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ENERGY

EN301*

Electricity Industry Act 2004

Electricity Industry Exemption Order 2005

Made by the Lieutenant-Governor and Administrator in Executive Council under section 8 of the Act.

1. Citation

This order is the *Electricity Industry Exemption Order 2005*.

2. Commencement

This order comes into operation on 1 January 2006.

3. Exemption for generating works under 30 MW

(1) In this clause —

“**connection point**” means a point at which the generating works are connected to a transmission system or a distribution system;

“**generation capacity**”, in relation to generating works under construction, means the total generation capacity in megawatts that the generating works will have after construction is completed.

(2) A person is exempt from the *Electricity Industry Act 2004* section 7(1) if the generation capacity of the generating works concerned is less than 30 MW at each connection point.

(3) The exemption provided for in subclause (2) is subject to the condition that, if the generating works are connected to a transmission system or distribution system of a relevant corporation that forms part of the South West interconnected system, the metering of the supply of electricity from those works must be undertaken in accordance with the procedures and arrangements set out in the *Electricity Industry Metering Code 2005*.

4. Exemptions for on-supply to commercial premises

(1) In this clause —

“**commercial premises**” means premises or any part of premises used, or intended to be used, for commercial or industrial purposes;

“**scheme**” has the meaning given to that term in the *Strata Titles Act 1985* section 3(1);

“**strata company**” has the meaning given to that term in the *Strata Titles Act 1985* section 3(1).

- (2) A person (the “**supplier**”) is exempt from the *Electricity Industry Act 2004* section 7(2) if the transmission system concerned is used or to be used solely for the transportation of electricity for consumption on commercial premises under the control or management of the supplier.
- (3) A person (the “**supplier**”) is exempt from the *Electricity Industry Act 2004* section 7(3) if the distribution system concerned is used or to be used solely for the transportation of electricity for consumption on commercial premises under the control or management of the supplier.
- (4) A person (the “**supplier**”) is exempt from the *Electricity Industry Act 2004* section 7(4) if the electricity is sold for consumption on commercial premises under the control or management of the supplier.
- (5) For the purposes of this clause commercial premises are under the control or management of a supplier if the supplier is —
 - (a) the owner or occupier of the premises; or
 - (b) in the case of premises on land to which a scheme relates, the strata company for the scheme.
- (6) The exemptions provided for in this clause do not apply to the Rottnest Island Authority established under the *Rottnest Island Authority Act 1987*.

5. Exemptions for on-supply to residential premises

- (1) In this clause —

“**administering body**” has the meaning given to that term in the *Retirement Villages Act 1992* section 3(1);

“**residential premises**” means premises or any part of premises used, or intended to be used, as a person’s principal place of residence but does not include a site as defined in the *Caravan Parks and Camping Grounds Act 1995* section 5(1);

“**retirement village**” has the meaning given to that term in the *Retirement Villages Act 1992* section 3(1);

“**scheme**” has the meaning given to that term in the *Strata Titles Act 1985* section 3(1);

“**strata company**” has the meaning given to that term in the *Strata Titles Act 1985* section 3(1).

- (2) A person (the “**supplier**”) is exempt from the *Electricity Industry Act 2004* section 7(3) if the distribution system concerned is used or to be used solely for the transportation of

electricity for consumption on residential premises under the control or management of the supplier.

- (3) A person (the “**supplier**”) is exempt from the *Electricity Industry Act 2004* section 7(4) if the electricity is sold for consumption on residential premises under the control or management of the supplier.
- (4) For the purposes of this clause residential premises are under the control or management of a supplier if the supplier is —
 - (a) the owner of the premises;
 - (b) in the case of premises on land to which a scheme relates, the strata company for the scheme; or
 - (c) in the case of premises in a retirement village, the administering body of the retirement village.
- (5) The exemptions provided for in this clause are subject to the conditions set out in clause 6(4) to (9).
- (6) The exemptions provided for in this clause do not apply to the Rottnest Island Authority established under the *Rottnest Island Authority Act 1987*.

6. **Conditions applying to exemptions under clause 5**

- (1) In this clause —
 - “**electricity reticulation system**” means any apparatus, plant or equipment that is used for, or in connection with, the transportation of electricity to the relevant premises;
 - “**relevant premises**” means premises to which an exemption provided for in clause 5 applies;
 - “**resident**”, in relation to the relevant premises, means a person who uses those premises as his or her permanent place of residence.
- (2) For the purposes of this clause, electricity services are services for, or in connection with, the supply of electricity.
- (3) Without limiting subclause (2), electricity services include —
 - (a) the provision and maintenance of an electricity reticulation system;
 - (b) the connection of the relevant premises to an electricity reticulation system;
 - (c) the provision, maintenance and reading of a meter to measure and record the quantity of electricity supplied to the relevant premises;
 - (d) the preparation and issue of accounts in relation to the supply of electricity to the relevant premises; and
 - (e) anything incidental to or associated with a matter referred to in paragraph (a), (b), (c) or (d).

- (4) Unless subclause (5) applies, any charge imposed by the supplier for electricity supplied to the relevant premises must not exceed 13.94 cents per kilowatt hour.
- (5) If electricity supplied to the relevant premises is generated using generating works that are owned or operated by the supplier, any charge imposed by the supplier for that electricity must not exceed the amount necessary for the supplier to recover the costs of generation.
- (6) Any fees or charges imposed by the supplier for the provision of electricity services in relation to the relevant premises must not, in total, exceed 25.57 cents per day.
- (7) The supplier must make available to each resident of the relevant premises information that clearly sets out —
 - (a) the quantity of electricity supplied to the resident; and
 - (b) the fees and charges payable by the resident —
 - (i) for electricity supplied; and
 - (ii) for the provision of electricity services.
- (8) Information referred to in subclause (7) must be made available in a manner that is easily accessible.
- (9) If information referred to in subclause (7) is not included in an account issued to a resident of the relevant premises, the supplier must inform the resident how to gain access to the information.

