



Department of
Energy and Economic
Diversification

Energy
Policy WA

Energy licence exemption application guidelines

Guidelines for applicants

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Working together for a **brighter** energy future.

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Energy Policy WA does not provide any legal advice. It is the applicant's responsibility to seek their own legal advice to determine whether they should seek an individual licence exemption.

Contents

Disclaimer	ii
Glossary	iv
1. Introduction	1
2. The exemption framework	2
2.1 Electricity Industry Act 2004 and exemptions	2
2.2 Licence exemption compliance	3
3. Application and assessment process	4
3.1 Submission	4
3.2 Assessment.....	5
3.2.1 Public comment	5
3.2.2 Public interest test	5
3.2.3 Better Regulation Program	5
3.3 Recommendation and decision.....	5
4. Application checklist	7

Glossary

Term	Definition
Act	<i>Electricity Industry Act 2004</i>
Better Regulation Program	The Better Regulation Program guides the development, design and implementation of regulatory proposals in Western Australia. Further information on the program can be found at www.wa.gov.au/organisation/departments-of-treasury/better-regulation
Caravan Park Exemption Order	<i>Electricity Industry (Caravan Park Operators) Exemption Order 2005</i>
Executive Council	<p>The Executive Council is the supreme decision-making body of government. All State ministers are members of the Executive Council. The Governor (as Chair) presides over meetings but is not a member of the Executive Council.</p> <p>The Executive Council advises the Governor on matters relating to the Government of Western Australia. It also gives legal form to Cabinet decisions, which have no legal status in their own right.</p>
Exemption Order	<i>Electricity Industry Exemption Order 2005</i>
Governor	Governor in Executive Council.
Parliamentary Counsel's Office	The Parliamentary Counsel's Office (PCO) provides comprehensive legislative drafting and related services to the Government of Western Australia, its departments and agencies to ensure that legislation is prepared to give effect to government policy and priorities.
Solar PPA Exemption Order	<i>Electricity Industry (Solar Power Purchase Agreement) Exemption Order 2016</i>

1. Introduction

The purpose of these guidelines is to provide information on the process and requirements for obtaining an individual licence exemption for activities including to construct or operate generating works, a transmission system or a distribution system, or to sell electricity to customers in Western Australia.

Applicants seeking to obtain a gas licence exemption under the [Energy Coordination Act 1994](#) can follow the same process described in this document.

In 2019, the then Minister for Energy announced that no current or future exemption applications would be progressed under the [Electricity Industry \(Solar Power Purchase Agreements\) Exemption Order 2016](#) pending a review of the licensing and exemption legislative framework.

The review was completed in 2020 and identified a preferred regulatory framework to give customers of new and emerging electricity services better protections. In 2024, the State Government implemented [the Alternative Electricity Services \(AES\)](#) registration framework. Applicants should consider the impact of the AES registration framework on their activities.

On 25 July 2025, the Minister for Energy and Decarbonisation announced that embedded network services and on-site power supply arrangements, a term which includes Solar Power Purchase Agreements (SPPA), will be regulated under the AES registration framework. Mandatory registration and obligations under the AES Code are expected to commence from early 2027. For more information visit [Sharing the Power](#).

Guidelines overview

- Section 2 outlines the legislative framework applicable to the authorisation of energy sector activities and the granting of licence exemptions.
- Section 3 provides an overview of the exemption application and assessment process, including information on how to apply for an exemption and the assessment and decision making process.
- Section 4 details the types of information that are generally required for a licence exemption application. Applicants should however contact Energy Policy WA (EPWA) to confirm the type of information needed for their own application as requirements may vary from one application to another.

2. The exemption framework

2.1 Electricity Industry Act 2004 and exemptions

Section 7 of the [Electricity Industry Act 2004](#) (Act) requires a person to hold a licence or registration to undertake the following activities:

- construct or operate generating works (Section 7(1));
- construct or operate a transmission system (Section 7(2));
- construct or operate a distribution system (Section 7(3)); or
- sell electricity to customers (Section 7(4)).

Section 7(5) to (7) of the Act describe situations where a person is excluded from the requirement to hold a licence to undertake certain activities.

Section 8 of the Act gives the Governor the power to exempt a person (or class of persons) from the requirement to hold a licence to undertake any or all of the activities in Section 7(1) to (4). Exemptions may be made subject to certain conditions. A licence exemption will only be granted if the Governor is satisfied that it would not be contrary to the public interest to do so¹.

