

# Registration Guideline for Exempt Persons – version 2 (draft for consultation)

Information requirements for persons exempt from having a Victorian licence  
for the sale or supply of electricity

26 September 2019



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## Document history

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17 May 2018	Version 1 published
26 September 2019	Version 2 draft published incorporating: <ul style="list-style-type: none"><li>• Administrative amendments</li><li>• Clarification about updating and cancelling exemptions</li><li>• Ensuring consistent terminology for exemption sellers and suppliers</li></ul>

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# 1. Introduction

Victoria has an electricity licensing and exemptions framework. This means that persons undertaking a regulated activity, such as the sale or supply of electricity, need a licence unless there is an exemption that applies. There are two classes of exemptions. The first class is deemed exemptions. Deemed exemptions are automatic and do not need to be registered with the commission. The second class is registration exemptions which require the person undertaking the activity to register their exemption with the Essential Services Commission (the commission), as a condition of the exemption.

Victoria has a Register of Exempt Persons for registration exemptions. This requires most people and businesses that on-sell<sup>1</sup> or supply electricity within the limits of a site that they own, occupy or operate – and who are not required to have an electricity licence – to register with us as an exempt person. These retail and network registration exemptions are specified in the General Exemption Order 2017 (the order).

Additionally, certain solar power purchase agreement (SPPA) providers and community energy projects need to register with the commission.

Exempt persons who on-sell electricity must be the customer of a licensed retailer and the electricity sold to customers within an embedded network must be separately metered.<sup>2</sup> This may require a **retail activity registration exemption**.<sup>3</sup>

Exempt persons who supply electricity must be the owner or lessee of the embedded electricity network infrastructure<sup>4</sup> that is critical to supply customers in the embedded network with electricity. This includes the wires required to distribute electricity to customers from the main meter connected to the licensed distributor's electricity network. This may require a **network activity registration exemption**.<sup>5</sup>

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<sup>1</sup> The electricity that is on-sold must have been purchased from a licensed electricity retailer.

<sup>2</sup> Clause 5(1) of the General Exemption Order 2017.

<sup>3</sup> Refer to table 2 of the General Exemption Order 2017.

<sup>4</sup> This infrastructure is referred to as 'facilities of the person' in clauses 6(1)(b) and 7(1)(c) of the General Exemption Order 2017.

<sup>5</sup> Refer to table 4 of the General Exemption Order 2017.

If a single person or business is both selling **and** supplying electricity, it may be required to register both activities with the commission – one registration as a seller (retail exemption) and another registration as a supplier (network exemption).<sup>6</sup>

Victorian legislation requires us to establish a public register of exempt persons who are obligated to register with the commission as a condition of their exemption. It also specifies information we are required to collect and publish, and allows us to include any other information we consider appropriate.<sup>7</sup>

Certain details about registered exempt persons are published on the commission's public register. Other information provided to the commission by registered exempt persons is not published on the public register but is published in an aggregated and de-identified format on the commission's website and in our Victorian Energy Market Report.

The registration system is designed to provide clearer and stronger protections for customers of exempt persons. It also provides the community and commission with a better understanding of the scale and scope of these segments of the electricity market. This information helps the commission identify appropriate customer protections, and monitor and enforce compliance.

Importantly, customers of registered exempt persons can search the commission's public register to identify their electricity provider and obtain contact details. This information is helpful for customers who have an enquiry or need to resolve a complaint about the sale or supply of their electricity, including through the approved external dispute resolution body.<sup>8</sup> Lastly, a customer is able to notify the commission if they believe their electricity seller or supplier should be registered but it is not on the public register.

## **Purpose of this document**

The purpose of this document is to provide information to exempt persons about how to register exemptions with the commission. It is important that persons assess whether or not they meet the conditions of an exemption as specified in the order, including the pre-conditions. If a person is selling, supplying or generating electricity and is unsure whether they are eligible for an exemption,

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<sup>6</sup> Subject to the requirements in Divisions 1 and 2 of Part 2 of the General Exemption Order 2017.

<sup>7</sup> Section 33C of the Electricity Industry Act 2000.

<sup>8</sup> Clause 11 of the General Exemption Order 2017 requires an exempt seller or supplier to enter into a customer dispute resolution scheme approved by the commission. The Energy and Water Ombudsman (Victoria) is the approved external dispute resolution body for the purposes of the General Exemption Order 2017. This clause came into effect on 1 July 2018.

they should seek independent advice. Generating, supplying or selling electricity without an exemption or licence is an offence under Victorian law.

This final document is published as a guideline made under section 13 of the Essential Services Commission Act 2001.

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## 2. Who needs to register?

The order outlines different classes and categories of exemption with reference to the types of activities (e.g. selling, supplying) and types of customers and sites in which those activities are undertaken (e.g. caravan parks, retirement villages, construction sites, etc.).

The order also specifies that certain activities in particular sites, for certain types of customers, are not required to register – although they are required to comply with certain conditions to maintain the benefit of exemption. These are referred to as ‘deemed exemptions’. This is why we make reference to ‘most’ on-sellers and suppliers ‘may’ be required to register.

One of the main purposes of this guideline is to explain who must register with the commission. The guideline also has some information about the categories that qualify for a deemed exemption. To determine whether an activity is eligible for a deemed exemption, please refer to divisions 1 and 2 of part 2 of the order in appendix B.

### **Retail activity exemptions**

Most people and businesses who are the customer of a licensed electricity retailer and on-sell separately metered electricity to other people and businesses are required to register with the commission. This is called a **retail activity registration exemption** and refers to selling electricity. Refer to appendix A for the retail activity deemed and registration exemption categories.

#### **Individually metered and itemised charges**

If the exempt seller sells electricity that is individually metered, it **must register with the commission**. This also requires the electricity to be an itemised cost in a separate, discrete charge billed to the customer.

#### **Not individually metered and itemised charges**

If electricity sold is **not** individually metered **and** is an itemised cost in a separate, discrete charge billed to the customer, then the provider **is likely to be required to have a Victorian electricity licence**, unless they hold an individual exemption.

#### **Not individually metered or itemised charges**

If electricity is not individually metered and is not billed as a separate and discrete charge, but electricity is still supplied as part of an embedded network, a network exemption is still required. See below for more information and in chapter 3 of this guideline.

Who needs to register?



## Network activity exemptions

Most people and businesses that are the owners or lessees of the facilities critical to the supply of electricity – such as the wires, between the electricity meter connected to the licensed distributor's network and the individual customers – need to register with the commission. This is called a **network activity registration exemption** and refers to distributing or supplying electricity.

We do not consider electricity meters to be infrastructure that is critical to supply customers with electricity as customers can be supplied without individual metering in place. In other words, the meter is a network component that does not actually deliver electricity through the network, but merely measures the electricity supplied for data collection and billing purposes.

If an exempt person only supplies electricity, it needs to register with the commission regardless of whether or not the electricity is individually metered.

