



Department for
Business, Energy
& Industrial Strategy

EXEMPTION FROM THE REQUIREMENT FOR A LICENCE TO GENERATE ELECTRICITY

Proposal to make The Electricity (Individual Exemptions from the Requirement for a Generation Licence) and Utilities Act 2000 (Amendment of Section 105) Order 2019



OGL

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Contents

Executive Summary	4
Introduction	5
Legislative background	5
Exemptions policy	6
Reason for proposed orders	6
Conditions	6
Representation and timetable	7
Regulatory Impact Assessment	7
Draft order	7

Executive Summary

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

1. Innogy Renewables UK Ltd, in respect of Clocaenog Forest Wind Farm, a 96MW capacity plant located in Clocaenog Forest in North Wales.
2. Blackcraig Windfarm (Scotland) Limited, in respect of Blackcraig Wind Farm, a 52MW capacity plant located in Dumfries and Galloway, Scotland.

The Secretary of State’s reasons for making this order in the terms proposed are set out in the document entitled “Exemptions from the Requirement for a Licence to Generate Electricity: Proposal to Make The Electricity (Individual Exemptions from the Requirement for a Generation Licence) and Utilities Act 2000 (Amendment of Section 105) Order 2019. The terms of the proposed draft exemption order are set out in the appendix to that document.

Representations may be made with respect to the proposals in the document by 29th April 2019 addressed to:

Chris Chown
Energy Markets & Affordability
Department for Business, Energy and Industrial Strategy (BEIS)
Third Floor
1 Victoria Street
London SW1H 0ET

telephone: 0300 068 6085
email: chris.chown@beis.gov.uk

Introduction

1. The Secretary of State proposes to make the draft The Electricity (Individual Exemptions from the Requirement for a Generation Licence) and Utilities Act 2000 (Amendment of Section 105) Order 2019 under section 5(1) of the Electricity Act 1989 (“the Electricity Act”), as amended by the Utilities Act 2000, granting exemptions from the requirement to hold a generation licence to:
 - Innogy Renewables UK Ltd, in respect of Clocaenog Forest Wind Farm, a 96MW capacity plant located in Clocaenog Forest in North Wales.
 - Blackcraig Windfarm (Scotland) Limited, in respect of Blackcraig Wind Farm, a 52MW capacity plant located in Dumfries and Galloway, Scotland.
2. The Secretary of State is proposing to make the draft Order subject to the conditions specified in the draft Order and summarised in paragraph 8 below. This document explains why the Secretary of State is proposing to make this draft Order.

Amendment of Utilities Act 2000

3. This Order will also amend section 105 of the Utilities Act. This provision will be inserted after the conclusion of the notice period in respect of the proposed generation licence exemptions

Legislative background

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 they hold a licence or exemption from the requirement to hold a licence. 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 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 to the Class Exemptions Order).
6. 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 under section 5 of the Electricity Act or obtain a licence.

Exemptions policy

7. The BEIS exemptions policy ‘Electricity Generation, Distribution and Supply Licence Exemptions – FAQs’¹ sets out the policy relating to class exemptions and individual exemptions. The general policy is that applications for individual generation exemptions should only be considered in respect of stations of less than 100MW capacity, whilst stations capable of exporting **more** than 100MW should be licensed. This is because plant of less than 100MW capacity will “generally have a low impact on the total electricity system and it is considered appropriate therefore that, subject to consultation, such stations be exempted from the same degree of system regulation (and costs) as imposed by standard licensing conditions”.
8. The policy also requires applicants to demonstrate that exemption “does not pose a threat to the safe and secure operation of the electricity system or the interests of consumers and why it would be disproportionate to meet the costs and obligations of a licence”.

Reason for proposed orders

9. The Secretary of State has carefully considered the applications to grant exemptions in respect of the two generating stations listed in paragraph 1 above. Both applications concern stations of less than 100MW capacity. Taking account of the amount of electrical power that could be exported to the total system in Great Britain by these stations, the Secretary of State has provisionally concluded that these exemptions would generally have a low impact on the total electricity system. The exemptions would not pose a threat to the safe and secure operation of the electricity system or the interests of consumers. Additionally, it would be disproportionate to require the applicants to meet the costs and obligations of holding electricity generation licences in respect of the stations. He is therefore proposing to grant the exemptions through the attached draft Electricity (Exemptions from the Requirement for a Generation Licence) (England and Wales) Order 2019.

Conditions

10. The conditions proposed to be included in respect of any such exemption are that:
 - The generating stations are connected to the total system in England and Wales;
 - 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 in England and Wales; and
 - The parties do not hold a generation licence under section 6(1)(a) of the Electricity Act.

