



COVERSHEET

Minister	Hon Dr Megan Woods	Portfolio	Energy and Resources
Title of Cabinet paper	Exempting certain classes of electricity industry participant from the requirement to register	Date to be published	13 December 2021

List of documents that have been proactively released

Date	Title	Author
October 2021	Exempting certain classes of electricity industry participant from the requirement to register	Office of the Minister of Energy and Resources
27 October 2021	Exempting certain classes of electricity industry participant from the requirement to register DEV-21-MIN-0201 Minute	Cabinet Office
October 2021	Impact Summary: Exempting certain classes of electricity industry participant from the requirement to register	MBIE

Information redacted

NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

In Confidence

Office of the Minister of Energy and Resources
Cabinet Economic Development Committee

Exempting certain classes of electricity industry participant from the requirement to register

Proposal

- 1 This paper seeks agreement to exempt two classes of electricity industry participant from the obligation to register with the Electricity Authority.

Relation to government priorities

- 2 The Government has a legislated target of net zero greenhouse gas emissions (other than biogenic methane) by 2050. New Zealand also has a 2030 target under the Paris Agreement to reduce emissions by 30 per cent below 2005 emissions. Additionally, the Government has a target of 100 per cent renewable electricity by 2030.
- 3 These class exemptions will remove an unnecessary administrative burden for two classes of electricity industry participants, and are in the long term interest of electricity consumers and our decarbonisation goals.

Executive Summary

- 4 The Electricity Industry Act 2010 (the Act) requires all electricity industry participants to register with the Electricity Authority (the Authority). Registration as a participant involves providing contact details, which are then made publicly available on the Authority's website. The Authority uses the contact details to communicate with participants.
- 5 Owners of small-scale distributed generation (DG) and metering equipment owners (MEOs) are electricity industry participants and are currently required to register with the Authority. For the vast majority of these participants, registration involves providing personal contact details, which raises privacy concerns for the individuals involved.
- 6 The Authority considers that participant registration by owners of small-scale DG and metering equipment is of no benefit to either the Authority or consumers, and is costly to administer. As a conservative estimate, if the requirement to register was enforced for these two classes of participant, the Authority would require at least one full-time employee solely to manage registrations, costing approximately \$120,000 per year.
- 7 The Authority has recommended that owners of small-scale DG (less than 100 kW of nameplate capacity) and MEOs (that only own metering equipment to measure electricity at the installation control point (ICP) where they consume

electricity) be exempt from the obligation to register with the Authority as a participant, unless the owner also has to register as another class of participant.

- 8 There are currently no other obligations on these participants, and there is no use for personal contact information as there are other ways of contacting these participants if the need ever arises.
- 9 The Authority's recommendation is consistent with its statutory objective of promoting efficiency for the long-term benefit of the consumer, and I propose to accept it.

Background

- 10 Emerging technology plays an important role in accelerating renewable electricity generation, increasing electricity system flexibility and resilience, and consumer choice and awareness, enhancing energy efficiency and decreasing consumer costs.
- 11 The Authority has identified an unnecessary administrative burden that could create a barrier to emerging technology uptake. This is not in the long term interests of the New Zealand consumer and is providing no benefit.
- 12 The Electricity Industry Act 2010 (the Act) requires all electricity industry participants to register with the Authority. Registration as a participant involves providing their contact details, which are then published and publicly available on the Authority's website, so that information regarding which businesses are competing in different parts of the electricity industry is transparent and available to interested parties.
- 13 The Authority uses the contact details stored in the register to communicate with participants regarding:
 - compliance with the Electricity Industry Participation Code 2010 (the Code), including the audit process, and
 - operational matters, for example sending out guidelines and memos.
- 14 Owners of small-scale DG and metering equipment are electricity industry participants and are currently required to register with the Authority. The Authority does not strictly enforce this as consumers may then be discouraged from installing small-scale distributed generation or owning their own metering equipment. This is not a satisfactory long term solution as it risks compromising the Authority's enforcement role.

Small-scale distributed generation

- 15 Small-scale DG is primarily owned by residential consumers. The vast majority of small-scale generation is rooftop solar, owned by consumers, who may or may not have batteries to store excess electricity. Most of these consumers will be unaware of the requirement to register under the Code. They are also unlikely to directly participate in the electricity market.

