
STATUTORY INSTRUMENTS

1990 No. 193

**The Electricity (Class Exemptions from
the Requirement for a Licence) Order 1990**

Citation and commencement

1. This Order may be cited as the Electricity (Class Exemptions from the Requirement for a Licence) Order 1990 and shall come into force on 31st March 1990.

Interpretation

2.—(1) In this Order—

“the Act” means the Electricity Act 1989;

“declared net capacity” in relation to a generating station has the meaning given to that expression in Schedule 1;

“offshore installation” has the same meaning as in the Mineral Workings (Offshore Installations) Act 1971(1);

“road” has the same meaning as in section 192(1) and (2) of the Road Traffic Act 1988(2); and

“successor company” has the same meaning as in Part II of the Act.

(2) For the purposes of this Order—

(a) one body corporate shall be treated as associated with another if—

(i) one of them is a subsidiary of the other; or

(ii) both of them are subsidiaries of the same holding company;

and “holding company” and “subsidiary” shall have the same meaning as in section 736 of the Companies Act 1985(3) as substituted by section 144(1) of the Companies Act 1989(4), whether or not that subsection is in force on 31st March 1990;

(b) one body corporate shall be treated as related to another if—

(i) one of them is a 75 per cent. subsidiary of the other; or

(ii) both of them are 75 per cent. subsidiaries of a third body corporate;

and 75 per cent. subsidiary shall be construed in accordance with section 838 of the Income and Corporation Taxes Act 1988(5);

(c) one body corporate shall be treated as wholly related to another if—

(i) one of them is a wholly owned subsidiary of the other and no other body corporate is a parent undertaking in relation to either of them; or

(1) 1971 c. 61; section 1 was substituted by section 24 of the Oil and Gas (Enterprise) Act 1982 (c. 23).

(2) 1988 c. 52.

(3) 1985 c. 6.

(4) 1989 c. 40.

(5) 1988 c. 1.

- (ii) both of them are wholly owned subsidiaries of a third body corporate and no body corporate, other than that third body, is a parent undertaking in relation to either of them;

and in this sub-paragraph—

“wholly owned subsidiary” has the same meaning as in section 736 of the Companies Act 1985 as substituted by section 144(1) of the Companies Act 1989, whether or not that subsection is in force on 31st March 1990; and

“parent undertaking” has the same meaning as in section 258 of the Companies Act 1985 as inserted by section 21 of the Companies Act 1989, whether or not that section is in force on 31st March 1990; and

- (d) a person shall be treated as generating electricity at any time if he is the operator of plant or equipment which at that time—
 - (i) is generating or capable of generating electricity; or
 - (ii) is not capable of generating electricity only by reason of the repair or testing of the plant or equipment.

Exemptions from section 4 of the Act

3.—(1) Subject to the provisions of paragraph (3) and articles 4 and 5 below, exemption is granted—

- (a) from section 4(1)(a) of the Act to persons of the classes specified in Schedule 2; and
- (b) from section 4(1)(c) of the Act to persons of the classes specified in Schedule 3.

(2) A person shall be treated as falling within any class specified in Schedule 2 or Schedule 3 notwithstanding that he generates electricity or, as the case may be, supplies electricity to premises in circumstances other than those specified in the description of that class if the generation or, as the case may be, the supply of electricity in those circumstances would, if taken on its own, be such that—

- (a) that person would fall within another class in Schedule 2 or, as the case may be, Schedule 3; and
- (b) the exemption granted to persons of that other class had not ceased to be in force.

(3) No person shall be regarded as falling within any of the classes specified in Schedule 2 for as long as he is the holder of a licence under section 6(1)(a) of the Act, or within any of the classes specified in Schedule 3 for as long as he is the holder of a licence under, as the case may be, section 6(1)(c) or (2) of the Act.

Conditions on exemptions

4.—(1) The exemptions granted by this Order are subject to compliance with the conditions specified in paragraphs (2) to (5) below.

(2) Any person who falls within any of the classes specified in Schedule 2 and who generates electricity at a qualifying generating station shall notify the Secretary of State before the relevant date of his name and address.

(3) Any person who falls within Class C in Schedule 2 shall notify the Director before 1st July 1990 of—

- (a) his name and address;
- (b) the location of each generating station at which he generated electricity on 31st March 1990; and

(c) the declared net capacity of each such generating station;
and if the declared net capacity of any generating station notified to the Director is increased, or if any such person generates electricity at a generating station at which he was not generating electricity on 31st March 1990, he shall notify the Director forthwith of the increase in the declared net capacity or, as the case may be, the location of that generating station and its declared net capacity.

(4) Any person who falls within Class E in Schedule 3 shall notify the Director before 1st July 1990 of—

- (a) his name and address;
- (b) the address of each of the premises to which he was supplying electricity or making the supply of electricity available on 31st March 1990; and
- (c) the aggregate of the maximum power which he could have made available on 31st March 1990 to the premises to which he was supplying electricity or making the supply of electricity available on that date (whether or not that amount of power was consumed on that date).

(5) If a name or address notified to the Secretary of State or the Director pursuant to paragraph 2, (3)(a) or (4)(a) above ceases to be correct the person in question shall notify the Secretary of State or, as the case may be, the Director forthwith of the change of name or address.

(6) For the purposes of paragraph (2) above—

- (a) a person shall notify the Secretary of State of the matters mentioned by delivering or sending by post to him particulars of the matters mentioned to—
 - (i) 1 Palace Street, London SW1E 5HE if the registered office or, as the case may be, the principal office of the person in question is situated in England or Wales; or
 - (ii) New St. Andrews House, Edinburgh EH1 3TA if the registered office or, as the case may be, the principal office of the person in question is situated in Scotland;
- (b) “qualifying generating station” means a generating station which has a declared net capacity which exceeds 200 kilowatts except a generating station which is used solely for the purpose of providing periodic or intermittent electrical power to make good any shortfall in the availability of electrical power which is normally available from some other source; and
- (c) “the relevant date” in relation to any person means whichever is the later of—
 - (i) 1st July 1990; or
 - (ii) the date on which the person in question begins to generate electricity at a qualifying generating station.

(7) For the purposes of this article the address of a company shall be the address of its registered office and the address of any other person shall be the address of his principal office.

Circumstances in which exemptions cease to be in force

5. The exemptions granted by this Order shall cease to be in force—

- (a) in relation to any person falling within any of the classes specified in Schedule 2 if that person—
 - (i) is granted a licence under section 6(1)(a) of the Act; or
 - (ii) does not comply with such of the conditions specified in article 4 above as are applicable to the class within which that person falls;
- (b) in relation to any person falling within any of the classes specified in Schedule 3 if that person—

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- (i) is granted a licence under, as the case may be, section 6(1)(c) or (2) of the Act; or
- (ii) does not comply with such of the conditions specified in article 4 above as are applicable to the class within which that person falls; and
- (c) in relation to persons falling within Class C in Schedule 2 or Classes B, C or E in Schedule 3, in the circumstances specified in paragraphs C.1 in Schedule 2 and B.1, C.2 and E.1 in Schedule 3 respectively.

8th February 1990

John Wakeham
Secretary of State for Energy

8th February 1990

Malcolm Rifkind
Secretary of State for Scotland