

**EXPLANATORY MEMORANDUM TO**  
**THE ELECTRICITY (INDIVIDUAL EXEMPTION FROM THE REQUIREMENT**  
**FOR A GENERATION LICENCE) (SLOUGH MULTIFUEL) (ENGLAND) ORDER**  
**2024**

**2024 No. 195**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Energy Security and Net Zero and is laid before Parliament by Command of His Majesty.

**2. Declaration**

- 2.1 Claire Coutinho, The Secretary of State at the Department for Energy Security and Net Zero can confirm that this Explanatory Memorandum meets the required standard.
- 2.2 Jane Walker, Deputy Director for Retail Energy Markets and Consumers, at the Department for Energy Security and Net Zero can confirm that this Explanatory Memorandum meets the required standard.

**3. Contact**

- 3.1 Chris Chown at the Department for Energy Security and Net Zero Telephone: Direct line telephone number: 07471358024 or email: [chris.chown@energysecurity.gov.uk](mailto:chris.chown@energysecurity.gov.uk) can be contacted with any queries regarding the instrument.

**Part One: Explanation, and context, of the Instrument**

**4. Overview of the Instrument**

*What does the legislation do?*

- 4.1 To grant exemption from the requirement to hold an electricity generation licence to SSE Slough Multifuel Limited in respect of the Slough Multifuel Generating Station.

*Where does the legislation extend to, and apply?*

- 4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Great Britain.
- 4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

**5. Policy Context**

*What is being done and why?*

- 5.1 SSE Slough Multifuel Limited has made an application for an individual exemption from the requirement to hold an electricity generation licence in respect of the Slough Multifuel Generating Station.
- 5.2 The Electricity Act 1989 (“the Act”) requires electricity generators to hold a licence. Section 5(1) of the Act provides that the Secretary of State may, by order, grant exemption from that requirement. Under the Act (in particular section 3A), the principal objective of the Secretary of State in carrying out relevant functions under

the Act is to protect the interests of existing and future consumers in relation to electricity conveyed by distribution systems or transmission systems (including their interests in the reduction of emissions of targeted green-house gases), wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the generation, transmission, distribution or supply of electricity.

- 5.3 In delivering the principal objective, the Secretary of State should have regard to, among other things, the need to ensure security of supply and the need to contribute to the achievement of sustainable development. In addition, the Secretary of State's regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed.
- 5.4 The Department's exemptions policy is set out in the Electricity Generation, Distribution and Supply Licence Exemptions - Frequently Asked Questions document.<sup>1</sup> Under the exemptions policy, applications for individual exemption regarding stations conducting generation activities of above 50 megawatts and up to 100 megawatts capacity may be considered for exemption because plant of less than 100 megawatt capacity will generally have a low impact on the total electricity system and it is generally considered appropriate that such stations be exempted from the same degree of system regulation (and costs) as is imposed by standard licensing conditions. In determining applications, the Secretary of State takes account of the impact of the exemption on the safe and secure operation of the electricity system, and the interests of consumers, and why it would be disproportionate for the applicant to meet the costs and obligations of a licence.
- 5.5 The impact that the Slough Multifuel Generating Station will have on the system is low, and it would be appropriate to grant an individual exemption from the requirement to hold a generation licence, subject to standard conditions (set out in articles 4 of the instrument).

*What was the previous policy, how is this different?*

- 5.6 Section 5(1) of the Act is a power available to the Secretary of State to grant licence exemptions as an essential component of the electricity licensing regime. This is a longstanding policy where exemption orders are made where an exemption is determined necessary.

## **6. Legislative and Legal Context**

*How has the law changed?*

- 6.1 Section 4(1)(a) of the Electricity Act 1989 ("the 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 authorised to do so by licence. Section 5(1) of the Act provides that the Secretary of State may, by order, grant exemption from section 4(1)(a) either to a person or to persons of a class.
- 6.2 Section 5(2) and (3) of the Act set out the notice requirements for making such an order.
- 6.3 The Electricity (Class Exemptions from the Requirement for a Licence) Order 2001 ("the Class Exemptions Order")<sup>2</sup>, made under section 5(1) of the Act, provides exemptions for various classes of electricity generation, but none of those class

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<sup>1</sup> <https://www.gov.uk/guidance/electricity-licence-exemptions#frequently-asked-questions>

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

exemptions are applicable to the Slough Multifuel Generating Station. This Statutory Instrument is the only means by which a licence exemption can be granted to Slough Multifuel Generating Station.

*Why was this approach taken to change the law?*

- 6.4 This is the only possible approach to make the necessary changes.

## **7. Consultation**

*Summary of consultation outcome and methodology*

- 7.1 In accordance with Section 5(2) of the Act, a notice was published on the Government website setting out the proposal to make the instrument, containing the terms of this instrument, and inviting representations, on 2 January 2024.
- 7.2 The notice period closed on 30 January 2024 and no representations were received.

## **8. Applicable Guidance**

- 8.1 Guidance on licence exemptions exists on the Government website.<sup>3</sup>

## **Part Two: Impact and the Better Regulation Framework**

## **9. Impact Assessment**

- 9.1 A full Impact Assessment has not been prepared for this instrument because the impact is de-minimis.

*Impact on businesses, charities and voluntary bodies*

- 9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the impact is deemed to be de-minimis.
- 9.3 The legislation does not impact small or micro businesses.
- 9.4 There is no, or no significant, impact on the public sector because the impact is deemed to be de-minimis.

## **10. Monitoring and review**

*What is the approach to monitoring and reviewing this legislation?*

- 10.1 There are no formal monitoring or review requirements for this instrument. However, failure by SSE Slough Multifuel Limited to meet any of the conditions in article 4 of the instrument, will render the exemption invalid. In such circumstances, SSE Slough Multifuel Limited would not be exempt from the requirement to hold a licence to generate electricity in respect of the Slough Multifuel Generating Station and would need to obtain a licence to comply with the Act.
- 10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015. The Secretary of State for Energy Security and Net Zero has made the following statement. The impact of the measures in this instrument are not expected to be significant (less than £5 million annualised net business impact). It would be disproportionate to include such a review clause because of the costs involved in undertaking such a review, with limited scope for change following any review.

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<sup>3</sup> <https://www.gov.uk/guidance/electricity-licence-exemptions>

### **Part Three: Statements and Matters of Particular Interest to Parliament**

#### **11. Matters of special interest to Parliament**

11.1 None.

#### **12. European Convention on Human Rights**

12.1 The Secretary of State at the Department for Energy Security and Net Zero has made the following statement regarding Human Rights:

“As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

#### **13. The Relevant European Union Acts**

This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).