



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

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

Section 1: General information

Purpose

The Ministry of Business, Innovation and Employment is solely responsible for the analysis and advice set out in this Impact Summary, unless otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing final decisions to proceed with a policy change relating to class exemptions from the requirement to register as electricity industry participants, to be taken by the Minister of Energy and Resources (through recommendation of an Order in Council agreed by Cabinet).

Key Limitations or Constraints on Analysis

The options considered are within the existing framework of the Electricity Industry Act 2010 (the Act). Section 110 of the Act enables the Electricity Authority (the Authority) to make recommendations to exempt a class of electricity industry participants from the obligation to register as participants.

The scope of the analysis is therefore limited to considering the Authority’s recommendation, and the limited number of options that exist (there are four options).

Responsible Manager (signature and date):

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To be completed by quality assurers:

Quality Assurance Reviewing Agency:

Quality Assurance Assessment:

Reviewer Comments and Recommendations:

Section 2: Problem definition and objectives

2.1 What is the policy problem or opportunity?

Emerging technology plays an important role in:

- accelerating renewable electricity generation
- increasing electricity system flexibility and resilience
- enhancing energy efficiency
- increasing consumer choice and awareness, and
- decreasing consumer costs.

The Electricity Authority (Authority) has identified a 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.

The Electricity Industry Act 2010 (the Act) requires all electricity industry participants to register with the Authority. Registration includes providing personal address and contact details, which are recorded in a publicly available list on the Authority's website.

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.

The participants register is publicly available, so that information regarding which businesses are competing in different parts of the electricity industry is transparent and available to interested parties.

Owners of small-scale distributed generation 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

Small-scale distributed generation (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.

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 comprise 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.

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.

According to 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.

Further, 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

Businesses or residential consumers may own metering equipment at the property at which they consume electricity. Registration as a participant requires these metering equipment owners (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. The value of providing the industry and the public with this information is minimal and does not justify publication.

Publication of personal information could deter consumers from purchasing their own metering equipment.

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.

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.

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.

Benefits and costs for change to status quo

The benefits of the status quo are as follows:

- 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.

The costs of the status quo are as follows:

- higher compliance cost: increased costs to maintain the participants register if owners of small-scale DG and MEOs are registered.
- difficult to enforce: 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.
- unnecessary administrative burden 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.

As at February 2019, 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 connections with small-scale DG, which is likely to increase to over 50,000 by 2026. Thus, registration by all consumers with small-scale DG or MEOs would increase overall costs for the industry.

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.

The Authority recommends creating class exemptions to remove these obligations

The Authority's advice is that in these two situations, participant registration is of no benefit to either the Authority or the consumer, and is costly to administer. Consistent with meeting its statutory objective of promoting efficiency for the long-term benefit of the consumer, it recommends that class exemptions from the obligation to register are implemented to cover:

1. owners of distributed generation with less than 100 kW of nameplate capacity connected to a distributor's network, and
2. MEOs that only own metering equipment to measure electricity at the installation connection point (ICP) where they consume electricity.

2.2 Who is affected and how?

Affected parties are:

- Consumers and commercial electricity users who own small-scale generation equipment such as solar panels, or their own metering equipment
- Suppliers of the above equipment
- Distributors
- The Electricity Authority

As at 28 February 2021, approximately 32,855 properties in New Zealand have small-scale (10 kW or less nameplate capacity) generation installed. As at 7 April 2021, a total of 918 properties in New Zealand have small-scale (between 10-100kW) generation installed. Small-scale DG of up to 100 kW is becoming increasingly common as the cost of generation reduces, so we expect the proposed exemptions to cover a larger number of properties than that.

According to Section 5 of the Act a MEO is a person who owns any or all of the items of metering equipment installed in a metering installation. Consequently, many consumers are MEOs.

2.3 What are the objectives sought in relation to the identified problem?

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.

Section 3: Options identification

3.1 What options have been considered?

Options for owners of small scale distributed generation

The following options have been considered to address the objective for owners of DG, while minimising the risk of any unintended consequences:

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.

