

**EXEMPTION FROM THE
REQUIREMENT FOR A LICENCE TO
GENERATE ELECTRICITY:
PROPOSAL TO MAKE THE
ELECTRICITY (EXEMPTION FROM
THE REQUIREMENT FOR A
GENERATION LICENCE)
(MIDDLEMOOR) (ENGLAND AND
WALES) ORDER 2012**

13 June 2012

EXEMPTION FROM THE REQUIREMENT FOR A LICENCE TO GENERATE ELECTRICITY: PROPOSAL TO MAKE THE ELECTRICITY (EXEMPTION FROM THE REQUIREMENT FOR A GENERATION LICENCE) (MIDDLEMOOR) (ENGLAND AND WALES) ORDER 2012

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 exemption from section 4(1)(a) of the Act to RWE Npower Renewables Limited in respect of The Middlemoor onshore wind farm.

The Secretary of State’s reasons for making such an order on the terms proposed are set out in the attached document entitled proposal to make: “The Electricity (Exemption from the Requirement for a Generation Licence) (Middlemoor) (England and Wales) Order 2012”. 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 11 July 2012 to:-

Chris Chown, Energy Market Design, 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)

18 May 2012

EXEMPTION FROM THE REQUIREMENT FOR A LICENCE TO GENERATE ELECTRICITY: PROPOSAL TO MAKE: “THE ELECTRICITY (EXEMPTION FROM THE REQUIREMENT FOR A GENERATION LICENCE) (MIDDLEMOOR) (ENGLAND AND WALES) ORDER 2012

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:

RWE Npower Renewables Limited in respect of the Middlemoor onshore wind farm situated approximately 12kms North of Alnwick in Northumberland.

2. It is intended that this generating station will become fully operational in Autumn/Winter 2012.

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 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.

¹ S.I. 2001/3270

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

REASONS

7. Taking account of the level of the electrical power that could be exported to the total system in Great Britain by the proposed station, the Secretary of State has concluded that the connection of this plant 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 RWE Npower Renewables Limited to obtain an electricity generation licence in respect of the onshore wind farm. He therefore proposes to make the exemption.

CONDITIONS

8. The conditions of granting the exemption are that:

- The generating station is connected to the total system in Great Britain.
- It is 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.
- RWE Npower Renewables Limited does not hold any licence under section 6(1)(a) of the Act (a generation licence).

REPRESENTATIONS AND TIMETABLE

9. Representations on the issues raised in this document and the proposal are invited by 11 July 2012 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.decc.gov.uk/en/content/cms/meeting_energy/markets/electricity/licence_exemp/licence_exemp.aspx

or obtained from: Chris Chown, Energy Market Design, 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

2012 No. [...]

ELECTRICITY, ENGLAND AND WALES

The Electricity (Exemption from the Requirement for a Generation Licence)
(Middlemoor) (England and Wales) Order 2012

<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).

In accordance with section 5(2) and (3) of that Act the Secretary of State has given notice of the proposal to make this Order. [reference to representations, if any, to be added]

Citation, commencement and extent

1.—(1) This Order may be cited as the Electricity (Exemption from the Requirement for a Generation Licence) (Middlemoor) (England and Wales) Order 2012 and comes into force on [...].

(1) This Order extends to England and Wales only.

Interpretation

2. In this Order—

“the Act” means the Electricity Act 1989;

“Middlemoor Wind Farm” means a generating station of that name located at Ordnance Survey map reference NU153227, approximately 12 kilometres north of Alnwick in Northumberland;

“RWE Npower Renewables Limited” means the company of that name registered in England and Wales with number 02550622;

“total system in England and Wales” has the same meaning as it has in the Electricity (Class Exemptions from the Requirement for a Licence) Order 2001(4).

Exemption from section 4(1)(a) of the Act

3.—(2) Subject to paragraph (2), exemption from section 4(1)(a) of the Act (prohibition on unlicensed generation of electricity for supply) is granted to RWE Npower Renewables Limited in respect of Middlemoor Wind Farm.

(1) The exemption granted by paragraph (1) is subject to compliance with the following conditions—

(3) 1989 c.29; section 5 was substituted by section 29 of the Utilities Act 2000 (c.27).
(4) S.I. 2001/3270; the definitions of “total system in England and Wales”, “total system in Scotland” and “total system in Great Britain” were substituted for the definition of “total system” by the Electricity (Class Exemption from the Requirement for a Licence) (Amendment) Order 2005 (S.I. 2005/488), article 3.

- (a) that RWE Npower Renewables Limited does not hold any licence under section 6(1)(a) of the Act⁽⁵⁾ (a generation licence);
- (b) that Middlemoor Wind Farm is connected to the total system in England and Wales; and
- (c) that, except in circumstances outside the reasonable control of RWE Npower Renewables Limited, Middlemoor Wind Farm does not export more than 100 megawatts of electrical power to the total system in England and Wales.

[Signatory text

Address

Date

Name
Parliamentary Under Secretary of State
Department]

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants exemption from the requirements of section 4(1)(a) of the Electricity Act 1989 (which prohibits the generation of electricity for supply without a licence) to RWE Npower Renewables Limited in relation to Middlemoor Wind Farm in Northumberland.

A regulatory impact assessment in respect of exemptions from the requirements of section 4(1)(a) of the Electricity Act 1989 was prepared in 2001 and can be obtained from the Department of Energy and Climate Change, Energy Markets Unit, 4th Floor, 3 Whitehall Place, London, SW1A 2AW. Copies have been placed in the libraries of both Houses of Parliament.

⁽⁵⁾ Section 6 was substituted by section 30 of the Utilities Act 2000.

