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STATUTORY INSTRUMENTS

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**1994 No. 1070**

**ELECTRICITY**

**The Electricity (Class Exemptions from the Requirement for a Licence) (Amendment) Order 1994**

<i>Made</i>	- - - -	<i>13th April 1994</i>
<i>Laid before Parliament</i>		<i>14th April 1994</i>
<i>Coming into force</i>	- -	<i>5th May 1994</i>

The Secretary of State for Trade and Industry (as respects England and Wales) and the Secretary of State for Scotland (as respects Scotland), in exercise of the powers conferred by sections 5 and 111(2) of the Electricity Act 1989<sup>(1)</sup> and after consultation with the Director General of Electricity Supply, hereby make the following Order:—

**Citation, commencement and interpretation.**

1.—(1) This Order may be cited as the Electricity (Class Exemptions from the Requirement for a Licence) (Amendment) Order 1994 and shall come into force on 5th May 1994.

(2) In this Order, “the Principal Order” means the Electricity (Class Exemptions from the Requirement for a Licence) Order 1990<sup>(2)</sup>.

**Conditions on exemptions**

2. Article 4 of the Principal Order is amended—

- (a) in paragraph (1), by substituting for the words “paragraphs (2) to (5)” the words “paragraphs (3) to (5)”;
- (b) by deleting paragraph (2);
- (c) by substituting for paragraph (5) the following—“If a name or address notified to the Director pursuant to paragraph 3(a) or 4(a) above ceases to be correct the person in question shall notify the Director forthwith of the change of name or address.”; and
- (d) by deleting paragraph (6).

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(1) 1989 c. 29.  
(2) S.I.1990/193.

### **Circumstances in which exemptions cease to be in force**

3. Article 5 of the Principal Order is amended in sub-paragraph (c) by substituting for the words “Classes B, C or E” the words “Classes B or E” and by substituting for the words “B.1, C.2 and E.1” the words “B.1 and E.1”.

### **Exemptions from section 4(1)(a) of the Act**

4. Class A (but not paragraph A.1) in Schedule 2 to the Principal Order is deleted and substituted by the following—

**“Class A.**

Persons who do not at any time provide more electrical power from any one generating station than—

- (1) 10 megawatts; or
  - (2) 50 megawatts in the case of a generating station with a declared net capacity of less than 100 megawatts,
- disregarding—

(a) power provided to—

- (i) a single consumer who occupies premises which are on the same site as the premises where the generating station is situated and who consumes all the power provided to him from that generating station at those premises or supplies all or some of such power in circumstances specified in the description of Class B in Schedule 3 and consumes at those premises any of such power not so supplied by him; 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 power provided to him from that generating station at those premises or supplies all or some of such power in circumstances specified in the description of Class B in Schedule 3 and consumes at those premises any of such power not so supplied by him; and
- (b) for the purposes of paragraph (2) above power temporarily provided in excess of 50 megawatts due to technical circumstances outside the reasonable control of the person providing that power.”.

### **Exemptions from section 4(1)(c) of the Act**

5. Class B and paragraph B.1 in Schedule 3 to the Principal Order are deleted and substituted by the following—

**“Class B.**

Persons who do not supply any electricity except—

- (a) electricity which is supplied to their premises by the holder of a licence under section 6(1)(c) or (2) of the Act or by a person in circumstances specified in the description of Class C in this Schedule (in this Class referred to as a “Class C supplier”) provided that in determining for the purpose of this Class and paragraph B.1 below whether a person is supplying electricity in such circumstances there shall be disregarded any circumstances which are within such specification only because that person is providing electricity to a person falling within this Class; or

- (b) electricity which they generate themselves or which is supplied to them by a person authorised by an exemption to supply electricity when—
  - (i) the supply of electricity which is normally available to them from the holder of a licence under section 6(1)(c) or (2) of the Act or a Class C supplier is interrupted temporarily due to circumstances outside their control; or
  - (ii) the plant or equipment which is used to generate electricity for the purpose of giving such a supply of electricity is being tested.

