EXPLANATORY MEMORANDUM TO

THE ELECTRICITY (CLASS EXEMPTIONS FROM THE REQUIREMENT FOR A LICENCE) (AMENDMENT) ORDER

2007 No. 629

1. This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Order amends licence exemption arrangements for electricity distribution systems across Great Britain, by adding a class exemption for offshore distributors.

2.2 Specifically, the Order adds a class exemption in Schedule 3 to the Electricity (Class Exemptions from the Requirement for a Licence) Order 2001 for offshore distributors.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The class exemption is made under the powers conferred upon the Secretary of State by section 5 of the Electricity Act 1989, which is concerned with (among other things) the power to grant exemptions from the requirement to hold a licence for the distribution of electricity. This Order is being made after giving statutory notice under section 5(2) of the Electricity Act 1989 and serving it on Gas and Electricity Markets Authority and Energywatch (as required by section 5(3) Electricity Act 1989).

4.2 This power was previously exercised when the Electricity (Class Exemptions from the Requirement for a Licence) Order 2001 ('the 2001 Order') was made on 28th September 2001. This granted an automatic licence exemption to, among others, three classes of distributor in Great Britain, broadly speaking to private distribution systems, those with no domestic consumers directly connected to their system or with low export capacity.

4.3 The 2001 Order was amended in 2005 but the amendments are not relevant to distribution exemptions. The 2001 Order did not make

specific provision for the development of offshore renewables. Since 2001, 29 offshore wind farms and two wave and tidal test centres have been granted options for leases to develop generating stations in GB offshore waters. At least nine of these are planning to connect to the onshore GB electricity grid via offshore distribution systems. Operation of these distribution systems is prohibited under section 4 of the Electricity Act 1989, unless either licensed (under section 6 of the Electricity Act 1989) or exempt (under section 5 of the Electricity Act 1989).

4.4 There is currently no specific offshore licensing regime for distribution or transmission of electricity from offshore generating stations. The Energy Act 2004 provides for the introduction of distribution and transmission licensing regimes offshore. A transmission licensing regime is currently being developed.

4.5 Given the limited number of planned offshore distribution systems and the absence of directly connected customers on those systems or wider impact on the integrity of the network, the Secretary of State has concluded that a class exemption is the most appropriate form of regulation for offshore distribution. It would be desirable for the rules governing offshore distribution to be applied uniformly offshore without delay, by establishing the arrangements governing class exemption for offshore distributors.

4.6 This Order therefore makes an amendment to the 2001 Order introducing a fourth class exemption for the distribution of electricity (Class D), specifically exempting distributors of electricity generated only by offshore generating stations.

5. Territorial Extent and Application

5.1 This instrument extends to Great Britain.

5.2 This instrument will apply to offshore distribution systems from generating stations located in Great Britain, the territorial sea adjacent to Great Britain and the Renewable Energy Zone (REZ) once section 89 of the Energy Act 2004 is commenced. Section 89 amends section 4 of the Electricity Act 1989 so that its prohibitions (and licensing and exemption regime) also apply in the REZ.

6. European Convention on Human Rights

6.1 The Parliamentary Under Secretary of State for Energy 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.

7. Policy background

7.1 In considering these and other applications for exemption from the licensing requirements of the Electricity Act 1989, the Secretary of State's principal policy objective is to minimise the regulatory burden on offshore distributors of complying with the GB distribution licensing regime, whilst ensuring the protection of consumers and the security of the total system for the generation, distribution and transmission of electricity.

7.2 In securing this policy, the Secretary of State has taken into account the views of the Gas and Electricity Markets Authority and the appropriate consumer body, energywatch, as well as other interested parties. A public consultation document inviting representations on this proposal and the draft Order was published in November 2006.

