



Department for  
Business, Energy  
& Industrial Strategy

# EXEMPTION FROM THE REQUIREMENT FOR A LICENCE TO GENERATE ELECTRICITY

**PROPOSAL TO MAKE “THE ELECTRICITY (EXEMPTION FROM THE  
REQUIREMENT FOR A GENERATION LICENCE) ORDER 2017 and “THE  
ELECTRICITY (EXEMPTION FROM THE REQUIREMENT FOR A GENERATION  
LICENCE) (No 2) ORDER 2017**

April 2017

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Any enquiries regarding this publication should be sent to us at: Chris Chown, Energy Market Framework, Department for Business, Energy and Industrial Strategy (BEIS), Third Floor, 1 Victoria Street, London SW1H 0ET (telephone: 0300 068 6085; e-mail: [chris.chown@beis.gov.uk](mailto:chris.chown@beis.gov.uk))

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# Executive Summary

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 **orders** under section 5(1) of the Act granting exemption from the requirement to hold a generation licence under section 4(1)(a) of the Act to:

- Heck Fen Wind Park Limited, in respect of the Heckington Fen Wind Park, a 54MW plant located at East Heckington, Lincolnshire.
- Innogy Renewables UK Limited, in respect of the Brechfa Forest West Wind Farm, a 57.4MW plant located at Brechfa, Carmarthenshire.
- Ray Wind Farm Limited in, respect of the Ray Wind Farm, a 54.4MW plant located at Ray Estate, north west of Kirkwhelpington, Northumberland
- RWE Cogen UK Limited, in respect of the Cheshire Power Station, a 85.5MW plant located at Ellesmere Port, South Wirral, Cheshire
- Snowdonia Pumped Hydro Limited, in respect of the Glyn Rhonwy Pumped Hydro, a 99.9MW plant located north west of Llanberis, Gwynedd.

## **And:**

- Banks Renewables (Kype Muir Wind Farm) Limited, in respect of Kype Muir Wind Farm, a 88.4MW plant located south of Strathaven, South Lanarkshire.
- Banks Renewables (Middle Muir Wind Farm) Limited, in respect of Middle Muir Wind Farm, a 51MW plant located north of Crawfordjohn, South Lanarkshire.
- Brockloch Rig Windfarm Limited, in respect of Brockloch Rig Windfarm (also known as Windy Standard 2 Windfarm), a 61.5MW plant located north north east of Carsphairn, Dumfries and Galloway.

The Secretary of State’s reasons for making such orders in 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 (Exemption from the Requirement for a Generation Licence) Order 2017 and “The Electricity (Exemption from the Requirement for a Generation Licence) (No 2) Order 2017. The terms of the proposed draft order are set out in the appendix to the document.

Representations may be made with respect to the proposals in the document by 2nd May 2017 to:-

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London  
SW1H 0ET*

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# Notice

## **EXEMPTION FROM THE REQUIREMENT FOR A LICENCE TO GENERATE ELECTRICITY: PROPOSAL TO MAKE “THE ELECTRICITY (EXEMPTION FROM THE REQUIREMENT FOR A GENERATION LICENCE) ORDER 2017 and “THE ELECTRICITY (EXEMPTION FROM THE REQUIREMENT FOR A GENERATION LICENCE) (No 2) ORDER 2017**

### **INTRODUCTION**

1. The Secretary of State proposes to make Orders (“the Orders”) 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:

- Heck Fen Wind Park Limited, in respect of the Heckington Fen Wind Park, a 54MW plant located at East Heckington, Lincolnshire.
- Innogy Renewables UK Limited, in respect of the Brechfa Forest West Wind Farm, a 57.4MW plant located at Brechfa, Carmarthenshire.
- Ray Wind Farm Limited in, respect of the Ray Wind Farm, a 54.4MW plant located at Ray Estate, north west of Kirkwhelpington, Northumberland
- RWE Cogen UK Limited, in respect of the Cheshire Power Station, a 85.5MW plant located at Ellesmere Port, South Wirral, Cheshire
- Snowdonia Pumped Hydro Limited, in respect of the Glyn Rhonwy Pumped Hydro, a 99.9MW plant located north west of Llanberis, Gwynedd.

