



Department for
Energy Security
& Net Zero

Electricity Licence Exemptions: Call for Evidence

Summary of responses

July 2023



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

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Introduction

In its Call for Evidence on Electricity Licence Exemptions¹, published in October 2020, the then Department for Business, Energy and Industrial Strategy (BEIS) committed to review the electricity licence exemptions regime.

The aim of the call for evidence was to collect information from existing exemption holders (class or individual) and other stakeholders who have an interest in exemptions (including licence holders), with the objective of:

- Increasing Government's knowledge of the exempt sector; and
- Providing a better understanding of what changes might be required to align the exemptions regime with current and future market features and broader policy goals.

This was against a background that:

- The current framework is twenty years old. There is now much more decentralised, low carbon energy and there is likely to be more in the future, along with more innovative smart energy schemes.
- The Government has introduced a net zero target, and there is now a focus on ensuring all market participants pay their fair share of policy and network costs.
- Some Market participants have found exemptions to be opaque and difficult to interpret.

¹ <https://www.gov.uk/government/consultations/exemptions-from-the-requirement-for-an-electricity-licence-call-for-evidence>

Call for Evidence

The Call For Evidence was published on 30th October 2020 and closed on 8th March 2021. In the Call For Evidence, we asked a number of factual questions regarding the nature of exemptions held by respondents. This was to gain a snapshot of exemptions held, including by whom, type, area held and so on. We also asked a number of questions seeking opinions regarding how exemptions have worked since the inception of The Class (Exemptions From the Requirement for a Licence) Order 2001² (The 2001 Class Order) and how the exemptions regime may need to change to meet expectations going forward.

We received 77 responses to the Call For Evidence – 34 responses were submitted via online survey, with 43 via email. A list of respondents can be found at Annex A (some respondents wished to remain anonymous). Summaries of responses can be found below.

As part of the Call For Evidence process, we also spoke with a wide range of stakeholders, holding numerous online meetings with individual stakeholders and stakeholder groups. We also held 8 online events, attended by over 50 stakeholders.

After the Call for Evidence closed, we temporarily paused the exemptions review (and the Call For Evidence summary) due to other government priorities taking precedence.

It should be noted that we were asked by a number of stakeholders to provide a list of questions rather than use the online questionnaire. This was then used as the basis for a written or emailed response. Due to the structure of the online questionnaire, there may be some immaterial differences in text between the online and emailed questions. However, the questions are fundamentally the same and the summaries reflect both sets of responses.

We have also consolidated responses to a number of questions to avoid duplication and to maintain brevity and consistency in summaries.

² <https://www.legislation.gov.uk/uksi/2001/3270/contents/made>

Summaries of factual responses

As related, one of the objectives of the Call For Evidence was to gain a better understanding of stakeholders' take up of class exemptions, for example which exemptions were being utilised, by who and where. We therefore asked a number of questions which required a factual response and are grateful to the respondents that provided data.

The responses can be a snapshot only of the picture on exemptions, particularly where a significant number of respondents did not provide data. The responses are therefore presented at **Annex A** to this document without further summary, analysis or comment. We will, however, conduct analysis as part of the next stage of the review of exemptions to determine any implications for the exemptions regime going forward.

Key summaries of other responses

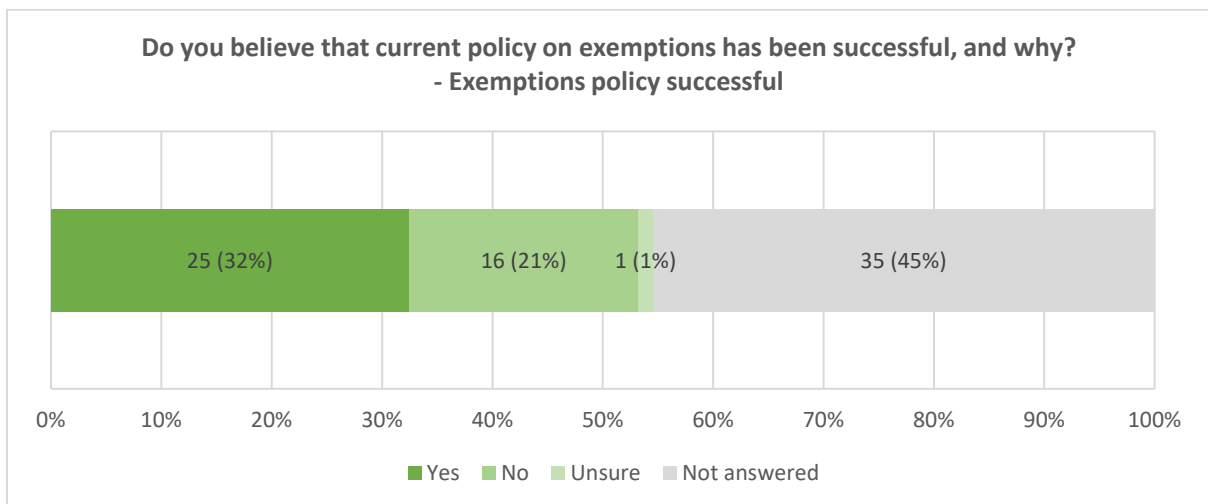
Responses on Exemptions Policy and Legislation

We posed the following questions in the Call For Evidence regarding views on general exemptions policy and exemptions legislation.

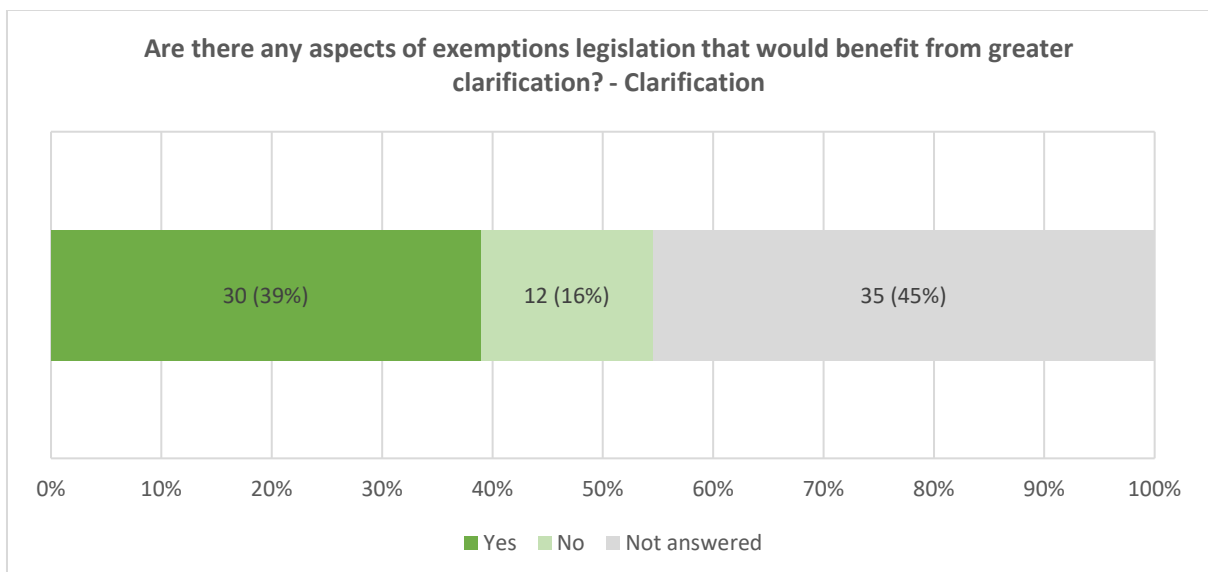
Q. What are the benefits of holding an exemption?

Q. What issues/objectives should future policy on exemptions take into account, and how? E.g. Government objectives on Net zero, Green Recovery

Q. Is there anything else you would like to contribute, that we may not have covered in previous questions?



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Respondents to the call for evidence shared a broad consensus that exemptions have worked well and contributed to the growth of small and medium scale generation (particularly renewable generation), distribution and supply projects. One respondent referred to the exemptions regime as providing a 'stable regulatory framework'. A number of others wished to avoid change in the regime to maintain certainty, particularly around investment decisions. The main benefits of being exempt were generally considered to be the avoidance of regulatory burdens and costs that accrue through being licensed.

However, there were concerns that uncertainty on interpretation of class exemptions in the Class (Exemptions from The Requirement For a Licence) Order 2001³ was potentially creating a 'roadblock' for further investment, particularly in net zero projects but also in other small scale developments.

As such, sections of class exemptions, as drafted in 2001, were not thought to be fully meeting the ambitions of developers and innovators of such projects now and in the future, leading a significant share of respondents to believe that greater clarity and certainty is needed in current legislation and policy (as well as in any proposed changes to the exemptions regime). Greater certainty in legislation was particularly sought in the area of supply class exemption and in certain relevant definitions e.g. the definition of 'premises' and 'on site.'

However, in considering the wider impact of possible changes to the regime, a significant number of respondents believed that existing investments should be protected through grandfathering arrangements for current class exemptions.

Respondents' views on broader regulatory issues were mixed. There was acknowledgment from some that there were benefits to being licensed, but that the current licensing regime was too burdensome to be a realistic option for most respondents. Others did not see licensing as ever being a viable option for the scale of project they were managing or developing.

One respondent was concerned that the Call For Evidence was targeted toward small operators and that larger integrated companies would not be able to offer relevant views. Another respondent believed that the Call For Evidence would not reach small operators and would mostly reflect the views of larger operators. We can confirm that we brought the Call for Evidence to the attention of both sectors.

