

SCHEDULE 3

Article 3(1)(b)

EXEMPTIONS FROM SECTION 4(1)(c) OF THE ACT

Class A. 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 section 6(1)(c) of the Act;

and who do not at any time supply more electrical power than 500 kilowatts.

A.1. For the purposes of Class A electrical power supplied by a body corporate which is associated with any supplier shall be treated as supplied by that supplier.

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 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 paragraph B.1 below whether a person is supplying electricity in such circumstances paragraphs (2)(a) and (b) of Class C in this Schedule shall have effect as if the words following “is situated”, in each case, were omitted; 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 per cent. 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

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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 per cent. 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) (a) 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 such that he falls within 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;

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“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 watercourse 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.

Class C. Persons who—

(1) 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 section 6(1)(c) or (2) of the Act; and

(2) provide the output of each generating station at which they generate electricity only to—

(a) 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 electricity provided to him 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 Schedule 3; or

(b) 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 him by the supplier in question at those premises

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other than any of that electricity supplied by that consumer in circumstances such that he falls within Class B in Schedule 3; or

- (c) (i) consumers of the type specified in sub-paragraphs (a) or (b) above; and
- (ii) 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,

and for the purposes of this Class electricity provided by a person in any half hour shall be treated as if it were generated by that person at a generating station at which he generates electricity and as the output of that generating station if it—

- (a) is purchased by that person pursuant to the pooling and settlement agreement; and
- (b) does not exceed the amount of electricity which he generates at that station in that half hour and which he is required to sell and does sell pursuant to that agreement.

C.1. Where at any time the supplier in question and some other person generate electricity at the same generating station at the same time, the generation of electricity by that other person and the provision of the output of that generating station by that other person shall for the purposes of Class C be treated as the generation of electricity by that supplier if that other person, being a body corporate, is associated with that supplier.

C.2.—(1) In Class C and paragraph C.1 above—

“consumer” means a person other than—

- (a) the holder of a licence under section 6(1)(c) or (2) of the Act, except where the holder of such a licence is acting otherwise than for the purposes connected with the supply of electricity to premises in his authorised area or, as the case may be, to premises specified or of a description specified in his licence; or
- (b) an Electricity Board,

to whom electricity is supplied (whether or not he is the same person as the person who supplies the electricity) and two or more consumers form a qualifying group if, being bodies corporate—

- (a) each of them is connected to each other and 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 31st March 1990 and was supplied with electricity by the supplier in question on 31st March 1990;

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

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

- (a) 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

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- (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
- (b) 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 (other than a pipe-line, electric line or similar structure) occupied by the supplier or consumer in question or by any other person who together with that consumer forms a qualifying group.

Class D. Persons who—

- (1) do not supply electricity except electricity which has been generated at a generating station which is situated on an offshore installation; and
- (2) do not supply such electricity to any premises except premises which constitute or are comprised in an offshore installation.

Class E. Persons other than successor companies who were supplying electricity or making the supply of electricity available to premises on 31st March 1990 and who had been supplying electricity or making the supply of electricity available to those premises for a period of three months ending on 31st March 1990.

E.1. The exemption granted by this Order to persons falling within Class E shall cease to be in force in relation to any person—

- (a) on 31st March 1998; or
- (b) before that date if—
 - (i) that person supplies electricity or makes the supply of electricity available to premises other than premises to which he was supplying electricity or making the supply of electricity available on 31st March 1990; or
 - (ii) the aggregate of the maximum power which that person makes available at any time to the premises to which he was supplying electricity or making the supply of electricity available on 31st March 1990 exceeds the aggregate of the maximum power which he could have made available to those premises on that date (whether that amount of power was consumed on that date or not).