#### **And:**

- Banks Renewables (Kype Muir Wind Farm) Limited, in respect of Kype Muir Wind Farm, a 88.4MW plant located south of Strathaven, South Lanarkshire.
- Banks Renewables (Middle Muir Wind Farm) Limited, in respect of Middle Muir Wind Farm, a 51MW plant located north of Crawfordjohn, South Lanarkshire.
- Brockloch Rig Windfarm Limited, in respect of Brockloch Rig Windfarm (also known as Windy Standard 2 Windfarm), a 61.5MW plant located north north east of Carsphairn, Dumfries and Galloway.

2. The Secretary of State is proposing to make the Orders subject to the conditions specified in the attached draft Orders and summarised in paragraph 8 below, and to the views of consultees. This document explains why the Secretary of State is proposing to make these Orders.

## LEGISLATIVE BACKGROUND

3. 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.
4. On 1 October 2001, the Electricity (Class Exemptions from the Requirement for a Licence) Order 2001 (“the Class Exemptions Order”) came into force. Among other things, the Class Exemptions Order continued the ‘Class C exemption’ previously comprised in the Electricity (Class Exemptions from the Requirement for a Licence) (England and Wales) Order 1997 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).

## POLICY BACKGROUND

5. The Class C exemption does not exempt those who propose to operate plants which did not have existing energised connections on **30 September 2000** – even where those plants export no more than 100 MW to the total system. Consequently, generators with new plant similar in size to that set out in the Class C exemption which were not connected to the total system on 30 September 2000 must apply to the Secretary of State for individual exemption pursuant to section 5 of the Electricity Act or obtain a licence.
6. In determining whether such applications have merit, BEIS’s starting assumption is that all generation of electricity should be licensed, unless applicants can demonstrate that exemption does not pose a threat to the safe and secure operation of the electricity system or the interests of consumers. In such cases, BEIS considers that expecting applicants to meet the costs and obligations of a licence is disproportionate and that individual exemption should be given.

## REASON FOR PROPOSED ORDERS

7. Taking account of the level of the electrical power that could be exported to the total system in Great Britain by the power stations listed at paragraph 1, the Secretary of State has provisionally concluded that the connection of these plants to the system would not adversely affect network operation and that it would not be appropriate to require them to hold an electricity generation licence in respect of the stations. He is therefore proposing to make the exemptions.

## CONDITIONS

8. The conditions proposed to be included in respect of any such exemption are that:
- the generating stations are connected to the total system in Great Britain;
  - except in circumstances outside the reasonable control of the operator, the generating stations are not normally capable of exporting more electrical power than 100 megawatts to the total system; and
  - the parties do not hold a generation licence under section 6(1)(a) of the Electricity Act.

## REPRESENTATIONS AND TIMETABLE

9. Representations on the issues raised in this document and the proposal are invited by 2 May 2017 and should be made to: Chris Chown, Energy Market Framework, Department for Business, Energy and Industrial Strategy, Third Floor, 1 Victoria Street, London SW1H 0ET (telephone: 0300 068 6085; e-mail: [chris.chown@beis.gov.uk](mailto:chris.chown@beis.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.legislation.gov.uk/uksi/2004/1776/pdfs/uksiem\\_20041776\\_en.pdf](http://www.legislation.gov.uk/uksi/2004/1776/pdfs/uksiem_20041776_en.pdf)

or obtained from: Chris Chown, Energy Market Framework, Department for Business, Energy and Industrial Strategy, Third Floor, 1 Victoria Street, London SW1H 0ET (telephone: 0300 068 6085; e-mail: [chris.chown@beis.gov.uk](mailto:chris.chown@beis.gov.uk))



# Draft Orders

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## STATUTORY INSTRUMENTS

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**2017 No.**

### **ELECTRICITY**

#### **The Electricity (Exemptions from the Requirement for a Generation Licence) Order 2017**

<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<sup>(1)</sup>.