The option of doing nothing (the status quo) does not meet the objective, so it is not included.

Options for MEOs

The following options have been considered to address the objective for MEOs, while minimising the risk of any unintended consequences:

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.

The option of doing nothing (the status quo) does not meet the objective, so it is not included.

3.2 Which of these options is the proposed approach?

Impact analysis for owners of small scale DG

Criteria for small scale DG owners

The options outlined above for small scale DG owners have been 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

A class exemption (Options 1 and 2) would remove the obligations for small scale distributed generators 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 small DG owners would no longer have to register as participants.

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.

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.

Depending on how it was implemented, Option 3 would only partially remove the unnecessary administrative burden caused by participant registration for owners of small scale DG, as all owners of generation would still be required to register with the Authority. While Option 3 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.

Option 3, amending the Act, 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.

There are few advantages to Option 3, so this option was not considered any further.

Comparing Options 1 and 2

Option 1 covers all owners of distributed generation less than 100 kW, while Option 2 covers all owners of distributed generation less than 10 kW.

The majority of residential DG has a capacity of less than 10kW, and in most cases, a capacity of 10kW or higher will relate to a set up for a commercial business. In terms of the type of equipment, residential small-scale DG tends to be small-scale solar, while commercial set ups can have a wider variety of generation types and equipment. Small-scale DG between 10 kW and 100 kW is, however, becoming increasingly common as the cost of generation reduces.

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. 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.

Recommended option for small scale DG owners

The recommended option for owners of small-scale DG is Option 1 because it best meets all the criteria.

Impact analysis for MEOs

Criteria for MEOs

The options outlined above for MEOs have been assessed against the same criteria as used for owners of small scale DG.

Comparing Options 1, 2, 3, and 4

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

Depending on how it was implemented, Option 4, would partially remove the unnecessary administrative burden caused by participant registration for MEOs, as all MEOs would still be required to register with the Authority.

Amending the Act to remove the MEOs as an industry participant class (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, the risk of unintended consequences with Option 3 is high, when compared to Options 1 and 2.

Amending the Act to change how participants are registered, or how the register is published (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.

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.

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

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.

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.

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.

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.

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.

Recommended option for MEOs

The recommended option for MEOs is Option 1 because it best meets the criteria.

Section 4: Impact Analysis (Proposed approach)

4.1 Summary table of costs and benefits¹

Affected parties (identify)	Comment: nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts</i>
Additional costs of proposed approach, compared to taking no action		
Regulated parties	No additional costs	N/A
Regulators	No additional costs	N/A
Wider government	No additional costs	N/A
Other parties	<p>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.</p> <p>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.</p> <p>There would be a negligible cost to the distributor and/or the MEP, if the Authority uses them as a communication channel.</p>	low
Total Monetised Cost		low
Non-monetised costs		No non-monetised costs
Expected benefits of proposed approach, compared to taking no action		
Regulated parties	If registration remains mandatory and is strictly enforced, consumers may be discouraged from installing small-scale DG or owning their own metering equipment.	low

¹ Note: The Authority has undertaken a qualitative assessment of the expected benefits and costs of the proposals, and compared the proposals against the status quo arrangements. A quantitative CBA would have been costly and not necessary in this case.

	<p>This is because registration requires consumers to provide their contact details, which for the vast majority of small scale DG owners and MEOs is their personal details, to be published on the Authority's website.</p> <p>Exempting MEOs and small-scale DG owners from the obligation to register removes this unnecessary administrative burden.²</p> <p>Lower 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.</p>	
Regulators (Authority)	Small reduction in the Authority's ongoing administrative costs, reduction in costs related to maintaining the participants register, with maintenance no longer being required for the few small-scale DG owners and MEOs who have already registered.	low
Wider government	No additional benefits	N/A
Other parties	No additional benefits	N/A
Total Monetised Benefit		No monetised benefits
Non-monetised benefits	The non-monetised benefits are low, but ongoing	low

² Uptake of small scale DG also depends on a number of other factors including cost. Exempting small-scale DG owners from the obligation to register removes an unnecessary administrative burden that could create a barrier that discourages consumers from installing small scale DG.