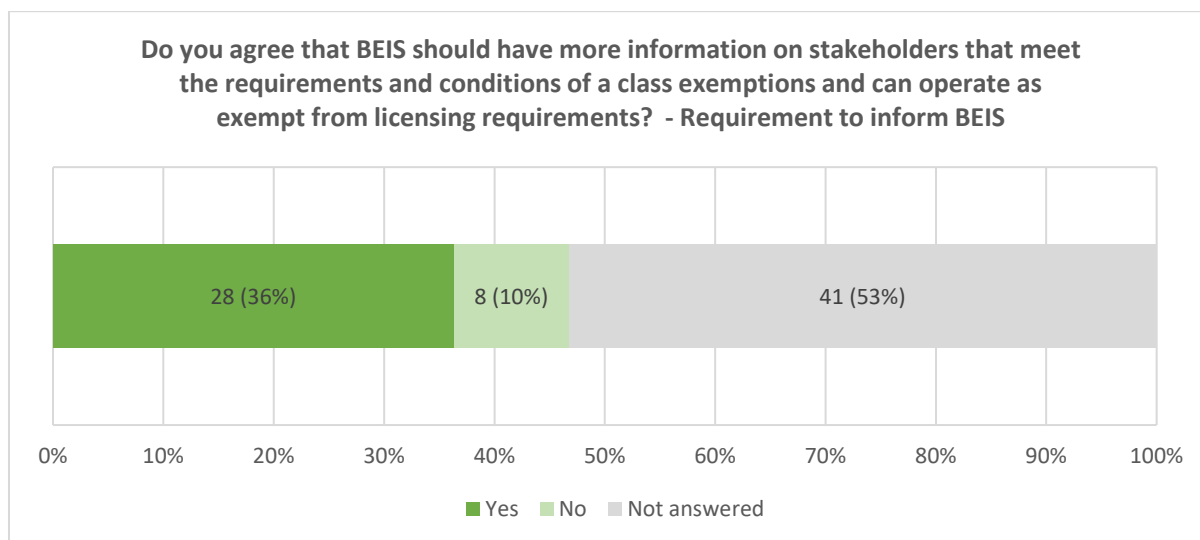
Finally, from those that responded, respondents believed that the future objectives of exemptions policy should mainly be focussed on facilitating net zero and the growth of renewables.

Responses on Registration/Notification of Class Exemptions

We posed the following questions in the Call For Evidence regarding the appetite for class exemptions to be subject to some form of registration/notification.

³ <https://www.legislation.gov.uk/uksi/2001/3270/contents/made>

Q. If yes, how could BEIS access this information without imposing an undue burden on exemption holders? For example, would a notification requirement, or similar, be acceptable? How might it, or another system work in practice?



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At present there is no registration requirement in class exemptions legislation, leading to uncertainty regarding who currently benefits from an exemption. The lack of data on exemptions held has made it difficult to fully engage with the exempt sector and to develop policy options without a clear idea of their potential impact.

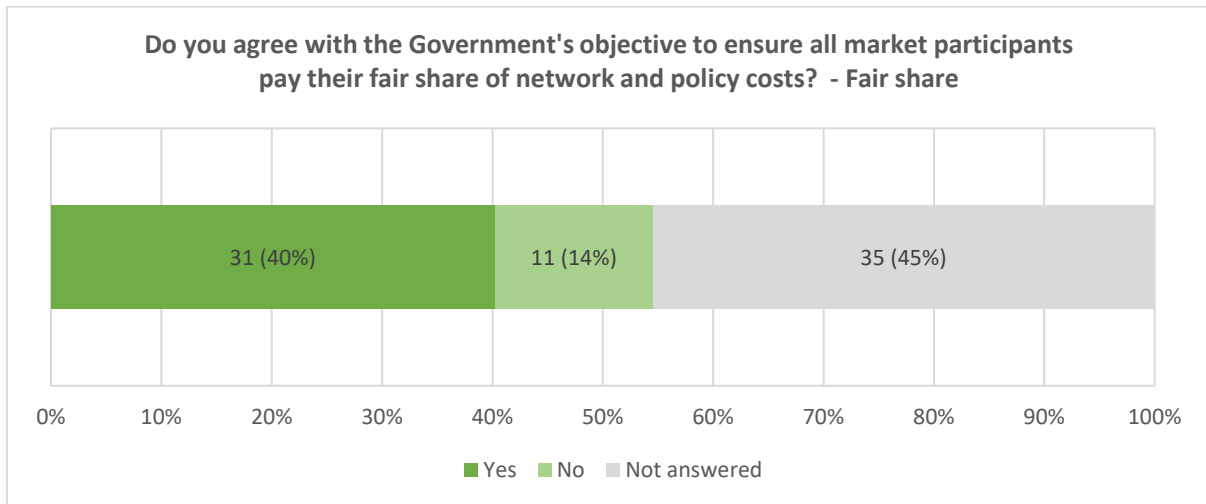
From those that responded, there was clear support for a light touch registration/notification system to be introduced, with the focus on keeping any further burdens on stakeholders to an absolute minimum. This reflected an acknowledgement that a registration/notification system might have benefits for exemption holders and that some information was already being provided to market bodies, including Elexon and to the energy regulator, Ofgem.

A number of respondents, although agreeable to a scheme in principle, wished to ensure that potential complications and concerns were taken into consideration. These include:

- The need to avoid inadvertently criminalising exemption holders (by creating a legal obligation to register).
- That in seeking registration/notification, the department may risk offering de facto compliance assessments – in essence an application system.
- That the department utilise existing information sources wherever possible.
- That any registration/notification process has de-minimis limits that excluded very small scale exemption holders.

Responses on Paying a Fair Share of Policy and Network Costs

We posed the following question in the Call For Evidence regarding the departments' objective that all market participants pay a fair share of policy and network costs.



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In general, the requirement to pay these costs is embedded in licence conditions and, in most instances, unpaid costs are spread across all market participants and will ultimately be passed through to consumers.

Respondents were in general agreement regarding the principle that all market participants should pay a fair share of costs. One respondent described the principle of a fair allocation of costs as 'an essential component of efficient and well-functioning markets'. Some respondents, however, had very strong caveats on fair share, with differing views on what 'fairness' should mean in practice.

For example, some respondents argued that the benefits provided by private wire schemes should be acknowledged through the continued benefits given by exemption. Private wire also allowed for further investment in renewables, lower volatility in price and lessened the burden (and expense) for the transmission network. As such, respondents believed it was entirely reasonable to expect that some or all policy and network costs were not paid.

Respondents also argued that the imposition of policy and network costs would have a particular impact on strategic sites (e.g. ports, industrial clusters) in that imposition of additional costs could deter critical investment.

Respondents also presented additional arguments for why they should not have to pay policy costs. These arguments related to size (smaller stakeholders should not be required to pay costs) and competitiveness (costs impact on stakeholders ability to compete with licensed suppliers).

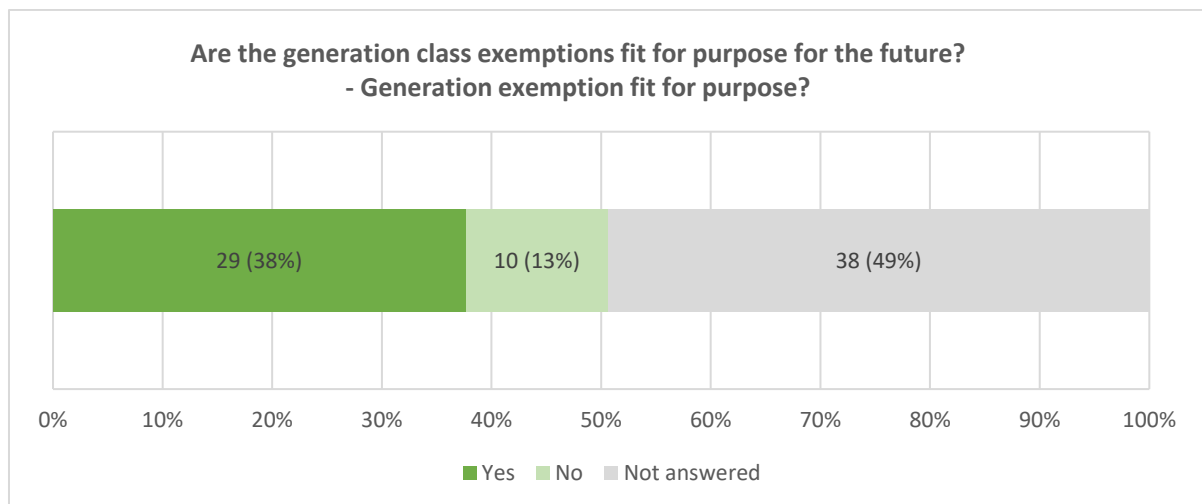
A number of respondents relayed that exempt generators already pay network costs and that actions by the regulator had significantly reduced embedded benefits for sub 100MW generators.

As related above, if changes are considered by government, respondents supported grandfathering to protect existing investments. This was particularly relevant where stakeholders are building business plans whose value is predicated on supplying competitively priced energy and where the need to pay policy and network costs would undermine that.

Responses on Generation Class Exemptions

We posed the following questions in the Call For Evidence regarding generation exemptions.

Q. What proportion of electricity do you generate yourself, versus that purchased from another source?



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Generation exemptions have helped to facilitate encouraging levels of small and medium scale generation, particularly renewables and this is reflected in respondents' comments.

It is apparent that generation class exemptions are considered by most respondents to be both adequate and straightforward to interpret. The benefits that arise from not being licensed are recognised by respondents with others pointing out that recent regulatory action had reduced these somewhat. Exemption can also reduce risk and allow generators to provide competitive power prices to customers.

Other views were:

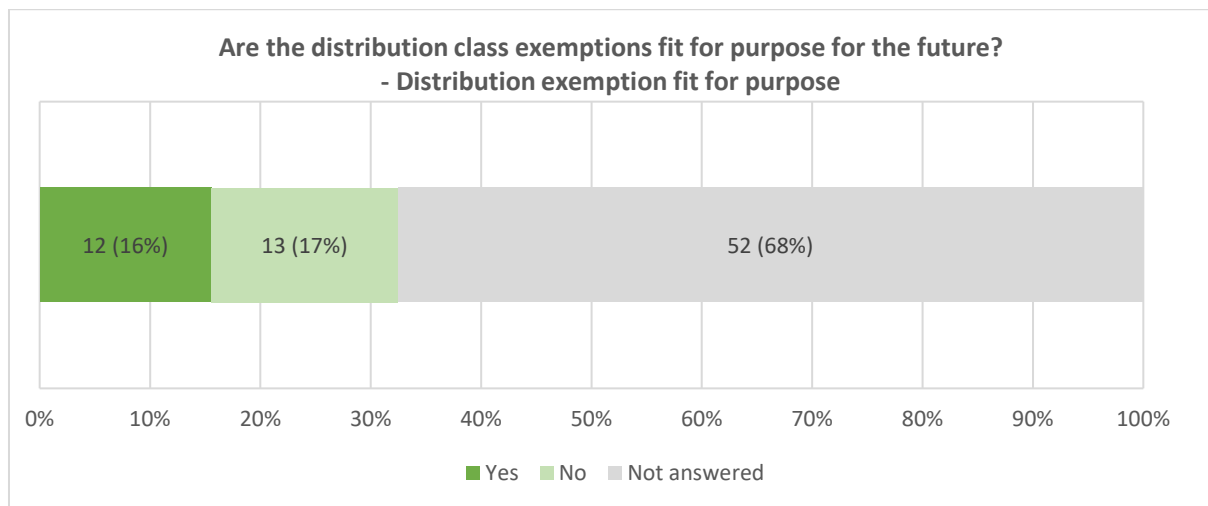
- Some respondents believed that generation thresholds for renewable technologies should increase to facilitate investment.
- Some respondents believe that small scale storage should be licence exempt.