7.3 Submissions were received from 16 parties, including generators, distribution licensees, transmission licensees, and the GB system operator. All parties were content with the proposal, although one respondent preferred the option of the Secretary of State granting individual exemptions to offshore distributors. The Secretary of State also consulted Scottish Ministers and the Welsh Assembly Government.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

8.2 This measure is deregulatory. The impact is, therefore, positive for the companies concerned.

9. Contact

Katherine Watson at the Department of Trade and Industry Tel: 020 7215 2891 or e-mail: Katherine.Watson@dti.gsi.gov.uk can answer any queries regarding the instrument.

dti

REGULATION OF OFFSHORE ELECTRICITY DISTRIBUTION

Final Regulatory Impact Assessment – A Class Exemption for Offshore Electricity Distributors

MARCH 2007

URN 07/709

FINAL REGULATORY IMPACT ASSESSMENT

THE ELECTRICITY (CLASS EXEMPTIONS FROM THE REQUIREMENT FOR A LICENCE) (AMENDMENT) ORDER 2007

1. Title of Proposal

1.1 Amendment of the *Electricity (Class Exemptions from the Requirement for a Licence) Order 2001* to include a new class exemption for offshore distribution.

2. Purpose and intended effect of the measure

(i) The objective

2.1 To minimise the regulatory burden on offshore distributors of complying with a distribution licensing regime, in the general context of minimising the burden of regulation on persons operating in a limited manner in the generation, supply and distribution of electricity.

2.2 To create a distribution exemption regime that permits persons to distribute electricity, for the purpose of conveying it only from an offshore generating station, without a distribution licence.

(ii) The background

2.3 The Government reiterated in *The Energy Challenge*[1] its long-term goal of cutting carbon emissions in the UK by 60% by 2050. Renewable energy is an integral part of this objective, as it produces less carbon dioxide and other greenhouse gases than electricity generated by fossil fuels. By increasing the amount of energy we get from renewable sources – like offshore wind, wave and tidal energy – we can also reduce our dependence on those fossil fuels. The extra diversity that renewables bring to the UK's energy infrastructure can make a significant contribution to the Government's goal of ensuring reliable and secure energy supplies.

2.4 Recognising the important contribution that renewables can make to achieving our energy policy goals, in the 2003 Energy White Paper[2] the Government set a target of 10% of UK electricity supply from renewable energy by 2010, with a further aspiration to derive 20% by 2020.

2.5 For the immediate future it is likely that both onshore and offshore wind generation will need to make a significant contribution to the UK's renewable energy targets and aspirations given the significant wind resource in the UK onshore and offshore and the relatively advanced nature of wind generation technology.

2.6 The Government has already set out and consulted on its strategy for the development of offshore wind in the document *Future Offshore – A Strategic Framework for the Offshore Wind Industry* published in 2002[3]. A key factor behind this policy is that the UK has some of the best offshore wind resources in Europe, if not the world. Currently, there are plans for up to 8GW of electricity generation projects (which represents just under 10% of current generating capacity) to be developed in the sea around Great Britain, harnessing those wind resources. We will also need to maximise potential contribution from other emerging technologies, such as wave and tidal generation.

[1] The Energy Challenge; Energy Review; A Report, July 2006; http://www.dti.gov.uk/energy/review/page31995.html
[2] Our Energy Future: Creating a Low Carbon Economy; www.dti.gov.uk/files/file10719.pdf
[3] *Future Offshore* is available on the DTI website: http://www.dti.gov.uk/files/file22791.pdf

2.7 Exploitation of this potential offshore energy source requires its connection to the onshore GB transmission and distribution networks. A broad framework for the regulation of offshore transmission and distribution of electricity was set out in the *Energy Act 2004* ("the 2004 Act"). It amends section 4 of the *Electricity Act 1989* ("the 1989 Act") so that the prohibitions (and licensing and exemption regime) also apply in the Renewable Energy Zone (REZ) and confirms that the regime applies in the territorial sea adjacent to Great Britain. It also gives the Secretary of State broad powers to introduce a new regulatory regime for offshore electricity transmission and distribution.

2.8 Following a preliminary consultation in 2005[4], the Government announced on 30 March 2006[5] that it had decided the form of regulation to be applied to offshore transmission would be a price control regime, implemented through a system of licences, industry codes and industry standards. This is likely to be implemented by the end of 2008.