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. No representations in respect of the proposal have been made.

#### **Citation and commencement**

1. This Order may be cited as the Electricity (Exemptions from the Requirement for a Generation Licence) Order 2017 and comes into force on ..... 2017.

#### **Interpretation**

2. In this Order—

“the Act” means the Electricity Act 1989;

“the 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<sup>(2)</sup>.

#### **Exemptions from section 4(1)(a) of the Act**

3.—(1) Subject to paragraph (2), each company named in the first column of the following table is granted exemption from section 4(1)(a) of the Act (prohibition of unlicensed generation of electricity for supply) in respect of the electricity generating station described in the corresponding entry in the second column.

<sup>(1)</sup> 1989 c. 29. Section 5 was substituted by section 29 of the Utilities Act 2000 (c.27).

<sup>(2)</sup> Section 6 was substituted by section 30 of the Utilities Act 2000, and section 6(1)(b) was further substituted by section 136(1) of the Energy Act 2004 (c. 20).

<i>Company</i>	<i>Description of electricity generating station</i>
Heck Fen Wind Park Limited, a company registered in England and Wales with company number 08323021.	Heckington Fen Wind Park, whose entrance is located at Ordnance Survey map reference TF 205 457, at East Heckington, Lincolnshire.
Innogy Renewables UK Limited, a company registered in England and Wales with company number 02550622.	Brechfa Forest West Wind Farm, whose entrance is located at Ordnance Survey map reference SN 460 349, approximately 2 kilometres south east of Pencader, Carmarthenshire.
Ray Wind Farm Limited, a company registered in England and Wales with company number 09397602.	Ray Wind Farm, whose entrance is located at Ordnance Survey map reference NY 965 884, at Ray Estate, approximately 5 kilometres north west of Kirkwhelpington, Northumberland.
RWE Cogen UK Limited, a company registered in England and Wales with company number 02624987.	Cheshire Power Station whose entrance is located at Ordnance Survey map reference SJ 392 783, Ellesmere Port, South Wirral, Cheshire CH65 1AF.
Snowdonia Pumped Hydro Limited, a company registered in England and Wales with company number 08644844.	Glyn Rhonwy Pumped Hydro, whose entrance is located at Ordnance Survey map reference SH 567 608, approximately 1 kilometre north west of Llanberis, Gwynedd.

(2) Each of the exemptions granted by paragraph (1) is subject to compliance with the conditions specified in the Schedule in relation to that exemption.

*Name*  
Parliamentary Under Secretary of State

Date Department for Business, Energy and Industrial Strategy

## SCHEDULE

Article 3(2)

### Conditions applying to exemptions

**1.** The exemption granted by article 3(1) to Heck Fen Wind Park Limited in respect of Heckington Fen Wind Park is subject to the conditions that—

- (a) Heckington Fen Wind Park is connected to the total system;
- (b) except in circumstances outside the reasonable control of Heck Fen Wind Park Limited, Heckington Fen Wind Park does not export more than 100 megawatts of electrical power to the total system; and
- (c) Heck Fen Wind Park Limited does not hold a licence under section 6(1)(a) of the Act.

**2.** The exemption granted by article 3(1) to Innogy Renewables UK Limited in respect of Brechfa Forest West Wind Farm is subject to the conditions that—

- (a) Brechfa Forest West Wind Farm is connected to the total system;
- (b) except in circumstances outside the reasonable control of Innogy Renewables UK Limited, Brechfa Forest West Wind Farm does not export more than 100 megawatts of electrical power to the total system; and
- (c) Innogy Renewables UK Limited does not hold a licence under section 6(1)(a) of the Act.

**3.** The exemption granted by article 3(1) to Ray Wind Farm Limited in respect of Ray Wind Farm is subject to the conditions that—

- (a) Ray Wind Farm is connected to the total system;
- (b) except in circumstances outside the reasonable control of Ray Wind Farm Limited, Ray Wind Farm does not export more than 100 megawatts of electrical power to the total system; and

(c) Ray Wind Farm Limited does not hold a licence under section 6(1)(a) of the Act.

