EXPLANATORY MEMORANDUM TO

THE ELECTRICITY (INDIVIDUAL EXEMPTION FROM THE REQUIREMENT FOR A SUPPLY LICENCE) (JG PEARS POWER LIMITED) (ENGLAND) ORDER 2025

2025 No. 638

1. Introduction

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

2. Declaration

2.1 Ed Miliband, The Secretary of State at the Department for Energy Security and Net Zero has delegated decisions on supply licence exemptions to Minister Shanks, Minister for Energy. Minister Shanks confirms that this Explanatory Memorandum meets the required standard.

2.2 Thomas Corker, Deputy Director for Retail Energy Markets and Consumers at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Chris Chown at the Department for Energy Security and Net Zero. Direct line telephone number: 07471358024 or email: chris.chown@energysecurity.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The legislation will grant an exemption from the requirement to hold an electricity supply licence to JG Pears Power Limited in respect of a 37 Mega Watt (MW) supply of electricity to the Green Energy Business Park, High Marnham, Nottinghamshire, until 1 January 2035.

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 England and Wales and Scotland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 JG Pears Power Limited has made an application for an individual exemption from the requirement to hold an electricity supply licence in respect of a supply of the Green Energy Business Park, High Marnham, Nottinghamshire. The amount of power supplied will be limited to 37MW and the exemption will expire on 1 January 2035.

5.2 Section 3A of the Electricity Act 1989 provides that the principal objective of the Secretary of State in carrying out relevant functions under the Act is to protect the interests of existing and future consumers in relation to electricity conveyed by distribution systems or transmission systems (including their interests in the reduction of emissions of targeted green-house gases), wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the generation, transmission, distribution or supply of electricity.

5.3 In delivering the principal objective, the Secretary of State should have regard to, among other things, the need to ensure security of supply and the need to contribute to the achievement of sustainable development. In addition, the Secretary of State's regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed.

5.4 The Department's exemptions policy is set out in the Electricity Generation, Distribution and Supply Licence Exemptions - Frequently Asked Questions document ("the exemptions policy document").[1] The exemptions policy document states that in most cases it is not appropriate to grant exemption from the requirement for a supply licence "because it is rarely considered appropriate for these activities not to be subject to the full terms of the licensing regime" but that "applications for exemption where exceptional circumstances apply may still be possible".

5.5 JG Pears Power Limited operates at sites in Low Marnham and High Marnham in Nottinghamshire. JG Pears Power Limited has a contract to supply power to the High Marnham Green Energy Business Park, High Marnham, to supply an electrolytic green hydrogen plant.

5.6 JG Pears Power Limited planned to power the High Marnham Green Energy Park via an on-site solar power installation. However, the site chosen for this installation has been targeted for acquisition by National Grid Electricity Transmission (NGET). JG Pears Power Limited is now seeking other means of powering the hydrogen plant and they have therefore negotiated a contract with a licensed energy supplier to provide up to 37MW of 100% renewable energy to power the hydrogen production at the site. This will be in addition to power supplied from a biomass plant at Low Marnham.

5.7 JG Pears Power Limited has made the following representations to DESNZ that:

- JG Pears Power Limited could not foresee that its plans for a solar power installation would be halted by the need to find an alternative site for that installation. Thus, the situation it finds itself in is beyond its control and leaves it with limited options.
- Its contracts at the hydrogen plant at High Marnham cannot be renegotiated and the business plan is therefore directly impacted by the electricity supply issue and costs.
- JG Pears Power Limited is only seeking a time limited exemption while the situation it finds itself in can be rectified. It intends to build and own suitable renewable generation as soon as possible, thus negating the need for an exemption from the Secretary of State.

5.8 Ministers have accepted these representations and furthermore, DESNZ believes that consumer interests will not be disproportionately disadvantaged if an individual

[1] https://www.gov.uk/guidance/electricity-licence-exemptions#frequently-asked-questions

exemption is made in respect of supply. An individual exemption would not pose a threat to the operation of the electricity system.

5.9 The circumstances of JG Pears Power Limited are exceptional. In consideration of this, the principal objective (described above), and the exemption policy document, this instrument grants an individual exemption which will exempt JG Pears Power Limited in respect of a supply of electricity to the Green Energy Business Park, through the attached draft Electricity (Individual Exemption from the Requirement for a Supply Licence) (JG Pears Power Limited) (England) Order 2025.

5.10 This instrument imposes conditions on the individual exemption (in article 2(3)) except in circumstances outside its reasonable control, JG Pears Power Limited must not at any time supply more than 37MW of electricity to the Green Energy Business Park at High Marnham and the exemption ends on 1st January 2035.

What was the previous policy, how is this different?

5.11 Section 4(1)(c) of the Electricity Act 1989 ("the Act") makes it an offence for a person to participate in the supply of electricity for the purpose of giving supply to premises without a licence ("a supply licence"). A supply licence may be granted by the Gas and Electricity Markets Authority ("Ofgem") under section 6(1)(c) of the Act.

5.12 Section 5(1) of the Act enables the Secretary of State to grant an exemption from (amongst others) the requirement to hold a supply licence. The exemption can be revoked by the Secretary of State for the reasons set out in section 5(8) of the Act.

6. Legislative and Legal Context

How has the law changed?

6.1 This Order grants exemption in respect of one supplier of electricity. This exemption will run from the entry into force of this Order and expire on 1st January 2035.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 In accordance with Section 5(2) of the Act, a notice was published on gov.uk on 8 April 2025 setting out the proposal to make the instrument and closed on 6 May 2025. It received zero responses from the public, but JG Pears did make a response to confirm a number of factual points in the statutory instrument.

8. Applicable Guidance

8.1 Guidance on licence exemptions exists on the Government website.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been produced for this Statutory Instrument because the impacts are estimated to be below the de minimis threshold.

Impact on businesses, charities and voluntary bodies

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

9.3 The legislation does not impact small or micro businesses as this would only apply to JG Pears Power Limited.

9.4 There is no, or no significant, impact on the public sector as this would only apply to JG Pears Power Limited.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 There are no formal monitoring or review requirements for this instrument and the instrument does not include a statutory review clause. The impact of the measure is not expected to be significant and it would be disproportionate to include such a review clause due to the cost involved in undertaking a formal review.

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 Minister Shanks for 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) (JG Pears Power Limited) (England) Order 2025 is 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").