2.9 In order to provide a clear, consistent and enduring offshore grid regime for all connections, DTI has now considered the regulatory position of low voltage offshore connections (distribution systems).

(iii) Risk assessment

Risks to system stability

2.10 The Government is satisfied that failure of an offshore distribution connection would not have any harmful implications for network integrity, given the relatively low level of electricity being exported onto the onshore distribution network and the lack of directly connected demand customers to the offshore networks. The social and environmental consequences of this risk are set out in sections 6.25 to 6.27.

Means of mitigating the risk to system stability if the Order is made

2.11 The class exemption for offshore distributors does not lessen an onshore licensee's ability to impose contractual obligations as part of a connection and/or use of system agreement. Certain conditions will need to be met – particularly regarding information that the distributor would be obliged to provide to the Gas and Electricity Markets Authority ('the Authority') and not distributing directly to domestic consumers. Conditions to this effect are attached to the exemption.

2.12 The GB System Operator (GBSO), in its response to the 2006 Government consultation on the proposed class exemption[6], noted that Distribution Network Operators (DNOs) are currently responsible for ensuring the compliance of licence-exempt generators embedded within their network with certain sections of the Grid Code and Connection and Use of System Code (CUSC) managing certain technical requirements and provision of information to the GBSO.

3. Consultation

3.1 The DTI consulted initially in November 1999 on establishing a class exemption from the electricity licensing requirements under the 1989 Act. This was followed by a consultation on the proposal to lay an Order making changes to the licence exemption regime in February 2001. The *Electricity (Class Exemptions from the Requirement for a Licence) Order 2001* ("the 2001 Order")[7] came into force on 1 October 2001. It was amended in 2005[8] (SI 2005/488) but the amendments did not relate to the class exemptions from a distribution licence.

[4] The preliminary consultation is available on the DTI website: www.dti.gov.uk/files/file18058.pdf
[5] The Government Decision is available on the DTI website: www.dti.gov.uk/files/file27137.pdf
[6] The consultation paper is available on the DTI website: www.dti.gov.uk/files/file35593.pdf
[7] The statutory instrument (SI 2001/3270) is available online: www.legislation.hmso.gov.uk/si/si2001/20013270.htm
[8] Electricity (Class Exemptions from the Requirement for a Licence) (Amendment) Order 2005 (SI 2005/488).

3.2 This regulatory impact assessment was developed to accompany and inform the 2006 written public consultation on the proposed Class D exemption for offshore distributors. The public consultation sought to identify and address any wider policy issues of concern that may arise as a consequence of the proposed Order, as well as to identify and take steps to mitigate any unintended consequences that may arise. It has been updated in light of the written responses to the public consultation and individual discussions with interested parties.

3.3 16 responses were received to the consultation, from Generators, Transmission Owners (TOs), the GBSO, DNOs, a trade association, an independent consultant, Regional Development Agency, and Energywatch. These individual responses and the Government Response are available on the DTI website.

4. Regulatory Burdens and Compensatory Simplification

4.1 This is a deregulatory measure.

5. Options

5.1 There were three options for the regulation of offshore distribution systems.

Option I – Do nothing

5.2 The operation of existing offshore low voltage connections and any future offshore low voltage connections would require a distribution licence or an exemption.

Option II – to extend the class exemption to apply to offshore distributors

5.3 This is the approach chosen of creating a specific class exemption for offshore distribution, by amending the 2001 Order.

Option III – to establish an offshore distribution regime

5.4 This option would have involved the Secretary of State establishing a new licensing regime for offshore distribution, which would involve the modification of the standard conditions of distribution licences, amongst other things. Powers to establish such a regime are provided for in the 2004 Act.

6. Costs and Benefits

6.1 The proposed Order makes changes that are deregulatory. The reference case, for the purpose of assessing benefits, is where the Order was not made and offshore distributors would require licences, thus making them subject to the range of duties and responsibilities under the existing licensing regime. As a result, the compliance costs, which the measure will permit those affected to avoid, are largely negative.