Licence exemptions are typically granted to entities conducting operations that may require a licence, but where the cost of holding a licence outweighs the benefit of regulatory oversight associated with licensing. An exemption is generally not suited to instances where the provision of electricity is the core business of an entity, or where robust customer protection provisions are needed.

The following exemption orders list general (or class) and individual exemptions:

- the [Electricity Industry Exemption Order 2005](#) (the Exemption Order);
- the [Electricity Industry \(Caravan Park Operators\) Exemption Order 2005](#) (the Caravan Park Exemption Order); and
- the [Solar Power Purchase Agreements Exemption Order 2016](#) (the SPPA Exemption Order).

¹ Section 8(5) of the Act contains the factors that the Governor must take into account when deciding whether or not a prospective licence exemption is contrary to the public interest. The Act is available on [WALW - Electricity Industry Act 2004 - Home Page \(legislation.wa.gov.au\)](http://www.walw.gov.au/legislation/walw-act-2004-home-page).

Exemption category	What does this mean?	Where is this found?
General (or class) exemptions	<ul style="list-style-type: none"> An entity would be exempt if its business model meets certain operating requirements or characteristics. 	<p>Exemption Order</p> <p>Examples:</p> <ul style="list-style-type: none"> Exemptions for supply to non-residential property on which generating works are located (clause 4A). Exemption for supply to non-residential property occupied by supplier (clause 4B).
General (or class) exemptions with conditions	<ul style="list-style-type: none"> An entity would be exempt if its business model meets certain operating requirements or characteristics. It must also comply with additional obligations and conditions identified in the relevant exemption order. 	<p>Exemption Order, for example:</p> <ul style="list-style-type: none"> Exemption for generating works of 100 MW or less (clause 3); Exemptions for on-supply (clause 4). <p>Caravan Park Exemption Order</p>
Individual exemptions	<ul style="list-style-type: none"> Granted on a case-by-case basis through a standardised application process detailed in this document. Can have obligations and conditions applied as part of the exemption. 	<p>Exemption Order, for example:</p> <ul style="list-style-type: none"> Individual distribution and retail exemptions granted to Blair Fox at the Karakin Wind Farm (clause 20). <p>SPPA Exemption Order</p>

2.2 Licence exemption compliance

The Governor has the power to revoke or amend a licence exemption at any time, for instance if there is evidence of serious or continued non-compliance committed by the exemption holder.

Licence exemption holders that fail to comply with any condition of their exemption at any time are no longer considered exempt from the requirement to hold an electricity or gas licence. They may face prosecution for operating without a licence.

3. Application and assessment process

Key steps

The process usually takes at least six months, subject to ministerial priorities.

Steps		Notes
Pre- assessment and application		
	Initial contact and opportunity to submit a draft application to EP WA for feedback (section 3.1)	<ul style="list-style-type: none">Discussion with EPWA to assist in preparation of application.Opportunity to submit draft for feedback before submission.
2	Submission of exemption application (section 3.1)	<ul style="list-style-type: none">Applicant can provide a confidential version and a public version for consultation.
Assessment (including consultation)		
3	Assessment (including consultation period) (section 3.2)	<ul style="list-style-type: none">Application open for public feedback (approx. three weeks).Assessment against the public interest test, and Preliminary Impact Assessment (Better Regulation Program)Applicant advised if application unlikely to be supported.
Recommendation		
4	Advice to the Minister for Energy (section 3.3)	<ul style="list-style-type: none">Assessment summary provided to Minister.If application supported, amendment/exemption order drafted by Parliamentary Counsel's Office.Applicant consulted during the drafting of the amendment/exemption order.
Decision		
5	Submission made to the Governor in Executive Council for approval (section 3.3)	<ul style="list-style-type: none">EPWA requests Minister for Energy to submit amendment/exemption order to the Governor in Executive Council.
6	Exemption decision (section 3.3)	<ul style="list-style-type: none">EPWA contacts the applicant.Information on the exemption decision is published on the EPWA website.If approved, exemption published on WA Legislation website.

3.1 Submission

Energy Policy WA does not provide any legal advice. It is the applicant's responsibility to seek its own legal advice to determine whether they should seek an individual licence exemption.

Applicants seeking a licence exemption are encouraged to contact Energy Policy WA before lodging an application, as the information to be provided may vary from one application to another.

Applications must be made by a person, body or agent with the authority to make the application. There are no fees or charges associated with making an application.