**B.1.**—(1) The exemption granted by this Order to persons falling within Class B (in this paragraph referred to as “exempt suppliers”) shall cease to be in force in relation to any exempt supplier—

- (a) if he supplies Class C electricity to any premises other than in either of the circumstances specified in sub-paragraph (2) below;
- (b) if he supplies section 6(2) electricity or Class C electricity to any premises in either of the circumstances specified in sub-paragraph (2) below and those premises are not on the same site as relevant premises;
- (c) if during a relevant period he starts to make relevant supplies from any particular relevant premises from which he has not previously made relevant supplies and at the time he starts to make such supplies from those premises he does not reasonably expect that the total amount of relevant supplies made by him during the remainder of the relevant period in question from those relevant premises will be less than the lower of that amount which is obtained by multiplying the specified amount by a percentage equal to the percentage of that relevant period then remaining and 10% of the total amount of section 6(2) and Class C electricity supplied to those relevant premises in that relevant period;
- (d) on 1st June in any year if the total amount of relevant supplies made by him in the preceding relevant period from any particular relevant premises exceeds the lower of—
  - (i) the specified amount or, in a case where the exempt supplier started to make relevant supplies from those relevant premises (from which he had not previously made relevant supplies) in that preceding relevant period, that amount which is obtained by multiplying the specified amount by a percentage equal to the percentage of that preceding relevant period remaining at the time he started to make such supplies; and
  - (ii) 10% of the total amount of section 6(2) and Class C electricity supplied to those relevant premises in that preceding relevant period,

provided that for the purposes of sub-paragraphs (b) to (d) above no account shall be taken of any section 6(2) electricity which is supplied by or to the exempt supplier in question after 31st March 1998.

- (2) The circumstances referred to in sub-paragraph (1) above are—
  - (a) in a case where the exempt supplier in question supplies section 6(2) or Class C electricity to existing premises, that during the previous period of twelve consecutive months the annual maximum power made available to those premises (whether by that exempt supplier or by anyone else) was 100 kilowatts or less, unless during some other period of twelve consecutive months the annual maximum power made available to those premises (whether by that exempt supplier or by anyone else) was more than 100 kilowatts;
  - (b) in a case where the exempt supplier in question supplies section 6(2) or Class C electricity to new premises, that the exempt supplier at the time when he supplies section 6(2) or Class C electricity to those premises does not reasonably expect that the

annual maximum power which would be made available to those premises (whether by that exempt supplier or by anyone else) would be more than 100 kilowatts during the period of twelve consecutive months starting with the date on which those premises were first supplied with electricity (whether those premises were first supplied by the exempt supplier in question or by anyone else).

(a) (3) In this paragraph—

“annual maximum power” means the average of the three highest monthly amounts of electrical power provided in any period of twelve months;

“Class C electricity” means electricity which is supplied by a person in circumstances specified in the description of Class C in this Schedule;

“existing premises” means premises which have been previously supplied with electricity (whether by the exempt supplier in question or by anyone else) for a period of at least twelve months except premises to which that exempt supplier is not supplying Class C electricity and which were supplied by that exempt supplier on 31st March 1990 pursuant to an agreement to supply those premises which was subsisting on that date;

“monthly amount of electrical power” means the highest amount of electrical power provided in any month;

“new premises” means premises which have not been previously supplied with electricity by anyone or which have been previously supplied with electricity (whether by the exempt supplier in question or by anyone else) for a period of less than twelve months except premises to which that exempt supplier is not supplying Class C electricity and which were supplied by that exempt supplier on 31st March 1990 pursuant to an agreement to supply those premises which was subsisting on that date;

“the previous period of twelve consecutive months” means the period of twelve consecutive months ending at the end of the month before the month in which the exempt supplier in question supplies section 6(2) or Class C electricity to the premises in question;

“relevant period” means the period of twelve consecutive months ending on 31st March each year except that the first relevant period shall be the period beginning on 5th May 1994 and ending on 31st March 1995;

“relevant premises”, in relation to any reference to an exempt supplier supplying electricity, means the premises from which he supplies that electricity;

“relevant supplies” means supplies of section 6(2) electricity or Class C electricity to any premises on the same site as relevant premises in either of the circumstances specified in sub-paragraph (2) above;

“section 6(2) electricity” means electricity which is supplied by the holder of a licence under section 6(2) of the Act; and

“the specified amount” means 250 megawatt hours or, in the relevant period beginning on 5th May 1994 and ending on 31st March 1995, 225 megawatt hours;

(b) For the purposes of this paragraph—

- (i) an exempt supplier shall not, if and to the extent that it would cause the exemption granted to him by this Order to cease to be in force, be treated as supplying either section 6(2) electricity or Class C electricity to any premises during a relevant period, or as regards supplies of electricity falling within sub-paragraph (1)(a) or (b) of this paragraph at any time during a month, in which the relevant premises are also being supplied with electricity which is not section 6(2) electricity or, as the case may be, Class C electricity unless by not being so treated he would in effect be treated as supplying—

