EXPLANATORY MEMORANDUM TO

THE ELECTRICITY (INDIVIDUAL EXEMPTION FROM THE REQUIREMENT FOR A SUPPLY LICENCE) (GREEN VOLT) (SCOTLAND) ORDER 2024

2024 No. 809

1. Introduction

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

2. Declaration

2.1 Michael Shanks, Parliamentary Under Secretary of State at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

2.2 Michael Brannan, Deputy Director for Offshore Energy Transition and Coal Legacy, at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 The Individual Offshore Supply Licence Exemptions Team at the Department for Energy Security and Net Zero can be contacted with any queries regarding the instrument (email: oslexemptionapplications@energysecurity.gov.uk).

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The supply of electricity is a licensable activity under the Electricity Act 1989 ("the Act"). It is an offence to supply electricity to any premises without a licence unless an exemption from this requirement is granted. This legislation grants an individual exemption to Green Volt Offshore Windfarm Ltd ("Green Volt"), for the supply of electricity and will enable Green Volt to legally supply electricity without an electricity supply licence to offshore oil and gas installations.

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 Scotland.

5. Policy Context

What is being done and why?

5.1 Around 3% of all UK emissions are operational emissions from North Sea oil and gas extraction. The vast majority of these emissions (approximately 80%) are from powering offshore oil and gas installations. Currently oil and gas platforms use fossil fuels to generate power for their operations. Platform electrification, where renewable

electricity replaces onboard fossil fuel-powered generation, is essential to reducing emissions.

5.2 In 2021 the oil and gas sector committed to cut production emissions by 50% by 2030 against a 2018 baseline on the pathway to net-zero emissions by 2050.[1] These emissions reductions are also essential for the sector's contribution to the UK's legally binding Carbon Budgets 5 (2028-2032) and 6 (2033-2037).

5.3 There are barriers to replacing onboard fossil fuel power generation with electricity from renewable sources. Existing onboard generation benefits from a class exemption from the requirement to hold a supply licence, because it powers the installation's own oil and gas production and does not impact the onshore grid.

5.4 Without an exemption, Green Volt would need a supply licence to provide electricity to offshore installations. This creates an uneven playing field as the costs associated with a supply licence are considerable and make the switch to renewable energy uneconomic for offshore oil and gas installations. This individual supply licence exemption creates regulatory parity for Green Volt. The supply in scope of the exemption is solely for the direct supply to offshore oil and gas installations and does not impact the onshore grid.

5.5 Flotation Energy (developing Green Volt as a joint venture with Vårgrønn) applied for an exemption for Green Volt in September 2023 in accordance with the government's published guidance for offshore supply licence exemptions.[2]

5.6 The policy objective for implementing this legislation is to enable a successful Green Volt project to be developed, which supports the electrification of oil and gas installations. The Green Volt project is expected to supply electricity from 2029, in time to contribute to the sector's 2030 emissions reduction target and the UK's legally binding Carbon Budgets.

What was the previous policy, how is this different?

5.7 The supply of electricity to an end user is a licensable activity under the Act.[3] Supply licence requirements include obligations to pay environmental and social policy costs, such as government levies which fund HMG renewable energy policies, and costs of membership of, and compliance with, relevant industry codes which underpin the wholesale and retail energy markets. An exemption removes these requirements.

5.8 Licence exemptions are an integral part of the licencing regime, designed to remove costs associated with a supply licence where the impact of a licence is disproportionate.

5.9 The Secretary of State made the decision to grant the individual exemption under section 3A of the Act, having considered the principal objective of protecting consumers' interests in relation to the electricity system, which includes reducing greenhouse gas emissions, ensuring security of supply, supporting effective competition, and contributing to sustainable development.[4]

[1] https://www.gov.uk/government/publications/north-sea-transition-deal
[2] https://www.gov.uk/government/publications/individual-offshore-supply-license-exemptions
[3] https://www.legislation.gov.uk/ukpga/1989/29/part/I/crossheading/licensing-of-supply-etc
[4] https://www.legislation.gov.uk/ukpga/1989/29/section/3A

6. Legislative and Legal Context

How has the law changed?

6.1 Section 4(1)(c) of the Act makes it an offence for a person to supply electricity to any premises 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)(c) either to a person or to a class of persons.[5]

6.2 The Electricity (Class Exemptions from the Requirement for a Licence) Order 2001 ("the Class Exemptions Order"),[6] made under section 5(1) of the Act, provides exemptions for various classes of electricity generation, but none of those class exemptions are applicable to Green Volt.

6.3 This instrument implements the Secretary of States' decision to grant an individual electricity supply licence exemption. It does not change the primary legislation from which the powers are derived.

Why was this approach taken to change the law?

6.4 The government published guidance for offshore supply licence exemptions in 2023 to level the regulatory playing field for electricity supply to offshore oil and gas installations and enable innovative projects, such as floating offshore wind, to power oil and gas platforms.

6.5 The department then received an application for an individual offshore supply licence exemption for Green Volt which met the criteria set out in the guidance. In order to give effect to the Secretary of State's decision to grant this exemption, a change to the law through this exemption order is necessary.

6.6 Further information on the evidence and rationale for granting the exemption can be found in the Analytical Annex published alongside this Statutory Instrument.