Business sectors affected

6.2 *Offshore Generators*. The sector most likely to be affected by the proposed regulation is electricity generators offshore, specifically those connected to the onshore grid at 132kV or less (or less than 132kV in Scotland). At present the offshore generation market comprises four wind farms, with a further 25 projects under development, as well as one wave and tidal testing centre operating off Orkney (the European Marine Energy Centre or 'EMEC') and a proposed testing centre off Cornwall (the WaveHub).

6.3 *Onshore distributors*. There are 14 Distribution Network Operators (DNOs) in Great Britain and 3 Independent Distribution Network Operators (IDNOs). These licensees own and operate the onshore distribution systems in England, Wales and Scotland and must comply with distribution licence conditions. DNOs are the residual monopolies resulting from the privatisation of Public Electricity Suppliers who own and operate distribution networks and also have specific responsibilities in defined geographic areas.

6.4 Amendments to the 1989 Act by the Utilities Act 2000 introduced distribution as a separate activity from transmission or supply, requiring authorisation. As a consequence, any person can apply for a licence to operate existing or newly built distribution networks. IDNOs own and operate electricity distribution networks which are predominately network extensions connected to the existing distribution network, e.g. to serve new housing developments.

6.5 All the offshore wind farms constructed to date have connected into onshore distribution networks, rather than the transmission grid. We do not expect the contractual relationship between offshore generators and the onshore DNO with which they have a connection agreement to change as a result of the offshore system being licence-exempt.

6.6 *Other distributed generation*. There may be an impact on other distributed generation (also known as embedded or dispersed generation). Distributed generators are mostly – though not exclusively – those generating power from environmentally friendly renewable energy sources (including small hydro, wind and solar power) or from combined heat and power (CHP) plants. There are many types of distributed generation: from a 1kW device installed in a home to a large industrial CHP plant generating 100MW or more. This could mean that where now a Distribution Network Operator (DNO) might have 300 generators in total on its network it could, by 2010, have 300 at every substation – particularly if the smaller generation technologies prove successful. Offshore distribution will contribute to this effect on a DNO. However, as noted in section 3 there are unlikely to be a large number of offshore wind farms connecting to the onshore grid at low voltage. The resulting impact on DNOs or IDNOs should therefore not be significant by comparison to onshore embedded generation. We do not expect that the introduction of this class exemption will affect the status of other distributed generation or their relationship with licensed DNOs.

6.7 *GBSO.* The existing arrangements for embedded generators that currently apply between the offshore generators and the GBSO if electricity is exported to the transmission system should not be affected by the proposed offshore distribution class exemption, subject to the comments made in sections 2.11 and 2.12.

6.8 *Onshore exempt distribution systems*. The addition of a Class D to the exemption order will not affect the existing class exemptions for distribution. As it only applies to offshore distributors, we do not anticipate any change to the position of onshore distribution licensees or licence-exempt distributors.

Option I

6.9 There are no (new) benefits from adopting a "do nothing" policy in this instance. By contrast, the costs are potentially large. The costs imposed by the current distribution licence conditions seem disproportionate to the risks that offshore low voltage connections pose to overall system security and the quality of supply provided to domestic consumers. These costs may be summarised as:

- Licence fees (£1250 on application and a minimum £500 annual fee reflecting Ofgem's costs, based on share of total customer numbers)
- Developing and maintaining charging methodologies
- Establishing a range of administrative services that are appropriate for the national network (such as meter point administration)
- Adhering to a range of accounting requirements from the regulatory regime

6.10 Offshore distributors would be able to apply for individual licence exemptions which, if successful, would provide similar benefits to option II in the long term. The process of granting such individual licence exemptions however would involve time delays and associated costs – both to the company in question and to the DTI. The process generally involves an application from the distributor, followed by a formal consultation by DTI and the making of an Order (Statutory Instrument).

6.11 The costs, mainly to DTI, associated with an individual exemption are estimated to be £100,000 per exemption, including administrative work, the consultation process, and preparing the legal documents. There might be some efficiency gains if exemptions could be processed simultaneously, but this would depend on the timing of the individual projects involved.