4.2 What other impacts is this approach likely to have?

There are no additional impacts that this approach could have.

Section 5: Stakeholder views

5.1 What do stakeholders think about the problem and the proposed solution?

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.

The Authority received six submissions, all of which were generally in agreement with the issues and objectives of the proposal, but one submitter (Legacy Metering Group (LMGL)) disagreed with the recommended solution. LMGL favour a broader exemption, which the Authority did not favour due to the greater risk of unintended consequences.

Two submitters (Vector and Nova) agreed with the proposal, but suggested placing obligations on MEOs. Vector indicated that the Authority should work with the Electricity Networks Association and suggested that the obligations should be placed on MEOs instead of an exemption from registration being granted. Nova indicated that clear statement in the Code is required to emphasise that MEOs must have an agreement with an MEP to ensure Code obligations are being met.

Submission summaries are outlined below:

Summary of submission	Authority's response
Vector – agrees with the Authority's proposal, but requests that the Authority work with the Electricity Networks Association, and states their preference is for obligations to be placed on MEOs instead of an exemption from registration being granted.	Imposing obligations on MEOs is out of scope of the consultation. The submitter needs to use the Code amendment request process to submit their proposal for any Code change to the Authority.
Solarcity – agrees with the proposal.	Noted.
Orion – agrees with the proposal, but adds that participants that have already registered should be contacted to be advised of the changes.	Noted.
Nova – agrees with the proposal, but says that a clear statement in the Code is needed to stress that MEOs must have an agreement with an MEP to ensure Code obligations are being met.	Imposing obligations on MEOs is out of scope of the consultation. The submitter needs to use the Code amendment request process to submit their proposal for any Code change to the Authority.
Legacy Metering Group – agrees with the objective, however they	Noted.

<p>would prefer option two in the consultation paper. This would exempt all MEOs from having to register as a participant, rather than exempting only MEOs who only own metering equipment measuring electricity at the ICP where they consume electricity. It believes that this will facilitate innovation and development in the market.</p>	<p>Innovation and development in the market should not be inhibited by the requirement for a MEO to register as a participant. This is a very minor administrative obligation. The Authority's awareness of businesses operating as a MEO is a benefit that outweighs the cost associated with this minor regulatory obligation.</p> <p>The proposal does not impose any new obligations.</p>
<p>John Irving – agrees with the proposal.</p>	<p>Noted</p>

Section 6: Implementation and operation

6.1 How will the new arrangements be given effect?

The class exemptions would be given effect by the Governor-General as a regulation made by Order in Council (OIC). Section 110 of the Act requires that class exemptions be made by the Governor-General by OIC on the recommendation of the Minister of Energy and Resources (Minister) after receiving a recommendation from the Authority.

The Authority has made that recommendation, and the Ministry of Business, Innovation and Employment has advised the Minister of Energy and Resources to accept it and seek Cabinet approval to the drafting of an OIC.

If agreed, that OIC will set out class exemptions from the obligation under section 9 of the Act to register with the Authority as a participant for:

1. owners of distributed generation of less than 100 kW nameplate capacity connected to a distributor's network.
2. any metering equipment owner that owns the metering equipment measuring electricity at the ICP where they consume electricity

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

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

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.

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?

Under the Act, the Authority is responsible for monitoring compliance with the Act, the new exemption regulations and Code. This monitoring will cover the exemptions, if granted, including whether they continue to be appropriate. This could include periodically monitoring the number of small scale DG generators, with the total capacity of less than 100kW. There are currently no significant Code obligations for small-scale DG owners nor MEOs. Should the Authority, through its work programme, place new obligations on these classes of participant, it may reconsider these exemptions.

7.2 When and how will the new arrangements be reviewed?

These exemptions are considered low risk so there is no formal review process planned.

However, as stated in the section 7.1, Monitoring and Evaluation, the Authority will reconsider the exemptions should it place new Code obligations on either class of affected participants.