

### SCHEDULE 3

Article 3(1)(c)

#### Exemptions from Article 8(1)(c) of the Electricity Order

##### **Class A: Small supply**

Persons who do not supply any electricity except—

- (a) electricity which they generate themselves; or
- (b) electricity which they generate themselves together with electricity which is supplied to them by the holder of a licence under Article 10(1)(c) or (2) of the Electricity Order, and who do not at any time supply more electrical power than—
  - (i) 500 kilowatts disregarding in the case only of electrical power generated solely by CHP generating sets, not being non-fossil fuel generating sets, power provided to any consumer of the type specified in paragraph (b)(i) or (b)(ii) of Class C; or
  - (ii) in the case of electrical power generated solely by non-fossil fuel generating sets, one megawatt, disregarding power provided to any consumer of the type specified in paragraph (b)(i) or (b)(ii) of Class C.

For the purposes of (i) and (ii) above—

“CHP generating set” means a generating set used for the simultaneous generation of usable heat and power in a single process at high efficiency;

“coal products” means any substances produced directly or indirectly from coal;

“fossil fuel” means coal, coal products, peat, lignite, crude liquid petroleum or petroleum products;

“high efficiency” means achieving a year round total energy efficiency which would normally be in excess of 70% calculated on the basis of net calorific value;

“natural gas” has the same meaning as in the Energy Act 1976(1);

“non-fossil fuel generating set” means a generating set which is fuelled or driven principally otherwise than by a fossil fuel or by natural gas;

“petroleum products” has the same meaning as in the Energy Act 1976.

A.1.—(1) For the purposes of Class A electrical power supplied by a body corporate which is associated with the supplier in question and which occupies premises on the same site as the generating station operated by that supplier shall be treated as supplied by that supplier.

(2) For the purposes of sub-paragraph (1), premises and a generating station shall be treated as being on the same site as each other if they are—

- (a) the same premises;
- (b) immediately adjoining each other; or
- (c) separated from each other only by a road, railway or watercourse or by other premises occupied by the supplier or the body corporate in question or by any other person who together with that supplier or body corporate forms a qualifying group.

(3) For the purposes of sub-paragraph (2), two or more persons form a qualifying group if, being bodies corporate—

- (a) each of them is connected to each other provided that no body corporate which is not connected to, or a parent undertaking in relation to, all of them is a parent undertaking in relation to any of them; or

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- (b) each of them is related to each other and was related to each other on 1st April 1992.

### **Class B: Resale**

Persons who—

- (a) do not supply any electricity except—
  - (i) electricity which is supplied to their premises by the holder of a licence under Article 10(1)(c) or (2) of the Electricity Order or by a person in circumstances such that he falls within Class C in this Schedule (in this Class referred to as a “Class C supplier”) provided that for the purpose of determining for the purpose of this Class and paragraphs B.1 and B.2 whether a person is supplying electricity in such circumstances paragraphs (b)(i) and (ii) of Class C in this Schedule shall have effect as if the words from “and” to “Schedule” in each case, were omitted; or
  - (ii) electricity which they generate themselves or which is supplied to them by a person authorised by an exemption to supply electricity when—
    - (aa) the supply of electricity which is normally available to them from the holder of a licence under Article 10(1)(c) or (2) of the Electricity Order or a Class C supplier (their “normal supply”) is interrupted temporarily due to circumstances outside their control; or
    - (bb) the plant or equipment which is used to generate electricity for the purpose of giving their normal supply is being tested; and
- (b) to the extent that they supply Class C electricity—
  - (i) supply such electricity only to premises which are on the same site as the relevant premises; and
  - (ii) comply with all the conditions set out at B.2.

#### **B.1. For the purposes of Class B—**

“Class C electricity” means electricity which is supplied by a person in circumstances such that he falls within Class C in this Schedule;

“relevant premises” in relation to any reference to a supplier falling or seeking to fall within Class B, means the premises from which he supplies that electricity; and

“year” means a period of twelve months running from 1st October to 30th September.

#### **B.2. The conditions referred to in sub-paragraph (b) of Class B are as follows:**

- (a) In respect of each relevant premises the supplier must not in the previous year have supplied from those relevant premises an amount of Class C electricity which is more than the lower of—
  - (i) 10 per cent of the Class C electricity supplied in that year to those relevant premises; or
  - (ii) subject to sub-paragraph (c), 250 megawatt hours of electricity.
- (b) If during a year the supplier starts to supply Class C electricity from any particular relevant premises for the first time at the time he starts to make such supplies he must reasonably expect that the total amount of Class C electricity supplied by him during the remainder of that year from those premises will be no more than the lower of—
  - (i) 10 per cent of the Class C electricity supplied in that year to those relevant premises; or
  - (ii) the amount obtained by multiplying 250 megawatt hours by a percentage equal to the percentage of the year remaining.

- (c) If during the previous year the supplier started to supply Class C electricity from any particular relevant premises for the first time, the amount set out in sub-paragraph (a)(ii) shall be reduced to the amount which is obtained by multiplying 250 megawatt hours by a percentage equal to the percentage of the year remaining at the time he started to make such supplies.