6.12 It is expected that commencement of section 180 of the 2004 Act will take place before the majority of Round 2 projects are commissioned (and require a licence or exemption). At least 19 of the 29 Round 1 and 2 connections are expected to be at 132kV, and these will be transmission post-commencement of s180 rather than distribution. The remaining connections may be 220kV, which would be transmission at present. However, the costs of issuing individual exemptions remain significant. At present, 10 projects are planning connections at less than 132kV (equivalent to £1m in costs if all are processed individually). Some connections at 132kV may have commissioned before commencement and would each require a licence or individual distribution exemptions until that point. One project at 132kV has already commissioned and would certainly require a licence or individual exemption pre-commencement (£100,000).

6.13 A minority of respondents to the consultation suggested that these connections were not distribution systems and therefore that the costs of providing individual exemptions has been overestimated. However, the same respondents considered that the class exemption might remain appropriate even if it only applied to a limited number of sites.

6.14 The overall economic net benefit is therefore likely to be negative.

Option II

6.15 Creating a new offshore distribution class exemption minimises many of the costs present in Option I. It would also be consistent with previous class exemption policy.

6.16 The main advantage of Option II is the realisation of benefits by the exempted distributors by avoiding costs associated with being licensed distributors or applying for an individual exemption as set out in Option I above. This automatic exemption would also provide them with regulatory certainty, reduce risk for developers and avoid further delays, creating an environment conducive to the delivery of increasing amounts of renewable generation offshore and enabling the achievement of the Government's 2010 target for 10% of the electricity supply from renewable generation. This could have important economic, environmental and social consequences.

6.17 The main disadvantage of Option II is the risk of an adverse impact on the security of the electricity supply connected to the exempted network. However DTI considers that this risk is mitigated as the relevant licensee will define the requirements that must be met at the connection point with its onshore distribution system (as conditions of connection and/or use of system agreements). The DTI believes that amending the 2001 Order to include an exemption for offshore distributors would not have any significant detrimental effect on overall system security.

6.18 To the extent that there are compliance costs, these lie in operators ensuring that they do not breach the limits or conditions of the exemption. Conditions attached to exemptions are less onerous than those attached to existing licences. Ofgem will also retain the power to require information from exempt distributors and Energywatch will be able to investigate any complaints about their performance.

6.19 Ofgem recovers its licensing costs from licensees (gas transportation, electricity transmission (GBSO only), and electricity distribution licensees), although companies are able to pass through costs, in the case of distribution licensees to generation and demand customers. A licensee's share of Ofgem's costs is calculated on the basis of their share of total customers on the system - subject to a minimum charge of £500.

6.20 In the case of offshore distribution, there are no directly connected customers, so it is unlikely that even if licensed they would have had to meet those costs directly other than the minimum fee.

6.21 The overall economic net benefit of Option II is therefore likely to be strictly positive.

Option III

6.22 This option could provide a licensing regime with obligations tailored to the specific offshore situation and as such could achieve some of the benefits of Option II. However setting up this regime would be a lengthy process and involve considerable one-off and recurring costs. Developing the offshore transmission regime is estimated to have cost the DTI at least £340,000 over the period 2005-8 and the final costs may be significantly higher. Ofgem and industry participants in the development process are likely to have incurred a similar or higher cost. It is anticipated that these costs would be broadly similar for the setting up of an offshore distribution regime.

6.23 If such a licensing regime was established, it is possible that future marine demonstration projects could benefit from their distribution assets being held with a licensee's asset base (and price control). However, it should be noted that the possibility of establishing a licensing regime is not negated by choosing Option II, as a licensing and exemption regime can co-exist offshore as they do onshore. It remains our view that the costs associated with this option outweigh the possible future benefits at present and that Option II delivers many of the benefits of Option III whilst avoiding the immediate costs associated with it.

6.24 Consequently, the economic net benefit of Option III appears to be ambiguous and could be either positive or negative (in present value terms).

