
Roger Barnard
Head of Regulatory Law
GENERAL EXEMPTIONS BACKGROUND

• Electricity Act 1989: an offence to generate, transmit, distribute, or supply electricity unless authorised by either (i) a licence granted under the Act or (ii) an exemption granted under the Act

• Exemptions are within the gift of BERR, not Ofgem, and they may be granted to either a class of persons or an individual person

• However, in order to protect interests of consumers (via Ofgem, for example), BERR may attach conditions to any exemption

• BERR can grant an exemption for a limited or unlimited period and can also vary or revoke an exemption (after consulting Ofgem)

• Exemptions Order 2001 is badly drafted, opaque, and not designed to facilitate a flourishing of exempt power projects
SERIOUS PROBLEMS AND MODEST CHANGES

- A company supplying up to 2.5MW of self-generated power to domestic customers cannot be ‘associated with’ a licensed supplier.
- And a company distributing up to 2.5MW of power to enable a supply to be given to domestic customers cannot be ‘associated with, connected to, or related to’ a licensed distributor.
- So, in EDF Energy’s case, for example, under Companies Act rules:
  * the supply exemption will only be available to a company that is not a subsidiary of any of EDFE’s supply companies or of EDFE itself, and
  * the distribution exemption will not in any circumstances be available for any corporate entity that is part of the EDFE group.
- Change 1: Domestic distribution and domestic supply to have a new common exemption limit of 2.5MW.