- Finally, one respondent was concerned that multiple generation exemptions (held by single operators) allowed exempt generators to compete with licensed generators, but with lower costs.

With regard to the proportion of energy generated versus that purchased, the data provided by respondents was too limited to adequately summarise. However, of those who responded, it was clear that some level of back-up power was being utilised by them to service customer demand.

Responses on Distribution Class Exemptions

We posed the following question in the Call For Evidence regarding distribution class exemptions.



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Responses received suggested a mixed view on whether distribution class exemptions were thought to be adequate. A number of respondents believed that distribution class exemptions were perfectly adequate and were being utilised without any significant concerns. Greater clarity and/or guidance was desired by some respondents, however, to allow for full utilisation of class exemptions. There was also concern that distribution class exemptions were not adequate for modern distribution systems, being drafted over 20 years ago.

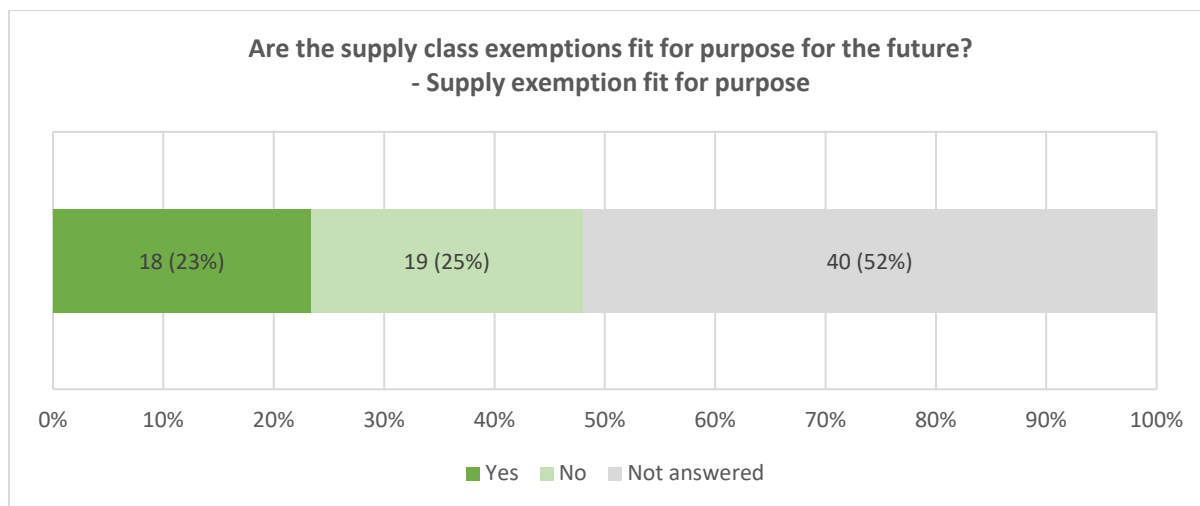
A number of respondents believed that higher distribution thresholds would be beneficial. For example, an increase in domestic class exemption thresholds to allow for electrification (e.g. EV charging capacity) was thought to be beneficial in addition to an increase in class exemption thresholds to allow for development of micro-grids.

There were also a number of responses suggesting that distribution exemptions should be revised to facilitate those stakeholders wishing to build private wire networks.

Responses on Supply Class Exemptions

We posed the following questions in the Call For Evidence regarding supply exemptions.

Q. Please describe the nature of your supply business, including the amount of electricity supplied and whether to domestic, commercial or mixed customers?



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Supply exemptions can help in facilitating small scale electricity supply arrangements, covering a wide range of stakeholders.

Respondents' views on whether supply exemptions are thought to be fit for purpose were mixed. A number of respondents believed that supply class exemption were adequate and also incentivising. The avoidance of policy and network costs through exemption was seen as a particular benefit of being exempt.

However, it was apparent from other responses that supply exemptions were found by some to be a particular frustration, both in terms of interpretation and content. This reflected opinions given in meetings with stakeholders and queries received. Of particular concern were that:

- Class C (exemption for on-site) was unwieldy and difficult to interpret.
- Definitions of 'on-site' and 'private wire' in The Class Order 2001 were not clear.
- 'Top up' power was not explicitly catered for in The Class Order 2001.

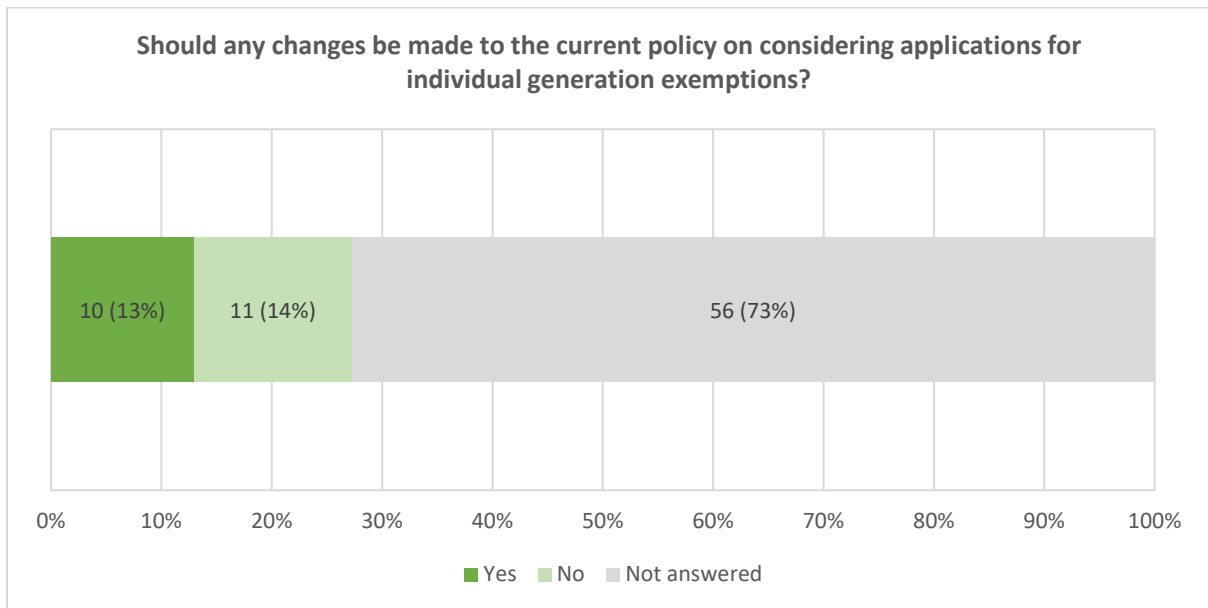
A number of respondents asked that domestic supply thresholds be increased to allow supply to 1,000-2,000 homes and that the legislation in relation to Class C (on-site) exemptions be widened to allow private wire management and supply to be undertaken by a third party.

There was also some concern from one respondent that the tenant – landlord relationship using resale exemption could be leading to over-charging.

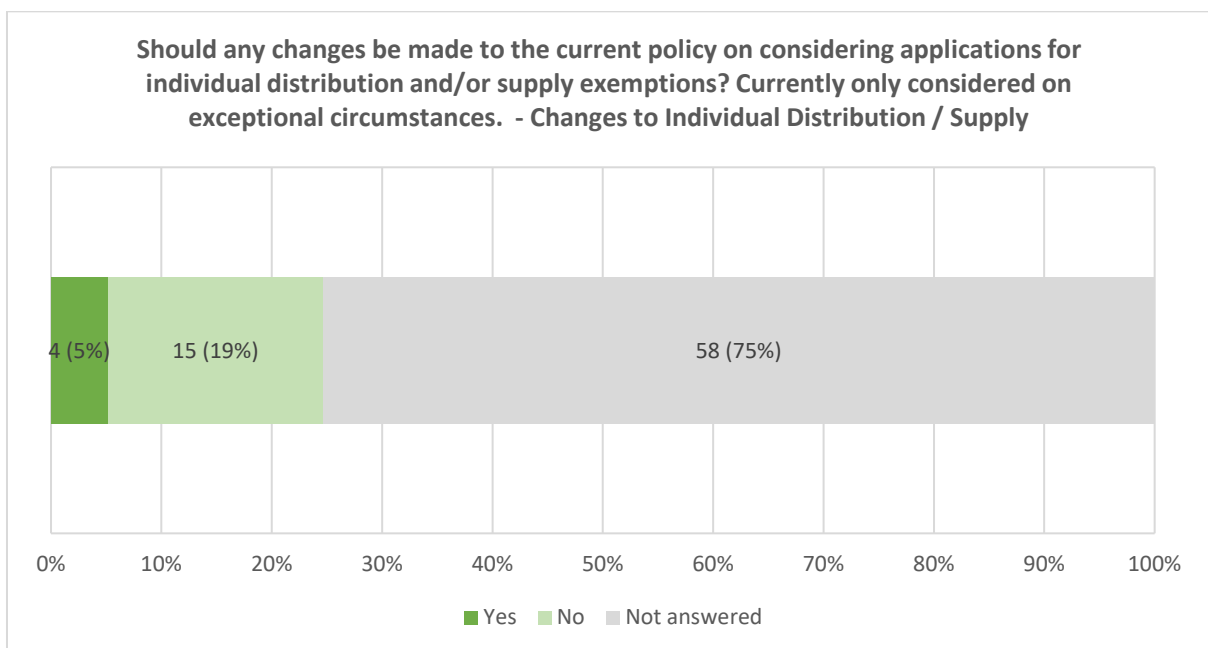
Finally, a number of respondents believed that Ofgem should consider supply licence reform to encourage innovation in supply.

Responses on Individual Exemptions Policy

We posed the following questions in the Call For Evidence regarding policy on applications to the Secretary of State for individual exemption (as opposed to class exemption).



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With regard to individual exemption, it was clear from responses that this was an issue affecting a small sub-set of respondents. This was supported by the fact that we receive only a small number of applications for generation and supply exemption annually.