Applications should be emailed to: EPWA-licence-exemptions@deed.wa.gov.au

3.2 Assessment

A licence exemption application must include a completed document addressing all the relevant items presented on the application checklist (section 4).

It is a serious offence to provide false or misleading information or omit to provide any relevant information to a State Government agency. Energy Policy WA reserves the right to contact any relevant regulator or government authority to verify details provided by an applicant.

3.2.1 Public comment

Energy Policy WA will undertake public consultation on licence exemption applications as part of the assessment process, including publishing the application on its [website](#).

If an exemption application contains confidential information, an applicant should:

- clearly identify all information considered to be confidential;
- provide reasons for each confidentiality claim; and
- provide a version of the application that is suitable for public disclosure.

The public version of the application should be sufficiently detailed to allow a member of the public to comment on the application should they wish to do so. For this reason, only genuinely commercially sensitive information should be removed from the public version of the application².

The consultation period typically lasts for three weeks.

3.2.2 Public interest test

Energy Policy WA will use any consultation feedback received to inform assessment of the application. If Energy Policy WA forms a view that approval of an application will be contrary to the public interest, the applicant will be advised that the application is unlikely to be supported.

3.2.3 Better Regulation Program

Energy Policy WA will assess applications under the State Government's [Better Regulation Program](#). The Better Regulation Program is a process that considers the impact of any new or amended legislation on business, government or consumers. Feedback received during the public consultation stage will be considered in this process.

3.3 Recommendation and decision

Following assessment, Energy Policy WA makes a recommendation to the Minister for Energy on the application to the Governor for consideration.

The Governor ultimately decides whether to grant an exemption from the requirement to hold an electricity (or gas) licence.

In most cases, Energy Policy WA will arrange the drafting of an amendment to an exemption order and invite the applicant to comment on the draft before it is submitted with the exemption application to the Governor, through the Minister for Energy and Decarbonisation.

Energy Policy WA will inform the applicant of the Governor's decision as soon as practicable.

² Please note a claim of confidentiality may not be sufficient to prevent disclosure. Energy Policy WA is required to comply with the *Freedom of Information Act 1922* (WA). Under section 33 of this Act, Energy Policy WA is required to consult with a party who has provided commercial or business information before providing access to a third party.

A licence exemption comes into operation on the day it is published on the WA Legislation website, unless specified otherwise.

As with all administrative decisions, an applicant has the right to seek judicial review if they consider that the relevant legislative processes and procedures under the Act were not followed.

4. Application checklist

Proposal details

- ☐ Description of proposal

Type(s) of licence exemption required, and the reasons why the exemption is needed:

- | | Electricity | Gas |
|--------------------------|---|--|
| <input type="checkbox"/> | <ul style="list-style-type: none">- Generation- Transmission- Distribution- Retail | <ul style="list-style-type: none">- Distribution- Trading |

Applicant details

- ☐ Legal name of applicant(s)
- ☐ Trading name of applicant(s) (if different to the legal name)
- ☐ Australian Business Number (ABN) or Australian Company Name (ACN)
- ☐ Registered postal address
- ☐ Name of nominated contact person(s)
- ☐ Contact person(s) position in the organisation
- ☐ Email address of contact person(s)
- ☐ Telephone contact(s)

Other applicant information

- ☐ Description of the entity, including:
- main business activities
 - business/company type
 - associated or controlled entities relevant to the activity for which an exemption is being sought.

Financial statement confirming that:

- ☐
- an administrator, receiver or insolvency official has not been appointed to control any part of the business or its property; and
 - no application or resolution has been passed or steps taken to wind up the applicant's company or business operations.

Other exemptions or authorisations, including licences, that the applicant holds, or has previously held or been subject to, in any Australian state or territory. If applicable these details should outline:

- ☐
- any breaches of those exemptions or authorisations; and
 - any current or ongoing investigations about an alleged breach of an exemption or authorisation.

Public interest information

Applicants must address all relevant public interest considerations. If you do not consider that a matter is relevant to your application, please provide a statement to that effect.

- ☐ Environmental considerations
- ☐ Social welfare and equity considerations, including community service obligations
- ☐ Economic and regional development, including employment and investment growth
- ☐ Customer interests
- ☐ The interests of current or prospective licensees
- ☐ The importance of competition in electricity industry markets
- ☐ The policy objectives of Government (optional)

Other supporting information (as relevant)

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