Social

6.25 This is a legislative change affecting the applicability of licence exempt status of a small number of distributors who connect offshore generating stations to the onshore grid. It is not expected to have any impact on any particular racial, gender, income, age or disability group. It will be implemented in a way that maintains the safe and secure operation of the electricity network, which is necessary to maintain a reliable supply of electricity in GB, which is beneficial to all social groups locally.

6.26 All GB consumers, for whom security of supply is increasingly important, would be significantly disadvantaged if a long and costly process deterred potential offshore distribution systems being built.

Environmental

6.27 A delay in implementing a clear regime for offshore distribution may mean a loss of carbon savings as offshore wind farm development and operation is delayed. For example, one can demonstrate that each year's delay in 500MW of offshore wind generating capacity (which is assumed to displace CCGT generation producing 0.1tC/MWh) would result in lost carbon savings of around 175kt per annum if the annual load factor is 40%. Based on a social cost of carbon of £70 per tonne in 2000, which increases by £1/tC at 2000 prices every year

thereafter[9] and assuming a social discount rate of 3.5%, this equates to a monetary loss of roughly £15 million per year at 2006 prices in present value terms over the coming years.[10]

7. The Small Firms' Impact Test

7.1 The proposed class exemption will only affect the status of a limited number of offshore generating stations, which is currently made up almost entirely of large businesses. The four existing distribution connections are owned by Centrica (Barrow), RWE npower (North Hoyle), Vattenfall (Kentish Flats), and EON (Scroby Sands). Large companies also own the twenty-five projects under development.

7.2 There are around fifty firms in the UK involved in the development of wave/tidal devices. This industry comprises both small and large companies. However, wave and tidal devices are in the demonstration phase and commercial deployment is unlikely to take place for some time.

7.3 As the proposed exemption would not apply to any existing small firms, and would reduce the regulatory burden on any small firms looking to enter the market, we believe that the proposed de-regulatory measures are unlikely to have a disproportionate effect on small firms. Views from firms in the wave/tidal development sector were sought during the consultation process.

7.4 We have consulted the Small Business Service and they have agreed with this statement. The consultation process also confirmed this assertion.

8. Competition Assessment

8.1 None of the options is likely to have a significant impact on the degree of competition within the British generation or distribution market. This is because the proposed exemption only affects those who operate offshore low voltage connections – currently four relatively small generating stations offshore. Even if one makes the rather extreme assumption that all four stations have 100% load factors, this implies that their total electricity output in any given year is approximately 2,628GWh[11]. This would have been equivalent to just 0.006% of total UK generation of 408,846GWh in 2005,[12] but in reality the actual proportion is likely to have been significantly less[13].

8.2 As mentioned in section 3 of the consultation paper, all companies in the offshore generation market who have low voltage connections to shore will be equally affected by the proposed Order. This proposal is intended to ensure equal treatment of these connections, ensuring a transparent and uniform market structure.

8.3 It is not anticipated that the proposed Order would lead to higher set-up costs for new or potential firms that existing firms do not have to meet as a result of the proposed legislation – it should reduce costs for all market participants equally.

8.4 The sector remains competitive, with a focus on increased efficiency of operation, but is characterised by rapid technological change. The proposed deregulation will have no effect on the ability of firms to choose the price, quality, range or location of their products.

8.5 The proposals are not expected to have a significant effect on the competitiveness of the electricity generation market. It should be noted that the proposals are not expected to

[9] See chapter 9 of "Estimating the Social Cost of Carbon Emissions", Defra/HMT, January 2002 (http://www.hm-treasury.gov.uk/media/209/60/SCC.pdf)
[10] GDP deflator in 2006 estimated to be 156.7 (where 1990=100.0 and 2000=134.5). Strictly, the present value monetary loss declines every year. The PV base year (i.e., "year zero") is 2006.
[11] Based on a calculation of 300MW x 100 (% load factor) x 8760 (hrs/year) http://www.bwea.com/edu/calcs.html.
[12] Table 5.6, Electricity fuel use, generation and supply, "2006 Digest of UK Energy Statistics".
[13] Based on a load factor of 30%, a more realistic figure would be 788.4GWh or 0.002% of total UK generation.

have any material effect on the physical operation of the generating stations or distribution systems in question.