With regard to individual exemption for generation, respondents who replied were split on whether changes to policy were needed. Of those that did seek change, greater clarity was sought on process along with more rapid consideration of applications. One respondent believed that class exemption limits were adequate and the application process was unnecessary as a result.

With regard to individual exemption for distribution and supply, we currently advise that applications will be considered where exceptional circumstances apply. Applications are considered on a case by case basis and we do not provide guidance on what we believe to be exceptional circumstances, but a number of supply exemptions have been given and these should act as a guide to what Secretary of State might consider to be appropriate.

A very small number of respondents that replied believed that this policy should be revised. In particular, they sought greater clarity on what was an acceptable application and wished to see applications considered promptly, contributing toward the avoidance of a burdensome application process. One respondent sought changes to supply class exemption to remove the need for individual supply exemption applications.

Questions Where No Summary was Possible

There are a number of Call For Evidence questions (listed below) where it was not possible to adequately summarise the responses received. This was mainly because they contained factual information specific to the respondent or not enough data was provided by respondents to allow an adequate summary to be made.

Q. What is the name of your generating/storage plant(s)?

Q. Who are the owners of the plant and parent company (if any)?

Q. What is the name of your distribution business(es)?

Q. Who are the owners and parent company (if any)?

Q. What is the name of your supply company?

Q. How many switches (to alternative suppliers) have you actioned for your customers so far? Have you experienced any issues related to this? For example, process

Q. If you hold a licence, could you provide a breakdown of the annual costs incurred as a result of being licensed?

Q. Please describe your distribution business, including the amount of MW distributed and to whom.

Q. What are the costs with this?

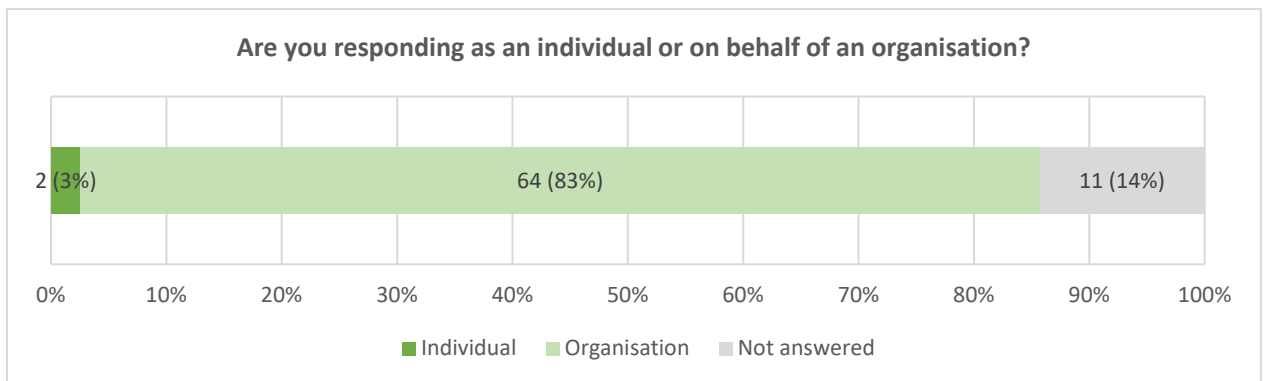
Next steps

We will consider representations received, as summarised in this document, with a view to possible options for change to exemptions guidance, policy and/or legislation to reflect respondents' views and concerns. We will also consider views given in meetings and other contacts with stakeholders.

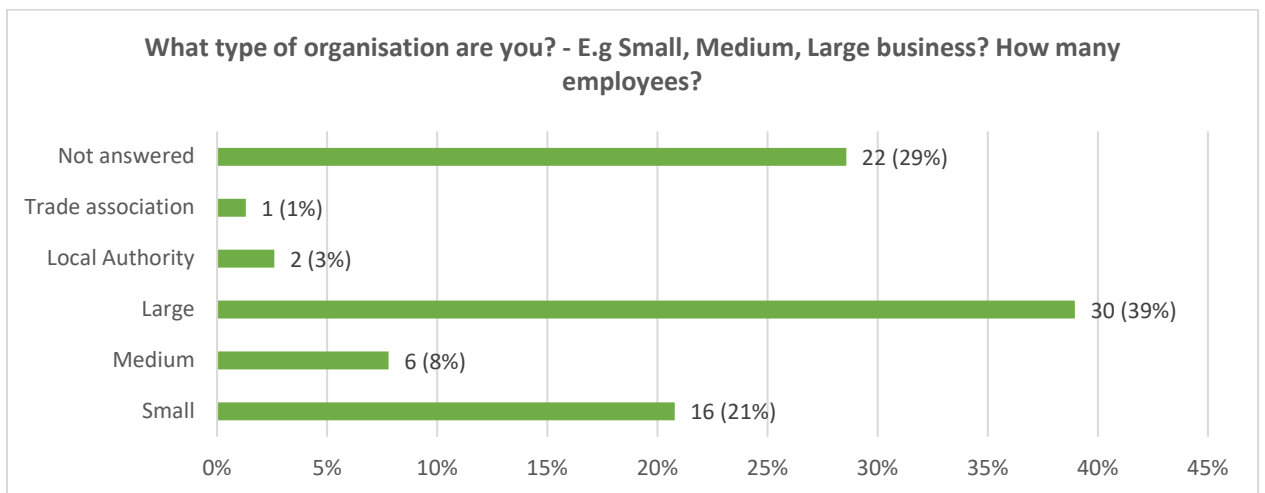
Any queries should be directed to the email address below:

exemptions@beis.gov.uk

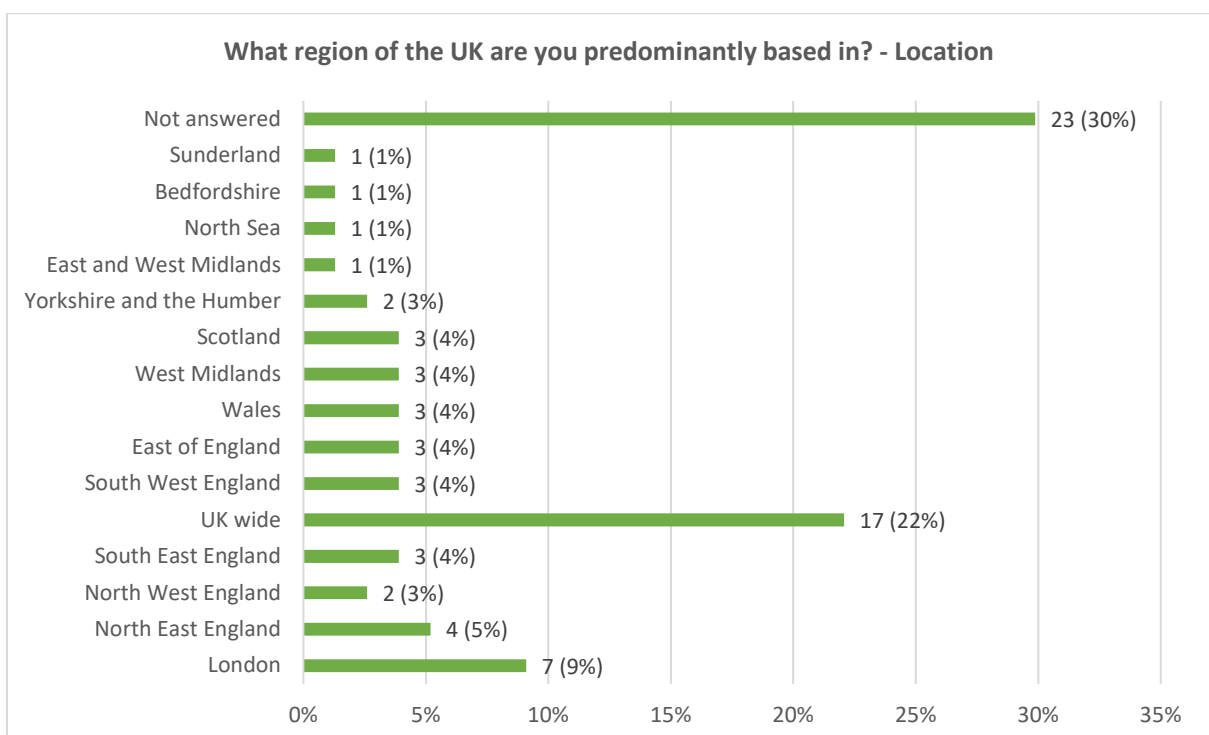
Annex A - Summary of Factual Responses



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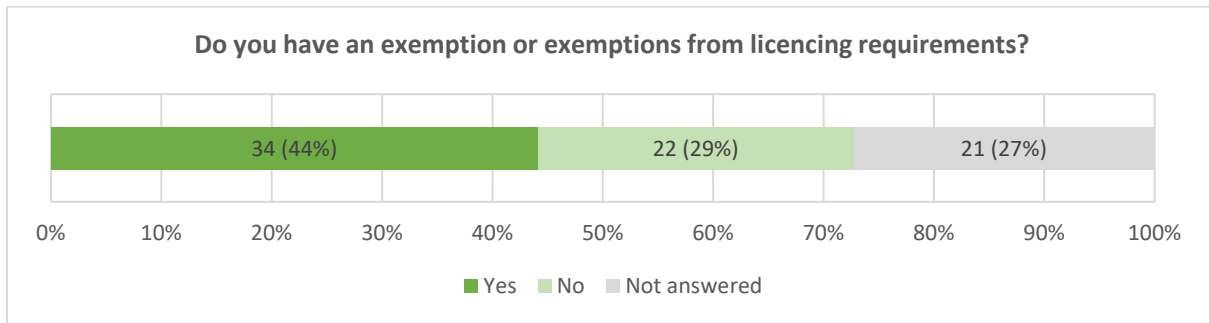