- 16 Registration as a participant requires these consumers to provide their contact details, which are then published on the Authority's website. For the vast majority of these consumers, this will be their personal contact details, which raises privacy concerns for the individuals involved. Reluctance to provide this information for publication may discourage consumers from installing small-scale DG.
- 17 The Code requires all small-scale distributed generators to be approved by the distributor, and for the distributor to update the registry with data concerning the presence, fuel type and size of the generation. If the Authority needs to contact small-scale distributed generators it can do so via the distributor.
- 18 According to the analysis conducted by the Authority, the value of providing the industry and the public with information regarding small-scale DG is minimal and does not justify publication.
- 19 Furthermore, it is possible that enforcing registration for small-scale DG participants could be perceived as punitive, discouraging consumer uptake of DG. Enforcing registration may also restrict consumer choice, as some participants' business models are based around offering small-scale DG to consumers.

Metering equipment owners (MEOs)

- 20 Businesses or residential consumers may own metering equipment at the property at which they consume electricity. Registration as a participant requires these MEOs to provide their contact details, which are then published on the Authority's website. As with small-scale DG, for many of these MEOs, this will comprise their personal contact details, raising privacy concerns.
- 21 The value of providing the industry and the public with this information is minimal and does not justify publication, and publication of personal information could deter consumers from purchasing their own metering equipment.
- 22 Also, if the requirement for MEOs to register is maintained this may deter large industrial or commercial consumers from taking advantage of new business models that involve customer ownership of metering equipment.
- 23 According to the Authority, these outcomes may frustrate consumers and prevent them from reaping the benefits of meter ownership, especially consumers who already have a distrust of the electricity industry and/or electricity metering technology.
- 24 There are currently no Code obligations for MEOs. All the metering obligations are placed on the metering equipment provider (MEP). The commercial relationship between the MEO and the MEP means the MEP will have contact information for the MEO. If the Authority needs to contact MEOs for any reason, including informing them of any future Code obligations, this can be done via the MEPs.

Objective

- 25 The objective is to remove unnecessary administrative burdens and compliance costs for distributed generation and metering equipment ownership, while maintaining the benefits of participant registration.

Analysis

Costs of the status quo are as follows:

- 26 Compliance costs for industry and the Authority will increase to maintain the participants register if owners of small-scale DG and MEOs are required to register.
- 27 The Authority's participants register contains 608 contacts for 309 individual participants. According to the Authority these numbers would be dwarfed by the 32,855 current properties with DG of less than 10 kW, which is likely to increase to over 50,000 by 2026. As at 7 April 2021, a total of 918 properties have DG between 10-100kW, and this category of DG is becoming increasingly common as the cost of generation reduces. Thus, registration by all consumers with small-scale DG or MEOs would increase overall costs for the industry.
- 28 The participants register is currently administered by an Authority staff member. It is a minor part of their role. A conservative estimate of the increase in workload is that it would require at least one full-time employee solely to manage registration of participants if all small-scale distributed generators were to register, at a total cost of approximately \$120,000. The cost to the Authority would have to be recouped through the levy.
- 29 The requirement is difficult to enforce and prosecuting owners of small-scale DG and MEOs for failing to register would be unlikely to proceed to conviction given enforcing the obligation would not be for the long-term benefit of consumers, therefore would not support the Authority's statutory objective.
- 30 The requirement imposes an unnecessary administrative burden for owners of small-scale DG and MEOs which could act as a barrier to participation. If the Authority strictly enforced registration, consumers may be discouraged from installing small-scale DG or owning their own metering equipment.

Benefits of the status quo are as follows:

- 31 Simplicity: anyone that owns or operates generation or metering equipment is required to register as a participant. Processing individual exceptions for each participant would be costly and administratively cumbersome.
- 32 The option of doing nothing (the status quo) does not meet the objective, and the costs outweigh the benefits, therefore it was not considered further.