The order refers to supplying electricity. For clarity, when we refer to 'supply', it is used interchangeably with 'distribute' and refers to network exemptions.

Refer to appendix A for the network activity deemed and registration exemption categories.

### Registering network exemptions with the AER

Most network exemptions also need to be registered with the Australian Energy Regulator (AER) and these exemption holders must comply with the AER's network exemption guideline.<sup>10</sup>

Exempt suppliers can register for a network exemption through the AER's website:

<https://www.aer.gov.au/networks-pipelines/network-exemptions>.

### An exempt person that is both seller and supplier for a site

If a person or business both supplies and sells metered electricity it may need to register both activities for each site where the activities are undertaken, subject to the requirements of the order. Our online portal allows an exempt person that both sells and supplies to submit one application for two registration exemptions that cover both retail and network activities.

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<sup>10</sup> The AER's network exemption guideline is available at: <https://www.aer.gov.au/networks-pipelines/guidelines-schemes-models-reviews/network-service-provider-registration-exemption-guideline-march-2018>.

Who needs to register?

## Types of exempt persons that are required to register

Subject to satisfying the exemption category pre-conditions specified in the order, exempt persons that sell or supply electricity are required to register<sup>11</sup> for each of the following exemption categories at each site if they sell or supply electricity to:

- 10 or more small commercial/retail customers within the limits of a site that they own, occupy or operate (for example, a shopping centre)
- 10 or more residential customers within the limits of a site they own, occupy or operate (for example, an apartment building or rooming house)
- residential customers in retirement villages
- anyone in caravan parks, holiday parks, residential land lease parks, and manufactured home estates
- large customers.<sup>12</sup>

For example, an exempt person that sells and supplies electricity to 25 residential customers, 15 small commercial/retail customers and two large customers at one site is required to register those three selling activities and three supply activities at that site.

## Multiple activity exemptions

Certain solar power purchase agreement (SPPA) providers and community energy projects also need to register with the commission for a **multiple activity exemption**.

### SPPA providers

An SPPA is an arrangement where a solar photovoltaic system is installed at a house or business without the customer paying upfront. The SPPA provider installs, owns, operates, and maintains the system. The customer buys the electricity generated by the system from the SPPA provider for an agreed price and period of time. Under an SPPA, a customer maintains a connection to the grid so that they can access electricity when the solar system does not generate enough power.

### Community energy projects

A community energy project is where a community group initiates, develops, operates and benefits from a renewable energy or energy efficiency project. For the purposes of this registration system,

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<sup>11</sup> As required by the General Exemption Order 2017.

<sup>12</sup> Both the sale and supply of electricity must be metered for large customers.

Who needs to register?

the project needs to be limited to a single site. Therefore, the electricity generated on a site can only be supplied within that particular site. An example would be a cooperative that raises funds to construct a small wind farm that provides electricity to households located on the same site (lot) as the wind power station/s.

### Registration requirements

SPPA providers and community energy projects need to register with the commission:

- if they generate or distribute electricity on a site that they neither own nor occupy, or
- if they only occupy (but do not own) a portion of the site for the purpose of generating or distributing the electricity and they do not occupy the remainder of the site.

**And**, they supply or sell the electricity generated on the site:

- to the owner or occupier of the site, or
- to a licensed electricity retailer.

It is also a condition of exemption that:

- the installed or name-plate generating capacity of the generator or generators installed at the relevant premises is less than 5MW<sup>14</sup>
- the exempt person is not the financially responsible market participant for the relevant premises and the financial responsible market participant for the relevant premises is a licensed retailer<sup>15</sup>
- the exempt person is not registered in the wholesale electricity market for the purposes of purchasing electricity<sup>16</sup>
- some or all of the output of the relevant generator or generators must be sold to the customer and any output not sold to the customer must be supplied or sold to a licensed retailer.<sup>17</sup>

### SPPA registration

For SPPA providers, one registration covers all of its activities under the multiple activity exemption at all residential and commercial sites across Victoria.

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<sup>14</sup> Clause 19 of the General Exemption Order 2017.

<sup>15</sup> Clause 20 of the General Exemption Order 2017.

<sup>16</sup> Clause 21 of the General Exemption Order 2017.

<sup>17</sup> Clause 22 of the General Exemption Order 2017.

Who needs to register?

### 3. Who does not need to register?

#### Not individually metered and non-itemised charges

If a person or business sells electricity, it is **not required to register with the commission for a retail exemption** if the electricity sold is **not** individually metered **and** is not an itemised cost in a separate, discrete charge billed to the customer. For example, a caravan park or rooming house that does not have individual metering and charges the customer a rental amount that covers both accommodation services and the electricity as a bundled charge, **is not required to register** a retail exemption with the commission.<sup>18</sup> However, a caravan park owner or operator must register a network exemption with the commission and possibly with the Australian Energy Regulator.<sup>19</sup> A rooming house owner or operator must register a network exemption with the commission if they supply or distribute electricity to 10 or more residential customers within the limits of a site they own, operate or occupy. For less than 10 customers, a deemed (automatic) network exemption applies.

#### Other non-registrable activities

Subject to the pre-conditions and conditions of exemptions under the order, the following selling and supplying activities fall within the deemed exemption categories.<sup>20</sup> Exempt persons are not required to register with us if they sell or supply electricity:

- to fewer than 10 small commercial/retail customers within the limits of site they own, occupy or operate (for example, a small shopping centre)<sup>21</sup>

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<sup>18</sup> In this situation, the caravan park does not meet the preconditions of exemption in clauses 4(1)(b) and 5(1)(c).

<sup>19</sup> The Australian Energy Regulator's NR4 exemption category, per the Electricity Network Service Provider – Registration Exemption Guideline Version 6 March 2018, requires registration for "Persons supplying metered or unmetered energy in caravan parks, holiday parks, residential land lease parks and manufactured home estates to residents who principally reside there." It is important to note that this is slightly different to the VNR4 exemption category in the Victorian exemption framework under the General Exemption Order 2017.

<sup>20</sup> Tables 1 and 3 of the General Exemption Order 2017.

<sup>21</sup> Exempt electricity activities are classed according to the type of service (e.g. selling) and the type of customer (e.g. small commercial/retail). This means that if an exempt seller or supplier has, for example, six small commercial/retail customers and six residential customers at the same premises, it does not need to register. Even though it has a total of 12 customers at the same site, the types of customers are distinct. In this example, the total of each distinct type of customer is below the threshold for registration.

What happens if an exempt person does not register?

- to fewer than 10 residential customers within the limits of a site they own, occupy or operate (for example, a small block of apartments)<sup>22</sup>
- to occupants of short-term holiday accommodation (excluding caravan parks, holiday parks, residential land lease parks and manufactured home estates; Persons supplying or selling electricity to anyone in these types of sites are required to register)
- to a related company
- on or within their premises to customers in conjunction with, or ancillary to, providing telecommunication services.<sup>23</sup>

Additionally, the following exempt activities do not require registration with the commission as they fall within the deemed exemption categories:

- temporarily selling electricity on construction sites if the sale is incidental to facilitate construction and commissioning of new facilities on the same or an adjoining site
- supplying electricity via plug-in or rack mounted equipment in any premises where there is National Broadband Network (NBN) equipment with an input current rating that does not exceed 3 amps alternating current (AC).