7. Exemptions for supply to Aboriginal communities

- (1) In this clause —

“**Aboriginal community**” has the meaning given to that term in the *Aboriginal Communities Act 1979* section 3;

“**Aboriginal community premises**” means any premises that are —

 - (a) owned, occupied or leased by an Aboriginal community or members of an Aboriginal community; or
 - (b) used solely or principally for the purposes of an Aboriginal community.
- (2) A person is exempt from the *Electricity Industry Act 2004* section 7(3) if the distribution system concerned is used or to be used solely for the transportation of electricity for consumption on Aboriginal community premises.
- (3) A person is exempt from the *Electricity Industry Act 2004* section 7(4) if the electricity is sold for consumption on Aboriginal community premises.
- (4) The exemptions provided for in this clause do not apply to Western Power Corporation.

8. Exemptions for operations under Pilbara Energy Project Agreement

- (1) In this clause —
“**PEP Agreement**” has the meaning given to “the Agreement” in the *Pilbara Energy Project Agreement Act 1994* section 3.
- (2) A person is exempt from the *Electricity Industry Act 2004* section 7(1) if the generating works concerned are constructed or operated pursuant to the PEP Agreement.
- (3) A person is exempt from the *Electricity Industry Act 2004* section 7(2) if the transmission system concerned is constructed or operated pursuant to the PEP Agreement.
- (4) A person is exempt from the *Electricity Industry Act 2004* section 7(3) if the distribution system concerned is constructed or operated pursuant to the PEP Agreement.
- (5) A person is exempt from the *Electricity Industry Act 2004* section 7(4) if —
- (a) the electricity is sold to customers pursuant to the PEP Agreement; and
 - (b) each of those customers consumes more than 160 MWh of electricity per annum.

9. Exemption for sale to certain customers under Iron Ore Beneficiation (BHP) Agreement

A person is exempt from the *Electricity Industry Act 2004* section 7(4) if —

- (a) the electricity is sold to customers pursuant to the Agreement as defined in the *Iron Ore Beneficiation (BHP) Agreement Act 1996* section 3; and
- (b) each of those customers consumes more than 160 MWh of electricity per annum.

10. Exemptions for operations under various government agreements

- (1) In this clause —
“**relevant agreement**” means —
- (a) the Agreement as defined in the *Iron Ore (Hamersley Range) Agreement Act 1963* section 2;
 - (b) the Agreement as defined in the *Iron Ore (Mount Newman) Agreement Act 1964* section 2; and
 - (c) the Agreement as defined in the *Iron Ore (Robe River) Agreement Act 1964* section 2.
- (2) A person is exempt from the *Electricity Industry Act 2004* section 7(1) if the generating works concerned are constructed or operated pursuant to a relevant agreement.

- (3) A person is exempt from the *Electricity Industry Act 2004* section 7(2) if the transmission system concerned is constructed or operated pursuant to a relevant agreement.
- (4) A person is exempt from the *Electricity Industry Act 2004* section 7(3) if the distribution system concerned is constructed or operated pursuant to a relevant agreement.
- (5) A person is exempt from the *Electricity Industry Act 2004* section 7(4) if the electricity is sold to customers pursuant to a relevant agreement.

11. Conditions applying to exemptions under clause 10

- (1) In this clause —
“**code provision**” means a provision of the code of conduct as defined in the *Electricity Industry Act 2004* section 78 other than —
 - (a) Parts 2, 9, 11, 13 and 14; and
 - (b) clauses 4.4(1)(t) and (bb), 5.2(1)(c), 6.10, 7.1(1)(c)(ii), 10.1(1), 10.2(4), 10.4(b) and (c), 10.7(4), 10.8(2), 10.10(2), (4), (5) and (6), 12.1(2)(b), (3) and (4), and 12.5(1)(b) and (c),
of that code.
- (2) The exemption provided for in clause 10(4) is subject to the following conditions —
 - (a) the person must comply with any obligation that the *Electricity Industry (Obligation to Connect) Regulations 2005* regulations 4 and 7(1) impose on a distributor as if the person were a distributor for the purposes of those regulations;
 - (b) the person must comply with any obligation that a code provision imposes on a distributor as if the person were a distributor for the purposes of that provision.
- (3) The exemption provided for in clause 10(5) is subject to the condition that the person must comply with any obligation that a code provision imposes on a retailer as if the person were a retailer for the purposes of that provision.

12. Exemptions for operations in DBNGP corridor

- (1) In this clause —
“**DBNGP corridor**” has the meaning given to that term in the *Dampier to Bunbury Pipeline Act 1997* section 27(1);
“**DBNGP Transmission**” means DBNGP (WA) Transmission Pty Ltd.
- (2) DBNGP Transmission is exempt from the *Electricity Industry Act 2004* section 7(3) if the distribution system concerned is located or to be located in the DBNGP corridor.

- (3) DBNGP Transmission is exempt from the *Electricity Industry Act 2004* section 7(4) if the electricity is sold for consumption in the DBNGP corridor.

By Command of the Lieutenant-Governor and Administrator,

G. M. PIKE, Clerk of the Executive Council.