Options for owners of small scale DG

33 The following options were considered to address the objective for owners of DG:

- Option 1 (recommended): grant a class exemption to all owners of DG with total nameplate capacity of less than 100 kW from the obligation to register with the Authority as a participant, unless the owner also has to register as another class of participant.
- Option 2: grant a class exemption to all owners of DG that has total nameplate capacity of less than 10 kW from the obligation to register with the Authority as a participant, unless the owner also has to register as another class of participant.
- Option 3: amend the Act to change the information collected or required from the participants and/or the information published on the participant's register. This could be based on a participant's status as a natural person, or their participant class.

Options for MEOs

34 The following options were considered to address the objective for MEOs:

- Option 1 (recommended): grant MEOs that only own metering equipment measuring electricity at the ICP where they consume electricity a class exemption from the obligation to register with the Authority as a participant, unless they also have to register as another class of participant.
- Option 2: grant all MEOs a class exemption from the obligation to register with the Authority as a participant, unless they also have to register as another class of participant.
- Option 3: amend the Act to remove MEOs as an industry participant "class" in section 7(2)
- Option 4: amend the Act to change the information requirements or information publication requirements for the participants register. This could be based on a participant's status as a natural person, or their participant class.

Impact analysis for owners of small-scale DG

Criteria for small-scale DG owners

35 The options outlined above for small scale DG owners were assessed against the following criteria:

- remove an unnecessary administrative burden
- reduce compliance costs
- ensure transparency
- present the least risk of unintended consequences, and

- be the lowest cost and fastest to implement.

Comparing Options 1, 2 and 3

- 36 A class exemption (Options 1 and 2) would remove the obligations for owners of small scale DG to register as participants, thus removing the unnecessary administrative burden. It would not, however, remove their obligation to comply with the Code. Therefore, Options 1 and 2 present the least risk of unintended consequences. Options 1 and 2 would also reduce the compliance costs associated, as owners of small DG would no longer have to register as participants.
- 37 Under Option 1 and 2, transparency is maintained as the Code requires all small-scale DG owners to be approved by the distributor, and for the distributor to update the registry with data concerning the presence, fuel type and size of the generation. If the Authority needs to contact small-scale distributed generators it can do so via the distributor. Additionally, there is lower risk of privacy breaches for natural persons that supply their personal contact details as a small-scale DG owner due to accidental or malicious activity.
- 38 Section 110 of the Act enables the Authority to make recommendations to exempt a class of electricity industry participants from the obligation to register as participants. Therefore, Options 1 and 2 are low cost and fastest to implement.
- 39 Depending on how it was implemented, Option 3 would only partially remove the unnecessary administrative burden, as all owners of small scale DG would still be required to register with the Authority. While Option 3 would ensure transparency and reduce concerns relating to privacy, the costs of maintaining the participant register would be higher than the status quo.
- 40 Option 3 would require the greatest amount of work to implement, and be resource and time intensive. Changing what is currently a simple process where all participants register and the register is published, to another system would add greater complexity than using the existing authority in section 110 of the Act to grant class exemptions from registration. The increased complexity would have a greater risk of unintended consequences, such as participants being misclassified, or having their contact details published in error. Therefore, Option 3 was not considered any further.

Comparing Options 1 and 2

- 41 Option 1 covers all owners of DG less than 100 kW, while Option 2 covers all owners of DG less than 10 kW.
- 42 Option 1 is preferred over Option 2, as it removes a further unnecessary administrative burden, while ensuring that the exemption would not quickly become obsolete as generation technology advances. Small-scale DG between 10 kW and 100 kW is becoming increasingly common as the cost of generation reduces. It also delivers a greater reduction in compliance costs, as

more owners would be exempt. Option 1 meets other criteria to the same extent as for Option 2.

Impact analysis for MEOs

Criteria for MEOs

43 The options outlined above for MEOs have been assessed against the same criteria as used for owners of small scale DG (see paragraph 35).

Comparing Options 1, 2, 3, and 4

44 Options 1, 2 and 3 would remove the obligations for MEOs to register as participants, thus removing an unnecessary administrative burden.

45 Depending on how it was implemented, Option 4, would partially meet the objective, however all MEOs would still be required to register with the Authority.