These exempt persons have deemed exemptions and therefore are not required to register with the commission. However, their customers have specified protections under the Energy Retail Code and Electricity Distribution Code.<sup>24</sup>

### Government agencies

Government agencies supplying or selling electricity to non-residential customers – for purposes that are supplementary to their primary functions or objectives under the laws under which they are established – fall within the deemed exemption category and are not required to register with the commission.

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<sup>22</sup> This does not include selling or supplying electricity to residents of retirement villages, caravan parks, holiday parks, residential land lease parks and manufactured home estates. Exempt persons supplying or selling electricity to anyone in these sites are required to register with the commission.

<sup>23</sup> This includes internet, telephone, mobile phone, fibre optic, hybrid fibre cable, television, radio, Wi-Fi, or other communications technology. This covers situations where the sale of electricity is incidental to communications services provided by telecommunication companies to business customers using those companies' data centres. It does not cover situations where a customer chooses to buy their electricity and telecommunications services from a single business.

<sup>24</sup> Clause 8 of the General Exemption Order 2017.

What happens if an exempt person does not register?

## Electricity generators

A person generating electricity for supply or sale does not require a licence if:

- the generator or generators used to generate electricity are connected to the transmission network or the distribution network at a common point; and
- the total electricity generation output is less than 30MW (megawatts); and
- the generator or group of generators is not required by the National Electricity Rules to be centrally dispatched; and
- the total exported output of the generator or group of generators is supplied or sold to a licensed retailer or retailers through the National Electricity Market.

For the exemption to continue to apply, generators of this type are required to meet the conditions specified in the order, including compliance with the relevant provisions of the Electricity Distribution Code.<sup>25</sup>

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<sup>25</sup> Part 3, Division 2 of the General Exemption Order 2017.

What happens if an exempt person does not register?

## 4. What happens if an exempt person does not register?

If a person or business is required to register with the commission and does not do so, it cannot continue supplying and/or selling electricity to customers in Victoria. If the person or business continues to sell or supply electricity without obtaining a licence or registering with the commission, it will be committing an offence under Victorian law.<sup>26</sup>

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<sup>26</sup> Refer to the General Exemption Order 2017 and sections 16 and 17 of the Electricity Industry Act 2000.

What happens if an exempt person does not register?

## 5. Registration information requirements

### **Minimum information the commission is required to collect under legislation**

The legislation specifies that the commission is required to publish the following information on the register:<sup>27</sup>

- the legal name of the exempt person
- the type of activity being carried out (for example, selling and supplying electricity in a caravan park)
- the date from which the registration commenced (this will be the date on which the registration is published by the commission)
- whether the registration is current (this means whether the registered exempt person is currently undertaking the activity for which they are registered, or it may be a historical record where the person is no longer undertaking the activity).

### **Other information the commission requires and publishes**

The legislation allows the commission to require any other information as part of registration.<sup>28</sup> The commission collects and publishes the following additional information:

- 1.1 the ABN of the exempt person
- 1.2 in the case of a retail activity registration exemption, the exempt seller's trading name (or the trading name of the third-party service provider or agent)
- 1.3 in the case of a retail activity registration exemption, the exempt seller's customer contact details (or the customer contact details of the third-party service provider or agent)
- 1.4 in the case of a network activity registration exemption, the exempt supplier's trading name (or the trading name of the third-party service provider or agent)
- 1.5 in the case of a network activity registration exemption, the exempt supplier's customer contact details (or the customer contact details of the third-party service provider or agent)

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<sup>27</sup> Section 33C(2) of the Electricity Industry Act 2000.

<sup>28</sup> Section 33C(3) of the Electricity Industry Act 2000.



- 1.6 the site name where the supply or sale activity is taking place, for example, the name of the apartment building, caravan park or shopping centre (where relevant)<sup>29</sup>
- 1.7 the site address where the activity is being carried out (where relevant).<sup>30</sup>

### **Third parties of exempt sellers who have a retail registration exemption**

If a person or business is providing retail services associated with on-selling electricity on behalf of an exempt seller, and that third-party service provider or agent is not the customer of a licensed retailer, then it is not required to register with the commission because it is not covered by the General Exemption Order 2017.<sup>31</sup> However, the commission requires the person registering an exemption to provide their third-party service provider or agent's details, including customer contact information and trading name.<sup>32</sup>

### **Third parties of exempt suppliers who have a network registration exemption**

If a person or business is operating an embedded network on behalf of an exempt person as a third-party service provider or agent – and they themselves do not have immediate proprietary rights to the infrastructure that is critical to the supply of electricity from the licensed distributor's network to customers in the embedded network – they are not required to register.<sup>33</sup> For example, this includes a person or business providing services such as meter readings, provision of data, network maintenance, energisations and other activities that are services ancillary to the supply of the electricity.

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<sup>29</sup> Where a site does not have a site name, exempt sellers and suppliers should record the street address. This requirement does not apply to SPPA providers in the multiple activity exemption category.

<sup>30</sup> This requirement does not apply to SPPA providers.

<sup>31</sup> Clause 5(1)(b) of the General Exemption Order 2017.

<sup>32</sup> Third parties of exempt sellers include businesses and persons such as agents and service providers that perform retail services including but not limited to billing, customer service and credit collection. These persons or businesses generally act on behalf of exempt sellers that are a customer of the licensed retailer at the gate/parent meter, such as owners' corporations, shopping centre owners and retirement villages. Exempt sellers are required to provide the commission with the details of that third-party service provider or agent including the trading name, telephone number and email address for customer queries, which are published on the commission's public register.

<sup>33</sup> Third parties of exempt suppliers include businesses and persons such as agents and service providers that perform network services including but not limited to meter reads, provision of data, network maintenance and connections/energisations. These persons or businesses generally act on behalf of exempt suppliers that have immediate proprietary rights over the physical infrastructure that is critical to delivering the supply to end-use customers in embedded networks (such as the wires). These exempt suppliers include owners' corporations, shopping centre owners and retirement villages. Exempt persons are required to provide the commission with the details of their third-party service provider or agent including the trading name, telephone number and email address for customer queries, which are published on the commission's public register.

## Registration with a single exempt supplier

Where there is a single exempt person, for example, where a trust or company owns the site, it is the trust or company that must register with us using its ABN, not the beneficiaries or shareholders of the company or trust.

