



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) (Kype Muir Extension Windfarm) Order 2021



© Crown copyright 2021

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](https://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](mailto: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](mailto:enquiries@beis.gov.uk)

---

# Contents

Executive Summary	4
Introduction	5
Legislative background	5
Exemptions policy	5
Reason for proposed orders	6
Conditions	6
Representation and timetable	6
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:

- Banks Renewables (Harting Rig Wind Farm) Limited in respect of the Kype Muir Extension Wind Farm, a 67.2MW plant located approximately 6.5km to the South of Strathaven, South Lanarkshire. 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 Exemption from the Requirement for a Generation Licence) (Kype Muir Extension Windfarm Limited) Order 2021.” 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 **20 April 2021** addressed to: -

*Chris Chown, Wholesale Electricity Markets, e-mail: [chris.chown@beis.gov.uk](mailto:chris.chown@beis.gov.uk)*

## Introduction

1. The Secretary of State proposes to make the Electricity (Individual Exemption from the Requirement for a Generation Licence) (Kype Muir Extension Windfarm) Order 2021 (“the draft Order”) under section 5(1) of the Electricity Act 1989 (“the Electricity Act”), as amended, granting exemptions from the requirement to hold a generation licence to:
  - Banks Renewables (Harting Rig Wind Farm) Limited in respect of the Kype Muir Extension Wind Farm, a 67.2MW plant located approximately 6.5km to the South of Strathaven, South Lanarkshire.

## Legislative background

2. 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.
3. 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).
4. 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

5. The BEIS exemptions policy ‘Electricity Generation, Distribution and Supply Licence Exemptions – FAQs’<sup>1</sup> 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,

---

<sup>1</sup>[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/617786/Exemption\\_FAQs\\_updated\\_June\\_2017rg.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/617786/Exemption_FAQs_updated_June_2017rg.pdf)

## Generation Licence Exemption

such stations be exempted from the same degree of system regulation (and costs) as imposed by standard licensing conditions”.

6. 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

7. The Secretary of State has carefully considered the application to grant exemption in respect of the generating station listed in paragraph 1 above. The application concerns a station of less than 100MW capacity. Taking account of the amount of electrical power that could be exported to the total system in England and Wales by this station, the Secretary of State has provisionally concluded that this exemption would generally have a low impact on the total electricity system. The exemption 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 applicant to meet the costs and obligations of holding a electricity generation licence in respect of the station. The Secretary of State is therefore proposing to grant the exemption through the attached draft the Electricity (Individual Exemption from the Requirement for a Generation Licence) (Kype Muir Extension Windfarm) Order 2021.

## Conditions

8. The conditions proposed to be included in respect of any such exemption are that:
  - The generating station is connected to the total system ;
  - Except in circumstances outside the reasonable control of the operator, the generating station is not normally capable of exporting more electrical power than 100 megawatts to the total system ; and
  - The applicant does not hold a generation licence under section 6(1)(a) of the Electricity Act 1989.

## Representation and timetable

9. Any representations on the issues raised in this document and the proposal must be made **by 20 April 2021** and should be made to: Chris Chown (email: [chris.chown@beis.gov.uk](mailto:chris.chown@beis.gov.uk))

# Regulatory Impact Assessment

10. A Regulatory Impact Assessment has not been made in respect of the draft the Electricity (Individual Exemption from the Requirement for a Generation Licence) (Kype Muir Extension Windfarm) Order 2021. 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 Wholesale Electricity Markets, 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.

# Draft Order

---

STATUTORY INSTRUMENTS

---

2021 No. \*\*\*\*

## ELECTRICITY

### The Electricity (Individual Exemption from the Requirement for a Generation Licence) (Kype Muir Extension Wind Farm) Order 2021

<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(1) of the Electricity Act 1989<sup>(2)</sup>.

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<sup>(3)</sup>.

#### Citation, commencement and extent

1.—(1) This Order may be cited as the Electricity (Individual Exemption from the Requirement for a Generation Licence) (Kype Muir Extension Wind Farm) Order 2021 and comes into force on \*\*\*.

(2) This Order extends to England and Wales and Scotland.

#### Interpretation

2. In this Order—

“the Act” means the Electricity Act 1989;

“Banks Renewables (Harting Rig Wind Farm) Limited” means the company of that name registered in England and Wales with company number 08791006;

“Kype Muir Extension Wind Farm” means the electricity generating station known as Kype Muir Extension Wind Farm south of Strathaven in Lanarkshire, Scotland, whose entrance is situated at Ordnance Survey map reference NS710378;

“the total system” means all transmission systems and distribution systems, located in Great Britain, of holders of licenses under section 6(1)(b) and (c) of the Act<sup>(4)</sup>.

---

<sup>(2)</sup> 1989 c. 29; section 5 was substituted by section 29 of the Utilities Act 2000 (c. 27).

<sup>(3)</sup> 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, only exercisable 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).





---

This publication is available from: [www.gov.uk/government/publications/electricity-generation-licence-requirement-proposed-exemption-for-kype-muir-extension-windfarm](http://www.gov.uk/government/publications/electricity-generation-licence-requirement-proposed-exemption-for-kype-muir-extension-windfarm)

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