9. Enforcement and Sanctions, Compliance and Monitoring

(i) How will the proposal be enforced?

9.1 Under section 4(1)(bb) of the 1989 Act it is an offence for a person to distribute electricity for the purposes of giving a supply to any premises or enabling a supply to be so given, unless he is authorised to do so by a licence or exemption. Electricity distributors are required to abide by their licence conditions, and the ultimate sanction for non-compliance with licence conditions is for a licence to be revoked.

9.2 Section 5 of the 1989 Act provides for the Secretary of State to grant exemptions from the licensing requirements of section 4 of the 1989 Act by Order, either to an individual or to a class of persons. Given the nature of the proposed policy (which proposes an exemption from an obligation to comply with various requirements), it is extremely unlikely that any enforcement action would be required with respect to this policy.

9.3 Section 5 of the 1989 Act enables the Secretary of State to revoke an exemption if it appears to him inappropriate that the exemption should continue to have effect, and also enables the Secretary of State to grant exemptions subject to conditions.

(ii) Who will enforce this legislation?

9.4 Given the existing possibility of revocation, it is not anticipated that any further provisions to those set out above for enforcement will be required. This is the usual manner in which class exemptions are enforced.

(iii) Will the legislation impose criminal sanctions for non-compliance?

9.5 No – it is not anticipated that any sanctions other than revocation will be required.

10. Post-implementation Review

10.1 The Government believes that the policy provides certainty to existing and future offshore distribution system operators. The proposed secondary legislation is designed to amend existing secondary legislation in GB, and as such has indefinite effect (until revoked) with no sunset provision. In line with current policy concerning the granting of class licence exemptions, it is not considered appropriate to subject this exemption to a formal review process.

10.2 While provision exists for revisiting these exemptions, we do not presently envisage any need to adjust the limits or add new conditions if operators behave responsibly. However, should the make-up of offshore distribution systems change significantly, for example, should the offshore situation deliver a meshed network of connections or consumer demand be directly connected to these systems, then the impact on the security of the system might require either further conditions to be attached to the exemption or possibly the creation of an offshore distribution licensing regime.

11. Summary and Recommendation

(i) Summary of rejected options and justification

11.1 Not to implement a class exemption for offshore distributors could give rise to additional costs to this class of distributor without any justification in terms of system security or consumer protection. Establishing a tailored offshore distribution licensing regime would entail significant costs to DTI, Ofgem and the industry concerned with no identifiable additional benefits to Option II, and is therefore considered disproportionate.

11.2 The options of 'do nothing' and 'creating a new licensing regime for offshore distribution' have therefore been discounted.

(ii) Summary of proposed option and justification

11.3 It is therefore proposed to amend the 2001 Order to introduce a Class D to Schedule 3 to create a class exemption for offshore distribution, with the condition that flows of certain information is provided to Ofgem by exempted distributors and that electricity is not distributed to directly connected domestic consumers.

(iii) Summary of costs and benefits for each option

	Total cost per annum (Economic, environmental, social)	**Total benefit per annum (Economic, environmental, social)**
(i) Do nothing	Potential for significant economic consequences for offshore distributors in licence obligations. Significant costs to DTI if a large number of individual exemptions are requested (£100,000 per exemption, estimated to reach at least £1.1m)	No additional benefits identified.
(ii) Create a class exemption for offshore distribution	Administrative costs to DTI in establishing class exemption - mostly already incurred – of around £100,000.	Avoidance of economic costs and regulatory burden associated with licensing or individual exemptions.
(iii) Create a new offshore licensing regime	Significant administrative costs for entire industry, Ofgem, DTI, estimated at £340,000 for DTI alone. Environmental benefits delayed by around 2 years, resulting in an equivalent of £15m per annum in monetary loss.	No additional benefits identified.

I HAVE READ THE REGULATORY IMPACT ASSESSMENT AND I AM SATISFIED THAT THE BENEFITS JUSTIFY THE COSTS.

Lord Truscott

Signed by the Parliamentary Under Secretary of State for Energy

Date

27th February 2007

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