## Registration with multiple exempt suppliers

Where there are multiple exempt persons for one site, each person must separately register as each legal entity has immediate proprietary rights over the facilities used to supply the electricity. For example, where multiple trusts or companies own or lease the site and infrastructure that is critical to the supply of electricity from the licensed distributor's network to each customer in the embedded network. Additionally, sometimes multiple legal entities will need to hold retail exemptions as the legal entities are all the customer of the licensed retailer at the gate meter.

## Solar power purchase agreement providers

Solar power purchase agreement (SPPA) providers do not need to register each site where they undertake their activities. One registration covers all of their activities under the multiple activity exemption. Accordingly, SPPA providers do not need to provide the site names and addresses where the activity is being carried out. However, they need to update the number of residential and commercial customers each year by emailing the commission at: exemptionregister@esc.vic.gov.au.

## Other information the commission requires but does not publish

The commission requires the following additional information, which will be kept confidential and not published on the public register<sup>34</sup>:

- 2.1 information to ensure that the activity being undertaken does not require an electricity licence (such as whether the exempt person is on-selling electricity purchased from a licensed retailer, and whether the sale is individually metered)
- 2.2 the number of customers that are being supplied or sold electricity<sup>35</sup>

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<sup>34</sup> Section 33D(2)(b) of the Electricity Industry Act 2000 provides that an application for registration must contain the information required by the commission.

<sup>35</sup> For embedded networks, this is the total number of meters which are supplied (network exemption) and sold electricity by an exempt person (retail exemption). For caravan parks, this is the total number of powered sites, cabins, etc. for network exemption customer numbers, and the total number of individually metered cabins, sites, caravans, etc. for retail exemption customer numbers. Although the physical meters may be different for each customer, for access to retail competition the critical information is the National Metering Identifier (NMI) for that meter. Most meters in embedded

2.3 an estimate of the aggregate (total) yearly electricity consumption at a site in megawatt hours (MWh).<sup>36</sup>

The commission collects this information to help it better understand the scale and scope of these segments of the electricity market, and the number of Victorian electricity customers supplied and sold electricity by exempt persons.

We use this data to report on the state of the Victorian energy market but do not do so in a way that identifies individual providers.

Having an understanding of the scale and scope of the market assists the commission with identifying appropriate customer protections, and also with monitoring and enforcing compliance with those protections, as required by legislation.

### **How is the information provided to the commission kept secure?**

Data is stored in a secure environment in compliance with the Privacy and Data Protection Act 2014, and the Victorian Government cyber security strategy. The commission has internal controls to ensure that only those personnel who need to view the non-public information provided to the commission can access it.

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networks do not currently have an NMI. They are sometimes referred to as 'orphans' because they lack that essential identity.

<sup>36</sup> This can be calculated by reviewing the last 12 months' worth of bills received from the licensed retailer. If an exempt person does not have 12 months' worth of bills available, they can make a reasonable estimate of the annual usage using the billing information available to them.

Registration information requirements

## 6. How to register

Registration is an online process. As part of the process, an exempt person – or a third-party service provider or agent on behalf of an exempt person – needs to create an online account. The registration portal asks a series of questions to guide the applicant and ensure they have provided all the required information and are registered for the correct exemption/s based on their answers to the questions.

If someone at the exempt person's organisation has already registered with the commission, they need to use the portal's invitation function to invite additional users to create accounts. This ensures that all of the exempt person's registrations are recorded and accessible to all of the users of that organisation.

The portal is located on the commission's website:

<https://www.esc.vic.gov.au/electricity-and-gas/licences-and-exemptions/electricity-licensing-exemptions/how-register-electricity-licensing-exemption>

The commission reviews the registration exemptions received through the online registration portal. There may be instances where commission staff need to check some details provided before publishing the registration on the public register. Once a registration exemption is published by the commission, some of the information required to be provided to us will appear on the public register. The commission sends an automated email to the person who lodged the exemption to advise them that the registration exemption has been published.

The exempt person is officially registered and able to operate without a Victorian electricity licence once the exemption is published on the public register.

### **Are there any costs for registering?**

No. There are no fees for registering with the commission.

### **What happens after an exempt person registers?**

#### **Editing registration details**

If information about a registration changes (and the registration exemption has been submitted to the commission or published to the public register), the user will need to email the commission at: [exemptionregister@esc.vic.gov.au](mailto:exemptionregister@esc.vic.gov.au). Some changes cannot be made and require the exemption to be cancelled and re-submitted through the online portal. If the application is still in draft, then the

user can edit the details themselves through the online portal. This ensures that the commission and the Victorian public have a complete list of all current and historical registrations.

### **Cancelling an exemption**

If an exempt person wishes to cancel an exemption, they will need to do this through the online portal, provide the reason for the cancellation and submit a declaration, as part of the guided process.

### **Annual update**

All registered exempt persons need to confirm their registration details are correct each year. An email will be sent exempt persons annually, using the contact email address provided when creating an account, to remind exempt persons to update its registration details including changes to customer numbers, the last 12 months of aggregate consumption in MWh, and any other changes. However, it is the responsibility of exempt persons to ensure that they provide the commission with updates to registrations once per year regardless of whether or not they receive an email from us.

### **Changes and updates outside the annual update**

An exempt person is required to update the information on the public register as soon as practicable if their contact details change, or if there are material changes to the nature of their activity. A material change includes the exempt person commencing to sell, in addition to supplying electricity, or a change to the type of customers the exempt person sells or supplies to. These changes may affect the type or number of exemptions they need to have registered with the commission. The exempt person may need to cancel the existing registration exemption and register a new exemption. However, some amendments to exemptions can be made by emailing the commission at: [exemptionregister@.esc.vic.gov.au](mailto:exemptionregister@.esc.vic.gov.au).

Exempt persons must also notify the commission if there are any changes regarding their engagement of a third-party service provider or agent. This includes engaging a third-party service provider or agent for the first time or changing the third-party from one service provider or agent to another service provider or agent.

Having up-to-date information on the scale of this segment of the electricity market is important for the development and enforcement of the exemption framework, and associated policy

How to register

development and reform. Accordingly, the requirement to update the information provided to the commission annually ensures it is as accurate as possible.

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Glossary

Essential Services Commission **Registration Guideline for Exempt Persons – version 2 (draft for consultation)**

## 7. Glossary

Term	Definition
Caravan parks	An area of land on which movable dwellings are situated for occupation on payment of consideration, whether or not immovable dwellings are also situated there.
Community energy project	A community project under which a community group initiates, develops, operates, and benefits from a renewable energy resource or energy efficiency initiative.
Electricity network	An electricity network is the infrastructure (wires, switchboards, etc.) required to deliver electricity from a provider's meter to end user customers.
Embedded network	An embedded network is a distribution system that is connected at a parent connection point to either a distribution system or transmission system that forms part of the national grid. A licensed electricity distribution company does not own the infrastructure (switchboards, wires, etc.) required to distribute electricity from the main meter (parent connection point) that is connected to the national electricity market (NEM) to individual end user customers.
Exempt person	A person who is exempt from the requirement to obtain a licence by Order in Council made under section 17 of the Electricity Industry Act 2000.
Exempt seller	A person who is exempt from the requirement to hold a licence for selling electricity by retail to customers within an embedded network.
Exempt supplier	A person who is exempt from the requirement to hold a licence for supplying or distributing electricity to customers within an embedded network.
Facilities	The physical wires and other infrastructure by which electricity is delivered.

