITY (INDIVIDUAL EXEMPTIONS) ORDER 2011

The Secretary of State, pursuant to section 5(2) and (3) of the Electricity Act 1989 (“the Act”) as amended by the Utilities Act 2000, hereby gives notice that he proposes to make an order under section 5(1) of the Act granting exemptions from section 4(1)(a) of the Act to:

- Riverside Resource Recovery Limited in respect of the Riverside Resource Recovery Limited Energy-From-Waste Facility;
- Teesside Windfarm Limited in respect of Teesside Offshore Windfarm;
- Devon Wind Power Limited in respect of Fullabrook Wind Farm.

The Secretary of State’s rationale for making such an order on the terms proposed are set out in the attached document entitled “Exemption from the requirement for a licence to generate electricity: proposal to make the Electricity (Individual Exemptions) Order 2011” (“the Document”). The terms of the proposed draft Order (which, subject to representations, is in substantially final form) are set out in the Appendix to the Document.

Representations may be made with respect to the proposal in the Document by 1 April 2011 to:-

Chris Chown, Energy Market Framework, Department of Energy and Climate Change, Fourth Floor, 3 Whitehall Place, London SW1A 2HD (telephone: 0300 068 6085; e-mail: chris.chown@decc.gsi.gov.uk)

Phil Hicken

An Official of the Department For Energy and Climate Change authorised to act on behalf of the Secretary of State

4 March 2011

EXEMPTION FROM THE REQUIREMENT FOR A LICENCE TO GENERATE ELECTRICITY: PROPOSAL TO MAKE THE ELECTRICITY (INDIVIDUAL EXEMPTIONS) ORDER 2011

INTRODUCTION

1. The Secretary of State proposes to make an Order under section 5(1) of the Electricity Act 1989 (“the Electricity Act”), as amended by the Utilities Act 2000, granting exemption from the requirement to hold a generation licence to:

- Riverside Resource Recovery Limited in respect of the Riverside Resource Recovery Limited Energy-From-Waste Facility (located in Belvedere, London Borough of Bexley);
- Teesside Windfarm Limited in respect of Teesside Offshore Windfarm (located approximately 1.5km offshore from Coatham Sands, Redcar) ; and
- Devon Wind Power Limited in respect of Fullabrook Wind Farm (located at Fullabrook Down, Devon)

2. It is intended that these generating stations will become fully operational in 2011/12.

3. The Secretary of State proposes to make the Order subject to the conditions specified in the attached draft Order and in paragraph 8 below, and to the views of consultees. This document explains why the Secretary of State proposes to make such an Order.

4. Section 4(1)(a) of the Electricity Act makes it an offence for a person to generate electricity for the purpose of giving a supply to any premises or enabling a supply to be so given unless he is authorised to do so by a licence or exemption. Section 5(1) of the Electricity Act provides that the Secretary of State may, by order, grant exemption from section 4(1)(a). Section 5(2) of the Electricity Act sets out the procedure for making such an order.

5. On 1 October 2001, the Electricity (Class Exemptions from the Requirement for a Licence) Order 2001 (“the Class Exemptions Order”) came into force¹. Among other things, the Class Exemptions Order indefinitely extended the exemptions in the Electricity (Class Exemptions from the Requirement for a Licence) (England and Wales) Order 1997² for persons operating generating stations with existing energised connections on 30 September 2000 that did not provide more than 100 MW of power to the total system (Schedule 2, Class C of the Class Exemptions Order). Whilst the starting assumption is that all generation of electricity should be licensed, in practice this is considered to be less necessary if activity is at a low level and there is no threat to the safe and secure operation of the electricity system or the interests of customers. Exemptions are attractive for generators as it enables them to avoid the administrative costs associated with licensing.

6. The Class Exemptions Order did not exempt those who propose to operate plant that provides not more than 100 MW, but did not have existing energised connections on 30 September 2000. This was because, pending proposed changes to the Connection and Use of System Agreement (CUSC), the connection of new generating plant of a similar size

¹ S.I. 2001/3270

² S.I. 1997/4089 amended by S.I. 2000/2424

to that set out in Schedule 2, Class C of the Class Exemptions Order might adversely affect network operation. Consequently, the desirability and timing of making such connections must be considered by the Secretary of State. For the time being, therefore, operators with new plant similar in size to that set out in Schedule 2, Class C of the Class Exemptions Order must seek individual exemption under the Electricity Act from the Secretary of State.