¹www.gov.uk/government/uploads/system/uploads/attachment_data/file/617786/Exemption_FAQs_updated_June_2017rg.pdf

Representation and timetable

11. Representations on the issues raised in this document and the proposal may be made by 29th April 2019 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; email: chris.chown@beis.gov.uk)

Regulatory Impact Assessment

12. A Regulatory Impact Assessment has not been made in respect of the draft The Electricity (Individual Exemptions from the Requirement for a Generation Licence) and Utilities Act 2000 (Amendment of Section 105) Order 2019. A general 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, Wholesale Energy Markets Division, 1 Victoria Street, London SW1H 0ET. Copies have been placed in the libraries of both Houses of Parliament.

S T A T U T O R Y I N S T R U M E N T S

2019 No.****

ELECTRICITY

**The Electricity (Individual Exemptions from the Requirement
for a Generation Licence) and Utilities Act 2000 (Amendment of
Section 105) Order 2019**

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

The Secretary of State, in exercise of the powers conferred by section 5 of the Electricity Act 1989(a), makes the following Order. [Further powers will be cited in respect of the Utilities Act 2000 amendment]

The Secretary of State has given notice of the proposal to make this Order, in accordance with sections 5(2) and 5(3) of that Act, and consulted with the Scottish Ministers(b). [No representations in respect of the proposal have been made.]

Citation and commencement

1. This Order may be cited as the Electricity (Individual Exemptions from the Requirement for a Generation Licence) and Utilities Act 2000 (Amendment of Section 105) Order 2019 and comes into force on ***.

Interpretation

2. In this Order—

“the Act” means the Electricity Act 1989;

“Blackcraig Wind Farm (Scotland) Limited” means the company of that name registered in Scotland with number SC493311;

“Blackcraig Wind Farm” means the electricity generating station known as Blackcraig Wind Farm whose entrance is situated at Ordnance Survey map reference [xxxxxxx], in Dumfries and Galloway;

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

“Clocaenog Forest Wind Farm” means the electricity generating station known as Clocaenog Forest Wind Farm whose entrance is situated at Ordnance Survey map reference [xxxxxxx], in Clocaenog Forest, in north Wales;

(a) 1989 c.29; section 5 was substituted by section 29 of the Utilities Act 2000 (c.27).

(b) Pursuant to 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)

“licensed generator” means the holder of a licence under section 6(1)(a) of the Act;

“the total system” means—

- (a) the transmission system of the holder of a licence under section 6(1)(b) of the Act; and
 - (b) all distribution systems,
- in each case, to the extent located in Great Britain.

Exemptions from prohibition of unlicensed generation of electricity for supply

3. Exemption is granted from section 4(1)(a) of the Act to—

- (a) Blackcraig Wind Farm (Scotland) Limited in respect of Blackcraig Wind Farm; and
- (b) Innogy Renewables UK Limited in respect of Clocaenog Forest Wind Farm.

Conditions on exemptions

4. The exemption granted by article 3(a) of this Order is subject to compliance with the following conditions—

- (a) Blackcraig Wind Farm is connected to the total system in England and Wales;
- (b) Blackcraig Wind Farm does not export more than 100 megawatts of electrical power to the total system, except in circumstances outside the reasonable control of Blackcraig Wind Farm (Scotland) Limited; and
- (c) Blackcraig Wind Farm (Scotland) Limited is not a licensed generator.

5. The exemption granted by article 3(b) of this Order is subject to compliance with the following conditions—

- (a) Clocaenog Forest Wind Farm is connected to the total system in England and Wales;
- (b) Clocaenog Forest Wind Farm does not export more than 100 megawatts of electrical power to the total system in England and Wales, except in circumstances outside the reasonable control of Innogy Renewables UK Limited; and
- (c) Innogy Renewables UK Limited is not a licensed generator.

[This Order will also amend section 105 of the Utilities Act 2000. This provision will be inserted after the conclusion of the notice period in respect of the proposed generation licence exemptions.]

Claire Perry
Minister of State

Date

Department of Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants exemptions from the requirements of 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 two electricity generating stations. The companies granted exemptions are:

- Blackcraig Wind Farm (Scotland) Limited in respect of Blackcraig Wind Farm, an electricity generating station whose entrance is situated at Ordnance Survey map reference [xxxxxxx], in Dumfries and Galloway.
- Innogy Renewables UK Limited in respect of Clocaenog Forest Wind Farm, an electricity generating station whose entrance is situated at Ordnance Survey map reference [xxxxxxx] in Clocaenog Forest, in north Wales.

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, Wholesale Energy Markets Division, 1 Victoria Street, London SW1H 0ET. Copies have been placed in the libraries of both Houses of Parliament.

[This Order will also amend section 105 of the Utilities Act 2000. Explanatory note text regarding this provision will be inserted after the conclusion of the notice period in respect of the proposed generation licence exemptions.]

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