### Glossary

Government agency	A government agency includes: <ul style="list-style-type: none"> <li>a) a Commonwealth, State or Local Government department</li> <li>b) a statutory authority or government owned corporation established under a law of the Commonwealth or a State or Territory</li> <li>c) a university, but does not include a housing authority or a provider of student accommodation.</li> </ul>
Holiday parks	An area of land for a tourist campsite facility offering a wide range of accommodation styles.
Immediate proprietary rights	Rights held by an owner (or lessee) that gives them control over the critical components of the embedded network infrastructure used to supply electricity to customers.
Large customer	A business customer to whom peak demand of not less than 500 kilo volt amps (kVa), or consumption of not less than 160 megawatt hours (MWh) per annum is distributed, supplied or sold for commercial or industrial purposes.
Licensed distribution company	A business that holds a licence under the Electricity Industry Act 2000 to distribute electricity.
Licensed electricity retailer	A business that holds a licence to sell electricity under the Electricity Industry Act 2000 otherwise than through the wholesale electricity market.
Manufactured home estates	An area of land where residents live in manufactured homes. Manufactured homes are re-locatable homes that are not permanently attached to the land. The home owner rents the land on which their home is situated.
Metered electricity	Electricity measured by an approved meter. A meter is any device that measures the quantity of electricity passing through it or that records the consumption of electricity at the customer's premises.
National Electricity Market	The National Electricity Market (NEM) is an interconnected electricity system in Australia. It

## Glossary



	facilitates the cross-state operation of the wholesale electricity market that covers the eastern and southern states and territories whose grids are electronically connected. It is the wholesale market through which generators and retailers trade electricity in Australia.
National Electricity Rules	Has the same meaning as the National Electricity (Victoria) Law.
Related company	In relation to a person that is a company, it means a company that controls or is controlled by the first company, including: <ul style="list-style-type: none"> <li>a) a company that is a subsidiary of the first company or of which the first person is a subsidiary, and</li> <li>b) a company that has a common holding company for the first company.</li> </ul>
Residential customer	A person who buys electricity principally for personal, household or domestic use at their premises.
Residential land lease parks	An area of land where residents live in a relocatable home. Residents own their own home and lease the land on which their home is situated.
Small commercial/retail customer	A business customer, to whom peak demand of less than 500 kilo volt amps (kVA), and consumption of less than 160 megawatt hours (MWh) per annum, is distributed, supplied or sold for commercial or industrial purposes.
Solar power purchase agreement	An agreement under which a business provides, installs, and maintains, at no initial cost, a solar panel system to a customer and in exchange, the customer buys the electricity provided by the solar panels at an agreed price and for an agreed period. Any electricity that is not used by the customer is sold to a licensed retailer.
Supply	The delivery of electricity from one party to another.
Third-party service provider or agent	An exempt person's third-party service provider or agent is usually a person or business that

## Glossary

performs the services of a retailer (such as billing and customer service) or a distributor (such as meter readings and data provision) on behalf of exempt persons such as owners' corporations and shopping centres.

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## 8. Appendix A – Exemption categories

**Table 1. Retail activity deemed exemption**

Exemption code	Retail activity deemed exemptions
VD1	Persons <b>selling metered electricity</b> to <b>fewer than 10 small commercial/retail customers</b> within the limits of a site that they own, occupy or operate.
VD2	Persons <b>selling metered electricity</b> to <b>fewer than 10 residential customers</b> within the limits of a site that they own, occupy or operate ( <b>excluding</b> retirement villages, caravan parks, holiday parks, residential land lease parks and manufactured home estates).
VD3	Persons <b>selling metered electricity</b> to <b>occupants of holiday accommodation</b> on a short-term basis ( <b>excluding</b> caravan parks, holiday parks, residential land lease parks and manufactured home estates).
VD4	Persons temporarily <b>selling electricity</b> on <b>construction sites</b> , where the sale is an incidental supply to facilitate bona fide construction and commissioning of new facilities on the same or an adjoining site.
VD5	Persons <b>selling electricity</b> to a <b>related company</b> .
VD6	Persons <b>selling electricity</b> on or within the person's premises to customers in <b>conjunction</b> with, or <b>ancillary</b> to, the <b>provision of telecommunications services</b> . Includes internet, telephone, mobile phone, fibre optic, hybrid fibre cable, television, radio, Wi-F or other communications technology.
VD7	<b>Government agencies selling metered electricity to non-residential customers</b> for purposes that are ancillary to their primary functions or objectives under the laws under which they are established.

**Table 2. Retail activity registration exemption**

Exemption code	Retail activity registration exemptions
VR1	Persons <b>selling metered electricity to 10 or more small commercial/retail customers</b> within the limits of a site that they own, occupy or operate.
VR2	Persons <b>selling metered electricity to 10 or more residential customers</b> within the limits of a site that they own, occupy or operate, <b>excluding</b> sales to residents of retirement villages, caravan parks, holiday parks, residential land lease parks and manufactured home estates.
VR3	<b>Retirement villages selling metered electricity to residential customers</b> within the limits of a site that they own, occupy or operate.
VR4	Persons <b>selling metered electricity</b> in all <b>caravan parks, holiday parks, residential land lease parks</b> and <b>manufactured home estates</b> .
VR5	Persons selling metered electricity to <b>large customers</b> .

**Table 3. Network activity deemed exemption**

Exemption code	Network activity deemed exemptions
VND1	Persons <b>supplying metered or unmetered</b> electricity to <b>fewer than 10 small commercial/retail customers</b> within the limits of a site that they own, occupy, or operate.
VND2	Persons <b>supplying metered or unmetered</b> electricity to <b>fewer than 10 residential customers</b> within the limits of a site that they own, occupy, or operate, <b>excluding</b>

	supply to residents of retirement villages, caravan parks, holiday parks, residential land lease parks and manufactured home estates.
VND3	Persons <b>supplying metered or unmetered</b> electricity to occupants of <b>holiday accommodation</b> on a <b>short-term</b> basis ( <b>excluding</b> caravan parks, holiday parks, residential land lease parks, and manufactured home estates).
VND4	Persons <b>supplying electricity</b> via plug-in or rack mounted equipment in any premises, where there is <b>National Broadband Network</b> equipment with an input rating not exceeding 3 amps alternating current.
VND5	Persons <b>supplying metered or unmetered</b> electricity to a <b>related company</b> .
VND6	Persons <b>supplying electricity</b> on or within the person's premises in <b>conjunction</b> with, or <b>ancillary</b> to, or to <b>facilitate</b> , the provision of <b>telecommunication services</b> . Includes internet, telephone, mobile phone, fibre optic, hybrid fibre cable, television, radio, Wi-Fi, or other communications technology.
VND7	<b>Government agencies supplying metered or unmetered</b> electricity to <b>non-residential customers</b> for purposes that are ancillary to their primary functions or objectives under the laws under which they are established.