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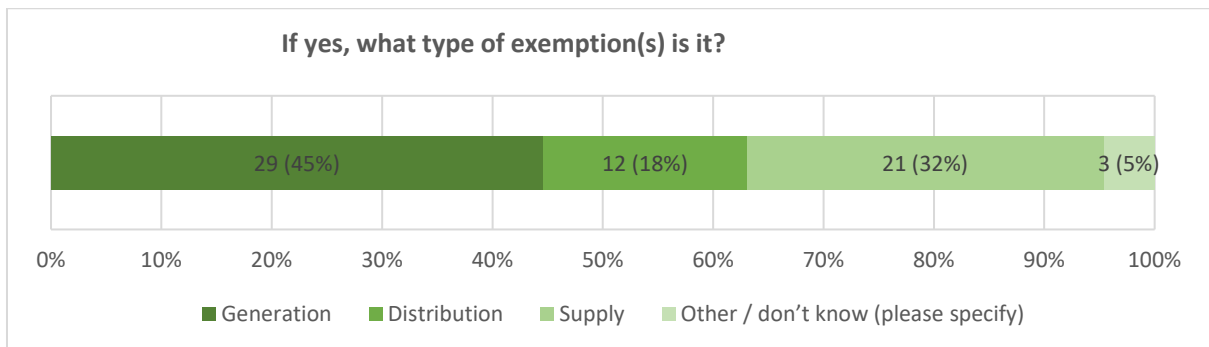


Electricity Licence Exemptions: Call for Evidence - summary of responses

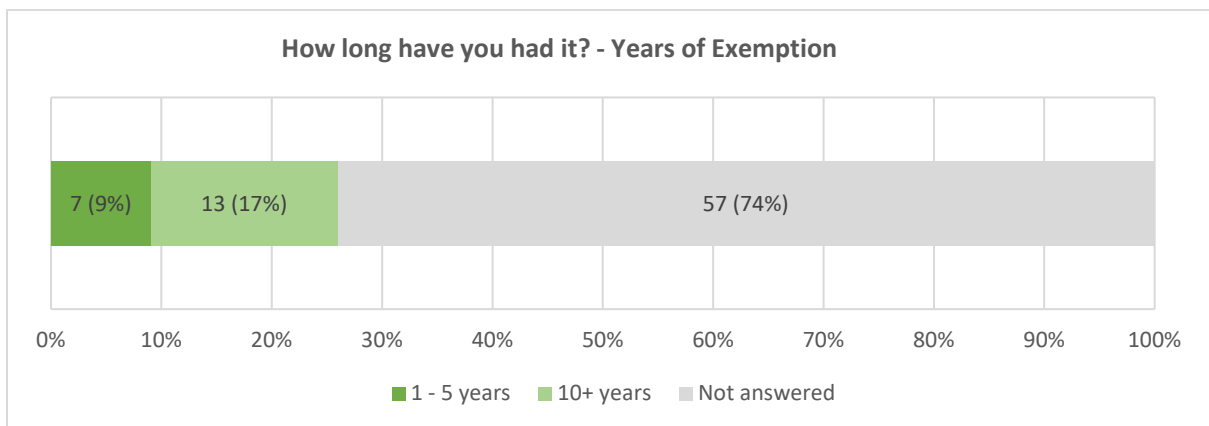
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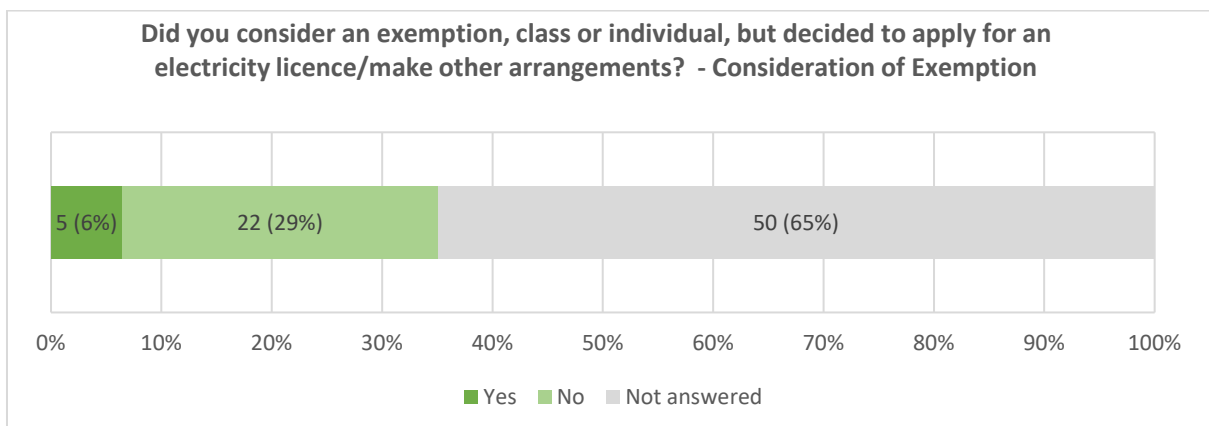
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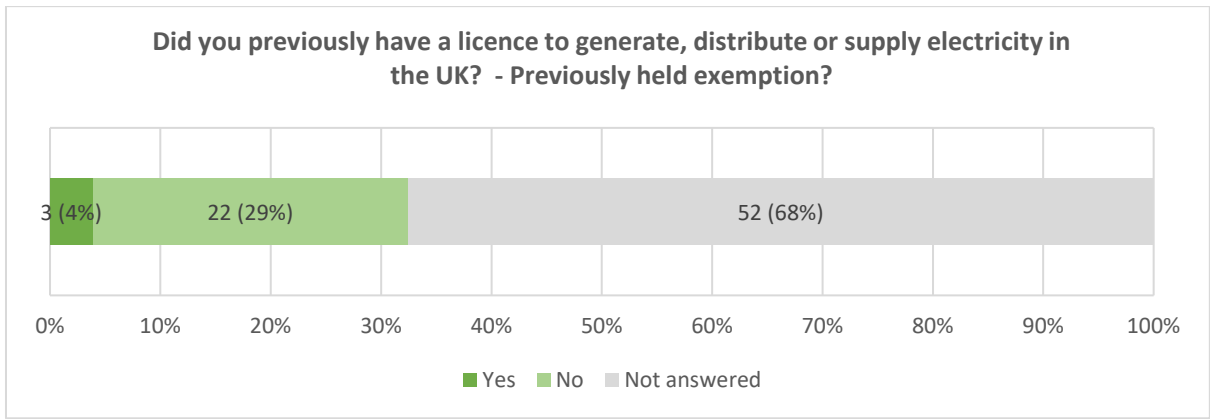
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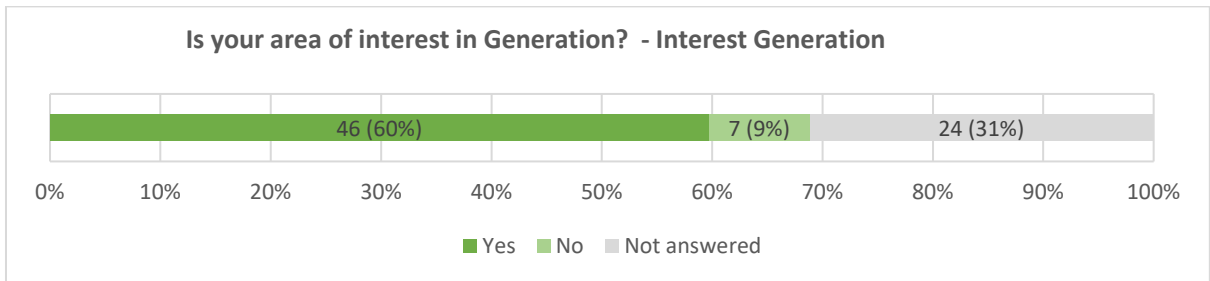


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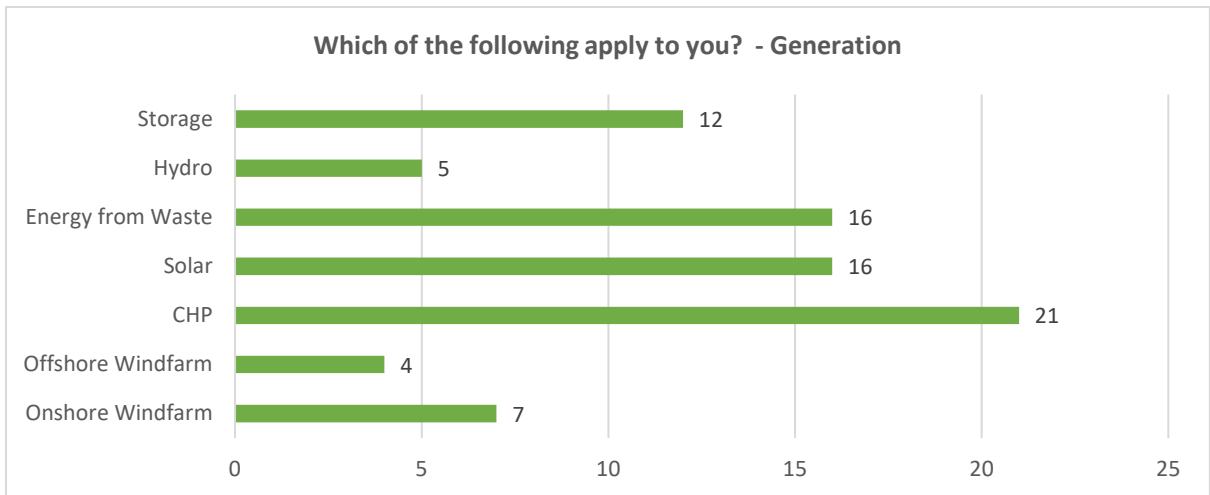