4. The exemption granted by article 3(1) to RWE Cogen UK Limited in respect of Cheshire Power Station is subject to the conditions that—

- (a) Cheshire Power Station is connected to the total system;
- (b) except in circumstances outside the reasonable control of RWE Cogen UK Limited, Cheshire Power Station does not export more than 100 megawatts of electrical power to the total system; and
- (c) RWE Cogen UK Limited does not hold a licence under section 6(1)(a) of the Act.

5. The exemption granted by article 3(1) to Snowdonia Pumped Hydro Limited in respect of Glyn Rhonwy Pumped Hydro is subject to the conditions that—

- (a) Glyn Rhonwy Pumped Hydro is connected to the total system;
- (b) except in circumstances outside the reasonable control of Snowdonia Pumped Hydro Limited, Glyn Rhonwy Pumped Hydro does not export more than 100 megawatts of electrical power to the total system; and
- (c) Snowdonia Pumped Hydro Limited does not hold a licence under section 6(1)(a) of the Act.

#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order grants exemptions from section 4(1)(a) of the Electricity Act 1989 (which prohibits the generation of electricity for supply to any premises without a licence) in relation to five electricity generating stations in England and Wales. The companies granted exemptions are:

- Heck Fen Wind Park Limited, in relation to Heckington Fen Wind Park, whose entrance is located at Ordnance Survey map reference TF 205 457, at East Heckington, Lincolnshire;
- Innogy Renewables UK Limited, in relation to Brechfa Forest West Wind Farm, whose entrance is located at Ordnance Survey map reference SN 460 349, approximately 2 kilometres south east of Pencader, Carmarthenshire;
- Ray Wind Farm Limited, in relation to Ray Wind Farm, whose entrance is located at Ordnance Survey map reference NY 965 884, at Ray Estate, approximately 5 kilometres north west of Kirkwhelpington, Northumberland;
- RWE Cogen UK Limited, in relation to Cheshire Power Station, whose entrance is located at Ordnance Survey map reference SJ 392 783, Ellesmere Port, South Wirral, Cheshire CH65 1AF;
- Snowdonia Pumped Hydro Limited, in relation to Glyn Rhonwy Pumped Hydro, whose entrance is located at Ordnance Survey map reference SH 567 608, approximately 1 kilometre north west of Llanberis, Gwynedd.

**2017 No.**

**ELECTRICITY**

**The Electricity (Exemptions from the Requirement for a Generation Licence)  
(No. 2) Order 2017**

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

The Secretary of State, after consulting with the Scottish Ministers, makes the following Order in exercise of the powers conferred by section 5 of the Electricity Act 1989<sup>(3)</sup>.

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. No representations in respect of the proposal have been made.

**Citation and commencement**

1. This Order may be cited as the Electricity (Exemptions from the Requirement for a Generation Licence) (No. 2) Order 2017 and comes into force on ..... 2017.

**Interpretation**

2. In this Order—

“the Act” means the Electricity Act 1989;

“the 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<sup>(4)</sup>.

**Exemptions from section 4(1)(a) of the Act**

3.—(1) Subject to paragraph (2), each company named in the first column of the following table is granted exemption from section 4(1)(a) of the Act (prohibition of unlicensed generation of electricity for supply) in respect of the electricity generating station described in the corresponding entry in the second column.

<sup>(3)</sup> 1989 c. 29. Section 5 was substituted by section 29 of the Utilities Act 2000 (c.27). Under article 4 of, and Schedule 3 to, the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750), functions under section 5(1) of the Electricity Act 1989 are, in so far as they are exercisable in or as regards Scotland, exercisable only after consultation with the Scottish Ministers.

<sup>(4)</sup> Section 6 was substituted by section 30 of the Utilities Act 2000, and section 6(1)(b) was further substituted by section 136(1) of the Energy Act 2004 (c. 20).