**Table 4. Network activity registration exemption**

Exemption code	Network activity registration exemptions
VNR1	Persons <b>supplying metered or unmetered</b> electricity to <b>10 or more small commercial/retail customers</b> within the limits of a site that they own, occupy, or operate.
VNR2	Persons <b>supplying metered or unmetered</b> electricity to <b>10 or more residential customers</b> within the limits of a site that they own, occupy, or operate <b>excluding</b>

supply to residents of retirement villages, caravan parks, holiday parks, residential land lease parks and manufactured home estates.

VNR3

**Retirement villages supplying metered or unmetered** electricity to residential customers within the limits of a site that they own, occupy, or operate.

VNR4

Persons **supplying metered or unmetered** electricity in **caravan parks, holiday parks, residential land lease parks and manufactured home estates.**

VNR5

Persons **supplying metered electricity to large customers.**

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## 9. Appendix B – General Exemption Order 2017

The following order is provided for information purposes only. Please visit the Victorian Government's website for the official gazetted order.<sup>37</sup>

**Electricity Industry Act 2000**  
**GENERAL EXEMPTION ORDER 2017**

Order in Council

The Governor in Council makes the following Order under section 17 of the **Electricity Industry Act 2000**:

### **Part 1 Preliminary**

#### **1. Objectives**

The objectives of this Order are:

- (a) to exempt persons from the requirement to obtain a licence under section 16 of the Act in respect of certain specified activities; and
- (b) to make consequential amendments to the General Exemption Order 2002 so that it applies only to individual exemptions existing on 1 April 2018.

#### **2. Commencement**

- (1) This Order, except clause 11, comes into operation on 1 April 2018.
- (2) Clause 11 comes into operation on 1 July 2018.

#### **3. Definitions**

In this Order:

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<sup>37</sup> Available at: <https://www.energy.vic.gov.au/legislation/general-exemption-order>

**approved meter** means a meter that a holder of a licence under the Act is permitted by law to use to measure the consumption of electricity for the type of person to whom electricity is being transmitted, distributed, supplied or sold;

**Distribution Code** means the Electricity Distribution Code from time to time approved by the Essential Services Commission;

**explicit informed consent** means consent is given by a customer to an exempt person where:

- (a) the exempt person, or a person acting on behalf of the exempt person, has clearly, fully and adequately disclosed, in plain English, all matters relevant to the consent of the customer, including each specific purpose or use of the consent; and
- (b) the customer gives the consent to the arrangement or transaction,
  - (i) in writing, signed by the customer; or
  - (ii) verbally, if the verbal consent is evidenced in a way that it can be verified and recorded; or
  - (iii) by electronic communication generated by the customer;

**General Exemption Order 2002** means the Order in Council made under section 17 of the Act on 30 April 2002 and published in the Government Gazette No. S73 on 1 May 2002 as amended and in force immediately before this Order comes into operation;

**Note:** the General Exemption Order 2002 has been amended by the following Orders:

- Order in Council made on 25 November 2008 and published in the Government Gazette S315 on that day.
- Order in Council made on 26 October 2010 and published in the Government Gazette G43 page 2686 on 28 October 2010.
- Order in Council made on 8 December 2015 and published in the Government Gazette S393 on that day.

**generation** includes co-generation;

**Government agency** includes:

- (a) a Commonwealth, State or Local Government department; and



- (b) a statutory authority or government owned corporations established under a law of the Commonwealth or a State or Territory; and
- (c) a university, but does not include a housing authority or a provider of student accommodation.

**kVa** means 1000 volt amps;

**large customer** means a business customer to whom peak demand of not less than 500 kVa, or consumption of not less than 160MWh per annum is distributed, supplied or sold for commercial or industrial purposes;

**licensed distribution company** means a person who is the holder of a licence under the Act to distribute electricity;

**licensed retailer** means the holder of a licence to sell electricity under the Act otherwise than through the wholesale electricity market;

**meter** means any device that measures the quantity of electricity passing through it or that records the consumption of electricity at the customer's premises;

**metered electricity** means electricity measured by an approved meter;

**Minister** means the Minister responsible for the **Electricity Industry Act 2000**;

**MW** means megawatts;

**MWh** means megawatt hours;

**National Electricity Rules** has the same meaning as in the National Electricity (Victoria) Law;

**related company**, in relation to a person that is a company, means a company that controls or is controlled by the first company, including:

- (a) a company that is a subsidiary of the first company or of which the first person is a subsidiary; and
- (b) a company that has a common holding company to the first company;

**residential customer** means a person who buys electricity principally for personal, household or domestic use at premises;

**Retail Code** means the Energy Retail Code from time to time approved by the Essential Services Commission;

**small commercial/retail customer** means a business customer to whom peak demand of less than 500kVa, and consumption of less than 160MWh per annum, is distributed, supplied or sold for commercial or industrial purposes;

**the Act** means the **Electricity Industry Act 2000**.

## **Part 2 Retail and distribution exemptions**

### **Division 1 Retail exemption categories**

#### **4. Deemed exemption of retailers**

- (1) A person carrying out an activity set out in Table 1 is exempt from the requirement to obtain a licence under section 16 of the Act in respect of that activity if:
  - (a) the electricity the person sells is obtained by the person as the customer of a licensed retailer; and
  - (b) in the case of the sale of metered electricity, the premises of each customer of the person is separately metered.
- (2) The exemption is subject to the conditions set out in Division 3 of this Part.

**Table 1 Retail activity deemed exemption**

Persons selling metered electricity to fewer than 10 small commercial/retail customers within the limits of a site that they own, occupy or operate.

Persons selling metered electricity to fewer than 10 residential customers within the limits of a site that they own, occupy or operate (excluding retirement villages, caravan parks, holiday parks, residential land lease parks and manufactured home estates).

Persons selling metered electricity to occupants of holiday accommodation on a short-term basis (excluding caravan parks, holiday parks, residential land lease parks and manufactured home estates).

Persons temporarily selling electricity on construction sites, where the sale is an incidental supply to facilitate bona fide construction and commissioning of new facilities on the same or an adjoining site.

Persons selling electricity to a related company.

Persons selling electricity on or within the person's premises to customers in conjunction with, or ancillary to, the provision of telecommunications services. Includes internet, telephone, mobile phone, fibre optic, hybrid fibre cable, television, radio, Wi-F or other communications technology.

Government agencies selling metered electricity to non-residential customers for purposes that are ancillary to their primary functions or objectives under the laws under which they are established.

