



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) (England) Order 2020

March 2020



OGL

© Crown copyright 2020

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at: enquiries@beis.gov.uk

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	8

Executive Summary

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

- Lostock Sustainable Energy Plant Limited, in respect of Lostock Sustainable Energy Plant, 90 MW plant located at Lostock Works Site, Griffiths Road, Northwich, Cheshire.
- Rookery South Limited, in respect of Rookery South Energy Recovery Facility, 72.6 MW plant located at Rookery Pit, off Green Lane, Stewartby, Bedford.

The Secretary of State’s reasons for making this order in the terms proposed are set out in the document entitled “Exemption from the Requirement for a Licence to Generate Electricity: Proposal to Make The Electricity (Individual Exemptions from the Requirement for a Generation Licence) (England) Order 2020”. 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 proposal in the document by **24th April 2020** addressed to: -

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

telephone: 0207 215 1060
email: vishnu.nair@beis.gov.uk

Introduction

1. The Secretary of State, pursuant to section 5(2) and (3) of the Electricity Act 1989 (“the Electricity Act”) as amended, hereby gives notice that he proposes to make an order under section 5(1) of the Electricity Act granting exemptions from the requirement to hold a generation licence under section 4(1)(a) of the Electricity Act to:
 - Lostock Sustainable Energy Plant Limited, in respect of Lostock Sustainable Energy Plant, 90 MW plant located at Lostock Works Site, Griffiths Road, Northwich, Cheshire.
 - Rookery South Limited, in respect of Rookery South Energy Recovery Facility, 72.6 MW plant located at Rookery Pit, off Green Lane, Stewartby, Bedford.
2. The Secretary of State’s reasons for making this order in the terms proposed are set out in the document entitled “Exemption from the Requirement for a Licence to Generate Electricity: Proposal to Make The Electricity (Individual Exemptions from the Requirement for a Generation Licence) (England) Order 2020”.

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 they 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.
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 to the Class Exemptions Order).
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 100MW 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

6. 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”.
7. 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

8. 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) Order 2020.

Conditions

9. The conditions proposed to be included in respect of any such exemption are that:
 - Lostock Sustainable Energy Plant is connected to the total system;
 - Lostock Sustainable Energy Plant does not export more than 100 megawatts of electrical power to the total system, except in circumstances outside the reasonable control of Lostock Sustainable Energy Plant Limited; and
 - Lostock Sustainable Energy Plant Limited is not a licensed generator.
 - Rookery South Energy Recovery Facility is connected to the total system;

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

- Rookery South Energy Recovery Facility does not export more than 100 megawatts of electrical power to the total system, except in circumstances outside the reasonable control of Rookery South Limited; and
- Rookery South Limited is not a licensed generator.

Representation and timetable

10. Representations on the issues raised in this document and the proposal may be made by 24th April 2020 and should be made to: Vishnu Nair, Wholesale Electricity Markets, Energy Markets & Affordability, Department for Business, Energy and Industrial Strategy, Third Floor, 1 Victoria Street, London SW1H 0ET (telephone: 0207 215 1060; email: vishnu.nair@beis.gov.uk)

Regulatory Impact Assessment

11. A Regulatory Impact Assessment has not been made in respect of the draft Electricity (Individual Exemptions from the Requirement for a Generation Licence) (England) Order 2020. 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 Electricity Markets, Energy Markets & Affordability, Third Floor, 1 Victoria Street, London SW1H 0ET. Copies have been placed in the libraries of both Houses of Parliament.

Draft Order

STATUTORY INSTRUMENTS

2020 No. ****

ELECTRICITY (ENGLAND)

The Electricity (Individual Exemptions from the Requirement for a Generation Licence) (England) Order 2020

<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(a).

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. [Confirm position in relation to representations following consultation].

Citation and commencement

1. This Order may be cited as the Electricity (Individual Exemptions from the Requirement for a Generation Licence) (England) Order 2020 and comes into force on [****].

Interpretation

2. In this Order—

“the Act” means the Electricity Act 1989;

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

“Lostock Sustainable Energy Plant” means the electricity generating station known as Lostock Sustainable Energy Plant on Griffiths Road in Northwich, Cheshire, whose entrance is situated at Ordnance Survey map reference SJ683740;

“Lostock Sustainable Energy Plant Limited” means the company of that name registered in England and Wales with company number 09511491;

“Rookery South Energy Recovery Facility” means the electricity generating station known as Rookery South Energy Recovery Facility at Rookery Pit, off Green Lane, in Stewartby, Bedford whose entrance is situated at Ordnance Survey map reference TL014411;

“Rookery South Limited” means the company of that name registered in England and Wales with company number 07094843;

(a) 1989 c. 29; section 5 was substituted by section 29 of the Utilities Act 2000 (c. 27). Section 5 has been amended by other instruments, but those amendments are not relevant to this Order.

“the total system” means all transmission systems and distribution systems, located in England and Wales, of holders of licences under section 6(1)(b) and (c) of the Act(a).

Exemptions from prohibition of unlicensed generation of electricity for supply

3. Exemption is granted from section 4(1)(a) of the Act (prohibition of unlicensed generation of electricity for supply) to—

- (a) Lostock Sustainable Energy Plant Limited in respect of Lostock Sustainable Energy Plant; and
- (b) Rookery South Limited in respect of Rookery South Energy Recovery Facility.

Conditions on exemptions

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

- (a) Lostock Sustainable Energy Plant is connected to the total system;
- (b) Lostock Sustainable Energy Plant does not export more than 100 megawatts of electrical power to the total system, except in circumstances outside the reasonable control of Lostock Sustainable Energy Plant Limited; and
- (c) Lostock Sustainable Energy Plant 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) Rookery South Energy Recovery Facility is connected to the total system;
- (b) Rookery South Energy Recovery Facility does not export more than 100 megawatts of electrical power to the total system, except in circumstances outside the reasonable control of Rookery South Limited; and
- (c) Rookery South Limited is not a licensed generator.

Kwasi Kwarteng
Minister of State

Date

Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Order)

Article 3 of 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 in England. The companies granted exemptions are:

- Lostock Sustainable Energy Plant Limited in respect of Lostock Sustainable Energy Plant; and
- Rookery South Limited in respect of Rookery South Energy Recovery Facility.

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

(a) Section 6 was substituted by section 30 of the Utilities Act 2000. Section 6(1)(b) was further substituted by section 136(1) of the Energy Act 2004. Section 6(1)(c) was amended by the Energy Act 2004. Section 6 has been amended by other instruments, but those amendments are not relevant to this Order

This publication is available from: www.gov.uk/government/publications/electricity-generation-licence-exemption-lostock-sustainable-energy-plant-ltd-and-rookery-south-ltd

If you need a version of this document in a more accessible format, please email enquiries@beis.gov.uk. Please tell us what format you need. It will help us if you say what assistive technology you use.