46 Option 3 would provide more clarity to the industry. It would be clear that MEOs were not considered a participant class in the Act without needing knowledge of an exemption. However it would remove the Authority's ability to regulate MEOs or their activities in the future, as the Code cannot place obligations on non-participants. Therefore, compared to Options 1 and 2, the risk of unintended consequences with Option 3 is high.

47 Option 4 is the most risky option presented. Because of the increased complexity of amending how certain participants register or how the Authority publishes the information, there is a risk it could have unintended effects on other participant types, or not be entirely effective in removing the unnecessary administrative burden, as all MEOs would still be required to register with the Authority.

48 Additionally, while Option 4 would ensure transparency and concerns relating to privacy would be reduced, the costs of maintaining the participant register would be higher than the status quo.

49 Due to the comparatively higher risk of unintended consequences with Option 3 and 4 than Option 1 and 2, and the higher compliance cost associated with Option 4, Option 3 and 4 were not considered any further.

Comparing Options 1 and 2

50 In addition to removing unnecessary administrative burden, Option 1 and 2 would reduce compliance costs as MEOs would no longer have to register as participants. Option 1 and 2 would ensure transparency, as all the metering obligations are placed on the MEP. The commercial relationship between the MEO and the MEP means the MEP will have contact information for the MEO. If the Authority needs to contact MEOs for any reason, including informing them of any future Code obligations, this can be done via the MEPs.

51 A class exemption (Options 1 and 2) would be easier to implement than amending the Act. Section 110 of the Act enables the Authority to make

recommendations to exempt a class of electricity industry participants from the obligation to register as participants. Therefore, Options 1 and 2 are low cost and fastest to implement. Additionally, if the Authority decided to place obligations on MEOs in the future, the class exemption would not remove their obligation to comply with the Code, or the Act. A class exemption would also be easier to revoke, than it would be to amend the Act to reinstate MEOs as a participant.

- 52 However, Option 2 exempts all MEOs from the obligation to register as a participant. This would introduce a risk that a single participant could own a significant number of metering installations as part of its core business and not be required to register.
- 53 The Authority is not aware of any participants who own metering for multiple consumers without also being an MEP. While such a hypothetical business would not have any obligations in the Code, the emergence of this business model would be of interest to the Authority for market monitoring purposes to promote its statutory objective.
- 54 To preserve the Authority's ability to monitor for such a change, Option 1 proposes to grant a class exemption only to MEOs that own metering that measures their own consumption. Option 1 meets all the points of the criteria, with a slightly restricted scope to avoid any unintended consequences. Thus, Option 1 is preferred over Option 2.

Implementation

- 55 The class exemptions would be given effect through regulations made under Section 110 of the Act, which requires that they be made by the Governor-General on the recommendation of the Minister of Energy and Resources (Minister) after receiving a recommendation from the Authority.
- 56 The Authority made that recommendation on 16 July 2020, and I propose accepting it. I seek Cabinet agreement to the class exemptions, and approval to the drafting of regulations.
- 57 Once implemented, the Authority will be responsible for the operation and enforcement of the new arrangements. As outlined by the Act, the Authority is responsible for compliance with the Act, the new exemption regulations and the Code.

Financial Implications

- 58 There are no financial implications.

Legislative Implications

- 59 Regulations need to be made under section 110(1) (a) of the Act to exempt the two classes of industry participants from the obligation to register with the Authority as a participant, unless the owner also has to register as another class of participant.

Impact Analysis

Regulatory Impact Statement

- 60 The impact analysis requirements apply and a Regulatory Impact Statement (RIS) has been prepared and is attached to this Cabinet paper.
- 61 MBIE's Regulatory Impact Analysis Review Panel has reviewed the attached Impact Summary prepared by MBIE. The Panel considers that the information and analysis summarised in the Impact Summary meets the criteria necessary for Ministers to make informed decisions on the proposals in this paper.

Climate Implications of Policy Assessment

- 62 Climate Implications of Policy Assessment (CIPA) is not required as the proposal does not have emissions reduction as a key policy objective and is estimated to not have a direct emission impact at or above 0.5 million tonnes carbon dioxide equivalent (CO₂-e) within the first 10 years of the proposal period.