## 5. Exemption of registered retailers

- (1) A person carrying out an activity set out in Table 2 is exempt from the requirement to obtain a licence under section 16 of the Act if:
  - (a) the person is registered in the Register of Exempt Persons under the Act in respect of that activity; and
  - (b) the person is the customer of a licensed retailer; and
  - (c) in the case of the sale of metered electricity, the premises of each customer of the person is separately metered.
- (2) The exemption is subject to the conditions set out in Division 3 of this Part.

**Table 2 Retail activity registration exemption**

Persons selling metered electricity to 10 or more small commercial/retail customers within the limits of a site that they own, occupy or operate.

Persons selling metered electricity to 10 or more residential customers within the limits of a site that they own, occupy or operate, excluding sales to residents of retirement villages, caravan parks, holiday parks, residential land lease parks and manufactured home estates.

Retirement villages selling metered electricity to residential customers within the limits of a site that they own, occupy or operate.

Persons selling metered electricity in all caravan parks, holiday parks, residential land lease parks and manufactured home estates.

Persons selling metered electricity to large customers.

## Division 2 Network exemption categories

### 6. Deemed exemption of distributors

- (1) A person carrying out an activity set out in Table 3 is exempt from the requirement to obtain a licence under section 16 of the Act in respect of that activity if:
  - (a) the person is not a licensed distribution company; and
  - (b) the electricity is supplied through facilities of the person after it leaves a supply facility owned or operated by a licensed distribution company and before it is supplied to the customer.
- (2) The exemption is subject to the conditions set out in Division 3 of this Part.

**Table 3 Network activity deemed exemption**

Persons supplying metered or unmetered electricity to fewer than 10 small commercial/retail customers within the limits of a site that they own, occupy or operate.

Persons supplying metered or unmetered electricity to fewer than 10 residential customers within the limits of a site that they own, occupy or operate, excluding supply to residents of retirement villages, caravan parks, holiday parks, residential land lease parks and manufactured home estates.

Persons supplying metered or unmetered electricity to occupants of holiday accommodation on a short-term basis (excluding caravan parks, holiday parks, residential land lease parks and manufactured home estates).

Persons supplying electricity via plug-in or rack mounted equipment in any premises, where there is National Broadband Network equipment with an input current rating not exceeding 3 amps alternating current.

Persons supplying metered or unmetered electricity to a related company.

Persons supplying electricity on or within the person's premises in conjunction with, or ancillary to, or to facilitate, the provision of telecommunications services. Includes internet, telephone, mobile phone, fibre optic, hybrid fibre cable, television, radio, Wi-F or other communications technology.

Government agencies supplying metered or unmetered electricity to non-residential customers for purposes that are ancillary to their primary functions or objectives under the laws under which they are established.

## **7. Exemption of registered distributors**

- (1) A person carrying out an activity set out in Table 4 is exempt from the requirement to obtain a licence under section 16 of the Act if:
  - (a) the person is registered in the Register of Exempt Persons under the Act in respect of that activity; and

- (b) the person is not a licensed distribution company; and
  - (c) the electricity is supplied through facilities of the person after it leaves a supply facility owned or operated by a licensed distribution company and before it is supplied to the customer.
- (2) The exemption is subject to the conditions set out in Division 3 of this Part.

**Table 4 Network activity registration exemption**

Persons supplying metered or unmetered electricity to 10 or more small commercial/retail customers within the limits of a site that they own, occupy or operate.

Persons supplying metered or unmetered electricity to 10 or more residential customers within the limits of a site that they own, occupy or operate excluding supply to residents of retirement villages, caravan parks, holiday parks, residential land lease parks and manufactured home estates.

Retirement villages supplying metered or unmetered electricity to residential customers within the limits of a site that they own, occupy or operate.

Persons supplying metered or unmetered electricity in caravan parks, holiday parks, residential land lease parks and manufactured home estates.

Persons supplying metered electricity to large customers.

## Division 3 Conditions on retail and network exemptions

### 8. Compliance with Retail Code or Distribution Code

It is a condition of an exemption under this Part that the exempt person must comply with the provisions of the Retail Code or the Distribution Code that are specified by the Essential Services Commission in the relevant Code as provisions applicable to an exempt person of that category or class.

## Note

Clause 26 provides for a transitional condition to apply until the Essential Services Commission specifies the provisions of the Retail Code that are applicable to an exempt person.

## 9. Informed consent and provision of information

- (1) It is a condition of an exemption under Division 1 that the exempt person must obtain the explicit informed consent of the customer to an arrangement for the sale of electricity to that customer.
- (2) It is a condition of an exemption under Division 1 that the exempt person must provide the following information, in plain English, to the customer before obtaining the consent referred to in subclause (1):
  - (a) that the customer has the right to elect to purchase electricity from a licensed retailer of their choice, and information on the options for metering that would allow this choice;
  - (b) that the exempt person is not subject to all the obligations of a licensed retailer and the customer will not receive the same protections as it would if it were purchasing from a licensed retailer;
  - (c) the customer's rights in relation to dispute resolution including:
    - (i) the contact details of the exempt person as the initial point of contact for disputes; and
    - (ii) the exempt person's procedures for handling disputes and complaints; and
    - (iii) from 1 July 2018, the right that the customer has to access an external dispute resolution service approved by the Essential Services Commission;

- (d) the forms of assistance available if the customer is unable to pay electricity bills due to financial difficulty, as well as the process the customer should follow to seek these forms of assistance;
  - (e) the electricity tariffs and all associated fees and charges that will apply to the customer in relation to the sale of electricity;
  - (f) the flexible payment options that are available to the customer in relation to the sale of electricity, such as arrangements for payment by periodic instalments (bill smoothing);
  - (g) contact numbers in the event of an electricity fault or emergency.
- (3) It is a condition of an exemption under this Part that an exempt person must also provide the information set out in subclause (2):
- (a) at any time at the request of the customer or the Essential Services Commission; and
  - (b) annually to the customer.

#### **10. Pricing rule**

- (1) It is a condition of an exemption under this Part that the price, or range of prices, at which electricity (and services related to the provision of electricity) may be sold or supplied under the exemption must not exceed the relevant maximum price formulated by the Essential Services Commission for the purposes of this Part and published on its website.
- (2) The Essential Services Commission must have regard to commercial market data in formulating a maximum price.

#### **Note**

Clause 27 provides for a transitional pricing rule to apply until a relevant maximum price is formulated under this clause.

#### **11. Customer dispute resolution**



- (1) It is a condition of an exemption under this Part that the exempt person must enter into a customer dispute resolution scheme approved by the Essential Services Commission.
- (2) In approving a customer dispute resolution scheme for the purposes of this Order, the Essential Services Commission must have regard to the matters set out in section 28(2) of the Act, with any necessary changes.

## 12. Provision of information to Minister or ESC

It is a condition of an exemption under this Part that the exempt person must provide (whether or not through an agent), to the Minister or the Essential Services Commission, any information requested by the Minister or Commission, that the Minister or Commission may reasonably require for the administration of this Part.