7. Consultation

Summary of consultation outcome and methodology

7.1 In line with requirements under the Act, a statutory notice with regards to the proposed supply licence exemption was published on 10 January 2024, closing on the 9 February 2024. The department consulted a range of statutory stakeholders, which included the Scottish Government, Ofgem, Citizens Advice and Consumer Scotland. There were four responses in total, including Green Volt. The responses did not raise any material concerns and were largely positive.[7]

8. Applicable Guidance

8.1 The guidance on offshore supply licence exemptions is provided on the government's website.[8]

[5] https://www.legislation.gov.uk/ukpga/1989/29/part/I/crossheading/licensing-of-supply-etc
[6] https://www.legislation.gov.uk/uksi/2001/3270/contents/made
[7] https://www.gov.uk/government/publications/electricity-supply-licence-exemption-green-volt-offshore-wind-farm
[8] Guidance on Individual Offshore Supply Licence Exemption: https://www.gov.uk/government/publications/individual-offshore-supply-license-exemptions

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 majority of the benefit to Green Volt stems from the removal of the requirement to pay policy costs. These are environmental and social levies that fund the government's energy policies and are associated with an electricity supply licence. Policy costs are considered "levies" and "other charges," which are out of scope of the Better Regulation Framework (BRF) under paragraph 2.3 of the guidance.[9]

9.2 However, an Analytical Annex, has been prepared to accompany the Statutory Instrument, which sets out the impacts of the exemption for Green Volt.

9.3 Based on reasonable assumptions related to Green Volt's customer base, their electricity demand, and gas prices, Green Volt is expected to avoid policy costs of £0.15 billion to £0.65 billion over the lifetime of the measure. There is a theoretical maximum of benefit to Green Volt, which is based on the legal parameters of the exemption, of avoided supply licence costs of £2.5 billion assuming the maximum amount of supply of 195.5MW for 35 years. However, the impact is expected to be in the range based on reasonable assumptions provided above.

9.4 Based on the reasonable assumptions, that give a range of expected cost avoidance of £0.15 billion to £0.65 billion the project could abate a total of between 2.7 million tonnes of carbon dioxide equivalent (MtCO2e) and 6.1MtCO2e. These total emissions savings have an estimated value of between £0.35 billion and £2.3 billion. Equivalent to the theoretical maximum benefit, this exemption could result in a theoretical maximum abatement of 27.4 MtCO2e from the decarbonisation of offshore oil and gas installations, valued at £10 billion over the 35-year lifetime of the measure, assuming the maximum amount of supply of 195.5MW for 35 years.

9.5 The exemption also removes costs associated with other supplier obligations, such as requirements related to industry codes which underpin energy markets. Over the 35-year lifetime of the exemption, Green Volt is expected to avoid between £5.2 million and £8.5 million of total costs. These costs are in scope of the BRF, but the impact is below +/- £5 million of Equivalent Annual Net Direct Costs to Business (EANDCB).

9.6 The exemption is considered a subsidy under the Subsidy Control Act 2022. However, the benefit accrued by Green Volt as a result of the exemption is due to avoided costs, therefore the measure does not involve government funding and will not increase consumer bills.

Impact on businesses, charities and voluntary bodies

9.7 The impact on Green Volt is positive because the measure creates a level playing field for supplying renewable electricity directly to offshore oil and gas installations and removes the considerable costs associated with a supply licence.

9.8 There is no, or no significant, impact on other businesses, charities or voluntary bodies because this exemption relates to Green Volt only and it does not increase energy bills. One of Green Volt's two parent companies, Vårgrønn, is a small business. However, any business can apply for an individual offshore supply licence exemption and the process does not disproportionately impact small businesses. Therefore, no exemptions or mitigations are required.

[9] https://www.gov.uk/government/publications/better-regulation-framework

9.9 There is no, or no significant, impact on the public sector because the avoided policy costs as a result of this exemption replace those of the existing class exemption for electricity generation using fossil fuels on oil and gas installations. The exemption also does not increase energy bills.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is set out in detail in the Monitoring and Evaluation Plan in the Analytical Annex published alongside this Statutory Instrument. The department plans to monitor and evaluate compliance with conditions of the exemption and the extent to which this measure achieves its stated policy objective to reduce greenhouse gas emissions from the production of oil and gas in line with the Order's reporting provision.

10.2 The department has built in a reporting provision under clause 4 of this Order. Given the long timespan (35 years) over which the benefits will be accrued, Green Volt must report to the Secretary of State at 5-yearly intervals the name and location of each oil and gas installations which it supplies and any instances where electricity above the cap (195.5MW) has been supplied. The first report must also contain the date on which electricity is first generated. The Secretary of State may exercise their broad discretionary power and choose to revoke the exemption at any time if the arrangements are not satisfactory.

10.3 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Michael Shanks, Parliamentary Under Secretary of State at the Department for Energy Security and Net Zero has made the following statement that the impacts on business, charities or voluntary bodies in scope of the Better Regulation Framework are below +/- £10 million per year.

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 Parliamentary Under Secretary of State, Michael Shanks at the Department for Energy Security and Net Zero has made the following statement regarding Human Rights:

"In my view the provisions of The Electricity (Individual Exemption From the Requirement For a Supply Licence) (Green Volt) (Scotland) Order 2024 are compatible with the Convention rights".

13. The Relevant European Union Acts

13.1 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").