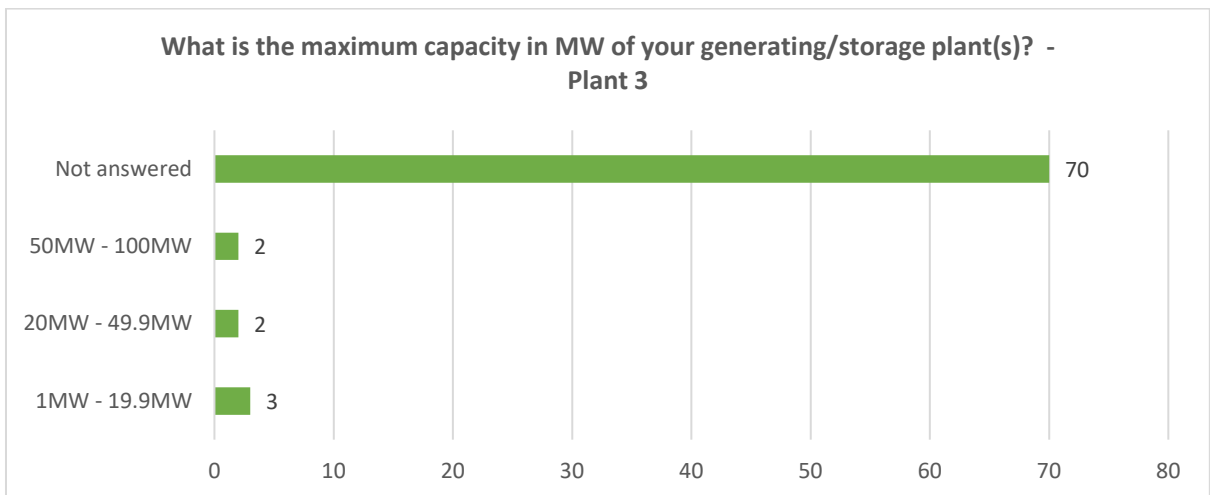
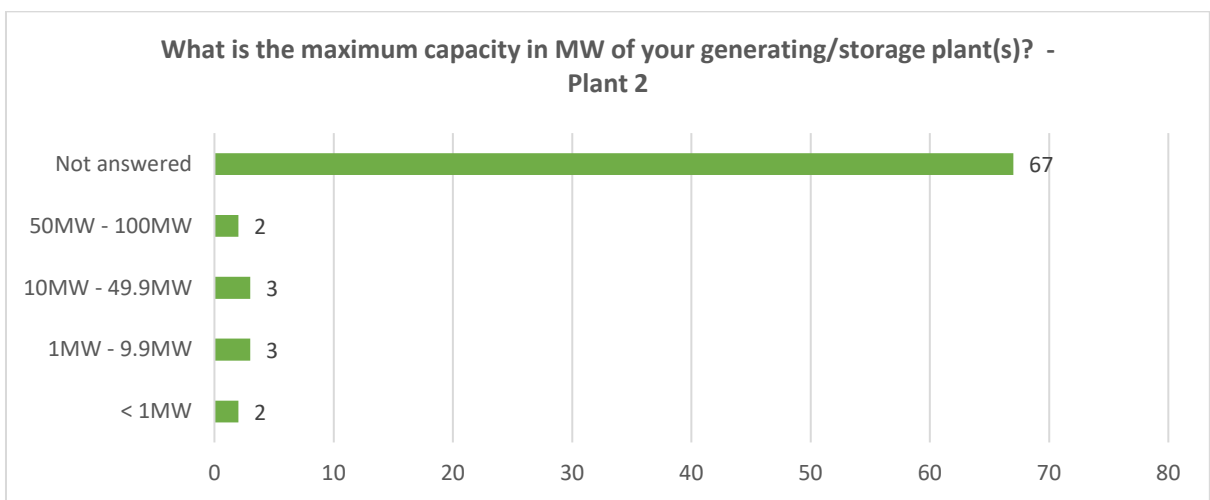
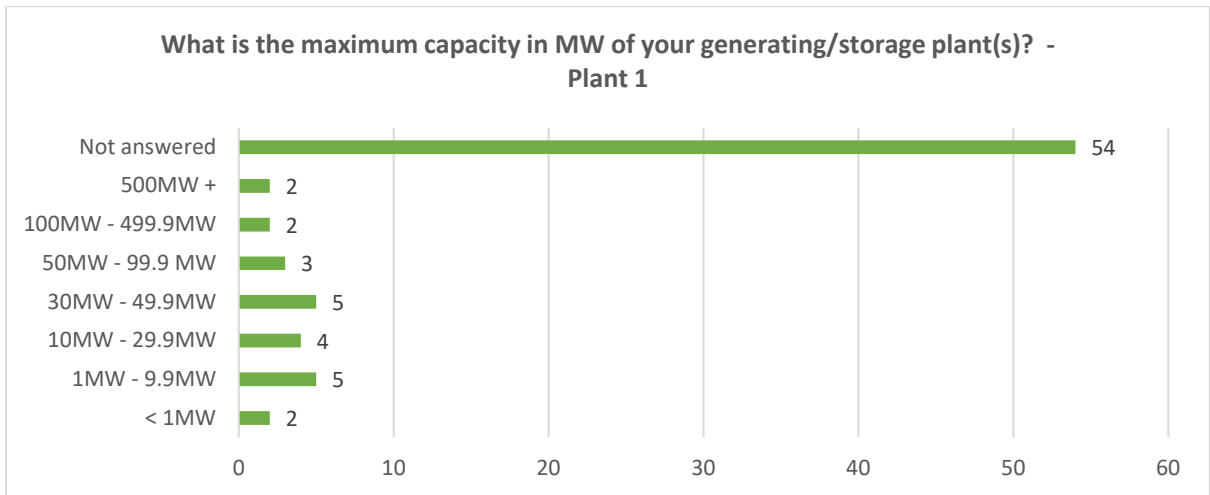
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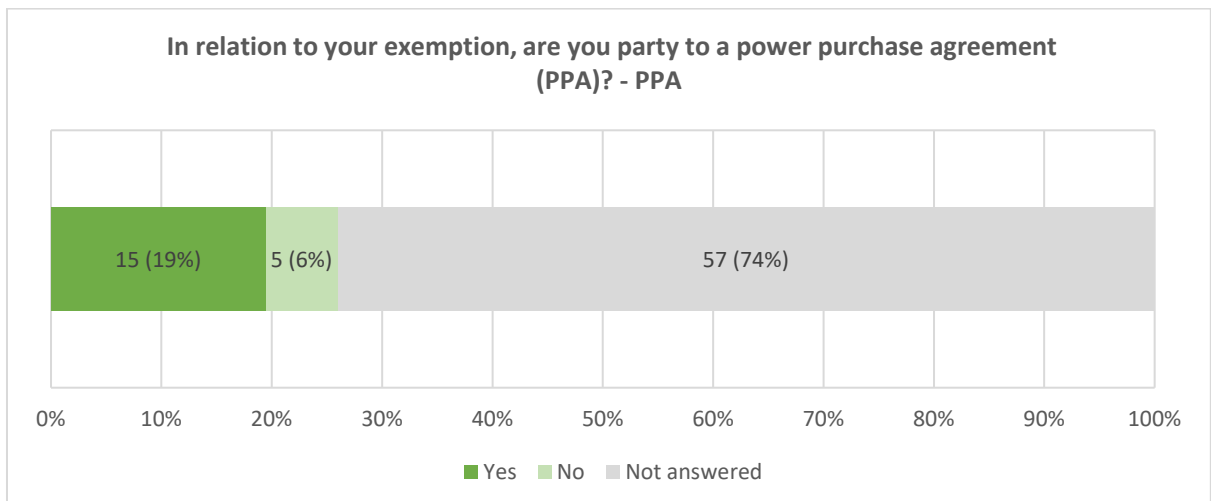
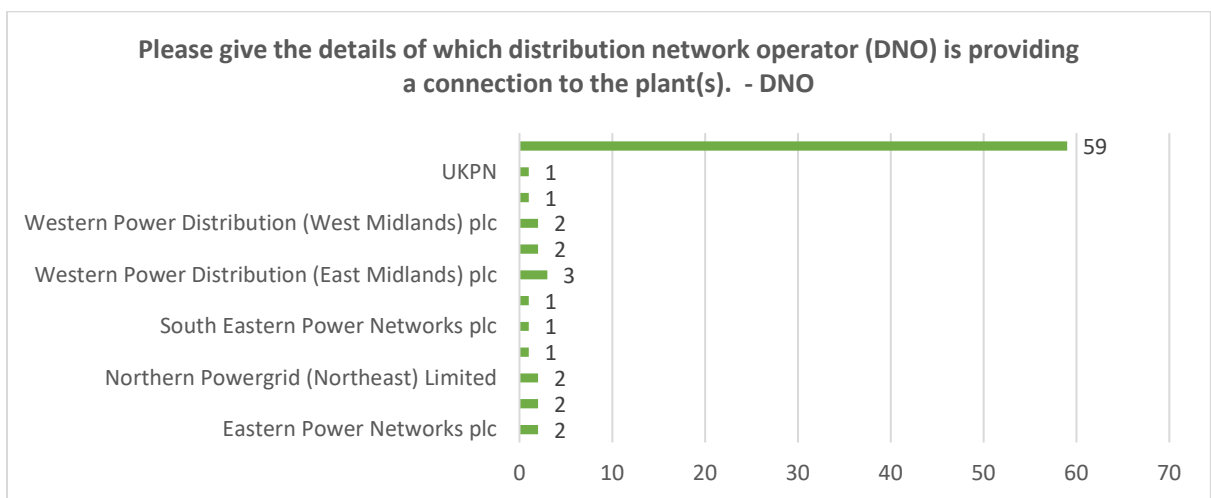
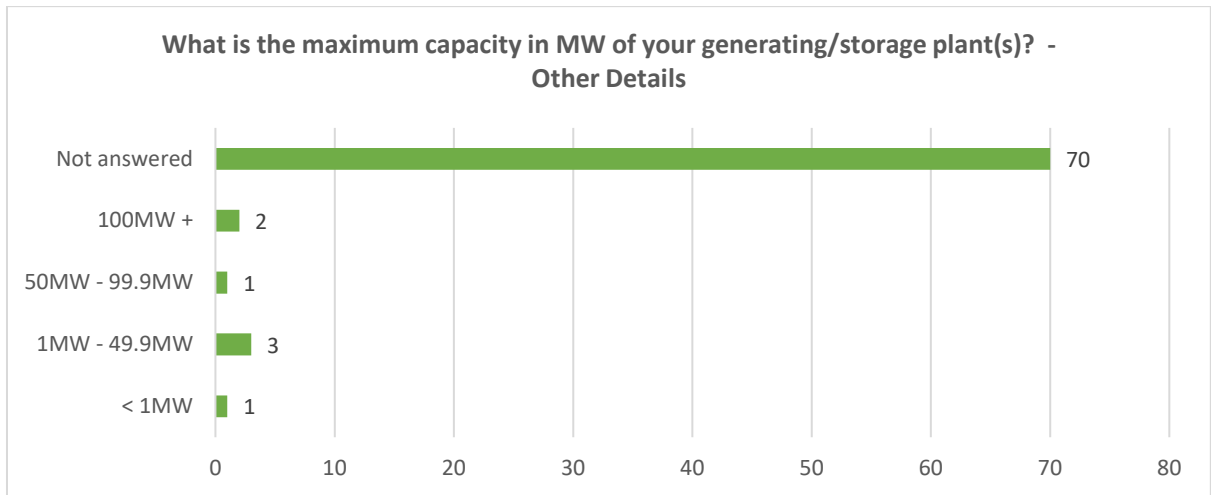
Generation