## Part 3 Generation exemptions

### Division 1 Generation exemption

#### 13. Deemed exemption of generation

- (1) A person carrying out an activity set out in Table 5 is exempt from the requirement to obtain a licence under section 16 of the Act in respect of that activity.
- (2) The exemption is subject to the conditions set out in Division 2 of this Part.
- (3) This exemption does not apply to the generation of electricity for supply or sale if the relevant generator or group of generators is required by the National Electricity Rules to be centrally dispatched.

#### Table 5 Generation exemption

Persons generating electricity for supply or sale where the total output by that person (whether or not with another person), using a generator or generators connected to the transmission network or distribution network at a common point, is less than 30MW.

## **Division 2 Conditions on generation exemptions**

### **14. Export output**

It is a condition of an exemption under this Part that the total exported output of the relevant generator or group of generators must be supplied or sold to a licensed retailer.

### **15. Compliance with Distribution Code**

It is a condition of an exemption under this Part that the exempt person must comply with the provisions of the Distribution Code that are specified by the Essential Services Commission in that Code as applicable to an exempt person under this Part.

### **16. Provision of information to the Minister or Essential Services Commission**

It is a condition of an exemption under this Part that the exempt person must provide (whether or not through an agent), to the Minister or the Essential Services Commission, any information requested by the Minister or Commission, that the Minister or Commission may reasonably require for the administration of this Part.

## **Part 4 Multiple activity exemptions**

### **Division 1 Multiple activity exemptions**

#### **17. Exemption of registered persons carrying out generation, distribution, supply and sale of electricity**

- (1) A person carrying out the activities set out in Table 6 is exempt from the requirement to obtain a licence under section 16 of the Act if the person is registered in the Register of Exempt Persons under the Act in respect of the activities.

#### **Examples**

1. A solar power purchase agreement under which a business provides, installs and maintains, at no initial cost, a solar panel system to a

customer and in exchange, the customer buys the electricity provided by the solar panels for an agreed price and for an agreed period. Any electricity that is not used is sold to a licensed retailer.

2. A community energy project under which a community group initiates, develops, operates and benefits from a renewable energy resource or energy efficiency initiative.
- (2) The exemption is subject to the conditions set out in Division 2 of this Part.
  - (3) A registration of a person will cover all activities set out in Table 6 that are carried out by the registered person.

**Table 6 Multiple activity exemption**

Persons:

- (a) generating or distributing electricity on:
  - (i) premises not owned or occupied by the person; or
  - (ii) a portion of premises occupied by the person for the purpose of the generation and distribution, where the premises are not owned by the person and the remainder of the premises is not occupied by the person; and
- (b) supplying or selling the electricity:
  - (i) to the owner or occupier of the premises on which the generation occurs (the customer); or
  - (ii) to a licensed retailer.

## **Division 2 Conditions on multiple activity exemption**

### **18. Pricing rule**

- (1) It is a condition of an exemption under this Part that the price, or range of prices, at which electricity (and services related to the provision of electricity) may be sold or

supplied under the exemption must not exceed the relevant maximum price formulated by the Essential Services Commission for the purposes of this Part and published on its website.

- (2) The Essential Services Commission must have regard to commercial market data in formulating a maximum price.

**Note**

Clause 27 provides for a transitional pricing rule to apply until a relevant maximum price is formulated under this clause.

**19. Generating capacity**

It is a condition of an exemption under this Part that the installed or name-plate generating capacity of the generator or generators installed at the relevant premises is less than 5MW.

**20. Financially responsible market participant**

It is a condition of an exemption under this Part that:

- (a) the exempt person is not the financially responsible market participant for the relevant premises; and
- (b) the financially responsible market participant for the relevant premises is a licensed retailer.

**21. Wholesale market registration**

It is a condition of an exemption under this Part that the exempt person is not registered in the wholesale electricity market for the purposes of purchasing electricity.

**22. Sale of output of generation**

It is a condition of an exemption under this Part that:

- (a) some or all of the output of the relevant generator or generators must be sold to the customer; and
- (b) any output of the relevant generator or generators not sold to the customer must be supplied or sold to a licensed retailer.

**23. Notice of application of Australian Consumer Law**

- (1) It is a condition of an exemption under this Part that the exempt person must provide the customer with written notice at the time of entering into the agreement for the supply and sale of electricity that the agreement is:
  - (a) covered by the Australian Consumer Law; and
  - (b) separate from the customer's contracts with their licensed retailer and licensed distribution company, which are subject to the **Electricity Industry Act 2000**.
- (2) The notice must:
  - (a) be in plain English; and
  - (b) include a summary of the relevant rights of the customer under the Australian Consumer Law.

**24. Compliance with Distribution Code**

It is a condition of an exemption under this Part that the exempt person must comply with clauses 7.2 to 7.8 and clause 9.3 of the Distribution Code and any other clauses of that Code that apply to embedded generators.

**25. Provision of information to Minister or ESC**

- (1) It is a condition of an exemption under this Part that the exempt person must provide (whether or not through an agent), to the Minister or the Essential Services Commission, any information requested by the Minister or Commission, that the Minister or Commission may reasonably require for the administration of this Part.
- (2) It is a condition of an exemption under this Part that the exempt person must provide the Essential Services Commission, on request, with information regarding

the scale and nature of the exempt person's activities to which the exemption applies.

## **Part 5 Transitional provisions**

### **26. Compliance with Retail Code**

Despite clause 8, until the Essential Services Commission specifies in the Retail Code the provisions applicable to an exempt person of a category or class, it is a condition of an exemption under Division 1 of Part 2 that the exempt person must comply with all applicable provisions of the Retail Code as if the person were a licensed retailer.

### **27. Pricing rule**

Despite clauses 10 and 18, until the Essential Services Commission formulates a maximum price under clause 10 or 18 in respect of a particular category of exemption or customer, the price, or range of prices, at which the exempt person may sell or supply electricity (and services related to the provision of electricity) to that customer must not be more than the tariff that would apply to the customer if the customer purchased the electricity and related services pursuant to an offer made:

- (a) in accordance with section 35 of the Act; and
- (b) by a licensee who is the local retailer for electricity supplied in the electricity distribution area in which the supply point for the supply of electricity to the customer is located; and
- (c) in accordance with any guidelines issued by the Essential Services Commission.

## **Part 6 Amendment of General Exemption Order 2002**

### **28. Definitions**

In clause 4 of the General Exemption Order 2002, the definitions of **approved meter**, **intermediary distribution or supply**, **metered intermediary sale of electricity**, **National Electricity Code** and **Supply Code**, are revoked.

**29. Revocation of clause 5 (Certification by ESC)**

Clause 5 of the General Exemption Order 2002 is **revoked**.

**30. Clause 8 revoked**

Clause 8 of the General Exemption Order 2002 is **revoked**.

**31. Revocation of Part A of the Schedule**

Part A of the Schedule to the General Exemption Order 2002 is **revoked**.

DRAFT