REASONS

7. Following initial informal consultation with interested parties, and taking account of the level of the electrical power that could be exported to the total system in England and Wales by the proposed station, the Secretary of State has concluded that the connection of these plants to the system would not adversely affect network operation. As it is the general position, where possible, to provide these smaller stations with an exemption to put them in an equivalent position to generating stations which were connected before 30th September 2000, he has taken the view that it would not be appropriate to require: Riverside Resource Recovery Limited, Teesside Windfarm Limited and Devon Wind Power Limited to obtain an electricity generation licence in respect of the proposed wind farm. He therefore proposes to make the exemption.

CONDITIONS

8. The conditions of granting the exemption are that the generating stations are connected to the total system in Great Britain and are not normally capable of exporting more electrical power than 100 megawatts to that system disregarding power temporarily provided in excess of 100 megawatts due to circumstances outside the reasonable control of the exempt persons

REPRESENTATIONS AND TIMETABLE

9. Representations on the issues raised in this document and the proposal are invited by 1 April 2011 and should be made to: Chris Chown, Energy Market Framework, Department of Energy and Climate Change, Fourth Floor, 3 Whitehall Place, London SW1A 2HD (telephone: 0300 068 6085; e-mail: chris.chown@decc.gsi.gov.uk)

REGULATORY IMPACT ASSESSMENT

10. The Government produced a Regulatory Impact Assessment in respect of the Class Exemptions Order in October 2001. The assessment may be viewed at:

<http://www.berr.gov.uk/energy/markets/electricity-markets/licence-exemp/page34529.html>

or obtained from: Chris Chown, Energy Market Framework, Department of Energy and Climate Change, Fourth Floor, 3 Whitehall Place, London SW1A 2HD (telephone: 0300 068 6085; e-mail: chris.chown@decc.gsi.gov.uk)

 STATUTORY INSTRUMENTS

2011 No.

ELECTRICITY

The Electricity (Individual Exemptions) Order 2011

<i>Made</i> - - - -	***
<i>Laid before Parliament</i>	***
<i>Coming into force</i> - -	***

The Secretary of State makes the following Order in exercise of the powers conferred by section 5 of the Electricity Act 1989(3).

The Secretary of State has given notice of the proposal to make this Order in accordance with section 5(2) and (3) of that Act [and has considered the representations made in relation to the proposal.]. No representations in respect of the proposal have been made.]

Citation and commencement

1. This Order may be cited as the Electricity (Individual Exemptions) Order 2011 and comes into force on Xth Whennember.

Interpretation

2. In this Order—

“the Act” means the Electricity Act 1989;

“total system” means all transmission systems and distribution systems, located in Great Britain, of holders of licences under section 6(1)(b) and (c) of the Act (transmission and distribution licences);

Exemptions

3. A person mentioned in column 1 of the Table in the Schedule (“the relevant person”) is exempt from section 4(1)(a) of the Act (prohibition of unlicensed generation of electricity for supply) in respect of the generating station described in the corresponding entry in column 2 of that Table (“the relevant generating station”) where—

(a) the relevant generating station is connected to the total system;

(b) that, except in circumstances outside the reasonable control of the relevant person, the relevant generating station does not export more than 100 megawatts of electrical power to the total system; and

(c) the relevant person does not hold a licence under section 6(1)(a) of the Act.

Signatory text

Name

Address
Date

Parliamentary Under Secretary of State
Department
SCHEDULE

Article 3

Table

Column 1	Column 2
Devon Wind Power Limited (company registered number 03536976)	Fullabrook Windfarm, a generating station of that name located at Ordnance Survey map reference SS526363, on Fullabrook Down in Devon
Riverside Resource Recovery Limited (company registered number 3723386).	Riverside Resource Recovery Energy From Waste Facility, a generating station of that name located at Ordnance Survey map reference TQ497806, in Bevedere in the London Borough of Bromley.
Teesside Windfarm Limited (company registered number 6708759).	Teesside Offshore Windfarm, an offshore generating station of that name located at Ordnance Survey map reference NZ584282, approximately 1.5 kilometres offshore from Coatham Sands in Redcar.

© Crown copyright 2011
Department of Energy & Climate Change
3 Whitehall Place
London SW1A 2AW
www.decc.gov.uk

URN 11D/0025