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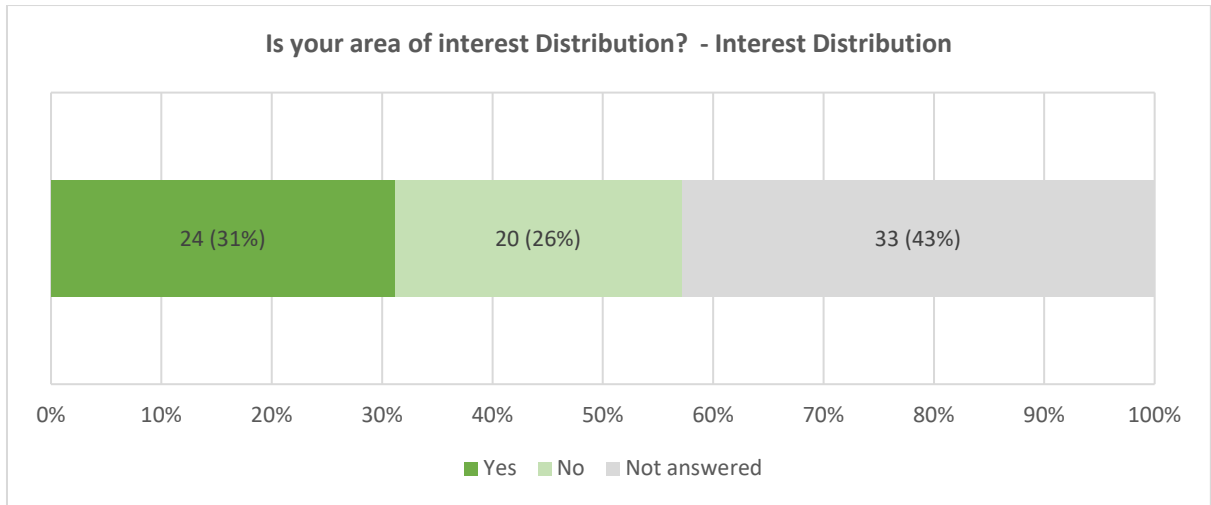




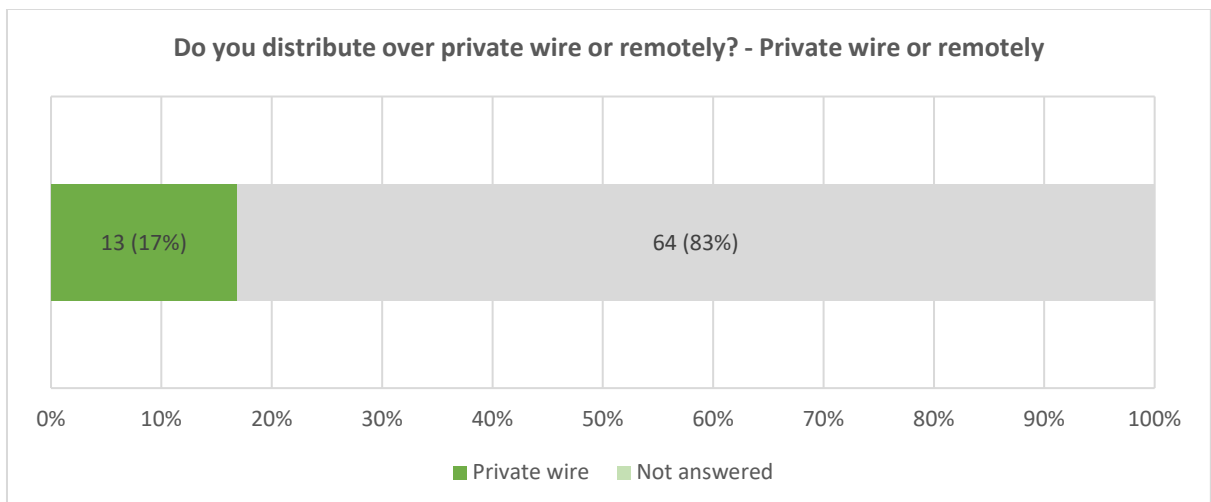
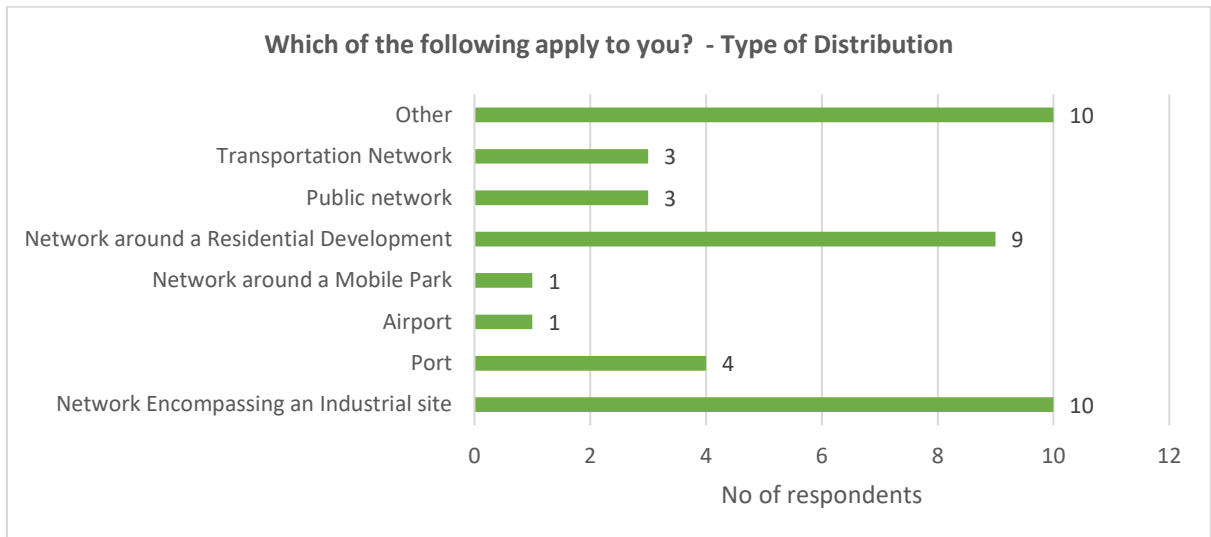


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Distribution

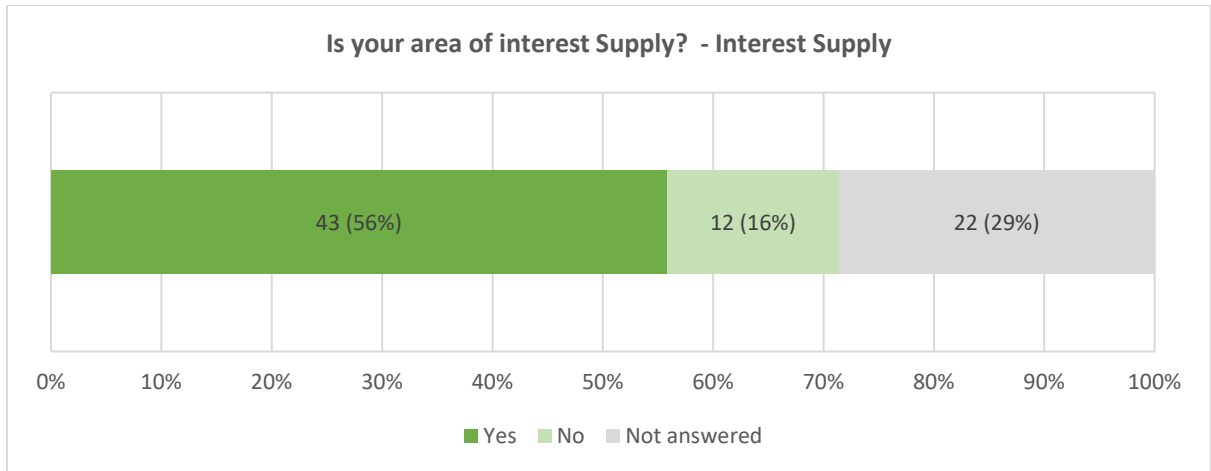


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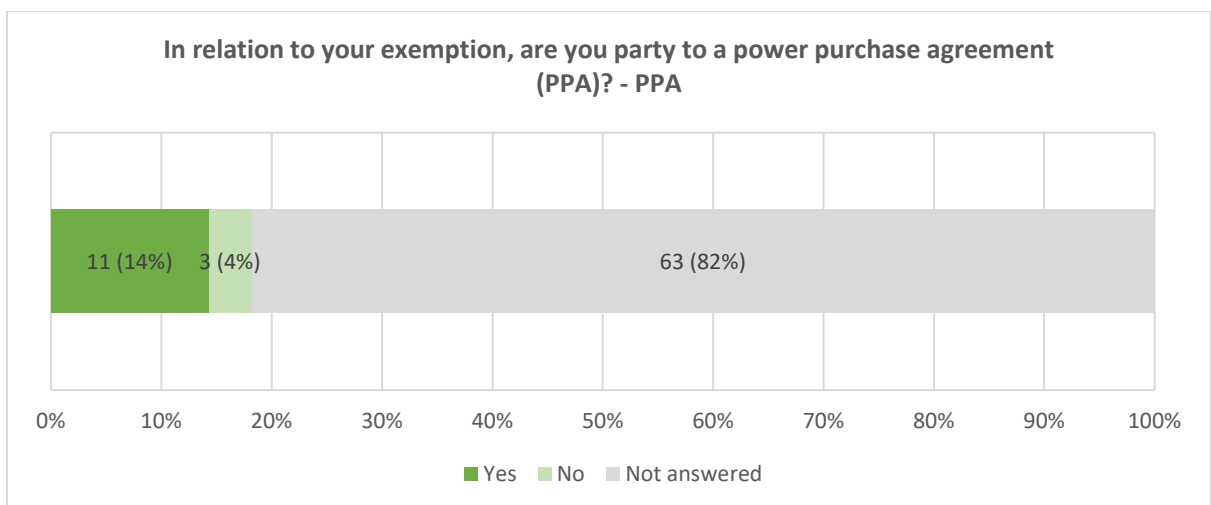
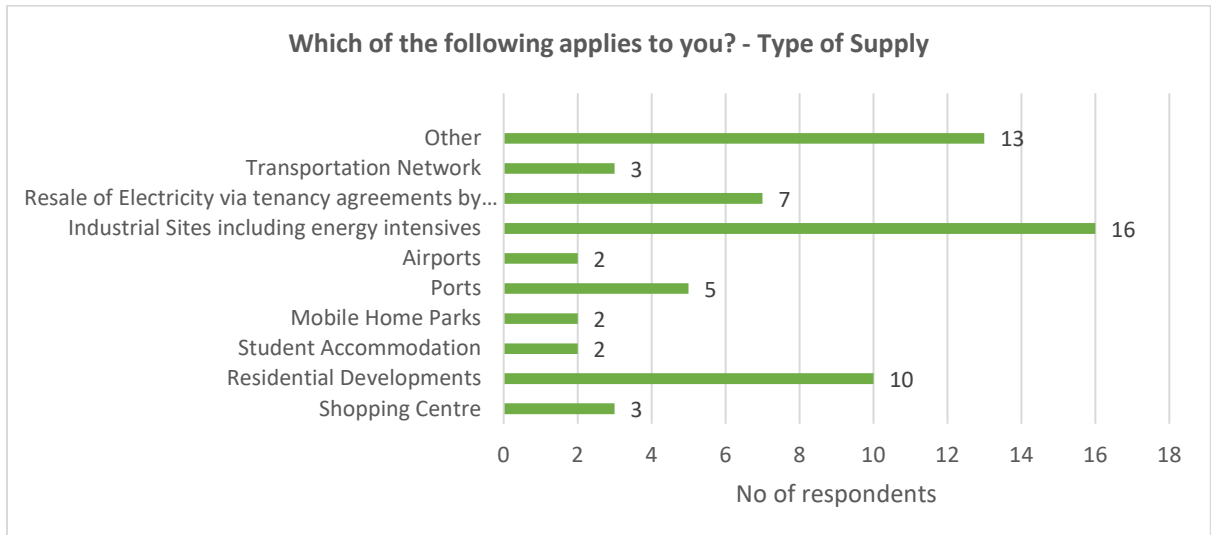


