EXPLANATORY MEMORANDUM TO

THE ELECTRICITY (EXEMPTION FROM THE REQUIREMENT FOR A SUPPLY LICENCE) (MVV ENVIRONMENT DEVONPORT LIMITED) (ENGLAND AND WALES) ORDER 2012

2012 No. 1646

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 To grant exemption from the requirement to hold a supply licence to MVV Environment Devonport Limited for a supply of electricity to The Ministry of Defence at Her Majesty's Naval Base Devonport premises in Plymouth (for the period until 1 January 2016).

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

3.1 None.

4. Legislative Context

4.1 Section 4(1)(c) of the Electricity Act makes it an offence for a person to supply electricity to any premises unless he is authorised to do so by a licence or exemption. Section 5(1) of the Electricity Act provides that the Secretary of State may, by order, grant exemption from section 4(1)(c). Section 5(2) of the Electricity Act sets out the notice procedure that must be complied with for making such an order.

4.2. On 1 October 2001, the Electricity (Class Exemptions from the Requirement for a Licence) Order 2001 ("the Class Exemptions Order") came into force[1]. Among other things, the Class Exemptions Order provided exemption for various classes of electricity supply, including the resale of electricity provided by a licensed supplier (Class B(1)(a)(i)). This exemption applies only to electricity supplied from the premises of the exempt supplier.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

[1] S.I. 2001/3270

6. European Convention on Human Rights

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

7. Policy background

7.1 MVV Devonport has a contractual commitment to supply up to 1 MW of electricity to The Ministry of Defence at Her Majesty's Naval Base (HMNB) Devonport premises in Plymouth. It will supply electricity purchased from a licensed supplier. This arrangement arises from MVV Devonport's ownership of a Grid connection agreement acquired to ensure a secure supply of electricity for its construction of an energy from waste plant on the HMNB premises. Once the energy from waste plant is operational, energy supply to The Ministry of Defence will be via private wire connections which will be subject to exemption. As such, it will be a time limited arrangement which does not impact significantly on any other parties or on the electricity system as a whole and the Secretary of State has taken the view that it would be disproportionate to expect MVV Devonport to meet the costs of obtaining an electricity supply licence and the obligations that would accrue. He therefore proposes to make the exemption, with the condition that exemption is time limited and expires on 1 January 2016 when MVV will be in a position to claim class exemption.

Consolidation

7.2 Not applicable.

8. Consultation outcome

8.1 No responses were received.

9. Guidance

9.1 Guidance exists on the DECC website; in the Explanatory Notes to The Electricity Act 1989 and The Electricity (Class Exemptions from the Requirement for a Licence) Order 2001.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 There are no formal monitoring or review requirements. However, failure to meet any of the conditions of the Order will render the exemption automatically unavailable and the parties would have to obtain a licence to continue to supply electricity. The Order will expire on 1 January 2016.

13. Contact

Chris Chown at the Department for Energy and Climate Change - Tel: 0300 068 6085 or email: chris.chown@decc.gsi.gov.uk can answer any queries regarding the instrument.