



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) (Scotland) Order 2022



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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:

- Creag Riabhach Wind Farm Ltd in respect of the Creag Riabhach Wind Farm, a 92.4MW plant located in Scotland in The Highland Council area, at approximately 85km north of Inverness.
- Sandy Knowe Wind Farm Ltd in respect of the Sandy Knowe Wind Farm, a 86.4 MW plant located in Scotland at approximately 1.5km south west of Kirkconnel and Kelloholm, Dumfries & Galloway Council.

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) (Scotland) Order 2022.” 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 **15 June 2022** addressed to Chris Chown, Wholesale Electricity Markets, e-mail: chris.chown@beis.gov.uk.

Introduction

1. The Secretary of State proposes to make the Electricity (Individual Exemptions from the Requirement for a Generation Licence) (Scotland) Order 2022 (“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:
 - Creag Riabhach Wind Farm Ltd in respect of the Creag Riabhach Wind Farm, a 92.4MW plant located in Scotland in The Highland Council area, at approximately 85km north of Inverness.
 - Sandy Knowe Wind Farm Ltd in respect of the Sandy Knowe Wind Farm, a 86.4 MW plant located in Scotland at approximately 1.5km south west of Kirkconnel and Kelloholm, Dumfries & Galloway Council.

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' – 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”.
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 applications to grant exemption in respect of the generating stations listed in paragraph 1 above. The 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 England and Wales 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 a electricity generation licence in respect of the stations. The Secretary of State is therefore proposing to grant the exemptions through the attached draft the Electricity (Individual Exemptions from the Requirement for a Generation Licence) (Scotland) Order 2022.

Conditions

8. The conditions proposed to be included in respect of any such exemption are that:
 - The generating stations are connected to the total electricity system;
 - 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 electricity system ; and

Generation Licence Exemption

- The applicants do 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 15 June 2022** and should be made to: Chris Chown (e-mail: 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 Exemptions from the Requirement for a Generation Licence) (Scotland) Order 2022. 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

2022 No. ****

ELECTRICITY

The Electricity (Individual Exemptions from the Requirement for a Generation Licence) (Scotland) Order 2022

<i>Made</i>	- - - -	***
<i>1.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(1).

The Secretary of State has given notice of the proposal to make this Order in accordance with section 5(2) and 5(3) of that Act, and consulted with the Scottish Ministers(2).

Citation, commencement and extent

—(1) This Order may be cited as the Electricity (Individual Exemptions from the Requirement for a Generation Licence) (Scotland) Order 2022 and comes into force on [insert date].

This Order extends to England and Wales and Scotland.

Interpretation

In this Order—

“the Act” means the Electricity Act 1989;

“Creag Riabhach Wind Farm” means the electricity generating station known as Creag Riabhach Wind Farm, located north of Lairg, and south of Altnaharra, Scotland, incorporating a substation whose entrance is situated at Ordnance Survey map reference NC529273;

“Creag Riabhach Wind Farm Limited” means the company of that name registered in Scotland with company number SC424471;

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

(1) 1989 c. 29; section 5 was substituted by section 29 of the Utilities Act 2000 (c. 27).

(2) 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.

Generation Licence Exemption

“Sandy Knowe Wind Farm” means the electricity generating station known as Sandy Knowe Wind Farm, located south-west of Kirkconnel and Kelloholm, Scotland, incorporating a substation whose entrance is situated at Ordnance Survey map reference NS710100;

“Sandy Knowe Wind Farm Limited” means the company of that name registered in England and Wales with company number 06850950;

“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(3).

Exemptions from prohibition of unlicensed generation of electricity for supply

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

Creag Riabhach Wind Farm Limited in respect of Creag Riabhach Wind Farm; and
Sandy Knowe Wind Farm Limited in respect of Sandy Knowe Wind Farm.

Conditions on exemptions

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

Creag Riabhach Wind Farm is connected to the total system;

Creag Riabhach Wind Farm does not export more than 100 megawatts of electrical power to the total system, except in circumstances outside the reasonable control of Creag Riabhach Wind Farm Limited; and

Creag Riabhach Wind Farm Limited is not a licensed generator in respect of Creag Riabhach Wind Farm.

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

Sandy Knowe Wind Farm is connected to the total system;

Sandy Knowe Wind Farm does not export more than 100 megawatts of electrical power to the total system, except in circumstances outside the reasonable control of Sandy Knowe Wind Farm Limited; and

Sandy Knowe Wind Farm Limited is not a licensed generator in respect of Sandy Knowe Wind Farm.

Insert Name

[Insert Title]

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 located in Scotland. The companies granted exemptions are:

- Creag Riabhach Wind Farm Limited in respect of Creag Riabhach Wind Farm, an electricity generating station located north of Lairg, and south of Altnaharra, Scotland, incorporating a substation whose entrance is situated at Ordnance Survey map reference NC529273.
- Sandy Knowe Wind Farm Limited in respect of Sandy Knowe Wind Farm, an electricity generating station located south-west of Kirkconnel and Kelloholm, Scotland, incorporating a substation whose entrance is situated at Ordnance Survey map reference NS710100.

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

(3) Section 6 was substituted by section 30 of the Utilities Act 2000 (c. 27) and section 6(1)(b) was further substituted by section 136(1) of the Energy Act 2004 (c. 20).

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