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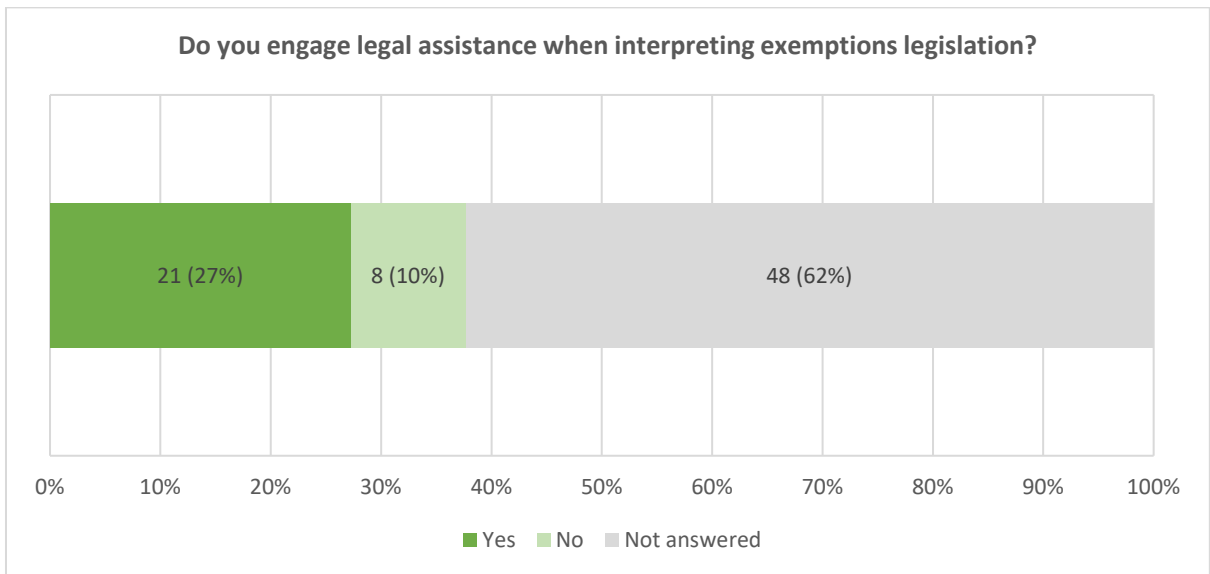
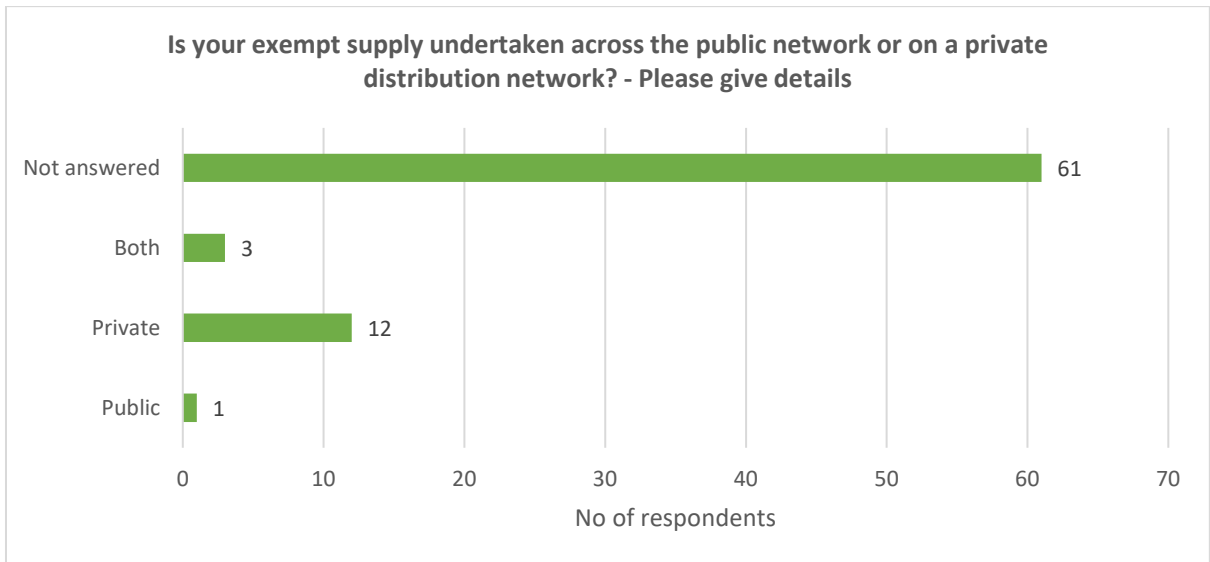
Supply



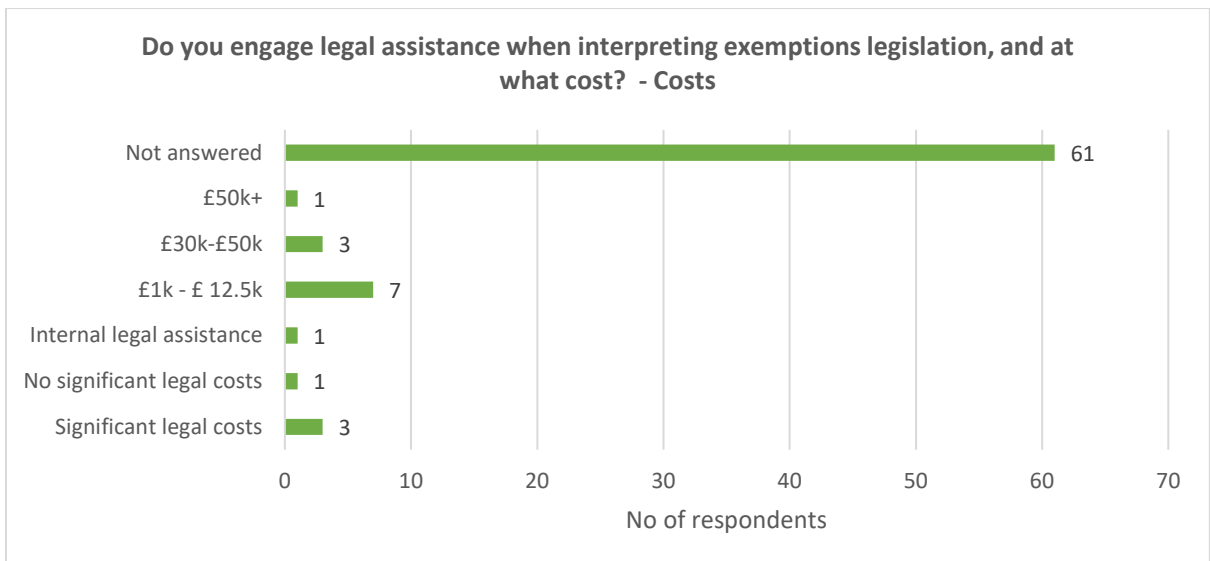
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Annex B - List of Respondents

| | |
|--|----------------------------------|
| Ian Allman | F&S Energy Limited |
| Associated British Ports | Gateshead Council |
| Association of Meter Operators (AMO) | INEOS UK |
| Bioenergy Infrastructure Group | Infinis Energy |
| Bird & Bird | Intergen |
| BUUK Infrastructure Ltd | iPower Energy Ltd |
| Centrica Regulatory Affairs | Kellas Midstream Limited |
| Citizens Advice | Law Society of Scotland |
| Nigel Cornwall | Lux Nova Partners Limited |
| Cory Riverside Energy | National Grid |
| The Coventry and Solihull Waste Disposal Company | NEA |
| Drax Group plc | Nissan Motor (GB) Ltd |
| EDF | Northern Powergrid |
| Emergent Energy | Offshore Wind Power Limited |
| Energis Consulting Limited | Oil and Gas UK |
| Energy Local CIS Limited | Peak Gen |
| ENGIE Group | Peel NRE |
| Environmental Services Association | Regen and Energy Storage Network |
| E.ON | Ricardo Energy & Environment |
| ERG UK Holding | Saltend Chemicals Park Limited |
| Field Fisher LLP | Sembcorp Energy UK Limited |
| Flexible Generation Group | Shell UK |
| Forth Ports Limited | Smart Klub |
| | SNRG Limited |

SSE Plc

UK Power Networks

Storelectric Ltd

Vescor Group Limited

Switch2 Energy Limited

Viridor Energy

Tata Chemicals Europe

Vital Energi

The Association for Decentralised Energy

VPI Immingham LLP

The Country Land & Business Association

XceCo Ltd

UK Major Ports Group

This publication is available from: www.gov.uk/government/consultations/exemptions-from-the-requirement-for-an-electricity-licence-call-for-evidence

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