Population Implications

- 63 The population groups that are likely to be impacted include:
- owners of DG of less than 100 kW nameplate capacity connected to a distributor's network.
 - MEOs that owns the metering equipment measuring electricity at the ICP where they consume electricity
 - Distributors, and
 - The Authority.
- 64 Exempting MEOs and small-scale DG owners from the obligation to register removes an unnecessary administrative burden for these groups. The risk of privacy breaches for natural persons that supply their personal contact details as a small-scale DG owner or MEO due to accidental or malicious activity is reduced.
- 65 The Code requires all small-scale distributed generators to be approved by the distributor, and for the distributor to update the registry with data concerning the presence, fuel type and size of the generation. If the Authority needs to contact small-scale DGs it can do so via the distributor. All the metering obligations are placed on the MEP. The commercial relationship between the MEO and the MEP means the MEP will have contact information for the MEO. If the Authority needs to contact MEOs for any reason, including informing them of any future Code obligations, this can be done via the MEPs. Thus, there would be a negligible cost to the distributor and/or the MEP, if the Authority uses them as a communication channel.
- 66 A small reduction in the Authority's ongoing administrative costs, reduction in costs related to maintaining the participants register is expected, with

maintenance no longer being required for the few small-scale DG owners and MEOs who have already registered.

Human Rights

67 There are no implications for human rights.

Consultation

68 The Treasury, the Energy Efficiency and Conservation Authority and the Electricity Authority have been consulted on this Cabinet paper.

69 Additionally, on 23 July 2019, the Authority released a consultation paper titled “Recommending Class Exemptions for Specified Meter Owners and Small-Scale Distributed Generators.” The paper was published on its website and included in a weekly stakeholder update. Consultation for this paper closed on 3 September 2019.

70 Six submissions were received, all of which were generally in agreement with the issues and objectives of the proposal, and all but one favoured the recommended solution. The one submission which did not favour the recommended solution was in favour of a broader exemption, which the Authority do not favour due to the risk of unintended consequences.

Communications

71 If and when the OIC is promulgated, the Authority and the Ministry of Business, Innovation and Employment would work together to inform the industry of its effect.

72 Communications to the industry from the Authority would include:

- informing industry via the Authority's weekly Market Brief newsletter
- updating the Authority's website to reflect the exemptions
- ensuring forms and other Authority material are consistent with the exemptions

Proactive Release

73 This cabinet paper will be proactively released within 30 business days of decisions being confirmed by Cabinet.

Recommendations

The Minister of Energy and Resources recommends that the Committee:

- 1 **Note** that the Electricity Industry Act 2010 requires all electricity participants to register with the Electricity Authority, and the register (including contact details) is publicly available on the Authority's website;
- 2 **Note** that owners of small-scale distributed generation and those that own metering equipment at the property at which they consume electricity are

IN CONFIDENCE

currently required to register with the Electricity Authority, and for the vast majority of them, registration involves providing personal contact details, which raises privacy concerns;

- 3 **Note** that participant registration for these two classes of industry participant is of no benefit to either the Electricity Authority or the consumer, and is costly to administer;
- 4 **Note** that the Minister of Energy and Resources, after receiving a recommendation from the Electricity Authority, may make regulations exempting a class of electricity industry participants from the obligation to register as participants;
- 5 **Note** that the Electricity Authority has made a recommendation to exempt these two classes of industry participant, unless they also have to register as another class of participant and I propose to accept this recommendation;
- 6 **Agree** to exempt the following two classes of industry participants from the obligation to register with the Electricity Authority as a participant, unless the owner also has to register as another class of participant:
 - a) owners of distributed generation with less than 100 kW of nameplate capacity connected to a distributor's network, and
 - b) metering equipment owners that only own metering equipment to measure electricity at the installation connection point (ICP) where they consume electricity;
- 7 **Invite** the Minister of Energy and Resources to issue drafting instructions to the Parliamentary Counsel Office to give effect to recommendation 6; and
- 8 **Authorise** the Minister of Energy and Resources to make decisions consistent with the overall policy decisions in this paper on any minor and technical issues that may arise in the drafting process.

Authorised for lodgement

Hon Dr Megan Woods

Minister of Energy and Resources