- (aa) more electricity that is neither section 6(2) electricity nor, as the case may be, Class C electricity, than is supplied to those relevant premises during that relevant period or that month; or
- (bb) any amount of electricity that is neither section 6(2) electricity nor, as the case may be, Class C electricity in circumstances where that would cause the exemption granted by this Order to cease to be in force;
- (ii) premises supplied by an exempt supplier shall be treated as on the same site as relevant premises if they are—
  - (aa) the same premises;
  - (bb) immediately adjoining each other; or
  - (cc) separated from each other only by a road, railway or water-course or by other premises (other than a pipe-line, electric line or similar structure) occupied by the exempt supplier in question, by the person supplied with electricity by that exempt supplier at the premises in question or by a person who has supplied Class C electricity to the relevant premises in question; and
- (c) In determining whether the circumstances specified in sub-paragraph (2)(a) above apply, no account shall be taken of any period of twelve months beginning before 1st April 1989.”.

6.—(1) Class C in Schedule 3 to the Principal Order is amended by inserting after the words “at those premises” in sub-paragraphs (2)(a) and (b) the words “other than any of that electricity supplied by that consumer in circumstances such that he falls within Class B in Schedule 3” and by deleting the proviso.

(2) Paragraph C.2 in Schedule 3 to the Principal Order is deleted.

(3) Paragraph C.3 in Schedule 3 to the Principal Order is amended—

- (a) in sub-paragraph (1), by substituting for the words “paragraphs C.1 and 2” the words “paragraph C.1”, by deleting the word “exempt” and by deleting the definitions of “relevant period” and “year”; and
- (b) in sub-paragraph (2), by substituting for the words “paragraphs C.1 and 2” the words “paragraph C.1” and by deleting the word “exempt” in both places where it occurs.

13th April 1994

*Tim Eggar*  
Minister for Energy,  
Department of Trade and Industry

13th April 1994

*Allan Stewart*  
Parliamentary Under-Secretary of State, The  
Scottish Office

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Electricity (Class Exemptions from the Requirement for a Licence) Order 1990 (“the Principal Order”). The Principal Order grants exemption from the requirements of section 4(1)(a) of the Electricity Act 1989 (which prohibits the generation of electricity without a licence) and section 4(1)(c) of that Act (which prohibits the supply of electricity to premises without a licence) to persons of various classes set out in Schedules 2 and 3 respectively to the Principal Order.

Article 2 of this Order revokes the requirement under article 4 of the Principal Order whereby most persons falling within any of the classes set out in Schedule 2 and generating electricity at a generating station with a declared net capacity exceeding 200 kilowatts had to notify the Secretary of State of their names and addresses.

Article 4 of this Order re-enacts Class A in Schedule 2. Persons fall within this Class if they do not provide more than a specified amount of electrical power from any one generating station disregarding power provided as described in the Class. Article 4 makes the following changes of substance: the amount of electrical power that may be provided from any one generating station by persons falling within the Class is raised, in the case of a generating station with a declared net capacity of less than 100 megawatts, to 50 megawatts disregarding power temporarily provided in excess of 50 megawatts due to specified circumstances; in calculating the power provided, power provided to consumers who supply electricity to others in circumstances specified in the description of Class B in Schedule 3 can now be disregarded.

Article 5 of this Order re-enacts Class B and paragraph B.1 in Schedule 3. Previously, persons fell within Class B in Schedule 3 if they did not supply electricity other than that supplied to their premises by the holder of a licence under section 6(1)(c) or 6(2) of the Electricity Act 1989 (or other electricity in limited circumstances as described in the Class). The exemption granted to any such person ceased to be in force if electricity supplied by the holder of a licence under section 6(2) of the Electricity Act 1989 was supplied by the exempt supplier in specified circumstances. Article 5 makes the following changes of substance: the electricity that a person falling within this Class may supply is extended to electricity supplied to him by a person in circumstances falling within Class C in Schedule 3 (“Class C electricity”); Class C electricity and electricity supplied by the holder of a licence under section 6(2) of the Electricity Act 1989 can now be supplied in the specified circumstances subject to conditions as to the location of the premises supplied and limits on the total amounts supplied; the exemption ceases to be in force in relation to an exempt supplier who supplies Class C electricity other than in the specified circumstances.

Article 6 of this Order revokes the proviso to Class C and paragraph C.2 in Schedule 3 whereby, to fall within this Class, a generator had to supply, or have a reasonable expectation when starting supply that he would supply, not less than 51% of the output of each of his generating stations to consumers meeting conditions specified in Class C. The description of such consumers in subparagraphs 2(a) and (b) of Class C is amended to include consumers who supply electricity to others in circumstances specified in the description of Class B in Schedule 3.