B.3. A supplier shall not, if and to the extent that it would lead to his falling outside Class B, be treated as supplying Class C electricity to any premises during a year in which the relevant premises are being supplied with electricity by the holders of licences under Article 10(1)(c) or (2) of the Electricity Order, unless he supplies more electricity in that year than the amount of electricity which is supplied to those relevant premises by the holders of licences under Article 10(1)(c) or (2) of the Electricity Order in that year.

### **Class C: On-site supply**

Persons who—

- (a) do not supply any electricity except—
  - (i) electricity which they generate themselves; or
  - (ii) electricity which they generate themselves together with electricity which is supplied to them by the holder of a licence under Article 10(1)(c) or (2) of the Electricity Order; and
- (b) provide the output of each generating station at which they generate electricity other than electricity supplied to premises in the circumstances specified in the description of Class A only to—
  - (i) one consumer who occupies premises which are on the same site as the premises where the generating station is situated and consumes all the electricity provided to those premises by the supplier in question at those premises other than any of that electricity supplied by that consumer in circumstances such that he falls within Class B in this Schedule; or
  - (ii) two or more consumers who form a qualifying group each of whom occupies premises which are on the same site as the premises where the generating station is situated and consumes all the electricity provided to those premises by the supplier in question at those premises other than any of that electricity supplied by that consumer in circumstances such that he falls within Class B in this Schedule; or
  - (iii)
    - (aa) Consumers of the type specified in sub-paragraph (i) or (ii); and
    - (bb) any other person in circumstances where the provision of the output of the generating station in question does not amount to the supply of electricity to any premises; or
  - (iv) in the case of electrical power generated solely by CHP generating sets—
    - (aa) consumers of the type specified in sub-paragraph (i) or (ii); and
    - (bb) any consumer who occupies premises which are not on the same site as, but receive the electricity supply from, the CHP generating set and consumes all the power provided to those premises from the CHP generating set at those premises (other than any of that electricity supplied by that consumer in circumstances such that he falls within Class B in this Schedule), where that consumer is either a consumer specified in paragraph (aa) or together with the consumers specified in paragraph (aa) forms a qualifying group and where the total maximum amount of electrical power supplied to all such premises at any one time does not exceed one megawatt, which one megawatt limit shall be reduced by any amount of electricity supplied to

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premises in the circumstances specified in the description of Class A of this Schedule.

C.1.—(1) In Class C—

“consumer” means a person to whom electricity is provided (whether or not he is the same person as the person who provides the electricity) and, subject to paragraph C.2, two or more consumers form a qualifying group if, being bodies corporate—

- (a) each of them is connected to each other provided that no body corporate which is not connected to, or a parent undertaking in relation to, all of them is a parent undertaking in relation to any of them; or
- (b) each of them is related to each other, was related to each other on 1st April 1992 and was supplied electricity by the person in question or a body corporate associated with that person on that date;

“output” in relation to a generating station means the electricity generated at the generating station other than electricity consumed by the plant.

(2) For the purposes of Class C and paragraph C.1(1)—

- (a) where at any time the supplier in question and some other person generate electricity at the same generating station or provide the output of the same generating station, the generation of electricity by that other person or the provision of the output of that generating station by that other person shall be treated as the generation of electricity and the provision of the output of that generating station respectively by that supplier if that other person, being a body corporate, is associated with that supplier;
- (b) two or more generating sets which are operated by the same person or by bodies corporate which are associated with each other shall be treated as a single generating station if they are on the same site as each other (whether or not there is an electrical interconnection between any of them) but otherwise shall be treated as separate generating stations, and in this sub-paragraph—
  - (i) “generating set” means a combination of the plant and equipment that produces electricity and any other plant or equipment by which that plant or equipment is driven; and
  - (ii) generating sets shall be treated as being on the same site as each other if they are—
    - (aa) situated on the same premises as each other;
    - (bb) situated on premises which are immediately adjoining each other; or
    - (cc) situated on premises which are separated from each other only by a road, railway or watercourse or by other premises occupied by the supplier in question or by a body corporate which is an associate of that supplier; and
- (c) premises shall be treated as on the same site as each other if they are—
  - (i) the same premises;
  - (ii) immediately adjoining each other; or
  - (iii) separated from each other only by a road, railway or watercourse or by other premises occupied by the supplier or consumer in question, or by any other person who together with that consumer forms a qualifying group;
- (d) “CHP generating set” means a generating set used for the simultaneous generation of usable heat and power in a single process at high efficiency;
- (e) “high efficiency” means achieving a year round total energy efficiency which would normally be in excess of 70% calculated on the basis of net calorific value.

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C.2. In addition to the circumstances prescribed in paragraph C.1

two or more consumers shall also form a qualifying group for the purposes of paragraph (b)(iv) of Class C if one of those consumers controls the management or funding of each of the other consumers or the management or funding of each of those consumers is controlled by the same person.