<i>Company</i>	<i>Description of electricity generating station</i>
Banks Renewables (Kype Muir Wind Farm) Limited, a company registered in England and Wales with company number 06917667.	Kype Muir Wind Farm, whose entrance is located at Ordnance Survey map reference NS 690 401, approximately 5 kilometres south of Strathaven, South Lanarkshire.
Banks Renewables (Middle Muir Wind Farm) Limited, a company registered in England and Wales with company number 07376956.	Middle Muir Wind Farm, whose entrance is located at Ordnance Survey map reference NS 867 273, approximately 2 kilometres north of Crawfordjohn, South Lanarkshire.
Brockloch Rig Windfarm Limited, a company registered in Scotland with company number SC149100.	Brockloch Rig Windfarm (also known as Windy Standard 2 Windfarm), located at Ordnance Survey map reference NS 601 043, approximately 11 kilometres north-northeast of Carsphairn, Dumfries and Galloway.

(2) Each of the exemptions granted by paragraph (1) is subject to compliance with the conditions specified in the Schedule in relation to that exemption.

*Name*  
Parliamentary Under Secretary of State

Address  
Date Department for Business, Energy and Industrial Strategy

## SCHEDULE

Article 3(2)

### Conditions applying to exemptions

**1.** The exemption granted by article 3(1) to Banks Renewables (Kype Muir Wind Farm) Limited in respect of Kype Muir Wind Farm is subject to the conditions that—

- (a) Kype Muir Wind Farm is connected to the total system;
- (b) except in circumstances outside the reasonable control of Banks Renewables (Kype Muir Wind Farm) Limited, Kype Muir Wind Farm does not export more than 100 megawatts of electrical power to the total system; and
- (c) Banks Renewables (Kype Muir Wind Farm) Limited does not hold a licence under section 6(1)(a) of the Act.

**2.** The exemption granted by article 3(1) to Banks Renewables (Middle Muir Wind Farm) Limited in respect of Middle Muir Wind Farm is subject to the conditions that—

- (a) Middle Muir Wind Farm is connected to the total system;
- (b) except in circumstances outside the reasonable control of Banks Renewables (Middle Muir Wind Farm) Limited, Middle Muir Wind Farm does not export more than 100 megawatts of electrical power to the total system; and
- (c) Banks Renewables (Middle Muir Wind Farm) Limited does not hold a licence under section 6(1)(a) of the Act.

**3.** The exemption granted by article 3(1) to Brockloch Rig Windfarm Limited in respect of Brockloch Rig Windfarm is subject to the conditions that—

- (a) Brockloch Rig Windfarm is connected to the total system;
- (b) except in circumstances outside the reasonable control of Brockloch Rig Windfarm Limited, Brockloch Rig Windfarm does not export more than 100 megawatts of electrical power to the total system; and
- (c) Brockloch Rig Windfarm Limited does not hold a licence under section 6(1)(a) of the Act.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order grants exemptions from section 4(1)(a) of the Electricity Act 1989 (which prohibits the generation of electricity for supply to any premises without a licence) in relation to three electricity generating stations in Scotland. The companies granted exemptions are:

- Banks Renewables (Kype Muir Wind Farm) Limited, in relation to Kype Muir Wind Farm, an electricity generating station whose entrance is located at Ordnance Survey map reference NS 690 401, approximately 5 kilometres south of Strathaven, South Lanarkshire;
- Banks Renewables (Middle Muir Wind Farm) Limited, in relation to Middle Muir Wind Farm, an electricity generating station whose entrance is located at Ordnance Survey map reference NS 867 273, approximately 2 kilometres north of Crawfordjohn, South Lanarkshire; and
- Brockloch Rig Windfarm Limited, in respect of Brockloch Rig Windfarm (also known as Windy Standard 2 Windfarm), an electricity generating station located at Ordnance Survey map reference NS 601 043, approximately 11 kilometres north-northeast of Carsphairn, Dumfries and Galloway.

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 for Business, Energy and Industrial Strategy, Energy Markets Unit, 1 Victoria Street, London SW1H 0ET. Copies have been placed in the libraries of both Houses of Parliament.